



**International Tribunal for the
Prosecution of Persons Responsible for
Serious Violations of International
Humanitarian Law Committed in the
Territory of the Former Yugoslavia
since 1991**

Case No. IT-06-90-T
Date: 15 April 2011
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IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Uldis Ķinis
Judge Elizabeth Gwaunza

Registrar: Mr John Hocking

Judgement of: 15 April 2011

PROSECUTOR

v.

ANTE GOTOVINA
IVAN ČERMAK
MLADEN MARKAČ

PUBLIC

JUDGEMENT
VOLUME I OF II

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Table of contents

General abbreviations	7
1. Introduction	9
2. Sources and use of evidence	13
3. The Accused	37
3.1 Ante Gotovina and the Split Military District	37
3.1.1 Position of Ante Gotovina within the Split Military District	37
3.1.2 Ante Gotovina's powers as a commander	52
3.2 Ivan Čermak and the Knin garrison	73
3.3 Mladen Markač and the Special Police	86
4. Crimes committed in municipalities (July-September 1995)	105
4.1 Murders	105
4.1.1 Overview of the charges	105
4.1.2 Benkovac municipality	106
4.1.3 Civljane municipality	108
4.1.4 Donji Lapac municipality	108
4.1.5 Drniš municipality	115
4.1.6 Ervenik municipality	115
4.1.7 Gračac municipality	129
4.1.8 Kistanje municipality	142
4.1.9 Knin municipality	168
4.1.10 Lišane Ostrovičke municipality	277
4.1.11 Lisičić municipality	277
4.1.12 Nadvoda municipality	277
4.1.13 Obrovac municipality	277
4.1.14 Oklaj municipality	278
4.1.15 Orlić municipality	278
4.2 Destruction of Serb property and plunder of public or private Serb property	303
4.2.1 Overview of the charges	303
4.2.2 Benkovac municipality	318
4.2.3 Civljane municipality	330
4.2.4 Donji Lapac municipality	337
4.2.5 Drniš municipality	365

4.2.6 Ervenik municipality	367
4.2.7 Gračac municipality	374
4.2.8 Kistanje municipality	408
4.2.9 Knin municipality	452
4.2.10 Lišane Ostrovičke municipality	523
4.2.11 Lisičić municipality	523
4.2.12 Nadvoda municipality	523
4.2.13 Obrovac municipality	525
4.2.14 Oklaj municipality	528
4.2.15 Orlić municipality	530
4.3 Inhumane acts and cruel treatment	568
4.3.1 Overview of the charges	568
4.3.2 Benkovac municipality	568
4.3.3 Civljane municipality	571
4.3.4 Donji Lapac municipality	571
4.3.5 Drniš municipality	571
4.3.6 Ervenik municipality	571
4.3.7 Gračac municipality	572
4.3.8 Kistanje municipality	577
4.3.9 Knin municipality	579
4.3.10 Lišane Ostrovičke municipality	590
4.3.11 Lisičić municipality	590
4.3.12 Nadvoda municipality	590
4.3.13 Obrovac municipality	590
4.3.14 Oklaj municipality	590
4.3.15 Orlić municipality	590
4.4 Unlawful attacks on civilians and civilian objects	594
4.4.1 Overview of the charges	594
4.4.2 General considerations	594
4.4.3 Knin town	603
4.4.4 Benkovac town	733
4.4.5 Gračac town	751
4.4.6 Obrovac town	772
4.4.7 Donji Lapac town	777

4.4.8 Strmica town	787
4.5 Deportation and forcible transfer	800
4.5.1 Overview of the charges	800
4.5.2 Serb evacuation plans	801
4.5.3 Deportation and forcible transfer in the Indictment municipalities	819
4.5.4 The persons who took refuge at the UN compound	850
4.5.5 Reception and collection centres	870
5. Legal findings on crimes	885
5.1 Violations of the laws or customs of war: general elements and jurisdictional requirements	885
5.1.1 Applicable law	885
5.1.2 Findings on armed conflict	888
5.2 Crimes against humanity: general elements and jurisdictional requirements	900
5.2.1 Applicable law	900
5.2.2 Legal findings	902
5.3 Murder	912
5.3.1 Applicable law	912
5.3.2 Legal findings	912
5.4 Deportation and forcible transfer	914
5.4.1 Applicable law	914
5.4.2 Legal findings	916
5.5 Wanton destruction	925
5.5.1 Applicable law	925
5.5.2 Legal findings	926
5.6 Plunder of public or private property	929
5.6.1 Applicable law	929
5.6.2 Legal findings	930
5.7 Inhumane acts and cruel treatment	934
5.7.1 Applicable law	934
5.7.2 Legal findings	935
5.8 Persecution	936
5.8.1 Applicable law	936
5.8.2 Legal findings	947
6. The liability of the Accused	983
6.1 Applicable law	983

6.1.1 Joint criminal enterprise	983
6.1.2 Committing, planning, instigating, ordering, and aiding and abetting	986
6.1.3 Superior responsibility	989
6.2 The alleged objective and membership of a joint criminal enterprise	992
6.2.1 Overview of the charges	992
6.2.2 The Brioni meeting on 31 July 1995 and the preparation for Operation Storm	993
6.2.3 The policy of the Croatian political leadership with regard to the Serb minority and return of refugees and internally displaced persons	1006
6.2.4 Property laws	1034
6.2.5 Croatian investigatory policy	1054
6.2.6 The follow-up in relation to the incidents in Grubori and Ramljane on 25 and 26 August 1995	1119
6.2.7 Conclusion	1171
6.3 Ante Gotovina's liability	1178
6.3.1 Introduction	1178
6.3.2 Gotovina's command over Split Military District forces and his participation in planning their operational use	1178
6.3.3 Creating and supporting discriminatory policies against Serbs	1179
6.3.4 Disseminating information intended to cause the departure of Serbs	1179
6.3.5 Condoning, minimizing or failing to prevent or punish crimes committed by subordinates against Serbs	1179
6.3.6 Legal findings on Gotovina's liability	1198
6.4 Ivan Čermak's liability	1202
6.4.1 Introduction	1202
6.4.2 Čermak's control over and use of various forces	1202
6.4.3 Failure to prevent or punish crimes	1235
6.4.4 Disseminating information intended to cause the departure of Serbs	1247
6.4.5 Furthering violence against Serbs and a climate of fear among Serbs	1247
6.4.6 Creating and supporting discriminatory policies against Serbs	1249
6.4.7 Disseminating false information regarding crimes	1261
6.4.8 Legal findings on Čermak's liability	1313
6.5 Mladen Markač's liability	1316
6.5.1 Introduction	1316
6.5.2 Markač's command of the Special Police	1316
6.5.3 Creating and supporting discriminatory policies against Serbs	1318
6.5.4 Disseminating information intended to cause the departure of Serbs	1319

6.5.5 Condoning, minimizing or failing to prevent or punish crimes committed by subordinates against Serbs	1319
6.5.6 Legal findings on Markač's liability	1322
7. Cumulative convictions	1328
8. Sentencing	1330
8.1 Law on sentencing	1330
8.2 Purpose of sentencing	1331
8.3 Sentencing factors	1332
8.3.1 Gravity of the offences and the totality of the culpable conduct	1332
8.3.2 Individual circumstances of Ante Gotovina and Mladen Markač	1335
8.3.3 General practice regarding the prison sentences in the courts of the former Yugoslavia	1337
8.3.4 Credit for the time served in custody	1338
8.4 Determination of sentences	1338
9. Disposition	1340
10. Partly dissenting opinion of Judge Uldis Ķinis	1342
 Appendices	
A. Procedural history	1344
B. Table of cases with abbreviations	1373
C. Confidential Appendix	1378

General abbreviations

ACHR	American Convention on Human Rights
APC	Armoured Personnel Carrier
Bosnia-Herzegovina	Republic of Bosnia and Herzegovina
CAC	Civil Affairs Coordinator
CLSS	ICTY's Conference and Language Services Section
Croatia	Republic of Croatia
DEM	<i>Deutsche Mark</i> – German Mark
EECC	Eritrea-Ethiopia Claims Commission
EC	European Community
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECMM/EUMM	European Community Monitoring Mission/European Union Monitoring Mission
EU	European Union
FRY	Federal Republic of Yugoslavia
Further Clarification	Prosecution's Further Clarification of Identity of Victims, 17 July 2008, Appendix C
HRAT	Human Rights Action Team
HRM	<i>Hrvatska Ratna Mornarica</i> – Croatian Navy
HRZ	<i>Hrvatsko Ratno Zrakoplovstvo</i> – Croatian Air Force
HV	<i>Hrvatska Vojska</i> – Croatian Army
HVO	<i>Hrvatsko Vijeće Obrane</i> – Croatian Defence Council
IACtHR	Inter-American Court of Human Rights
ICRC	International Committee of the Red Cross
IHF	International Helsinki Federation for Human Rights
Indictment municipalities	Benkovac, Civljane, Donji Lapac, Drniš, Ervenik, Gračac, Kistanje, Knin, Lišane Ostrovičke, Lisičić, Nadvoda, Obrovac, Oklaj, and Orlić
JCE	Joint criminal enterprise
JNA	<i>Jugoslovenska Narodna Armija</i> – Yugoslav People's Army
KOS	<i>Kontra-obavještajna služba</i> – Counter intelligence agency
MBRL	Multi-Barrel Rocket Launcher
MD	Military District
MoD	Croatian Ministry of Defence
MUP	<i>Ministarstvo Unutarnjih Poslova</i> – Croatian Ministry of Internal Affairs

NCO	Non-commissioned officer
ODPR	Office for Displaced Persons and Refugees (Croatian State)
OG	Operation Group
OSCE	Organization for Security and Co-operation in Europe
POW	Prisoner-of-War
RC	Regional Centre
RSK	<i>Republika Srpska Krajina</i> – Republic of Serb Krajina
Scheduled Killing	Schedule to the Indictment, containing ten killing incidents
SIS	<i>Služba za Informacije i Sigurnost</i> – Service for Information and Security
SVK	<i>Srpska Vojska Krajine</i> – Serbian Army of Krajina
SZUP	<i>Služba za Zaštitu Ustavnog Poretka</i> – Service for the Protection of the Constitutional Order
TO	<i>Teritorijalna Odbrana</i> – Territorial Defence
TRS	<i>Topničke Raketne Skupine</i> – Artillery Rocket Group
TS	<i>Topničke Skupine</i> – Artillery Group
UN	United Nations
UNCIVPOL	United Nations Civilian Police
UNCRO	United Nations Confidence Restoration Operation
UNHCHR	United Nations High Commission for Human Rights
UNHCR	United Nations High Commission for Refugees
UNMO	United Nations Military Observer
UNPROFOR	United Nations Protection Force
UNTAES	United Nations Transitional Authority in Eastern Slavonia, Baranja and Western Sirmium
VJ	<i>Vojska Jugoslavije</i> – Army of Yugoslavia
VONS	<i>Vijeća Obrane i Nacionalne Sigurnosti</i> – Defence and National Security Council
VP	<i>Vojna Policija</i> – Croatian Military Police
VP Rules	Rules Governing the Organisational Work of the Military Police
VRS	<i>Vojska Republike Srpske</i> – the Army of the Republika Srpska

1. Introduction

1. The Accused, Ante Gotovina, Ivan Čermak, and Mladen Markač, are jointly charged in the Indictment with crimes against humanity and violations of the laws or customs of war allegedly committed from at least July 1995 to about 30 September 1995 against the Serb population in the southern Krajina region of Croatia.

2. According to the Indictment, by the time Croatia declared independence on 25 June 1991, an armed conflict had erupted in certain areas of Croatia between the JNA and other Serb forces on the one hand and the Croat armed forces on the other. By the end of 1991, the JNA and various Serb forces controlled approximately one-third of the territory of Croatia. On 21 December 1990 the Croatian Serbs announced the creation of a Serbian Autonomous District of Krajina, which on 19 December 1991 proclaimed itself the Republic of Serbian Krajina and appointed its own president.

3. According to the Indictment, by at least July and early August 1995 Croatian leaders, officials and forces conceived, planned, established, and implemented a military operation called "Operation Storm" to re-take territory in the Krajina, a part of the area in Croatia that had been self-proclaimed as the RSK and that was largely inhabited by Serbs. The major part of the military operation began in full on 4 August 1995, and on 7 August 1995 the Croatian government announced that the operation had been successfully completed. Follow-up actions allegedly continued until 15 November 1995. The Prosecution alleges that before, during, and after the major military operation of Operation Storm there was an orchestrated campaign to drive the Serbs from the Krajina region. The Prosecution further alleges that from at least July 1995 to about 30 September 1995, Croatian government, military, police, security and/or intelligence forces persecuted the Krajina Serbs through deportations and forcible transfers; destruction of Serb homes and businesses; plunder and looting of Serb property; murder; the shelling of civilians and cruel treatment; unlawful attacks on civilians and civilian objects; the imposition of restrictive and discriminatory measures; discriminatory expropriation of property; unlawful detentions and disappearances.

4. The Prosecution alleges that from at least 4 August 1995 to 15 November 1995, Ante Gotovina was the Commander of the Split MD of the HV and the overall operational commander of Operation Storm in the southern portion of the Krajina region. It further alleges that from at least July 1995 to about 30 September 1995, he

participated in the planning and preparation of the operational use of Croatian forces in Operation Storm and continuing related operations and actions. The Prosecution also alleges that he possessed effective control over all units elements and members of the HV that comprised or were attached to the Split MD, and other forces that were subordinated to his command and operated and/or were present in the southern portion of the Krajina region during Operation Storm. As Commander of the Split MD, he was responsible for maintaining order among, and disciplining and supervising the conduct of, his subordinate personnel.

5. With regard to Ivan Čermak, the Prosecution alleges that from 5 August 1995 until approximately 15 November 1995, he was the Commander of the Knin Garrison, which encompassed the municipalities of Civljane, Ervenik, Kijevo, Kistanje, Knin, Nadvoda, and Orlić. It further alleges that in addition to acting in military and administrative roles as the Garrison Commander, he acted as a representative of the Croatian Government in dealing with members of the international community and media concerning Operation Storm in areas that extended beyond the boundaries of his Garrison command. According to the Prosecution, Ivan Čermak possessed effective control over members of the HV units or elements comprising or attached to the Knin Garrison, as well as civilian police operating in the Garrison area and adjacent areas. As Garrison Commander, he was responsible for maintaining order among personnel in the Garrison; organising duty services in the Garrison; and establishing cooperation and coordination between or among the Garrison and area police forces, for the purposes of maintaining law and order.

6. As for Mladen Markač, the Prosecution alleges that from 18 February 1994, he was Assistant Minister of the Interior, and as such was also Commander of the Special Police of the Ministry of the Interior of Croatia. It alleges that he had overall authority and responsibility for the operation and functioning of the Special Police. According to the Prosecution, Mladen Markač possessed effective control over all members of the Special Police involved in Operation Storm and the continued related operations and/or actions in the southern Krajina region, and he also possessed effective control over all members of the HV rocket and artillery units attached to his forces or subordinated to his command during Operation Storm and the continuing related operations and/or actions.

7. The three Accused are each charged as participants in a joint criminal enterprise. The alleged common criminal purpose of the joint criminal enterprise was the permanent removal of the Serb population from the Krajina region by force, fear or threat of force, persecution, forced displacement, transfer and deportation, as well as appropriation and destruction of property. The Prosecution alleges that in addition to the crimes forming part of the joint criminal enterprise, the crimes of murder, inhumane acts, and cruel treatment were committed, and were foreseeable as a possible consequence of the execution of the enterprise.

8. In addition or in the alternative, the Indictment charged each accused with individual criminal liability under Article 7(1) of the Statute for allegedly planning, instigating and/or ordering each of the crimes charged in the Indictment; and/or aiding and abetting their planning, preparation and/or execution. Each accused is also charged with individual criminal liability under Article 7(3) of the Statute for knowingly failing to prevent or punish the criminal acts and/or omissions alleged in each count of the Indictment to have been committed by his subordinates, over whom they are each alleged to have possessed effective control.

9. The Defence, on behalf of each of the three Accused, have submitted that the Accused are not guilty and should therefore be acquitted.

10. The presentation of evidence in the case lasted for well over two years and included the hearing of witnesses called by the Prosecution, all three Defence teams, and the Trial Chamber, as well as the tendering of a large number of documents by the parties. The amount of evidence provided the Trial Chamber with a major challenge and it spent significant time and effort reviewing and evaluating this evidence. Although it considered all the evidence before it, the Trial Chamber could, due to the sheer volume, only explicitly address some of it. In this respect, it focused on the best available evidence and the evidence to which the parties drew its attention in their final briefs and arguments.

11. When reviewing the evidence in this case, the picture that emerged was that of a large number of crimes being committed against numerous victims throughout the Indictment area. In particular, the Trial Chamber heard and received many accounts of burned, destroyed, and looted property. In some instances, the destruction encompassed whole villages or parts of villages. The Trial Chamber also received several accounts of

Serbs leaving the Krajina, in particular on 4 and 5 August 1995, with relatively few of them, often elderly, remaining in the area. Many of these remaining Serbs were killed.

12. The Trial Chamber carefully considered the evidence on alleged crimes, for the purpose of establishing whether the elements of the crimes had been met and whether the identity or affiliation of the perpetrators could be established. When the evidence with regard to a specific incident lacked sufficient detail in this respect, the Trial Chamber did not further consider it when evaluating the liability of the Accused. For example, this was the case for a large body of evidence consisting of reports and testimonies of burning or destroyed houses and other property for which no perpetrator was identified or described. In the context of a criminal trial, and the chaotic picture of the events on the ground, the Trial Chamber was necessarily cautious in drawing conclusions with regard to specific incidents based on any general impression.

13. The events in this case took place in the context of many years of tensions between Serbs and Croats in the Krajina. While the Trial Chamber was mindful of this context, the case was not about crimes committed prior to the Indictment period. Nor was Croatia's choice to resort to Operation Storm on trial. This case is about whether Serb civilians in the Krajina were the targets of crimes and about the liability of the Accused for these crimes.

2. Sources and use of evidence

14. *Standard of Proof.* Pursuant to Article 21 (3) of the Statute, the Accused are entitled to a presumption of innocence. Pursuant to Rule 87 (A) of the Rules, the standard for determining guilt is proof beyond a reasonable doubt. Accordingly, each and every element of the offences charged against an accused must be proven beyond a reasonable doubt. This burden remains with the Prosecution throughout the trial.¹ An accused must be acquitted if there is any reasonable explanation of the evidence other than the guilt of the accused.² In making findings, the Trial Chamber applied the standard of beyond a reasonable doubt.

15. *Witnesses.* Out of a total of 145 *viva voce* fact and expert witnesses that the Trial Chamber heard, 81 were called by the Prosecution, 25 by the Gotovina Defence, 19 by the Čermak Defence, 13 by the Markač Defence, and 7 by the Trial Chamber. Out of the total number of witnesses heard in court, 12 witnesses were subpoenaed and 3 were summoned to appear before the Trial Chamber.

16. The Trial Chamber admitted witnesses' testimony or statements pursuant to Rules 92 *bis*, *ter*, and *quater*. It admitted evidence tendered pursuant to Rule 92 *ter* of the Rules in relation to 122 witnesses. Rule 92 *ter* of the Rules allows for the admission of evidence that goes to proof of acts and conduct of an accused.³ Nevertheless, the Trial Chamber expressed a strong preference that such evidence, being important evidence central and critical to the case, be elicited orally from a witness in court.⁴ The Trial Chamber admitted evidence of 20 witnesses pursuant to Rule 92 *bis* of the Rules.⁵ Rule 92 *quater* of the Rules also allows for the admission of evidence that goes to proof of acts and conduct of an accused, although this may be a factor weighing against admission.⁶ The Trial Chamber admitted statements of 15 unavailable witnesses

¹ *Brđanin* Trial Judgement, para. 22.

² *Čelebići* Appeal Judgement, para. 458.

³ Rule 92 *ter* (B) of the Rules.

⁴ T. 2205.

⁵ Decision on the First Batch of Rule 92 *bis* Witnesses, 3 June 2008; Decision on the Second Batch of Rule 92 *bis* Witnesses, 24 July 2008; Third Decision on Rule 92 *bis* Witnesses, 3 November 2008; Decision on Prosecution's Third Motion for Admission of Evidence Pursuant to Rule 92 *bis*, 5 March 2009; Decision on Defendant Ante Gotovina's Motion for Admission of Evidence of One Witness Pursuant to Rule 92 *bis*, 16 September 2009; T. 21783-21786; Decision on Defendant Ivan Čermak's Motion for Admission of Evidence of Two Witnesses Pursuant to Rule 92 *bis* and Decision on Defendant Ivan Čermak's Third Motion for Protective Measures for Witnesses IC-12 and IC-16, 11 November 2009.

⁶ Rule 92 *quater* (B).

pursuant to this Rule.⁷ The Trial Chamber, in accordance with the Rules, decided to only admit them if it was satisfied that they were reliable.⁸ In its assessment, the Trial Chamber considered whether the statements were corroborated by other evidence, whether the statements were internally consistent, the circumstances in which the statements were made or recorded, and whether the evidence had ever been subject to cross-examination.⁹

17. With regard to Rule 92 *ter* of the Rules, on one occasion, the Trial Chamber admitted into evidence two statements of Witness 174, one taken by the Prosecution and one taken by the Gotovina Defence, pursuant to Rule 92 *ter* of the Rules without having had the witness present in court.¹⁰ This was preceded by a joint stipulation of the parties that they would, were the witness to be called, only elicit such information as already contained in the statements.¹¹ The parties further stipulated that they would not appeal the issue of admissibility of each other's statements and that the Defence statement would constitute effective cross-examination of the witness about acts and conduct of the accused.¹² The Trial Chamber reasoned that under these circumstances it was not necessary to insist on the formal requirements of Rule 92 *ter* of the Rules, as the purpose of the rule had been fulfilled.¹³

18. Also pursuant to Rule 92 *ter* of the Rules, the Trial Chamber admitted into evidence a suspect interview of Witness Zdravko Janić after having considered the objections by the Defence that the witness had not been properly represented by counsel, as his counsel had failed to file a power of attorney with the Registrar as required by Rule 44 (A) of the Rules. In taking this decision, the Trial Chamber first noted that the main purpose of the right to assistance of counsel during suspect interviews is to ensure that the witness is aware of his or her rights and to protect him or

⁷ Decision on the Admission of Statements of Two Witnesses Pursuant to Rule 92 *quater*, 24 April 2008; Decision on the Admission of Statements of Seven Witnesses Pursuant to Rule 92 *quater*, 16 June 2008; Decision on the Admission of Statements of Four Witnesses Pursuant to Rule 92 *quater*, 24 July 2008; Decision on the Admission of Statements of Two Witnesses and Associated Documents Pursuant to Rule 92 *quater*, 16 January 2009; Decision on the Admission of a Witness Statement Pursuant to Rule 92 *quater*, 5 March 2009; T. 21779-21782.

⁸ Rule 92 *quater* (A) of the Rules.

⁹ Decision on the Admission of Statements of two Witnesses and Associated Documents Pursuant to Rule 92 *quater*, 16 January 2009, para. 13; Decision on the Admission of a Witness Statement Pursuant to Rule 92 *quater*, 5 March 2009, para. 10.

¹⁰ T. 14840-14843.

¹¹ T. 13561-13562.

¹² T. 14817-14818.

¹³ Reasons for the Addition of a Witness to the Prosecution's Witness List and Admission into Evidence of Two Documents, 27 February 2009, para. 8.

her against improper questioning by the Prosecution.¹⁴ In carefully reviewing the way in which Zdravko Janić's lawyer conducted himself during the suspect interview, the Trial Chamber noted that the witness was adequately represented and cautioned prior to questioning by the Prosecution as required by Rule 42 (A) of the Rules. The Trial Chamber therefore found that while his lawyer did fail to file a power of attorney with the Registrar, this did not have a negative effect on the probative value of the interview. Additionally, when on the stand, Zdravko Janić was cautioned by the Trial Chamber as to his rights under Rule 90 (E) of the Rules. He raised no objection based on a risk of self-incrimination, and attested to the truthfulness of the answers he gave in the interview and stated he would give the same answers if examined in court.¹⁵ The Trial Chamber therefore found that no problem arose under Rule 90 (E) of the Rules, and that all conditions for admission into evidence under Rule 92 *ter* of the Rules had been met.¹⁶

19. In relation to unattested portions of Rule 92 *ter* statements, the Trial Chamber clarified that their admissibility is not governed by Rule 92 *ter* of the Rules.¹⁷ It held that such portions may be admitted into evidence, either for the truth of their contents or for the purpose of assessing the credibility of the witness, provided that the additional requirements of the case law on previous inconsistent statements and the criteria of Rule 89 (C) are satisfied.¹⁸

20. During the course of the trial, the Trial Chamber reminded a number of witnesses of their right to object to answer questions if their answers might tend to incriminate themselves. Three witnesses objected to answering questions on the basis that their answers may be self-incriminating in relation to proceedings in another jurisdiction.¹⁹ As a result, the questions were either withdrawn or the Trial Chamber decided not to compel the witnesses to answer the questions as foreseen in Rule 90 (E) of the Rules.²⁰ On one occasion, the Trial Chamber granted the protective measure of partial private

¹⁴ Reasons for the Decision on the Admission of Two Statements and Related Exhibits of Witness Zdravko Janić into Evidence Pursuant to Rule 92 *ter*, 24 July 2008, para. 4.

¹⁵ T. 6079-6082.

¹⁶ Decision on Defence Objections to the Admissibility of Witness 81's Suspect Interview under Rule 95, 8 July 2008; Reasons for the Decision on the Admission of Two Statements and Related Exhibits of Witness Zdravko Janić into Evidence Pursuant to Rule 92 *ter*, 24 July 2008.

¹⁷ Guidance on the Admissibility into Evidence of Unattested Parts of Rule 92 *ter* Statements as Previous Inconsistent Statements, 30 March 2010, para 7.

¹⁸ Guidance on the Admissibility into Evidence of Unattested Parts of Rule 92 *ter* Statements as Previous Inconsistent Statements, 30 March 2010, paras 7-8, 10.

¹⁹ T. 27922, 28215-28216, 28551-28553, 28600.

session testimony to a witness, *inter alia* holding that the procedural protection of Rule 90 (E) of the Rules following compelled testimony, while binding on the Tribunal, may prove an ineffective guarantor of a witness's right vis-à-vis another jurisdiction.²¹

21. Upon request by the calling party, the Trial Chamber restricted the cross-examinations of three witnesses under Rule 70 of the Rules.²² With regard to the Chamber witnesses, the Trial Chamber restricted the parties' cross-examinations, arguing that the rationale of Rule 90 (H) (i) of the Rules coupled with the fact that none of the parties called any of the Chamber witnesses during their cases militated in favour of such restrictions.²³ The parties did not oppose any of these restrictions as long as credibility matters could be explored and the Trial Chamber allowed this with regard to all of the referenced witnesses.²⁴

22. During the presentation of evidence, the Trial Chamber considered the position of individuals with an interest in or association with events relevant to the Indictment and the propriety of their involvement in interviewing witnesses for one of the parties.²⁵ For interviews already conducted, the Trial Chamber found that, though maximum transparency of associated persons' presence during interviews was useful to assess a possible effect on the reliability of the witness statement, it only partially remedied any undesired involvement.²⁶ The Trial Chamber further did not find any specific instances where the involvement of an associated person in the taking of a witness statement made the Trial Chamber believe that the evidence contained therein had been corrupted.²⁷ The Trial Chamber held that in the future the parties should refrain from using such "associated persons" in the taking of witness statements which are related to that person's association.²⁸

²⁰ T. 27928, 28216, 28552, 28600.

²¹ Reasons for Decision Granting Protective Measures to Witness Željko Sačić, 20 September 2010, paras 13, 17.

²² Decision on Prosecution's Motion to Limit the Scope of Testimony of Witness 116, 12 June 2008; Decision on Gotovina Defence Motion to Expand the Scope of the Testimony of Witness 116, 20 June 2008; Decision on Gotovina's Motion to Limit the Scope of Testimony for Witness AG-18, 5 June 2009; Decision on Gotovina's Motion to Limit the Scope of Testimony for Witness AG-24, 6 July 2009.

²³ T. 27106, 27120.

²⁴ Decision on Prosecution's Motion to Limit the Scope of Testimony of Witness 116, 12 June 2008, para. 11; Decision on Gotovina Defence Motion to Expand the Scope of the Testimony of Witness 116, 20 June 2008, para. 4; Decision on Gotovina's Motion to Limit the Scope of Testimony for Witness AG-18, 5 June 2009, para. 13; Decision on Gotovina's Motion to Limit the Scope of Testimony for Witness AG-24, 6 July 2009, para. 12; T. 27120.

²⁵ T. 28045-28046.

²⁶ *Ibid.*

²⁷ T. 28047.

²⁸ T. 28046.

23. The Trial Chamber received evidence from 14 expert witnesses during the trial. The Prosecution submitted several expert reports or addenda after the deadline set for that purpose, or did so in the absence of proper notice and hence in the absence of a set deadline. In these cases, the Trial Chamber determined whether it would be in the interests of justice to consider admitting the reports into evidence, by assessing whether they were *prima facie* relevant and probative, whether the Prosecution had shown good cause to submit them at that stage, and the extent to which the submissions created an additional burden on the Defence.²⁹

24. The Trial Chamber admitted expert reports which it found to be relevant and probative. In addition it required the author to qualify as an expert, i.e. a person who by virtue of some specialized knowledge, skill or training could assist the Trial Chamber in understanding an issue in dispute, and found the content of the expert report to fall within this expertise.³⁰ The Trial Chamber usually decided on admission of expert reports upon completion of the expert's testimony, so as to best evaluate whether they met these requirements for admission.

25. At the start of the trial, the Prosecution's Rule 65 *ter* exhibit list contained 4629 proposed exhibits. Upon Prosecution requests, the Trial Chamber granted leave for the amendment of the Prosecution's exhibit list on many occasions during the course of the trial. The Trial Chamber granted such motions when it considered the additions to be in the interest of justice. In doing so, it balanced the Prosecution's duty to present the available evidence to prove its case with the right of the accused to a fair and expeditious trial and the right to have adequate time and facilities for the preparation of their defence.³¹

26. *Documentary Evidence.* The Trial Chamber admitted documents such as exhumation reports, orders, photographs, and maps tendered in connection with witness testimonies, or admitted them from the bar table pursuant to Rule 89 (C) of the Rules. In total, the Trial Chamber admitted 4825 exhibits.

²⁹ Decision and Guidance with Regard to the Expert Report, Addendum, and Testimony of Reynaud Theunens, 17 November 2008, para. 18; Decision on Expert Report and Addendum of Harry Konings, 18 December 2008, para. 10; T. 17180.

³⁰ Decision and Guidance with Regard to the Expert Report, Addendum, and Testimony of Reynaud Theunens, 17 November 2008, paras 13-14; Decision on Expert Report and Addendum of Harry Konings, 18 December 2008, para. 9; T. 17141, 17182.

³¹ Decision on Prosecution's Second Motion to Amend the Exhibit List, 15 May 2008, para. 3; Decision on Prosecution's Motion to Admit Documents into Evidence and to Add Two Documents to the Prosecution's Rule 65 *ter* Exhibit List, 25 November 2008, para. 9.

27. The Trial Chamber emphasized that documents should preferably be tendered for admission through witnesses who are able to comment on them.³² In the Trial Chamber's view, this would allow for proper contextualization without which it would be left to determine relevance and probative value primarily on the basis of the documents alone.³³ Documents not tendered through witnesses were considered for admission by the Trial Chamber as bar table documents. The Trial Chamber denied admission of documents tendered from the bar table on a number of occasions.³⁴ In relation to bar table submissions, and in order to facilitate the admission process, the Trial Chamber requested the moving party to submit a spreadsheet containing descriptions of the tendered documents, comments about their relevance, as well as objections, if any, from the opposing parties.³⁵ These spreadsheets were often received informally, whereupon the Trial Chamber then addressed any of the objections on the record when making decisions on admission of bar table documents. However, in order to ensure maximum transparency, the Trial Chamber invited the parties on 9 October 2009 to review the record and to file those spreadsheets that were not clearly put on the record previously.³⁶ For future bar table submissions, the Trial Chamber invited the parties to submit their spreadsheets in a filing.³⁷ On a number of occasions, the Trial Chamber had to decide on requests for admission into evidence of bar table documents tendered after the conclusion of the tendering party's case-in-chief.³⁸ In deciding these requests, the Trial Chamber noted the prescribed sequence of receiving evidence laid down in Rule 85 (A) of the Rules and emphasized that a deviation from that sequence in order to admit into evidence bar table documents after the close of the tendering party's case-in-chief would only be in the interests of justice if exceptional circumstances were demonstrated.³⁹

28. In one instance, the Prosecution tendered a document, exhibit P2593, through a witness to which the Gotovina Defence objected arguing that the Prosecution, considering its obligation under Rule 90 (H) (ii) of the Rules, should have tendered that

³² T. 21138.

³³ T. 13790, 15987.

³⁴ T. 13788-13792, 17138-17139.

³⁵ See T. 12787-12788, 12953-12954.

³⁶ T. 22869-22870.

³⁷ T. 22869-22870.

³⁸ See e.g. T. 28986-28987; Decision on the Markač Defence Bar Table Submissions, 16 July 2010; Decision on the Gotovina Bar Table Submission, 16 July 2010.

³⁹ See e.g. Decision on the Markač Defence Bar Table Submissions, 16 July 2010, para. 3 and references cited therein.

document through a previously heard witness who was in a better position to discuss it.⁴⁰ The Trial Chamber decided that there is no obligation under Rule 90 (H) (ii) of the Rules for the cross-examining party to put to a witness all documents, or any specific document, which might relate to a witness's evidence which is contradictory to a party's case and that in this case the Prosecution did not breach its obligation under that Rule.⁴¹

29. *Agreed Facts.* The Trial Chamber instructed the parties to file agreed facts rather than tender them into evidence, as admission of agreed facts would constitute an unnecessary procedural step.⁴² The Trial Chamber considered the status of recorded agreed facts to be no less than those contained in exhibits formally admitted into evidence under Rule 89 (C) of the Rules.⁴³ The Trial Chamber noted that it may rely on these facts for the truth of their content without additional supporting evidence, but that it was not bound by any point of fact or law agreed between the parties.⁴⁴ The parties agreed to certain facts relating to the existence of an armed conflict as alleged in the Indictment.⁴⁵ The parties further agreed to certain facts based on the Martić trial judgement.⁴⁶ In the course of the trial, the parties also stipulated to other facts in the context of the testimony of specific witnesses.⁴⁷

30. *Weighing the Evidence.* The Trial Chamber considered the charges against the Accused in light of all the evidence it admitted during the trial. It assessed the evidence in accordance with the Statute, the Rules, and the jurisprudence of the Tribunal. Where no guidance was found in these sources the Trial Chamber decided matters of evidence in such a way as would best favour a fair determination of the case in consonance with the spirit of the Statute and the general principles of law.⁴⁸

31. In evaluating the evidence, the Trial Chamber always took into account the witnesses' credibility and reliability, which sometimes varied for different portions of their evidence. It considered the demeanour of witnesses. It further considered the individual circumstances of a witness, including his or her possible involvement in the

⁴⁰ T. 20433-20437, 21135-21138.

⁴¹ T. 21137-21138.

⁴² T. 26468-26469.

⁴³ T. 26468.

⁴⁴ T. 26468.

⁴⁵ See Chapter 5.1.2.

⁴⁶ Joint Submission by the Defence for Ivan Čermak and the Prosecution in Respect of Agreed Facts, 14 January 2010; Second Joint Submission by the Defence for Ivan Čermak and the Prosecution in Respect of Agreed Facts, 15 April 2010; T. 27098, 28497-28498, 28528.

⁴⁷ E.g. T. 19270.

⁴⁸ Rule 89 (B) of the Rules.

events and fear of self-incrimination, the witness's relationship with any of the Accused, and whether the witness would have an underlying motive which could affect the witness's credibility and reliability. The Trial Chamber also assessed the internal consistency of each witness's testimony and other features of his or her evidence, as well as whether there was corroborating or contradicting evidence. The evidence presented in this case relates to events which occurred in 1995. The Trial Chamber has therefore not put a lot of weight on minor discrepancies in the evidence.⁴⁹ Some of the witnesses that were former members of the warring factions were evasive or not entirely truthful regarding the roles they played in the events in 1995. Although aware of this, the Trial Chamber nevertheless sometimes relied on other aspects of these witnesses' testimonies. This is consistent with the jurisprudence of the Tribunal according to which it is not unreasonable for a Trial Chamber to accept certain parts of witness's testimony while rejecting others.⁵⁰ While the Trial Chamber may not always have explicitly stated whether it found a witness's testimony or portions of his or her testimony credible, it consistently took the aforementioned factors into account in making findings on the evidence. The Trial Chamber explicitly dealt with inconsistencies and other credibility and reliability issues where these touched upon significant aspects of the testimony and where the parties raised these issues.

32. In relation to the testimony of Witness Gojanović, a former HV soldier, the Trial Chamber noted that other evidence was inconsistent with parts of the witness's testimony, which led the Trial Chamber to treat Gojanović's evidence with caution. However, these inconsistencies did not lead the Trial Chamber to believe that his entire testimony was unreliable. In this context, the Trial Chamber considered that at least parts of the witness's testimony were corroborated by other evidence.⁵¹

33. On some occasions, the Trial Chamber noted that witnesses may have talked with and possibly influenced each other before giving testimony.⁵² The Trial Chamber assessed the likelihood of any influence on a case-by-case basis and paid particular attention to the witnesses' demeanour in court and to any indications that the testimony may have been influenced.⁵³ On 2 and 3 June 2010, the Chamber heard the testimony of

⁴⁹ See *Čelebići* Appeal Judgement, paras 484-485, 496-498; *Kupreškić et al.* Appeal Judgement, para. 31.

⁵⁰ *Kupreškić et al.* Appeal Judgement, para. 333; *Blagojević and Jokić* Appeal Judgement, para. 82.

⁵¹ See e.g. Dawes's testimony in relation to destruction and plunder in Kistanje on 6 August 1995 in Chapter 4.2.8, and exhibit P2349 in relation to plunder in Srb on 8 August 1995 in Chapter 4.2.4.

⁵² See e.g. T. 7428-7431.

⁵³ See e.g. finding on murder of Sava Đurić in Chapter 4.1.9.

Jozo Bilobrk, Antonio Gerovac, and Željko Mikulić provisionally in private session.⁵⁴ In light of potentially contradictory testimony, and in order to protect the integrity of the proceedings by preventing the witnesses from following and thereby being possibly influenced by each other's testimony, the Chamber found that it was in the interests of justice to hear their testimony provisionally in private session, thereby only minimally infringing upon the public character of the proceedings.⁵⁵

34. On some occasions, only one witness gave evidence of an incident covered by the Indictment. The Appeals Chamber has held that the testimony of a single witness on a material fact does not, as a matter of law, require corroboration.⁵⁶ On these occasions, the Trial Chamber exercised particular caution, considering all circumstances relevant to the testimony of the witness, including whether the witness may have had a motive to give inaccurate evidence.

35. In assessing and weighing the testimony of expert witnesses, the Trial Chamber considered factors such as the professional competence of the expert, the material at his disposal, the methodologies used, the credibility of the findings made in light of these factors and other evidence, the position or positions held by the expert, and the limits of the expertise of each witness.

36. On one occasion, the Trial Chamber was seised of a Gotovina Defence motion requesting it to issue an order precluding the Prosecution from introducing testimony through proposed Prosecution expert witness Konings on whether targets selected and hit during Operation Storm were legitimate military targets.⁵⁷ The Trial Chamber held that it is not bound by the conclusions of the expert. However, the opinion of the expert as to whether, and why, he considers a target to be a legitimate military objective, although ultimately to be determined by the Trial Chamber, may assist it in making decisions in relation to the criminal liability of the accused.⁵⁸ In a decision regarding a Defence expert witness, the Trial Chamber held that parts of an expert report that dealt with purely legal matters are of no assistance to the Trial Chamber.⁵⁹ However, the Trial

⁵⁴ T. 28650-28651; Order Lifting Confidentiality of Testimony of Witnesses 176, 177 & 178, 7 June 2010.

⁵⁵ Reasons for Decision of 2 June 2010 to Hear Testimony of Witnesses Bilobrk, Gerovac and Mikulić in Private Session, 29 June 2010, para. 3.

⁵⁶ *Tadić* Appeal Judgement, para. 65; *Aleksovski* Appeal Judgement, para. 62; *Čelebići* Appeal Judgement, para. 492; *Kupreškić et al.* Appeal Judgement, para. 33.

⁵⁷ Defendant Ante Gotovina's Rule 73 Motion In Limine, 6 March 2008.

⁵⁸ See Decision on Part of the Gotovina Defence's Rule 73 Motion In Limine, 21 May 2008, para. 6.

⁵⁹ Decision on Admission of Expert Report of Geoffrey Corn, 22 September 2009, para. 6.

Chamber found that other parts of the report would assist it in understanding matters at the intersection between the laws of war and technical aspects of the conduct of military operations.⁶⁰ Although fully aware of where to draw the lines between these matters, the Trial Chamber admitted the expert report into evidence in its entirety, declining to attempt to disentangle and only admit the relevant parts of the report.⁶¹ On another occasion, the Trial Chamber held that there is no obligation under the Rules for the Defence to disclose to the Prosecution any information it provided to the expert, any communications between the expert and the Defence, or any draft reports circulated between the expert and the Defence.⁶² It further ruled that such matters could be explored with the expert in cross-examination, but also stated that the sources and methodology used for an expert report must be clearly indicated and accessible, so as to give the parties and the Trial Chamber the possibility to test or challenge the factual basis and the methodology relied upon, in order to assess the probative value of the report.⁶³

37. In considering the admission of Witness Šterc's 92 *ter* witness statement, the Trial Chamber observed that, although Witness Šterc was presented as a witness of fact, parts of his statement consisted of conclusions and opinions which required special knowledge, experience, or skills in order to be substantiated, and which did not have a factual basis in what the witness personally experienced.⁶⁴ The Trial Chamber determined that when such a situation occurs, it expects such parts of the evidence to meet the requirements which apply in relation to expert witnesses.⁶⁵ This means that the witness's conclusions and opinions are presented in full transparency of the facts he or she relied upon and the methods he or she used to form his opinions and conclusions.⁶⁶ The Trial Chamber found that Witness Šterc's conclusions and opinions in the subsequently stricken portions of his Rule 92 *ter* statement did not meet this requirement and for that reason they were not admitted into evidence.⁶⁷ Following the

⁶⁰ See Decision on Admission of Expert Report of Geoffrey Corn, 22 September 2009, para. 6.

⁶¹ Decision on Admission of Expert Report of Geoffrey Corn, 22 September 2009, para. 6.

⁶² Decision on Disclosure of Expert Materials, 27 August 2009, paras 1, 9.

⁶³ Decision on Disclosure of Expert Materials, 27 August 2009, paras 10-11.

⁶⁴ T. 20343-20344, 21130-21133.

⁶⁵ T. 21130-21133.

⁶⁶ T. 21131-21132.

⁶⁷ T. 21132.

same line of reasoning, the Chamber did not admit into evidence portions of Witness Pejković's Rule 92 *ter* witness statement.⁶⁸

38. In assessing documentary evidence, the Trial Chamber considered the origin of the document, the author and his or her role in the relevant events, the chain of custody of the document to the extent that it was known, the source of the information contained in the document, and whether that information was corroborated by witnesses or other documents. The Trial Chamber did not consider unsigned, undated, or unstamped documents *a priori* to be devoid of authenticity. When the Trial Chamber was satisfied with the authenticity of a particular document, it did not automatically accept the statements contained therein to be an accurate portrayal of the facts. As a general rule, the less the Trial Chamber knew about a document, the circumstances of its creation and usage, the less weight it gave to it. For example, the Trial Chamber admitted a documentary film proffered by the Prosecution, *Storm Over Krajina*, but emphasised when admitting it that since it largely depicted persons, events, and locations with no identifying information, the film contained little probative value overall.⁶⁹ Similarly, before admitting a human rights report tendered by the Prosecution, *Military Operation Storm and its Aftermath*, the Trial Chamber required that the Prosecution redact from the report any portions relating to Sector North, an area not covered by the Indictment, as well as any portions of the report containing statements purportedly made or represented to have been made by any of the accused.⁷⁰ The report was then admitted in its redacted version with no objections from the Defence.⁷¹

39. The Trial Chamber received much evidence on the practice of compiling and processing various reports from international organisations and agencies present on the ground during the Indictment period.⁷² It considered all of this evidence in assessing

⁶⁸ T. 25234.

⁶⁹ T. 15933.

⁷⁰ T. 15834-15836.

⁷¹ T. 17130-17131.

⁷² See e.g. for ECMM: P888 (Lennart Leschly, witness statement, 6 February 2007), para. 9; P931 (Eric Hendriks, witness statement, 4 April 2008), para. 7; P1281 (Witness 174, witness statement, 6 November 2008), pp. 2-3; P1284 (Stig Marker Hansen, witness statement, 22 August 1997), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), paras 5, 7; Søren Liborius, T. 8250, 8278, 8343, 8408, 8447, 8526; Lennart Leschly, T. 9151-9152; Eric Hendriks, T. 9695-9696, 9708-9709, 9806-9808; Stig Marker Hansen, T. 14980-14983, 15054;

HRAT: P20 (Edward Flynn, witness statement, 29 June 1997), pp. 6-7; P21 (Edward Flynn, witness statement, 26-27 February 2008), paras 4-5, 29; P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 3; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), paras 8-14, 17-18, 27-28; P1284 (Stig Marker Hansen, witness statement, 22 August 1997), p. 4; Edward Flynn, T. 1249-1250,

whether and to what extent to rely on such documentary evidence. In general, the Trial Chamber relied on reports from international organizations and agencies, and considered specifically on a case-by-case basis whether the information contained therein was sufficiently sourced and whether it reflected direct observations or (single or multiple) hearsay.

40. On one occasion, the Gotovina Defence tendered excerpts of the Prosecution's Pre-Trial Brief in the Stanišić and Simatović case as exhibit D1625.⁷³ The Prosecution stated that it did not oppose the facts contained in D1625 but, from a procedural standpoint, was wary to agree to them as these were allegations that still needed to be proven in another case before the Tribunal.⁷⁴ The Prosecution stated that it was uncomfortable to have "one Chamber essentially agree to those facts when these are the subject of another case where [the Prosecution] will be seeking to prove those facts".⁷⁵ Similarly, the Defence tendered excerpts from the Prosecution's opening statement in

1314-1315, 1368; Kari Anttila, T. 2539-2541; Maria Teresa Mauro, T. 11998, 12003-12004, 12023-12027, 12038, 12063, 12065-12066; P36 (HRAT daily report, 2-4 September 1995), p. 5; UNMO: P61 (Tor Munkelien, witness statement, 10 January 2008), paras 9-16; P94 (Mikhail Ermolaev, witness statement, 14 May 2002), pp. 6-7; P95 (Mikhail Ermolaev, witness statement, 2 December 2007), paras 1-6; P172 (Kari Anttila, witness statement, 16 October 1997), p. 5; P173 (Kari Anttila, witness statement, 12 December 2007), paras 25-26, 38, 41-43, 45; P415 (Peter Marti, witness statement, 13 February 1996), p. 3; P416 (Peter Marti, witness statement, 29 June 1997), pp. 4-6; P417 (Peter Marti, witness statement, 14 December 2007), para. 17; D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 45, 56; Tor Munkelien, T. 1506-1507, 1514-1520, 1600-1607, 1674, 1696; Mikhail Ermolaev, T. 2339-2340, 2374, 2389-2399, 2412-2413, 2470-2471, 2496; Kari Anttila, T. 2529-2534, 2590-2595, 2603-2606, 2613-2615, 2617-2634, 2653-2654, 2656-2657, 2660-2665, 2672-2675, 2677-2678, 2684; Peter Marti, T. 4614, 4622-4623, 4698-4702, 4704-4706, 4719; Philip Berikoff, T. 7823-7824, 7870-7871; P63 (Instruction to conduct damage survey, 17 August 1995), para. 1; P65 (UNMO data collection form); P66 (Data on population and destroyed houses, 4 October 1995); P98 (UNMO data on population left in sector south and destroyed houses, 13 September 1995); P176 (List of inspected villages in Sector South compiled by UNMOs, prepared by Kari Anttila, 4 November 1995); D171 (UNMO reporting chart); D173 (Excerpt of Census of Population, Dwellings, Apartments and Farms, 31 March 1991); D174 (Excerpt of Census of Population According to Nationality and Settlement, 31 March 1991); UNHCHR: P598 (Elisabeth Rehn, witness statement, 13-14 October 2005), pp. 2-3, 7; P599 (Elisabeth Rehn, witness statement, 21 February 2007), para. 9; Elisabeth Rehn, T. 6504, 6562-6563, 6566, 6586-6587, 6598, 6600-6603, 6605, 6663-6664; P639 (Report of Special Rapporteur Elisabeth Rehn, 7 November 1995), paras 6, 8; P640 (Report of Special Rapporteur Elisabeth Rehn, 12 November 1996), para. 5; D669 (Report of Special Rapporteur Elisabeth Rehn, 14 March 1996), paras 6, 64; D684 (Report of Special Rapporteur Elisabeth Rehn, 31 October 1997), paras 4-5; UNCRO: P310 (Jacques Morneau, witness statement, 25 February 2008), paras 16-17, 28; Jacques Morneau, T. 3906, 3908-3910, 3912, 3930; UNCIVPOL: P215 (Jan Elleby, witness statement, 14 September 1997), p. 3; P216 (Jan Elleby, witness statement, 10 October 2005), p. 2; P217 (Jan Elleby, witness statement, 20 February 2008), paras 3-5, 7-8, 24 (p.11); Jan Elleby, T. 3362-3363, 3366, 3375, 3427-3429, 3461-3464, 3506-3508; P230 (UNCIVPOL weekly report 21-26 August 1995, 27 August 1995), p. 3; P240 (UNCIVPOL strategy in joint work with Croatian police, undated), items 3, 5, 8; P245 (UNCIVPOL minutes of meeting with Čedo Romanić, 30 August 1995), p. 1; P283 (UNCIVPOL structure).

⁷³ T. 20682-20686.

⁷⁴ T. 20684.

⁷⁵ T. 20684.

the Karadžić case (D2019) and excerpts of the Prosecution's final brief in the Martić case (D1773). The Trial Chamber considered that all of these documents reflected positions of the Prosecution in cases before this Tribunal, and as such contained limited evidentiary value. In deciding not to rely on these exhibits, the Trial Chamber further considered that the parties had chosen not to stipulate to the underlying facts.

41. In order to assess whether the Prosecution's allegations were proven for each municipality in which crimes were alleged to have been committed, the Trial Chamber systematically sought to identify the contemporaneous municipality of each location described in the evidence. In order to do so, the Trial Chamber used a variety of maps, including maps admitted into evidence, such as P24, the maps provided in the Gotovina *et al.* Court Binder,⁷⁶ and other maps provided by the Tribunal's Mapping Library and Photovisual Reproduction Unit. Some evidence referred to locations by their grid coordinates, in which case the Trial Chamber used maps equipped with grid coordinates or relied on the plotting of the parties.⁷⁷ Some evidence placed a certain location in a municipality which did not correspond to the municipal divisions in effect at the time of the alleged crimes, in which case the Trial Chamber substituted the indicated municipality with the contemporaneous one.

42. The Trial Chamber admitted into evidence as exhibit P461 the presidential transcript of a meeting held in President Tudman's villa in Brioni, on 31 July 1995.⁷⁸ The Trial Chamber further admitted the expert report of John Peter French on the authenticity of the audio recordings of the Brioni meeting that he examined.⁷⁹ On 2 March 2009, due to the prematureness of trying to remedy an authenticity challenge of an unknown character, the Chamber invited the Prosecution to consider the withdrawal of five witnesses scheduled to testify on the authenticity of the recording and transcription of the Brioni meeting.⁸⁰ The Prosecution subsequently withdrew these five witnesses.⁸¹ The Trial Chamber then invited the Defence to make submissions with regard to alleged translation and transcription errors in exhibit P461.⁸² The Gotovina Defence submitted a list of alleged errors, including an alternative transcript of the

⁷⁶ See Joint Submission of the Parties on the Division of Croatian Municipalities, 7 November 2008.

⁷⁷ See Defendant Ante Gotovina's Submission on Grid References, 4 March 2009; Prosecution's Response to Defendant Ante Gotovina's Submission on Grid References, 10 March 2009.

⁷⁸ T. 7518.

⁷⁹ T. 16690; exhibit P2353.

⁸⁰ T. 16995-16998.

⁸¹ T. 17211.

⁸² T. 17329-17330.

Brioni meeting.⁸³ The Prosecution opposed the Gotovina Defence's proposed revised transcript, with the exception of four minor corrections.⁸⁴ The Trial Chamber then directed the Gotovina Defence to send a number of passages from the original audio recording of exhibit P461 to the CLSS to verify their accuracy.⁸⁵ After CLSS's verification and in the absence of any objections from the parties, the old version of exhibit P461 was replaced by a revised version.

43. In addition to direct evidence, the Trial Chamber has admitted hearsay and circumstantial evidence. In evaluating the probative value of hearsay evidence, the Trial Chamber carefully considered all indicia of its reliability, including whether the evidence stemmed from a source that gave it voluntarily, whether it was first-hand or further removed, the absence of an opportunity to cross-examine the person who made the statement, and the circumstances under which the hearsay evidence arose.⁸⁶ The Trial Chamber clarified that its primary interest in hearing a witness's testimony was to establish facts which were observed by the witness, and that hearsay evidence which is obscure, in the context of all the evidence, may be given no weight.⁸⁷ It further clarified that hearsay evidence may also be used as corroborative evidence.⁸⁸ The Trial Chamber used as a standard that it would not enter a conviction where the evidence supporting that conviction was based solely on hearsay evidence. Similarly, with regard to written, non-cross-examined evidence such as Rule 92 *bis* or 92 *quater* statements, the Trial Chamber required corroboration by other evidence before entering a conviction.⁸⁹ As for circumstantial evidence, the Trial Chamber considered that such evidence alone may be sufficient for a conviction or a finding of fact beyond a reasonable doubt.⁹⁰ However the conclusion drawn from the circumstantial evidence had to be the only reasonable conclusion available.⁹¹

⁸³ Defendant Ante Gotovina's Submission Regarding P461 Brioni Transcript, 1 April 2009.

⁸⁴ Prosecution's Response to Ante Gotovina's Submission Regarding P461 Brioni Transcript, 15 April 2009.

⁸⁵ T. 27051-27054.

⁸⁶ See *Prosecutor v. Aleksovski*, Decision on Prosecutor's Appeal on Admissibility of Evidence, 16 February 1999, para. 15.

⁸⁷ T. 12137.

⁸⁸ T. 12137.

⁸⁹ *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-AR73.2, Decision on Interlocutory Appeal Concerning Rule 92 *bis* (C), 7 June 2002, fn.34 and references cited therein; *Popović et al.* Trial Judgement, para. 60.

⁹⁰ See *Kupreškić* Appeal Judgement, para. 303.

⁹¹ See *Čelebići* Appeal Judgement, para. 458.

44. Article 21 (4) (g) of the Statute provides that no accused shall be compelled to testify against himself. In the present case all of the Accused chose not to testify. No adverse inferences were drawn from this fact. On 5 March 2009, the Trial Chamber admitted into evidence portions of several interviews with the Accused Čermak and Markač, conducted between 1998 and 2004.⁹² The Trial Chamber ruled that the inability of any of the Accused to cross-examine the other Accused whose interviews were admitted into evidence due to the Accused's choice not to testify did not violate the right to cross-examination and did not bar the Trial Chamber from admitting these interviews into evidence.⁹³

45. In the course of the trial, on several occasions the parties tendered into evidence "official notes", written by Croatian officials on the basis of interviews. The Trial Chamber found these notes to be out-of-court statements prepared by non-parties and not taken for the purpose of the Tribunal's proceedings.⁹⁴ The Prosecution tendered a number of MUP official notes related to the preliminary inquiries into the events in Grubori on 25 August 1995 carried out by MUP officials in 2001 and 2002.⁹⁵ The official notes were records of interviews conducted with persons thought to have information about the events in Grubori, including the Accused Čermak and Markač.⁹⁶ The Trial Chamber found the official notes to be probative and admitted them into evidence, with the exception of the official notes of the two Accused.⁹⁷ In relation to those two official notes, the Trial Chamber found, for a number of reasons, that the probative value of the official notes of the interviews with Ivan Čermak and Mladen Markač was substantially outweighed by the need to ensure a fair trial.⁹⁸ On 24 July 2009, the Trial Chamber admitted further official notes, which were tendered by the Gotovina Defence to show investigative steps taken by the Croatian civilian authorities with regard to incidents of killing, burning, and looting after Operation Storm.⁹⁹ The

⁹² T. 17172-17173.

⁹³ See Reasons for the Admission into Evidence of the Interviews of the Accused Ivan Čermak and Mladen Markač and Associated Exhibits, 17 April 2009, para. 14.

⁹⁴ Decision on Admission of MUP Official Notes and Reasons for the Decision to Deny the Admission of the Official Note of Ivan Čermak, 30 January 2009, para. 10; T. 20679-20680.

⁹⁵ Decision on Admission of MUP Official Notes and Reasons for the Decision to Deny the Admission of the Official Note of Ivan Čermak, 30 January 2009, para. 1.

⁹⁶ Decision on Admission of MUP Official Notes and Reasons for the Decision to Deny the Admission of the Official Note of Ivan Čermak, 30 January 2009, para. 1.

⁹⁷ Decision on Admission of MUP Official Notes and Reasons for the Decision to Deny the Admission of the Official Note of Ivan Čermak, 30 January 2009, paras 2, 10-11, 14; T. 11464-11465.

⁹⁸ Decision on Admission of MUP Official Notes and Reasons for the Decision to Deny the Admission of the Official Note of Ivan Čermak, 30 January 2009, paras 11-13.

⁹⁹ T. 20680-20681.

Trial Chamber considered that, in this particular case, even if some of these documents were statements of witnesses which were on the Gotovina Defence's Rule 65 *ter* witness list, but whom the Gotovina Defence no longer intended to call, this did not bar admission of the official notes into evidence.¹⁰⁰ On 4 November 2009, the Trial Chamber admitted into evidence two VP official notes to corroborate and complement the testimony of Expert Witness Feldi and to better evaluate his testimony.¹⁰¹ When admitting official notes into evidence, the Trial Chamber reiterated that their admission was in no way an indication of the weight, if any, which the Chamber would ultimately attach to these documents.¹⁰² The Trial Chamber compared official notes with other evidence on the same topic, and sometimes identified notable differences or inconsistencies between these different sources of evidence.¹⁰³ Furthermore, in some instances the contents of official notes led the Trial Chamber to believe that the notes did not accurately reflect what had been stated by the interviewee.¹⁰⁴ In evaluating the evidence, the Trial Chamber determined the weight to accord to each official note on a case-by-case basis. As a rule, the Trial Chamber accorded the official notes little weight and did not rely on them except to the extent that they were corroborated by other evidence.

46. *Findings.* As set out above, the Trial Chamber received a large quantity of evidence on the crimes alleged in the Indictment. This evidence includes testimonies of witnesses who were victims of the crimes, (alleged) direct perpetrators, and international observers who witnessed the crimes or saw the results of crimes. The documentary evidence admitted in this case includes reports from international organizations, documents from police, military, and judicial organs in Croatia, as well as forensic documentation. The diversity and volume of evidence painted a complex picture regarding the incidents charged in the Indictment. Before addressing these incidents against the backdrop of the applicable law, the Trial Chamber made factual findings on all their relevant aspects. These factual findings can be found in Chapter 4.

¹⁰⁰ T. 20679-20680.

¹⁰¹ T. 23891-23892; Decision on Gotovina Defence Request for Certification to Appeal the Trial Chamber Decision of 4 November 2009, 20 January 2010, para. 7.

¹⁰² Decision on Admission of MUP Official Notes and Reasons for the Decision to Deny the Admission of the Official Note of Ivan Čermak, 30 January 2009, para. 10; T. 20681, 23892.

¹⁰³ See e.g. the Trial Chamber's finding on the alleged murder of Nikola Dragičević and others in Chapter 4.1.9.

¹⁰⁴ Pero Perković, T. 19460, 19463, 19494, 19496, 19498, 19502, 19508 (in relation to alleged confessions to the Gošić murders); see also Decision on Prosecution's Application for an Order pursuant

In Chapter 5, the Trial Chamber proceeded to make legal findings on the basis of these factual findings. Finally, in Chapter 6, the Trial Chamber addressed the criminal responsibility of the accused.

47. The Trial Chamber considered all the evidence before it in making the relevant factual findings. While the Trial Chamber has not cited every piece of evidence in the judgement, it reviewed all of the evidence and paid particular attention to the evidence referred to by the parties in their final briefs and closing arguments. The Trial Chamber previously invited the parties to include in their final briefs specific and well-sourced information in relation to evidence relevant to each of the incidents alleged in the Indictment.¹⁰⁵ The detailed references in the final briefs assisted the Trial Chamber in connecting different pieces of evidence and understanding the parties' positions on various aspects of the case. In that regard, the references served as an important complement to, and clarification of, the parties' case presentations. However, in various instances the parties' references to pieces of evidence were either incorrect¹⁰⁶ or unspecific.¹⁰⁷ Only in some instances did the Trial Chamber specifically comment on or reject the relevance of such referenced documents.

48. The parties often relied on certain exhibits in their final briefs or closing arguments. To some of these exhibits, listed below, the Trial Chamber attached limited or no weight in its considerations and sets out its reasons for the position taken in respect of each of these exhibits.¹⁰⁸ The Trial Chamber also explains its motive and methodology for (not) relying on certain other exhibits. In their final briefs, the parties also frequently cited exhibits containing summaries of reports as opposed to citing more direct sources of evidence.¹⁰⁹ In such cases, the Trial Chamber endeavoured to identify and rely upon the better evidence.

to Rule 54 *bis* Directing the Government of the Republic of Croatia to Produce Documents or Information, 26 July 2010, paras 45, 82, 133.

¹⁰⁵ T. 28047-28048.

¹⁰⁶ See e.g. the Gotovina Defence's submission in footnote 1670 of its final trial brief stating that a 21 November 1995 HRAT report is not in evidence and exhibit P1109 which is the mentioned HRAT report. See also footnote 1147 of the Prosecution's final trial brief mentioning P793 (UNCIVPOL report of 20 September 1995) in the context of orders given by Čermak.

¹⁰⁷ This was the case e.g. when the Prosecution in relation to destruction and plunder in Mala Polaća on 27 August 1995 (see Prosecution's Final Trial Brief, Annex A, p. 33) in support of its contention that the perpetrators were HV members, cited to evidence of HV presence in early August 1995 (D180, p. 9 and P2343, p. 38). Although the Prosecution may have wanted to suggest that these troops were present for a longer time, this was not apparent from the cited exhibits.

¹⁰⁸ See *Nchamihigo* Appeal Judgement, paras 165-166.

¹⁰⁹ See e.g. exhibit P688.

49. This is the Trial Chamber's position with regard to a number of exhibits.

50. Exhibit P2402 is a report entitled "Military Operation Storm and its Aftermath," published by the Croatian Helsinki Committee and edited by Žarko Puhovski.¹¹⁰ The report contains un-sourced statements and double entries.¹¹¹ Furthermore, during examination of Puhovski in court it became apparent that there were errors in the book.¹¹² For these reasons, the Trial Chamber decided not to rely on exhibit P2402 in relation to information described therein if uncorroborated by other evidence.

51. Exhibit P744 is a human rights report listing various events which was compiled by Robert Williams from a variety of sources, including Philip Berikoff.¹¹³ The report contains un-sourced hearsay information, and neither Berikoff nor Williams specified the sources in their testimonies. The report was furthermore inconsistent with other evidence from Berikoff, notably with regard to timing.¹¹⁴ For these reasons, the Trial Chamber decided not to rely on the report in relation to information described therein if uncorroborated by other evidence.

52. Exhibit P541 is a list of alleged human rights violations from UNMO Team Gračac. Steenbergen had no knowledge of its preparation or the information contained therein.¹¹⁵ The Gotovina Defence objected to its admission, and urged the Chamber to give it the appropriate weight considering that Steenbergen did not establish its origins.¹¹⁶ For these reasons, the Trial Chamber decided not to rely on the report in relation to information described therein if uncorroborated by other evidence.

53. Exhibit P2417 is a map allegedly signed by Gotovina, apparently depicting troop movements between 4 and 8 August 1995. The Defence did not object to its admission into evidence.¹¹⁷ It is unclear whether the map depicts actual or planned troop movements, nor are all parts of the map legible. Considering this, the Trial Chamber decided not to rely on exhibit P2417 on its own to establish presence of troops.

¹¹⁰ P2316 (Zarko Puhovski, witness statement, 14 June 2007), paras 14-15; Žarko Puhovski, T. 15907.

¹¹¹ E.g. P2402 (Croatian Helsinki Committee, "Military Operation Storm and Its Aftermath", 2001), pp. 143, 153; Žarko Puhovski, T. 16087.

¹¹² E.g. P2402 (Croatian Helsinki Committee, "Military Operation Storm and Its Aftermath", 2001), p. 146; Žarko Puhovski, T. 16062-16064.

¹¹³ Philip Berikoff, T. 7609, 7682; Robert Williams, T. 9646.

¹¹⁴ See e.g. Philip Berikoff, T. 7610.

¹¹⁵ Herman Steenbergen, T. 5434.

¹¹⁶ Herman Steenbergen, T. 5434-5436.

¹¹⁷ T. 17183.

54. Exhibit P689 is an inter-agency human rights violations report which cites as sources only the agency from which the information originated. As the report only contains summarized information and lacks clearly indicated sources, the Trial Chamber decided not to rely on it in relation to information described therein if uncorroborated by other evidence.

55. Exhibit D183 is a Human Rights Watch report dated August 1996 which purports to deal with the issues of HV impunity for crimes committed during Operation Storm and the denial of refugees' right to return to the Krajina. Considering that the document is not referred to by the parties in their final briefs and that the majority of evidence contained therein comes from indirect sources, the Trial Chamber decided not to rely on exhibit D183 without corroboration by other evidence.

56. Exhibit D1631 is a chart depicting the status of Croatian investigations into killings identified on the Prosecution's Further Clarification of Killings and Scheduled Killings Lists.¹¹⁸ The document is undated and was seemingly compiled by Mladen Bajić's office, based on unclear sources.¹¹⁹ Accordingly, the Trial Chamber decided not to rely on exhibit D1631 in relation to details, such as ethnicities of the listed victims.

57. Exhibit P988 is an IHF report dated 25 August 1995 based on information gathered by a fact-finding mission to the Knin area from 17-19 August 1995.¹²⁰ The report was prepared by William Hayden.¹²¹ During examination of Hayden in court, it became apparent that the reported information required further investigations and that the framework conditions for gathering the report's information were sub-optimal.¹²² At least in one instance, the Trial Chamber has found that the report was significantly inaccurate.¹²³ Accordingly, the Trial Chamber decided not to rely on exhibit P988 for details if uncorroborated by other evidence.

58. The Trial Chamber admitted a number of documents entitled "Reports on Circumstances of Death" in relation to alleged murder victims. These reports provide personal information about the victim as well as information about the location, time,

¹¹⁸ Mladen Bajić, T. 20754-20756.

¹¹⁹ Mladen Bajić, T. 20835-20837.

¹²⁰ William Hayden, T. 10587; P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), p. 2.

¹²¹ William Hayden, T. 10588.

¹²² William Hayden, T. 10646.

¹²³ Witness 1, T. 8760-8761; P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 2.1.3.

and cause of death. The sources of such information, as indicated on the documents, were often relatives of the deceased. The Trial Chamber generally accepted the personal information from such reports as reliable. However, in relation to information on location, time, and cause of death the factual basis on which the information provider relied, remained unclear. Furthermore, on occasions such information was contradicted by evidence provided by witnesses to the alleged murders. For these reasons, the Trial Chamber decided not to rely on some of the information from “Reports on Circumstances of Death” if uncorroborated by other evidence.

59. Exhibit C5 is Croatia’s Population Census of 1991. When admitting this document into evidence, the Trial Chamber noted that it “may provide context and/or corroboration to other evidence before the Chamber and assist it in making factual determinations relevant to the Indictment”.¹²⁴ The Trial Chamber was mindful of the fact that the census data relates to 1991 and applied great caution in drawing any inferences from this data in relation to the ethnic composition of the RSK in the summer of 1995.¹²⁵ On many occasions in relation to villages of incidents covered by the Indictment, the census data indicated that an extremely high percentage of inhabitants of a village in 1991 were Serb. Considering also that the parties agree on the fact that significant numbers of non-Serbs left the RSK between 1992 and 1995¹²⁶, thereby increasing the percentage of Serbs on the total population, the Trial Chamber found that on some occasions the census provided a sufficient basis to make findings on questions of ethnicity in 1995. The Trial Chamber also considered in this context the possibility of any remaining Croat population moving within the RSK into villages with a previous Serb majority, thereby altering the ethnic composition of those villages. However, this alternative has not been made sufficiently plausible by the evidence received and therefore does not raise a reasonable doubt in relation to the Trial Chamber’s findings on the ethnic compositions of villages.

60. In making factual findings, the Trial Chamber generally considered the alleged crimes separately and by incident. When the circumstances so allowed, the Trial Chamber considered the evidence on certain crimes together. The Trial Chamber

¹²⁴ T. 28488.

¹²⁵ For example, the Trial Chamber refrained from using the census on its own in order to make factual determinations on the ethnicity of single persons, unless the village was exclusively Serb in 1991.

¹²⁶ See Chapter 5.1.2.

remained mindful of events occurring in temporal and geographical proximity of an incident and considered whether relevant inferences could be drawn from such events.

61. The Trial Chamber decided to not always specifically address certain incidents when making factual findings.¹²⁷ This included incidents where the evidence referred to crimes committed outside the scope (temporally, geographically or otherwise¹²⁸) of the Indictment. It also included incidents for which the evidence identified perpetrators of a crime as civilians.¹²⁹ Finally, for some incidents the evidence did not provide any or only inconclusive information on perpetrators and the Trial Chamber did not always specifically address such incidents.¹³⁰ For example, the Trial Chamber received much evidence on burned or burning houses but without any direct information on whether or by whom these houses were set on fire. Similarly, the Trial Chamber received evidence on the death or killing of individuals without any direct evidence on perpetrators. In cases where the evidence did not provide sufficient information about more than one element of the alleged crime, the Trial Chamber at times only discussed some of those elements.

62. Some of the evidence received by the Trial Chamber suggested that there was a high probability that crimes were committed by members of the HV. This was particularly prevalent when it came to burnt or looted houses. For example, the Trial Chamber received a large amount of evidence of Croatian troop presence near the Knin-Drniš road in the first weeks of August 1995.¹³¹ The Trial Chamber also received much evidence about extensive destruction in that area.¹³² Nevertheless, considering the correct standard to be applied in making findings and with a view to its task of determining whether the accused are guilty of crimes alleged in the Indictment, the Trial Chamber in some instances was unable to establish beyond a reasonable doubt, on the basis of the evidence before it, the identity or affiliation of the perpetrators of certain incidents.

¹²⁷ The Trial Chamber also did not make factual or legal findings on minor incidental crimes (e.g. window damage when shooting a person through a window or destruction damage when forcefully opening a door when looting). See also e.g. Chapter 4.1.1.

¹²⁸ For example in relation to destruction and plunder of UN property.

¹²⁹ Compare discussion on scope of JCE in Chapter 6.2.

¹³⁰ See e.g. the alleged murder of Ljubica Stegnajić in Chapter 4.1.2, burnt and looted houses in Plavno Valley on 21 August 1995 in Chapter 4.2.9 or the alleged murder of Milka Korolija.

¹³¹ See findings in Chapter 4.

¹³² See Chapter 4.1.15 in relation to Uzdolje.

63. The Trial Chamber used specific terminology in its factual findings. For example, it used the term “the Trial Chamber finds” for incidents where the factual basis was sufficient to further consider the incident against the applicable law. If an incident was not further considered, the Trial Chamber used terms like “the evidence indicates” or “the evidence suggests”.

64. With regard to perpetrators, the Trial Chamber first assessed whether the specific evidence with regard to an incident indicated their identity or affiliation. Often, the evidence on a specific incident indicated that the perpetrators wore military-type uniforms, but could not in itself support a conclusion on the armed forces, if any, to which the perpetrators belonged. In such cases, the Trial Chamber then considered evidence of units of armed forces being present in the vicinity and at the time of the incident and assessed whether this allowed drawing inferences about the identity or affiliation of the perpetrators. If there was insufficient documented troop presence in the area, the Trial Chamber concluded its review of the incident by stating “nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of [...] at the time.” In some instances the Trial Chamber received only vague, general or insufficient evidence tying the alleged perpetrators to any official armed forces. In those circumstances, the Trial Chamber’s considerations were expressed by the phrase “The Trial Chamber has received no other reliable evidence to which armed forces, if any, the alleged perpetrators belonged”. In doing so, the Trial Chamber considered on a case-by-case basis whether a documented troop presence was temporally and geographically sufficiently close to certain events to draw relevant inferences.

65. The Trial Chamber used the formulation “members of Croatian military forces or Special Police” in its factual findings. This formulation is meant to include HVO forces and exclude paramilitaries and civilians wearing uniforms. Evidence of civilians wearing uniforms, mass demobilization, “war lord”-type soldiers, members of official armed forces being sent on leave as early as the first half of August 1995, and the lack of evidence of organized paramilitary groups operating in the Indictment area required the Trial Chamber to closely examine whether persons in military-type uniforms were in fact (active) members of official armed forces.¹³³ In assessing whether persons were

¹³³ See e.g. Berikoff’s evidence in relation to Cetina village (Chapter 4.2.1), exhibit P1200, or Hayden’s testimony about civilians in uniforms (P986 and P987).

members of Croatian military forces or Special Police, the Trial Chamber *inter alia* considered the number of persons present, the persons' attire, the possession of certain weaponry and/or vehicles¹³⁴, a certain behaviour such as "combing" the area, asking for the male population, going from house to house or detaining people, and the existence of hierarchies or a certain structure evidenced by some persons acting as guards or persons receiving instructions from others. The Trial Chamber notes that due to evidence on the abundance of hand-held weapons in the Indictment area, it did not consider the mere possession of such weapons an indicator of military or police affiliation. Similarly, the evidence indicated that the use of civilian vehicles could not in itself warrant an inference that those using the vehicle were not affiliated with the military or the police.¹³⁵ The Trial Chamber considered possible case-specific indicators which weighed against an inference that the perpetrators belonged to official armed forces.

66. The evidence often contained qualifications of perpetrators such as "HV soldiers" or "Croatian soldiers". The Trial Chamber paid specific attention to the factual bases for any such qualifications. It considered that a qualification is often a mixture of factual observations and conclusions. A witness may explicitly relay his or her factual observations, for instance, by referring to "HV soldiers" and stating that he or she saw the letters "HV" on the uniform. However, a qualification of certain persons as "HV" can also be the result of an interpretation without a verifiable proper basis in factual observations.¹³⁶ The Trial Chamber has taken a cautious approach with regard to any qualifications by victims, witnesses or other observers where they do not expressly provide the factual basis for their qualifications. This cautious approach was borne out by the evidence, which established that in several instances certain qualifications had been made without any or with only a vague factual basis.¹³⁷ The Trial Chamber notes that such qualifications do not necessarily have to be incorrect but considered that if they cannot be verified they should be treated with great caution. In this respect, the Trial Chamber notes that the evidence did not sufficiently establish that international military observers were always adequately trained in recognizing and distinguishing

¹³⁴ In particular vehicles with HV or VP license plates, military trucks or tanks.

¹³⁵ See e.g. T. 19452, 19459, 19544, 19548.

¹³⁶ Cf. Gotovina Defence final trial brief, paras 493, 495.

¹³⁷ See e.g. Witness 69's reasoning for concluding "Croatian soldiers" in Chapter 4.2.9 or Berikoff's initial references to "Special Police" (see exhibit D735, p. 2 and T. 7590, 7835, 7838).

different uniforms in the Krajina.¹³⁸ Where a victim, witness or other observer provided evidence of “HV soldiers”, “Croatian soldiers” or similar general qualifications, the Trial Chamber was satisfied that this qualification was based at least on the factual observation of a person wearing a military-type uniform.¹³⁹ In the absence of indications of a factual basis for a given general qualification, the Trial Chamber did not rely on the qualification without further corroboration. However, if the evidence established specialized knowledge in recognizing and distinguishing different units, the Trial Chamber did not necessarily require evidence of a further factual basis for a given qualification.

67. When victims, witnesses or other observers reported a qualification with a high degree of specificity (e.g. by identifying the unit of the alleged perpetrators), the Trial Chamber inferred that this specificity either must have been based on what the person observed or that the person giving the qualification possessed specialized knowledge in this respect. Consequently, the Trial Chamber did rely on such qualifications.

68. In relation to assessing the evidence under Count 4, the Trial Chamber was mindful that objects taken away in 1995 may have been looted from expelled Croats in 1991, thus possibly not being owned by Krajina Serbs. However, this alternative explanation could not be made sufficiently plausible by the presented evidence,¹⁴⁰ leading the Trial Chamber to conclude beyond a reasonable doubt that objects generally were owned by the person(s) in whose house(s) they were located.

¹³⁸ See e.g. T. 2543, 3370-3371, 4717-4718, 4720, 5440, 8201-8202, 9734-9735.

¹³⁹ The Trial Chamber employed a similar reasoning for the qualification of “policemen”.

¹⁴⁰ See for a general account of this scenario: D1842 (Joško Morić, witness interview, 17 January 2004), pp. 185-187, 206-208; Joško Morić, T. 25613-25614, 25646, 25670-25671, 25692-25693, 25708-25709, 25927.

3. The Accused

3.1 Ante Gotovina and the Split Military District

3.1.1 Position of Ante Gotovina within the Split Military District

69. According to the Indictment, Ante Gotovina was during the Indictment period Commander of the Split MD and overall commander of Operation Storm in the southern portion of the Krajina region, and had effective control over HV forces attached to the Split MD and other forces subordinated to his command.¹⁴¹ The Trial Chamber will examine in turn the structure of the HV's Main Staff and the regulations of the Croatian armed forces, Gotovina's position and the structure of the Split MD, the organization and numerical strength of the Split MD, its area of responsibility, and the reorganization and demobilization within the Split MD following Operation Storm.

70. The Trial Chamber first turns to the structure of the HV's Main Staff and the regulations of the Croatian armed forces. The Decision on the Basis of Organization of the Ministry of Defence is a Presidential decree which entered into force on 13 November 1991 and regulated the basic organization of the MoD including the HV Main Staff.¹⁴² According to the decree, the Office of the President comprised a Military Cabinet, whose chief was in charge of communication between the President, as Commander-in-chief of the armed forces, and the MoD, the Main Staff, the main commands of the armed forces, and other state bodies dealing with military issues.¹⁴³ The Main Staff was headed by the Chief of the Main Staff who reported directly to the Minister of Defence, with the exception of issues relating to supreme command and organization, strategic, and operative plans, and the use of the armed forces in peacetime and war, in which case the Chief of the Main Staff reported directly to the President. The Chief of the Main Staff was superior to the commands of the Croatian Army within the scope of the powers issued by the President. The commanders of the Land Army main forces, Air Force, Anti-Aircraft Defence, and the Home Guard were directly subordinate to the President, the Minister of Defence, and the Chief of the Main Staff in relation to their respective remits.¹⁴⁴ The decree provided for the formation of

¹⁴¹ Indictment, paras 3-4, Annex A. See also paras 1-2.

¹⁴² P2639 (Decision on the basis of organization of the Ministry of Defence, 13 November 1991), pp. 1, 4-5, para. XXII.

¹⁴³ P2639 (Decision on the basis of organization of the Ministry of Defence, 13 November 1991), para. III.

¹⁴⁴ P2639 (Decision on the basis of organization of the Ministry of Defence, 13 November 1991), para. XII.

other administrations or departments when required in exceptional circumstances or in war time.¹⁴⁵

71. According to the Croatian regulations of the armed forces that were in force in 1995, the Croatian armed forces, i.e. HV, were constituted by the National Guard and the Home Guard.¹⁴⁶ Theunens testified in his expert report that the National Guards Corps existed prior to the establishment of the HV and was replaced by the HV.¹⁴⁷ The Croatian regulations of the armed forces further stated that the members of the armed forces were either standing personnel, which comprised soldiers, cadets, active military personnel (guard members, active NCOs and active officers) and civilians, or reserve personnel, which comprised reserve soldiers, reserve NCOs and reserve officers.¹⁴⁸ Among the duties of members of the armed forces were to wear a uniform, regular insignia of the armed forces, and carry a military ID.¹⁴⁹ Commanders were responsible, among other things, for military discipline and compliance with the international law of war.¹⁵⁰ Commanders were responsible for calling to account those members of the armed forces who did not act according to the behaviour prescribed for military personnel.¹⁵¹ Members of armed forces had to carry out orders by superiors unquestionably, to the letter and promptly, or else be called to account.¹⁵² However, military personnel were not obliged to carry out criminal orders, and instead had to inform the superior of the commanding officer of the illegal order, and refuse to execute it.¹⁵³

72. The Trial Chamber now turns to Gotovina's position and the structure of the Split MD. **Marko Rajčić**, the chief of artillery of the Split MD from April 1993 to June 1996,¹⁵⁴ testified that under Croatian law, the highest operational commander in Operation Storm was the president of the state, as the commander-in-chief of the armed

¹⁴⁵ P2639 (Decision on the basis of organization of the Ministry of Defence, 13 November 1991), para. XVII.

¹⁴⁶ Ljiljana Botteri, T. 10926; D32 (Croatian Regulations of the Armed Forces, 20 May 1992), p. 5 (provision 1).

¹⁴⁷ P1113 (Reynaud Theunens, Expert Report, December 2007), pp. 18, 43, 52.

¹⁴⁸ D32 (Croatian Regulations of the Armed Forces, 20 May 1992), p. 5 (provision 2).

¹⁴⁹ D32 (Croatian Regulations of the Armed Forces, 20 May 1992), p. 5 (provision 3).

¹⁵⁰ D32 (Croatian Regulations of the Armed Forces, 20 May 1992), pp. 5-6 (provision 4).

¹⁵¹ D32 (Croatian Regulations of the Armed Forces, 20 May 1992), p. 7 (provision 10).

¹⁵² D32 (Croatian Regulations of the Armed Forces, 20 May 1992), p. 9 (provisions 25 and 31).

¹⁵³ D32 (Croatian Regulations of the Armed Forces, 20 May 1992), p. 9 (provision 26).

¹⁵⁴ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 1; Marko Rajčić, T. 16236, 16275; P2323 (Military Police official note of Rajčić interview, 11 July 2008), p. 1.

forces.¹⁵⁵ Gotovina was the operational commander during Operation Storm and continued as such during Operations Mistral and Southern Movement, commanding the HV and elements of the HVO who joined the HV after they moved into Bosnia-Herzegovina.¹⁵⁶ According to Rajčić, Gotovina was held in high esteem by HV officers and troops.¹⁵⁷ General Červenko, the Chief of the Main Staff, was Gotovina's immediate superior.¹⁵⁸ The Special Police units of the MUP operated in between the two MDs of Gospić and Split, under the command of Markač.¹⁵⁹

73. With regard to the Split MD, **Ljiljana Botteri**, Assistant Commander for Legal Affairs of the Split MD during and after Operation Storm,¹⁶⁰ testified that sometime at the end of 1992, General Ante Gotovina took over the command of what was then the Split Operative Zone and later in 1993 became the Split MD.¹⁶¹ To Botteri's knowledge there was no transfer of power from Gotovina to any other military authority during Operation Storm and its aftermath.¹⁶² Botteri listed Gotovina's command staff, which included the Chief of Staff, Rahim Ademi.¹⁶³ The Chief of Staff's assistants included: Joško Bonacin (Intelligence); Rajčić (Artillery); and Jure Šundov (Home Guard).¹⁶⁴ According to Botteri, it was common practice in the Split MD Command that the members of the command staff or the Chief of Staff's assistants would write orders in their respective area of expertise which Gotovina would review and sign.¹⁶⁵ Botteri also testified that at other times individuals were authorized to sign on Gotovina's behalf if necessary.¹⁶⁶

74. Botteri testified that the Split MD consisted of the 4th Guards Brigade though during Operation Storm a number of additional military units were subordinated to the

¹⁵⁵ Marko Rajčić, T. 16454-16455.

¹⁵⁶ Marko Rajčić, T. 16560-16561; D1429 (Protocol of meeting of 25 September 1999).

¹⁵⁷ Marko Rajčić, T. 16454.

¹⁵⁸ Marko Rajčić, T. 16564.

¹⁵⁹ Marko Rajčić, T. 16563-16564.

¹⁶⁰ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), paras 11, 30-31; P1006 (Ljiljana Botteri, witness statement, 8 November 2007), para. 15; P1017 (Report on disciplinary measures and penalties for the third quarter of 1995, signed by Ljiljana Botteri), p. 1.

¹⁶¹ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), paras 15, 28, 46.

¹⁶² P1005 (Ljiljana Botteri, witness statement, 20 January 2004), para. 46; P1006 (Ljiljana Botteri, witness statement, 8 November 2007), para. 23.

¹⁶³ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), paras 29, 46.

¹⁶⁴ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), para. 29.

¹⁶⁵ Ljiljana Botteri, T. 10931.

¹⁶⁶ Ljiljana Botteri, T. 10931-10932.

Split MD.¹⁶⁷ According to Botteri, those units that were subordinated to the Split MD but were not organic included the 1st HGZ Croatian Guards Corps or 144th Guards Brigade, the 2nd Battalion of the 9th Guards Brigade, the 81st Guards Battalion, and the 7th Guards Brigade.¹⁶⁸ According to Botteri, although the boundary of the Split MD changed several times, at one point, the Velebit Mountains served as its boundary.¹⁶⁹ Botteri also testified that the Split MD headquarters was located in Lora Split and a Forward Command Post was established in Zadar a year or two before Operation Storm.¹⁷⁰

75. The Trial Chamber has received further relevant evidence from the Prosecution interviews with Čermak, who was present in Knin following Operation Storm. When interviewed by the Prosecution, Čermak stated that as the Commander of the Split MD, Gotovina commanded all military units in the Split MD, including the Home Guards regiment and the VP.¹⁷¹ He further stated that Gotovina was the main commander of Operation Storm, which included command over the 4th and 7th Brigades, which the Trial Chamber understands to refer to the 4th and 7th Guards Brigades.¹⁷² According to Čermak, Gotovina held the rank of Colonel General.¹⁷³ According to Čermak, from when he arrived in Knin until he left, Ante Gotovina had his headquarters, which was the military command of the operative zone, in the building next to Čermak's office.¹⁷⁴ However, Čermak stated that Gotovina was not always in his office.¹⁷⁵ According to

¹⁶⁷ P1005 (Ljiljana Botteri, witness statement 20 January 2004), para. 45; D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 19; Ljiljana Botteri, T. 10952; D880 (Order operatively re-subordinating the 7th Guards Brigade to the Split MD issued by General Janko Bobetko, 3 July 1995).

¹⁶⁸ D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 19; Ljiljana Botteri, T. 10952; D880 (Order operatively re-subordinating the 7th Guards Brigade to the Split MD issued by General Janko Bobetko, 3 July 1995).

¹⁶⁹ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), para. 28.

¹⁷⁰ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), para. 29.

¹⁷¹ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 50, 118-119; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 16-17, 28-29, 31, 104; P2532 (Accused interview with Ivan Čermak, 7 June 2004), pp. 6, 23, 54-55. See also D1706 (Petar Pašić, witness statement, 3 March 2002), p. 6.

¹⁷² P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 115, 118; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 27-28, 31-33; P2532 (Accused interview with Ivan Čermak, 7 June 2004), p. 7; P2707 (Additional portions of suspect interview with Ivan Čermak, 17 March 1998), pp. 7, 9-10.

¹⁷³ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 126.

¹⁷⁴ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 40, 109-110, 125; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 14, 27-29, 31, 64; P2532 (Accused interview with Ivan Čermak, 7 June 2004), pp. 16, 18. See also D1706 (Petar Pašić, witness statement, 3 March 2002), pp. 5-6; Petar Pašić, T. 22781.

¹⁷⁵ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 125; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 102-103; P2532 (Accused interview with Ivan Čermak, 7 June 2004), pp. 15, 17, 27-28, 55.

Čermak, Gotovina's headquarters was also the headquarters of the 4th and 7th Brigades, who were stationed after Operation Storm in the barracks on the outskirts of Knin.¹⁷⁶ Čermak stated that these brigades were there when he arrived in Knin.¹⁷⁷ Čermak stated that General Ivan Korade, whom he met once or twice in the Knin fortress, was the commander of the 7th Brigade ("Puma").¹⁷⁸ He further stated that General Damir Krstičević was the commander of the 4th Brigade.¹⁷⁹ He added that Krstičević's office was in Knin, and that he met him once or twice.¹⁸⁰ He stated, with some uncertainty, that parts of the 7th Brigade were still there when he left Knin.¹⁸¹ He further stated that the 4th Brigade was still in Knin when he left.¹⁸² Čermak stated that General Norac was the commander of the Gospić Operative Zone, within the boundaries of Lika-Senj county.¹⁸³

76. The Trial Chamber now turns to the organization and numerical strength of the Split MD before, during, and after Operation Storm. On 28 June and on 5 July 1995, Assistant Chief of Staff Marko Bilić reported to Gotovina that the numerical strength of the Split MD units was 23,562 and 23,847 on the respective dates of reporting, which included members of HV Brigades, artillery units and logistics staff. The reports listed the units of the Split MD and included the 72nd VP Battalion, but did not list the 7th Guards Brigade.¹⁸⁴

77. According to an undated list of Split MD troops for Operation Storm, the Split MD had 32,884 troops in operational units, 1,341 troops in artillery support units and a

¹⁷⁶ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 40, 44; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 32, 35-37, 47, 103; P2707 (Additional portions of suspect interview with Ivan Čermak, 17 March 1998), p. 11; D37 (Slobodna Dalmacija interview with Ivan Čermak, 10 August 1995), p. 1; D38 (Večernji list interview with Ivan Čermak, 11 August 1995), pp. 2-3.

¹⁷⁷ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 40.

¹⁷⁸ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 126; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 34-36; P2707 (Additional portions of suspect interview with Ivan Čermak, 17 March 1998), pp. 10-11. See also D1706 (Petar Pašić, witness statement, 3 March 2002), p. 6.

¹⁷⁹ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 126; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), p. 37; P2707 (Additional portions of suspect interview with Ivan Čermak, 17 March 1998), pp. 10, 12. See also D1706 (Petar Pašić, witness statement, 3 March 2002), p. 6.

¹⁸⁰ P2526 (Suspect interview with Ivan Čermak, 17 March 1998), p. 38.

¹⁸¹ P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 36-37, 103; P2707 (Additional portions of suspect interview with Ivan Čermak, 17 March 1998), pp. 11-12.

¹⁸² P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 37, 103.

¹⁸³ P2526 (Suspect interview with Ivan Čermak, 17 March 1998), p. 33.

¹⁸⁴ P1209 (Report from Marko Bilić on numerical strength of Split MD units, for Ante Gotovina, 5 July 1995); D992 (Report from Marko Bilić on numerical strength of Split MD units, to Ante Gotovina, 28 June 1995).

further 4,254 troops in combat security, logistical support and anti-armoured support.¹⁸⁵ On 16 September 1995, in his Analysis of Conducted Operation Storm, Gotovina wrote to Červenko that during Operation Storm the Split MD had 30,000 men, 10,000 of whom had been newly mobilized.¹⁸⁶ The Split MD included the following operational units: the 4th Guards Brigade; the 7th Guards Brigade; the 2nd battalion of the 9th Guards Brigade; the 81st Guards battalion; the 112th, 113th, 141st and 144th brigades; and the 6th, 7th, 15th, 126th, 134th, 142nd Home Guard Regiments.¹⁸⁷ The 4th Guards Brigade had 1,969 troops as ready forces, and the 7th Guards Brigade had 1,880 troops.¹⁸⁸

78. On 2 August 1995, in his order for an offensive operation, Gotovina established the OG North and ordered that it be comprised of, as main forces, the 4th and the 7th Guards Brigades; as auxiliary forces, the 2nd and the 3rd HVO Guards Brigades and the Tomislavgrad MD forces; and as other forces, the 81st Guards battalion and the 1st Croatian Guards Brigade.¹⁸⁹ Gotovina further ordered that the OG Sinj be comprised of the 126th Home Guard Regiment, the 144th Brigade and the 6th Home Guard Regiment.¹⁹⁰ The OG Šibenik was to be comprised of the 15th and 142nd Home Guard Regiments and the 113th Infantry Brigade.¹⁹¹ The OG Zadar was to consist of the 2nd battalion of the 9th Guards Brigade, the 112th Brigade, and the 7th and 134th Home Guard Regiments.¹⁹² The Split MD command was placed in charge of commanding and controlling all forces in the area of the attack operation. The Zadar forward command post was to directly control the forces of the OG Zadar and the OG Šibenik, while the Sajković forward command post would directly control the forces of the OG Sinj and the OG North.¹⁹³ Gotovina appointed Rahim Ademi, the Split MD Chief of Staff, to command all units of the OG North, Bruno Vukić to command the units of the OG Šibenik, and Mladen Fuzul to command the units of the OG Zadar.¹⁹⁴ Gotovina further

¹⁸⁵ P1266 (List of Split MD troops for Operation Storm), p. 1. Further details of the units can be found in this exhibit.

¹⁸⁶ P2585 (Analysis of conducted Operation Storm, Ante Gotovina, 16 September 1995), pp. 1-2, 6.

¹⁸⁷ P1266 (List of Split MD troops for Operation Storm), p. 1; P2585 (Analysis of conducted Operation Storm, Ante Gotovina, 16 September 1995), pp. 6-7.

¹⁸⁸ P1266 (List of Split MD troops for Operation Storm), p. 1.

¹⁸⁹ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), pp. 6-7.

¹⁹⁰ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 9.

¹⁹¹ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 10.

¹⁹² P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 12. See also P1192 (Gotovina report regarding analysis of Kozjak 95, 20 August 1995), p. 2.

¹⁹³ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 6.

¹⁹⁴ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), pp. 7, 11-12. See also D793 (Order by Ante Gotovina appointing Brigadier Rahim Ademi as OG North Commander, 3 August 1995).

ordered that regular daily reports were to be sent every six hours depicting the situation from 6 a.m. onwards. Interim reports were ordered to be sent when needed.¹⁹⁵

79. In orders dated 2 August 1995, Gotovina and Rajčić ordered the formation of TRS-1, TRS-2, TS-3 within OG North, TS-4 in OG Šibenik and TS-5 in OG Zadar.¹⁹⁶ To provide artillery support, Gotovina further ordered the formation of artillery groups within the units carrying out the combat operations, using the units' own artillery resources. These artillery groups were to engage in the focal tasks of their respective units.¹⁹⁷ Gotovina ordered that ammunition be provided to artillery at their initial positions and further supplies to be provided based on consumption, within the amounts authorized.¹⁹⁸ **Rajčić** provided further details on the organization of the Split MD, in particular with regard to its artillery units. Rajčić testified that the primary level of command was the MD and the OGs were the second level, as they were directly subordinated to the command of the MD.¹⁹⁹ The artillery was split into five groups, because the Split MD lacked sufficient artillery to cover all the needs of Operation Storm.²⁰⁰ The artillery groups were tasked with providing artillery support for infantry brigades and Home Guard regiments by firing at targets within the composition of enemy brigades and combat groups, as well as with firing at military objectives, such as targets in Knin and in the operative depth of the enemy's defence.²⁰¹ The artillery and artillery-rocket groups were deployed within the disposition of the OGs, but not attached to the OGs, in a centralized/decentralized model of command.²⁰² When firing at strategic targets and targets in the operational depth, such as those in Knin, the artillery groups were under the command of the Split MD Commander Gotovina, who

¹⁹⁵ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 19.

¹⁹⁶ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 14; D970 (Order to attack attachment for the artillery, by Marko Rajčić, 2 August 1995), p. 1. See also Marko Rajčić, T. 16425; D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 33; P1192 (Gotovina report regarding analysis of Kozjak 95, 20 August 1995), p. 3; P2323 (Military Police official note of Rajčić interview, 11 July 2008), p. 2; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), pp. 6-7; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 7; P2350 (First version of the order for an attack operation, signed Commander Ante Gotovina, 1 August 1995), pp. 15-16.

¹⁹⁷ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 14.

¹⁹⁸ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 17.

¹⁹⁹ Marko Rajčić, T. 16402-16403.

²⁰⁰ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 34-35.

²⁰¹ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 35-40, 42, 62; Marko Rajčić, T. 16341; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 7.

²⁰² Marko Rajčić, T. 16339-16341, 16344, 16346, 16577.

operated through Rajčić.²⁰³ When firing at targets at the closer tactical level, or within positions of the enemy brigades, the commanders of units for which the artillery group was providing support, or of the OGs, decided the targets.²⁰⁴ These commanders could request and direct the fire, based on their plans and lists of targets.²⁰⁵ If new targets were discovered at the tactical level, this would be communicated to the unit that was capable of engaging the new target and neutralizing it.²⁰⁶ If a lower level commander sought artillery support, he would contact his superior command, along his axis of attack. When a request for support reached Rajčić, he would call the commander of an artillery group and assign it to provide support to the requesting unit.²⁰⁷ According to Rajčić, this resource sharing ensured that the Split MD was always in full control and maintained constant oversight of firing upon in-depth targets, so that it could react promptly and stop irrational action or fire if necessary.²⁰⁸ The HV planned for around 75 per cent of the HV artillery to focus its fire on the forward defence line of the enemy, at a tactical depth. The HV planned for the remaining 25 per cent to open fire into the operational depth, at strategic targets.²⁰⁹ The commander of each artillery group was bound to prepare a written report and inform either the Sajkovići command post directly, in the case of T(R)S-1, -2, and -3, or the forward command post in Zadar, in the case of TS-4 and -5, of the targets they fired on at the tactical level.²¹⁰ In Zadar, where Gotovina had set up a group of officers who coordinated and oversaw the execution of orders between the OGs Šibenik and Zadar, the information would be analyzed, and if there were any disturbances, then the information would be forwarded to Rajčić and Gotovina at the main command in Sajkovići.²¹¹

²⁰³ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 37, 39; Marko Rajčić, T. 16341-16342, 16577.

²⁰⁴ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 36, 39; Marko Rajčić, T. 16341, 16577, 17679-17681, 17685-17686; P2323 (Military Police official note of Rajčić interview, 11 July 2008), pp. 3-4.

²⁰⁵ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 36, 39; Marko Rajčić, T. 16341, 16577, 17679-17681, 17685-17686; P2323 (Military Police official note of Rajčić interview, 11 July 2008), pp. 3-4.

²⁰⁶ Marko Rajčić, T. 16576.

²⁰⁷ Marko Rajčić, T. 17707.

²⁰⁸ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 39-40.

²⁰⁹ Marko Rajčić, T. 16541-16542.

²¹⁰ Marko Rajčić, T. 16312, 16346-16347, 17693, 17695; P2323 (Military Police official note of Rajčić interview, 11 July 2008), p. 4.

²¹¹ Marko Rajčić, T. 16312, 16347, 17693, 17695.

80. On 3 August 1995, at 9:45 a.m., in Zadar, Rajčić met with Gotovina, Markač, Sačić, and the chief of the Special Police artillery units.²¹² At this meeting, Gotovina ordered Rajčić, by order of the Chief of the Main Staff General Červenko, to detach elements of artillery from TS-5 and attach them for operational purposes to the MUP special forces under the command of Markač.²¹³ The resources attached to the Special Police consisted of two or three 130-millimetre cannons in the Rovanjaska area, three 122-millimetre Howitzers, and one 122-millimetre BM-21 MBRL. This MBRL was relocated from the Livno-Lusnic area, in Bosnia-Herzegovina, to the Rovanjaska area that evening.²¹⁴ These artillery pieces came under the command of the Commander of the MUP Special Forces, while the other artillery groups T(R)S-1 through TS-4 remained under the command of Gotovina.²¹⁵ Gotovina could not issue orders to the Special Police units nor the HV artillery pieces that were attached to the Special Police forces.²¹⁶ Conversely, Markač could not order HV troops, with the exception of the artillery pieces from TS-5 attached to the Special Police.²¹⁷

81. With regard to the area of responsibility of the Split MD, according to Theunens's expert report, the zone of responsibility of the Split MD covered the Zadar, Knin, Benkovac, Drniš, Šibenik, and Sinj municipalities, the Miljevac plateau, and the Dinara and Šator mountains.²¹⁸

82. In his offensive operation order of 2 August 1995, Gotovina tasked the Split MD with preparing and carrying out a joint attack operation in the area of Northern Dalmatia and Western Bosnia, which he defined as: Velebit left, Kupres right, with the purpose of creating conditions for the reintegration of the liberated area into the constitutional system of Croatia.²¹⁹ To the right of the forces of the Split MD, the Army of Bosnia-

²¹² D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 57; Marko Rajčić, T. 16363, 16572.

²¹³ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 33, 57; Marko Rajčić, T. 16363, 16456, 16572-16573, 17693; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), pp. 7, 9; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 10; P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), pp. 6-7.

²¹⁴ Marko Rajčić, T. 16572-16573; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 7; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 10.

²¹⁵ Marko Rajčić, T. 16367; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), pp. 7, 9; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 10.

²¹⁶ Marko Rajčić, T. 16455-16456.

²¹⁷ Marko Rajčić, T. 16456.

²¹⁸ P1113 (Reynaud Theunens, Expert Report, December 2007), pp. 1, 137.

²¹⁹ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), pp. 4-5.

Herzegovina was carrying out an attack towards Donji Vakuf, in Bosnia-Herzegovina. To the left, the Gospić MD and MUP Special Units were carrying out an attack operation on the general Velebit-Gračac axis, in order to cut off the communications from Gračac to Knin and Obrovac.²²⁰

83. **Dragutin Repinć**, Chief of the Planning Department in the HV Main Staff and an expert on military training and planning,²²¹ testified that on 4 August 1995 the Main Staff of the HV had maintained the boundaries between the Split and Gospić MDs as they had been defined in 1993 by President Tuđman.²²² Markač faced during Operation Storm the problem of an ill-defined boundary with the Gospić MD, with forces meeting throughout the area.²²³ On 6 August 1995, the Chief of the HV Main Staff, Zvonimir Červenko, issued an order defining the operative areas of responsibility of various MDs following Operation Storm.²²⁴ Repinć testified that the order was transmitted to the commanders of MDs, but not to Markač, who, according to Repinć, therefore was not aware of it.²²⁵ Repinć understood an order issued on 16 August 1995 by Gotovina to mean that as of that date Gračac was included in the area of responsibility of the Split MD.²²⁶

84. Finally, with regard to reorganization and demobilization within the Split MD following Operation Storm, **Mate Granić**, Deputy Prime Minister of Croatia between 1991 and 2000 and Minister of Foreign Affairs between 1993 and 2000,²²⁷ wrote in his book that soon after Operation Storm, Gotovina was transferred to Bosnia-Herzegovina together with a considerable number of Croatian forces.²²⁸

85. On 9 August 1995, Gotovina, in his capacity as the Commander of the Split MD, issued an order for an active defence following the completion of Operation Storm.²²⁹ The defence was to focus along the direction Drvar-Bosansko Grahovo (both in Bosnia-

²²⁰ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 5.

²²¹ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 1-16; Dragutin Repinć, T. 26661-26665.

²²² D1932 (Dragutin Repinć, Expert Report, December 2009), para. 95; Dragutin Repinć, T. 26793; D2074 (Decision on Military Territorial Division of the Republic of Croatia, 1 February 1993).

²²³ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 94; Dragutin Repinć, T. 26715-26716.

²²⁴ D279 (Order by General Zvonimir Červenko on the areas of responsibility of MDs, 6 August 1995). See also D1932 (Dragutin Repinć, Expert Report, December 2009), para. 96; Dragutin Repinć, T. 26793.

²²⁵ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 96; Dragutin Repinć, T. 26794.

²²⁶ Dragutin Repinć, T. 26908-26909; P2705 (Order signed for Gotovina, 16 August 1995), p. 1.

²²⁷ D1797 (Mate Granić, witness statement, 12 May 2009), paras 2-3, 6, 8, 13; Mate Granić, T. 24614-24615, 24621-24622.

²²⁸ P2662 (Excerpt of Mate Granić: Foreign Affairs – Behind the screens of politics), pp. 9-10.

Herzegovina)-Knin and in the direction Drvar-Glamoč, both in Bosnia-Herzegovina, with an auxiliary axis from Mrkonjić Grad-Glamoč and Šipovo-Kupres, all in Bosnia-Herzegovina.²³⁰ In this order, Gotovina noted that due to, amongst other things, the “massive concentration of runaway civilians” the enemy is unable to re-group. Gotovina further noted that the forward command post of the Split MD shall be in Knin.²³¹ By this order, and with the aim to organize the defensive operations, Gotovina established three OGs: 1) OG Otrić, with Colonel Mladen Fuzul as Commander, Colonel Ivan Vulić as Deputy Commander and with the command post in Otrić in Gračac municipality; 2) OG Sajković with the command post in Sajkovići, Bosnia-Herzegovina; and 3) OG Vrba with the command post in Vrba, Bosnia-Herzegovina.²³²

86. Gotovina further ordered that the HV 4th and 7th Guards Brigades be withdrawn from the frontline in order to rest, replenish, and get ready for further combat activities. He also ordered that one infantry battalion of the 4th Brigade shall be in reserve at the disposal of the Split MD Commander and stationed in the Knin barracks with a principal task to support OG Otrić.²³³ He also ordered that there shall be a Battalion of the 7th Brigade at the disposal of the Split MD Commander stationed in the Knin Southern Barracks with a principal task to support the OG Sajković.²³⁴ Furthermore, Gotovina issued some relocation orders to the 81st HV Battalion, 1st HGS Croatian Guards Zdrug, Special Police of the MUP of the Croatian Republic of Herceg-Bosna, HV 2nd battalion of the 9th Brigade and the Split MD Tactical Snipers Company.²³⁵

87. In a decision dated 9 August 1995, Gojko Šušak ordered the demobilization of at least 70,000 conscripts in the units, institutions, and commands of the HV.²³⁶ An order dated 14 August 1995, issued by Zvonimir Červenko to the MD commanders enabled them to demobilize all military conscripts with “refugee status” who wished to be demobilized.²³⁷

²²⁹ D281 (Gotovina’s order on active defence, 9 August 1995), pp. 1-2, 17.

²³⁰ D281 (Gotovina’s order on active defence, 9 August 1995), p. 5.

²³¹ D281 (Gotovina’s order on active defence, 9 August 1995), p. 4.

²³² D281 (Gotovina’s order on active defence, 9 August 1995), pp. 5-10, 18-19. For the units of these OGs see D281 and D772.

²³³ D281 (Gotovina’s order on active defence, 9 August 1995), p. 9.

²³⁴ D281 (Gotovina’s order on active defence, 9 August 1995), pp. 9-10. The Trial Chamber relied on the BCS original in respect of the battalion of the 7th Guards Brigade.

²³⁵ D281 (Gotovina’s order on active defence, 9 August 1995), p. 10.

²³⁶ D882 (Decision demobilizing at least 70,000 HV conscripts, signed by Gojko Šušak, 9 August 1995), p. 1.

²³⁷ D883 (Order enabling demobilization of all military conscripts with refugee status issued by General Zvonimir Červenko, 14 August 1995).

88. According to an HV report dated 11 August 1995 to Ante Gotovina, as of 10 August 1995, the Split MD consisted of 36,888 persons, which included members of HV Brigades, artillery units and headquarters staff.²³⁸

89. On 11 August 1995, Gotovina ordered a regrouping of troops as of noon on 12 August 1995, by abolishing the following OGs: North Command, Sinj Command, Šibenik Command, and Zadar Command. Gotovina set up the OGs Sajkovići Command and Otrić Command.²³⁹ The order also set up a Split MD forward command post in Knin.²⁴⁰

90. On 14 August 1995, Zvonimir Červenko, Chief of the HV Main Staff, issued an order requiring the commands of the Bjelovar, Zagreb, Karlovac, Gospić and Split MDs to prepare and carry out certain tasks in their areas of responsibility, including protection of the state border and breaking up of remaining enemy groups and clearing up of the terrain.²⁴¹ In the Split MD, forces made up of the combat groups of the Srb Command Post of the 112th Brigade, the Otrić Command Post of the 134th and 126th Home Guard Regiments and the 141st Brigade were to be set up for the defense of the state border. According to the order, the HV 7th Guards Brigade which, until that point in time, had been subordinate to the Split MD should be returned under the direct command of the Chief of the HV Main Staff.²⁴²

91. **Mate Laušić**, chief of the VP administration from 5 March 1992 until 30 December 2002,²⁴³ testified that the demobilization process of the HV reserve forces, which had been mobilized prior to Operation Storm, was very slow until 12 August 1995. By 12 August 1995 only 5,000 troops were demobilized, while several tens of thousands of troops were supposed to be demobilized in the Split area. The witness testified that demobilized members of the Home Guard Regiments did not have a civilian life to go back to, often being without jobs and homes. Laušić testified that part

²³⁸ P1210 (Report on the numerical strength of the Split MD units, to Ante Gotovina, 11 August 1995).

²³⁹ D772 (Order by Gotovina, 11 August 1995), p. 1.

²⁴⁰ D772 (Order by Gotovina, 11 August 1995), p. 2.

²⁴¹ D559 (General Zvonimir Červenko, 14 August 1995 Order on the deployment of HV troops in the Krajina), pp. 1-2, 8.

²⁴² D559 (General Zvonimir Červenko, 14 August 1995 Order on the deployment of HV troops in the Krajina), p. 7. As for the border between the zones of the Gospić and Split MDs, see D559 (General Zvonimir Červenko, 14 August 1995 Order on the deployment of HV troops in the Krajina), pp. 1, 6-8. See also D1932 (Dragutin Repinć, Expert Report, December 2009), para. 96; Dragutin Repinć, T. 26794; D1933 (Maps showing changes in the areas of responsibility of the Gospić and Split MDs).

²⁴³ P2159 (Mate Laušić, witness statement, 11 August 2004), p. 1, paras 1, 37-38, 48, 60.

of the difficulties for the VP was to ensure that everyone knew that HV membership could not be established by uniforms but by producing HV identification papers.²⁴⁴

92. On 15 August 1995, the Croatian Ministry of Defence HV Main Staff Administration for Organization, Recruitment, and Mobilization submitted a proposal for demobilization of the Split MD units, signed on behalf of Gotovina, to the HV Main Staff.²⁴⁵ The proposal planned three stages of demobilization of conscripts from several Home Guard Regiments and Brigades. According to the plan, 3,684 conscripts would be demobilized during the first phase from 15 August to 1 September 1995; a further 3,690 conscripts would be demobilized during the second phase from 1 to 10 September 1995; and a final 3,312 conscripts would be demobilized during the third phase, from 10 to 20 September 1995.²⁴⁶

93. According to a report dated 18 August 1995, and delivered to Zvonimir Červenko, a Split forward command post was set up in Knin from which the Split MD commanded the units engaged in combat operations.²⁴⁷ The front line was divided into three areas of responsibility under the command of the OGs Otrić, Sajković, and Vrba. Under the direct command of the Split MD Forward Command Post were the 7th and 4th Guards Brigade, the artillery rocket groups of the MD, and the staff units.²⁴⁸ Because the shifting of the front line disrupted communication connections, the Split MD proposed a rearrangement of the area of responsibility between the Gospić and Split MDs.²⁴⁹

94. On 21 August 1995, Červenko reported to Tuđman that the process of demobilization was for the most part properly envisaged and that the downsizing and reorganizing of forces was underway.²⁵⁰ Červenko attached a graphic overview of the entire HV forces in the period between 28 July and 21 August 1995, which showed a marked increase between 28 July (89,309) and 7 August 1995 (185,965); a slight

²⁴⁴ Mate Laušić, T. 15292.

²⁴⁵ D611 (Proposal for demobilization plan of the units of Split MD, signed for Ante Gotovina, 15 August 1995.), p. 1.

²⁴⁶ D611 (Proposal for demobilization plan of the units of Split MD, signed for Ante Gotovina, 15 August 1995.), pp. 2-4.

²⁴⁷ D891 (Report on Split MD signed by Major General Živko Budimir, 18 August 1995), p. 1, para. 1.

²⁴⁸ D891 (Report on Split MD signed by Major General Živko Budimir, 18 August 1995), para. 1.

²⁴⁹ D891 (Report on Split MD signed by Major General Živko Budimir, 18 August 1995), para. 4.

²⁵⁰ P2602 (Report on Operation Storm to President and Supreme Commander Tuđman, Chief General Zvonimir Červenko, 21 August 1995), pp. 1, 6, 12.

decrease between 10 (185,965) and 15 August 1995 (182,121); and a stronger decrease between 15 and 21 August 1995 (165,206).²⁵¹

95. According to an HV report dated 5 September 1995 signed on behalf of Ante Gotovina, as of 1 September 1995, the Split MD consisted of 28,977 persons, which number included members of HV Brigades, artillery units and headquarters staff.²⁵² According to a report on HV demobilization from Červenko to Šušak, between 9 August 1995 and 11 September 1995 73,030 out of a total of 158,375 mobilized conscripts had been demobilized.²⁵³ In the Split MD, 11,072 out of 11,499 had been demobilized.²⁵⁴

96. Based on HV orders, including P1125 and D281, the testimony of, amongst others, Botteri and Rajčić, and the Čermak interviews, the Trial Chamber finds that Ante Gotovina held the rank of Colonel General in the HV and was the Commander of the Split MD from late 1992²⁵⁵ and at all times relevant to the Indictment. Based primarily on the Čermak interviews and D281, the Trial Chamber finds that from either 6 or 9 August 1995, Gotovina had a forward command post in the building next to Čermak's office in Knin.

97. With regard to the area of responsibility of the Split MD, based on the testimony of Repinć and Tuđman's decision of 1 February 1993 (D2074), the Trial Chamber finds that from 1993, the northern border of the Split MD ran along the northern borders of the Jasenice, Obrovac, Nadvoda, Ervenik and Knin municipalities. The Trial Chamber notes that Červenko redefined the border between the Gospić and Split MDs on at least two occasions from 6 August 1995 onwards.

98. With regard to the units subordinated to the Split MD, based on P1125 and P1192 the Trial Chamber finds that on 2 August 1995, Gotovina established within the Split MD the OGs North, Sinj, Šibenik, and Zadar. Based on P1125, P1266, P2585, D970, and the testimony of Botteri, the Trial Chamber finds that the OG North comprised the 4th and the 7th Guards Brigades, the 2nd and the 3rd HVO Guards Brigades, the 81st Guards battalion, the 1st Croatian Guards Brigade, and the TRS-1,

²⁵¹ P2602 (Report on Operation Storm to President and Supreme Commander Tuđman, Chief General Zvonimir Červenko, 21 August 1995), p. 13.

²⁵² P2208 (Report on the numerical strength of the Split MD units, signed on behalf of Ante Gotovina, 5 September 1995).

²⁵³ D1382 (Report from Červenko to Šušak on HV demobilization, 12 September 1995), pp. 1-2.

²⁵⁴ D1382 (Report from Červenko to Šušak on HV demobilization, 12 September 1995), p. 2.

²⁵⁵ The Trial Chamber notes that in 1992 the Split MD was referred to as the Split Operative Zone.

TRS-2, and TS-3. Based on P1125, P1266, P2585, and the testimony of Botteri, the Trial Chamber finds that as of 2 August 1995 the OG Sinj comprised the 126th Home Guard Regiment, the 144th Brigade, and the 6th Home Guard Regiment. Based on P1125 and D970, the Trial Chamber finds that at this time, the OG Šibenik consisted of the 15th and 142nd Home Guard Regiments, the 113th Infantry Brigade, and the TS-4. Based on P1125, P1192, P1266, P2585, D970, and the testimony of Botteri and Rajčić, the Trial Chamber finds that the OG Zadar consisted of the 2nd battalion of the 9th Guards Brigade, the 112th Brigade, the 7th and 134th Home Guard Regiments, and the TS-5, with the exception of the TS-5 artillery weapons in the Rovanjaska area. Based on P1266 and P2585, the Trial Chamber finds that the operational units of the Split MD at the start of Operation Storm consisted of approximately 32,900 troops. Further, based on P2585, P1209, and D992, the Trial Chamber finds that approximately 10,000 of these troops had been mobilized after 5 July 1995.

99. According to Červenko's order D559, as of 14 August 1995, the 7th Guards Brigade was to be returned to the direct command of the Chief of the HV Main Staff and was no longer subordinate to the Split MD. However, according to report D891 by Živko Budimir to Červenko, on 18 August 1995, the 7th Guards Brigade was under the direct command of the Split MD. Under these circumstances, in light of the inconsistency between order D559 and report D891, the Trial Chamber is unable to determine whether the 7th Guards Brigade remained subordinated to the Split MD after 14 August 1995.

100. Based on Šušak's decision D882, the Trial Chamber finds that on 9 August 1995, Šušak ordered the demobilization of at least 70,000 conscripts from the HV. The proposal for demobilization within the Split MD planned for the following numbers of conscripts to be demobilized: 3,684 between 15 August 1995 and 1 September 1995; 3,690 between 1 and 10 September 1995, and 3,312 between 10 and 20 September 1995. According to Červenko's report D1382, between 9 August and 11 September 1995, 11,072 troops were demobilized within the Split MD. According to HV report P1210, on 11 August 1995, the Split MD consisted of 36,888 persons. Further, according to Červenko's report P2602, between 10 and 15 August 1995, the HV's forces decreased by approximately 3,800 persons and between 15 and 21 August 1995 by approximately 16,900 persons. Based on the foregoing reports, the Trial Chamber finds that prior to 15 August 1995 only a small number, if any, of the members of the

Split MD were demobilized, and that between 15 August and 11 September 1995, 11,072 members of the Split MD were demobilized.

3.1.2 Ante Gotovina's powers as a commander

101. According to the Indictment, Ante Gotovina possessed effective control over the 72nd VP Battalion and a part of the 73rd VP Battalion, and was responsible for maintaining order among, and disciplining and supervising the conduct of, his subordinate personnel.²⁵⁶ The Trial Chamber will examine in turn the legal framework in respect of command and control over the VP, VP-related events in the days before Operation Storm, orders issued to VP units within the Split MD, and Gotovina's powers and obligations vis-à-vis crimes and disciplinary infractions committed by units under his command.

102. The Trial Chamber will first examine the legal framework in respect of command and control of the VP. On 6 January 1992, Minister of Defence Gojko Šušak signed off temporary instructions for the work of the VP, which **Mate Laušić**, chief of the VP administration from 5 March 1992 until 30 December 2002,²⁵⁷ and a colleague had put together from the rules of procedure of the civilian police and those of the military police of the JNA.²⁵⁸ The temporary instructions were replaced in 1994 by the more detailed and precise Rules Governing the Organizational Work of the VP.²⁵⁹ Under these rules, the VP administration was responsible for organizing and training the staff, supervising their work, and dealing with personnel matters within the administration, including determining selection criteria for recruitment on all levels.²⁶⁰

103. According to Article 2 of the VP Rules, the units of the VP were specially trained and equipped HV units of all branches of the Armed Forces established as VP battalions and companies.²⁶¹ According to Article 5 of the VP Rules, members of the VP wore the official HV uniform with a white belt and a VP shield. **Boško Džolić**,

²⁵⁶ Indictment, para. 4, Annex A.

²⁵⁷ P2159 (Mate Laušić, witness statement, 11 August 2004), p. 1, paras 1, 37-38, 48, 60.

²⁵⁸ P2159 (Mate Laušić, witness statement, 11 August 2004), para. 19; Mate Laušić, T. 15220, 15229-15230.

²⁵⁹ P2159 (Mate Laušić, witness statement, 11 August 2004), para. 27; Mate Laušić, T. 15208, 15220, 15229.

²⁶⁰ P2159 (Mate Laušić, witness statement, 11 August 2004), para. 28; Mate Laušić, T. 15208-15209.

²⁶¹ P880 (VP Rules, February 1994), Article 2.

Commander of the Joint VP Company in Knin from 5 to 12 August 1995,²⁶² could not recall what uniform the VP wore during and following Operation Storm, but thought that they wore camouflage or drab-coloured uniforms.²⁶³ According to Article 8 of the VP Rules, all VP units were subordinate to the Chief of the VP Administration of the MoD.²⁶⁴ According to Džolić, this included the 72nd and 73rd VP Battalions Split.²⁶⁵ According to Article 9 of the VP Rules, while performing their regular VP tasks, VP units were subordinate to the Commander of the MD, the Commander of the Croatian Navy, the commander of the Croatian Air Force, or to the highest HV commander by function in the VP unit's area of operations.²⁶⁶

104. According to Article 10 of the VP Rules, the VP performed tasks relating to, amongst others, the protection and security of persons (both civilian and military) and property, the prevention, uncovering and processing of crimes that fall within the jurisdiction of military judicial bodies, the safety and checking of military traffic, the security of protected features, persons and areas, participation in the fight against enemy groups, and carrying out combat tasks on the front line.²⁶⁷ In accordance with Article 11 of the VP Rules, the latter two tasks constituted the primary purpose of the VP anti-terrorist units.²⁶⁸ Pursuant to Article 15 of those Rules, the VP had a number of powers including the authority to submit disciplinary or criminal reports, to arrest and detain perpetrators of a crime or violations of military discipline and to search persons, apartments and other premises.²⁶⁹ According to Article 16 of the VP Rules, the VP should carry out its tasks through a number of services, namely Security, Search, Patrol, Escort, Duty, Military Traffic Safety, and Crime Prevention.²⁷⁰ The VP Crime Prevention Service comprised jobs and tasks which related to crimes that fall within the jurisdiction of military courts, which included crimes committed by members of the

²⁶² P875 (Boško Džolić, witness statement, 18 May 2004), p. 1, paras 4, 15, 20-22, 53; P876 (Boško Džolić, witness statement, 20 August 2008), p. 1, paras 27, 32-33; Boško Džolić, T. 8888, 8906, 8916, 8922, 8968, 8987, 8999, 9068; P882 (Report by Major General Mate Laušić on the use of VP units in Operation Storm, 6 August 1995); D786 (Organigram of the 72nd VP Battalion from August to October 1995); D787 (Daily Order of the Joint VP Company in Knin from 5 August to 23 September 1995), pp. 7, 10, 17, 21.

²⁶³ Boško Džolić, T. 9041-9042; see also Philip Berikoff, T. 7590, 7751.

²⁶⁴ P880 (VP Rules, February 1994), Article 8.

²⁶⁵ Boško Džolić, T. 8981-8982; P881 (Order by Major General Mate Laušić on the establishment of VP units in the newly liberated areas, 5 August 1995); D785 (Organigram of the VP).

²⁶⁶ P880 (VP Rules, February 1994), Article 9.

²⁶⁷ P880 (VP Rules, February 1994), Article 10.

²⁶⁸ P880 (VP Rules, February 1994), Articles 10-11.

²⁶⁹ P880 (VP Rules, February 1994), Article 15.

²⁷⁰ P880 (VP Rules, February 1994), Article 16.

armed forces and certain crimes committed by civilians.²⁷¹ Pursuant to Article 55 of the VP Rules, the investigation and processing of crimes was carried out by authorized VP officials *ex officio*, or by request of the state prosecutor or court.²⁷²

105. According to **Laušić**, Article 8 of the VP Rules clarifies that all VP units are organizationally subordinated to the VP administration, whereas Article 9 states that when performing regular VP tasks, VP units, in their daily operative command, are subordinate to the commander of the respective MD or the highest commander by function in their area of responsibility.²⁷³ This meant that the MD commanders could issue orders to VP units within the framework of the VP tasks as further set out in the rules.²⁷⁴ Laušić testified that a military commander could direct VP units in his area of responsibility to conduct a VP task and would subsequently receive a report on this task.²⁷⁵

106. **Reynaud Theunens**, a military expert,²⁷⁶ testified that the operational commander is the one responsible for the units' daily operational command by telling them, in very simple terms, what to do, while the professional chain will then determine how to do it, which does not take place on a daily basis.²⁷⁷ The witness further explained that the VP Administration is the one which issues the regulations, since the operational commander does not have the specialized knowledge for certain issues, and to allow him to take care of these issues himself would lead to a risk of incoherence in the use of the VP.²⁷⁸

107. **Boris Milas**, (acting) Head of the Crime Prevention Service of the 72nd VP Battalion from about mid-September 1992 to the end of 1996,²⁷⁹ testified that the VP system operated through a single, vertical command. A VP commander was answerable to the VP Administration. However, there was a need to have horizontal coordination

²⁷¹ P880 (VP Rules, February 1994), Article 53.

²⁷² P880 (VP Rules, February 1994), Articles 54-55.

²⁷³ P2159 (Mate Laušić, witness statement, 11 August 2004), paras 28, 84; Mate Laušić, T. 15206-15209, 15214, 15235, 15590; P880 (VP Rules, February 1994), Articles 8-9.

²⁷⁴ P2159 (Mate Laušić, witness statement, 11 August 2004), paras 28, 84; Mate Laušić, T. 15206-15209, 15214, 15235, 15590; P880 (VP Rules, February 1994), Articles 8-9.

²⁷⁵ P2159 (Mate Laušić, witness statement, 11 August 2004), para. 25.

²⁷⁶ Reynaud Theunens, T. 12170-12274; P1112 (Curriculum Vitae of Reynaud Theunens).

²⁷⁷ Reynaud Theunens, T. 12599.

²⁷⁸ Reynaud Theunens, T. 12599-12600.

²⁷⁹ D1532 (Boris Milas, witness statement, 19 May 2009), p. 1, paras 1-4, 6, 8, 11, 31; D1533 (Boris Milas, witness statement, 22 June 2009), p. 1; Boris Milas, T. 19158, 19168-19169, 19227-19230, 19322; P2548 (Official note of MUP crime police interview with Boris Milas), p. 1.

for certain urgent tasks like searches, securing military columns, or control posts.²⁸⁰ Milas testified that regular VP tasks under Article 9 of the VP Rules included securing military buildings or road traffic, and patrolling in security-sensitive areas.²⁸¹ These were tasks for which, in addition to requesting a search by the search service or apprehension from the apprehension service, the MD Commander could ask for the engagement of the VP.²⁸² The witness testified that Gotovina did request from the 72nd VP Battalion Commander that regular VP tasks be completed, and that those tasks were in fact completed.²⁸³ However, according to Milas not all tasks listed in Article 10 of the Rules were regular VP tasks for Article 9 purposes.²⁸⁴ The HV commander had no authority over the Crime Prevention and Duty Service.²⁸⁵ According to Milas, manning check-points and conducting patrols fell under the duties of the general VP.²⁸⁶ Milas testified that members of the Crime Investigation VP would sometimes man check-points, but he did not know of many instances where that occurred.²⁸⁷ Milas also testified that once the VP Rules came into effect in February 1994, VP members could not be engaged in combat activities by a commander without approval of the Croatian Minister of Defence.²⁸⁸

108. **Ivan Jurić**, a Major in the VP Administration in August 1995 who was sent by General Laušić to coordinate the work of the 72nd and 73rd VP Battalions and the military and civilian police in the former Sector South between 3 and 13 August 1995,²⁸⁹ testified that his appointment did not change or inhibit the ongoing daily operational subordination of the commander of the 72nd VP Battalion, Major Budimir, to Gotovina.²⁹⁰

109. The Trial Chamber notes that several witnesses equated the term “regular tasks” contained in Article 9 of the VP Rules with the term “daily operational tasks”.²⁹¹

²⁸⁰ D1532 (Boris Milas, witness statement, 19 May 2009), para. 67.

²⁸¹ D1532 (Boris Milas, witness statement, 19 May 2009), paras 54-55.

²⁸² D1532 (Boris Milas, witness statement, 19 May 2009), paras 55, 65-66; Boris Milas, T. 19297-19298.

²⁸³ D1532 (Boris Milas, witness statement, 19 May 2009), para. 55.

²⁸⁴ D1532 (Boris Milas, witness statement, 19 May 2009), para. 56; Boris Milas, T. 19297-19298.

²⁸⁵ D1532 (Boris Milas, witness statement, 19 May 2009), para. 66.

²⁸⁶ Boris Milas, T. 19292-19293, 19295.

²⁸⁷ Boris Milas, T. 19292-19293.

²⁸⁸ D1532 (Boris Milas, witness statement, 19 May 2009), paras 19, 34-35, 53-54.

²⁸⁹ Ivan Jurić, T. 27407, 27412-27417, 27426-27428, 27481, 27534.

²⁹⁰ Ivan Jurić, T. 27481.

²⁹¹ Boško Džolić, T. 8930; Reynaud Theunens, T. 12337; Mate Laušić, T. 15558, 15590; see also Pero Kovačević, T. 22099; Ivan Jurić, T. 27490.

110. On 6 July 1994, Šušak issued an order reaffirming the subordination of VP units to the VP administration under the command and control of the chief of the VP administration.²⁹² VP platoons attached to brigades were subordinated by law to the brigade commander and through him to the commander of the MD, Croatian Navy, Croatian Air Force, and “JB”.²⁹³ The order required all members of VP platoons attached to brigades to wear white armbands in addition to the insignia of the VP battalions in their zone of responsibility.²⁹⁴ Previous contrary orders ceased to be in effect.²⁹⁵

111. The Trial Chamber now turns to evidence received in relation to VP-related events in the days before Operation Storm. According to an order of 2 August 1995 by Laušić, setting out the tasks of the VP during upcoming operations, VP units on all levels were to set up strong check-points with the task of preventing unauthorized and uncontrolled entrance into the zones of combat operations as well as uncontrolled exit from the zones of combat operations, and take vigorous actions against those who did not obey and follow orders of the VP.²⁹⁶ These tasks were to be carried out in cooperation with the MUP.²⁹⁷ The order further set out that within the daily operational chain of command, commanders of VP battalions and independent companies should be subordinated to commanders of the MDs and commanders of Croatian Navy and Croatian Air Force and should report to them on a daily basis.²⁹⁸ The commander of the Split MD was copied as an addressee on this order.²⁹⁹ According to the order, the 72nd

²⁹² D35 (Order issued by the Minister of Defence concerning the command and control of the VP, 6 July 1994).

²⁹³ D35 (Order issued by the Minister of Defence concerning the command and control of the VP, 6 July 1994), para. 3.

²⁹⁴ D35 (Order issued by the Minister of Defence concerning the command and control of the VP, 6 July 1994), para. 7.

²⁹⁵ D35 (Order issued by the Minister of Defence concerning the command and control of the VP, 6 July 1994), para. 10.

²⁹⁶ P2171/D267 (Order by Major General Mate Laušić re preparations of the VP, 2 August 1995), paras 5-6; see also P2159 (Mate Laušić, witness statement, 11 August 2004), paras 165-166, 168, 248-249; Mate Laušić, T. 15253-15254. The Trial Chamber notes that P2171 and D267 are the same order with P2171 containing a finalized translation.

²⁹⁷ P2171/D267 (Order by Major General Mate Laušić re preparations of the VP, 2 August 1995), paras 5-6.

²⁹⁸ P2171/D267 (Order by Major General Mate Laušić re preparations of the VP, 2 August 1995), para. 12; see also P2159 (Mate Laušić, witness statement, 11 August 2004), paras 165-166, 168, 248-249; Mate Laušić, T. 15253-15254.

²⁹⁹ P2171/D267 (Order by Major General Mate Laušić re preparations of the VP, 2 August 1995).

and the 73rd VP Battalions were subordinated to Ivan Jurić.³⁰⁰ This order was to take effect at midnight on 3 August 1995.³⁰¹

112. On 3 August 1995, during a meeting at the MoD, Laušić stated that HV unit commanders had been warned that they would be personally responsible for the discipline of their subordinates.³⁰² He also explained that he authorized officers of the VP administration to remove commanders of VP units “on the spot” in case of “any irregularities” in their work. Finally, he stated that the sequence of processing of POWs should be first intelligence service, then SIS and SZUP, and lastly Crime VP, and he stressed that the VP must conform to the Geneva Convention on the treatment of POWs.³⁰³ During the same meeting, Biškić presented the tasks of the VP, which at the start of combat operations were setting up check-points on the roads, and carrying out search and mopping-up operations in the liberated areas.³⁰⁴ Following advances by the HV, the tasks of the VP were policing and patrolling activities, deployment in Knin and Glina, as well as cooperation with the MUP in populated areas until the establishment of civilian authorities. After the termination of combat activities, the VP was responsible for the security of protected persons and facilities, setting up “firm” check-points, marking the boundaries between combat zones and areas under the control of civilian authorities, as well as regrouping in accordance with the movements and deployments of the Armed Forces of Croatia.³⁰⁵ Assistant Minister of the Interior Joško Morić announced that the MUP would secure entries and exists to towns.³⁰⁶

113. According to an order of 3 August 1995 by Laušić, a meeting was held between the representatives of the MUP and the VP on that day at which the tactics and conduct of the VP and the civilian police at the start of the offensive operations and the newly liberated areas were discussed.³⁰⁷ Laušić ordered among others the 72nd and 73rd VP Battalions to: immediately establish contacts with the MUP; follow the advance of the HV in the liberated territory, and with “joint patrols” ensure law and order, traffic for the needs of the HV, and the isolation and evacuation of civilians for their security;

³⁰⁰ P2171/D267 (Order by Major General Mate Laušić re preparations of the VP, 2 August 1995), paras 10-12.

³⁰¹ P2159 (Mate Laušić, witness statement, 11 August 2004), para. 166.

³⁰² D45 (Minutes of meeting held at the MoD, 4 August 1995), pp. 4-5.

³⁰³ D45 (Minutes of meeting held at the MoD, 4 August 1995), p. 6.

³⁰⁴ D45 (Minutes of meeting held at the MoD, 4 August 1995), pp. 4-5.

³⁰⁵ D45 (Minutes of meeting held at the MoD, 4 August 1995), p. 5.

³⁰⁶ D45 (Minutes of meeting held at the MoD, 4 August 1995), pp. 3, 7.

³⁰⁷ D269 (Order by Major General Mate Laušić concerning the cooperation between the MUP and the VP, 3 August 1995), p. 1.

assist the MUP which was to take over the security of vital buildings in liberated towns; establish joint check-points at bigger intersections in liberated areas in order to regulate traffic and provide security for the HV and civilian columns; assist anti-terrorist units to mop up the terrain and buildings and destroy remaining fortified enemy groups; establish further check-points; and hand-over any found documents to the SIS.³⁰⁸

114. **Milas** attended a meeting that began at 11 p.m. on 3 August 1995 at the battalion's forward command post in Gornji Rujani very close to Sajković, with Commander Mihael Budimir, Major Ivan Jurić, Captain Ante Glavan, Damir Maduna, and Ante Cicvarić.³⁰⁹ At the meeting, Major Ivan Jurić presented an order by General Laušić dated 2 August 1995.³¹⁰ Milas testified that, under the order, Jurić had to coordinate with HV commanders and chiefs of police administrations in his area of activity. He was empowered to take all and any measures against the commanders if VP tasks were not carried out as envisaged under the order and rules.³¹¹ The witness further testified that Jurić, pursuant to the order, was to head the 72nd and parts of 73rd VP Battalions in the Split MD's area of responsibility, and that the order was addressed to the attention of Gotovina.³¹² Glavan discussed, pursuant to the order from Laušić, the work of the crime police which included interviewing captured SVK members in reception centres in cooperation with the civilian police.³¹³

115. The Trial Chamber now turns to the evidence received in relation to command and control and specifically in relation to orders issued to VP units within the Split MD. According to **Džolić**, the 72nd VP Battalion, which was formed around January 1992, was headquartered in Split.³¹⁴ Mihael Budimir was the Commander of the 72nd VP Battalion and his Deputy was Major Primorac.³¹⁵ Džolić added that all companies of the 72nd VP Battalion had an attached Crime VP unit, except for those based at the

³⁰⁸ D269 (Order by Major General Mate Laušić concerning the cooperation between the MUP and the VP, 3 August 1995), p. 2.

³⁰⁹ D1532 (Boris Milas, witness statement, 19 May 2009), para. 37; Boris Milas, T. 19173-19175, 19311-19312, 19318, 19362-19363.

³¹⁰ D1532 (Boris Milas, witness statement, 19 May 2009), para. 37; Boris Milas, T. 19174, 19186.

³¹¹ Boris Milas, T. 19174, 19312, 19321.

³¹² D1532 (Boris Milas, witness statement, 19 May 2009), para. 37; D1533 (Boris Milas, witness statement, 22 June 2009), para. 15; Boris Milas, T. 19174-19175, 19186, 19312, 19318, 19321.

³¹³ D1532 (Boris Milas, witness statement, 19 May 2009), paras 37-38, 41; Boris Milas, T. 19186, 19195, 19363.

³¹⁴ P875 (Boško Džolić, witness statement, 18 May 2004), para. 3; Boško Džolić, T. 8966.

³¹⁵ P875 (Boško Džolić, witness statement, 18 May 2004), para. 5; Boško Džolić, T. 8981-8982, 8986, 8991; D785 (Organigram of the VP); D786 (Organigram of the 72nd VP Battalion from August to October 1995).

headquarters of the Battalion, as the headquarters had a Crime VP Department.³¹⁶ The VP Crime Department within the 72nd VP Battalion headquarters was superior to the VP crime units within the companies of the Battalion.³¹⁷ Džolić further testified that Milas, was subordinated to both the 72nd VP Battalion Commander and the Chief of the Crime Department within the VP Administration.³¹⁸ Džolić testified that the 72nd VP Battalion, which was attached to the Split MD, was subordinated to and received orders from both the Split MD Command and the VP Administration.³¹⁹ According to Džolić, the MD Commander Gotovina was Budimir's superior in relation to the Battalion's regular daily operational tasks, which included the securing of buildings, persons and areas, and escorting HV convoys.³²⁰ According to Džolić, Budimir attended daily meetings with Gotovina to give the daily reports of the situation on the ground.³²¹

116. Džolić testified that the daily operational tasks included the guarding of facilities within the area of responsibility, escorting convoys, manning check-points, patrolling and searching for soldiers who had deserted or who refused to answer their call up orders. The Joint VP Company in Knin was, in relation to these tasks, under the command of the local military commander.³²² Džolić was not aware of commanders of the newly established units of the VP reporting to the most senior army commanders, and testified that the duty service of the 72nd VP Battalion submitted reports to the VP Administration and the MD Command.³²³

117. Džolić was subordinated and had to report to both Budimir and Jurić.³²⁴ Budimir remained Džolić's immediate superior, and Džolić testified that he reported verbally to him on the work of the Joint VP Company whenever Budimir came to Knin, which was almost daily. The company further sent written daily reports to the 72nd VP Battalion

³¹⁶ Boško Džolić, T. 8975-8976.

³¹⁷ Boško Džolić, T. 8976.

³¹⁸ P875 (Boško Džolić, witness statement, 18 May 2004), para. 41; P876 (Boško Džolić, witness statement, 20 August 2008), para. 32; Boško Džolić, T. 8990, 9029; D786 (Structure of the 72nd VP Battalion).

³¹⁹ P875 (Boško Džolić, witness statement, 18 May 2004), paras 3, 5; P876 (Boško Džolić, witness statement, 20 August 2008), paras 3, 7; Boško Džolić, T. 8925.

³²⁰ P875 (Boško Džolić, witness statement, 18 May 2004), para. 6; P876 (Boško Džolić, witness statement, 20 August 2008), paras 25-26; Boško Džolić, T. 8929-8930, 9009.

³²¹ P875 (Boško Džolić, witness statement, 18 May 2004), para. 15; P876 (Boško Džolić, witness statement, 20 August 2008), para. 6.

³²² P875 (Boško Džolić, witness statement, 18 May 2004), para. 38; P876 (Boško Džolić, witness statement, 20 August 2008), paras 16, 24; Boško Džolić, T. 9014.

³²³ Boško Džolić, T. 8917-8918.

³²⁴ Boško Džolić, T. 8974, 9003-9004, 9008.

command.³²⁵ The appointment to a duty, according to Džolić, could supersede a rank, with the result of a Major ordering a Colonel who had a higher rank but a lesser duty.³²⁶ Jurić held coordinating meetings with the police and superior commands to agree on their work and then he would provide Džolić with guidance as to how the agreed tasks should be carried out.³²⁷ Džolić and Jurić met on a daily basis, sometimes more than once, and Džolić further provided daily reports to Jurić.³²⁸ The witness received several orders from Jurić, including an oral order to assign certain members of his unit and take over the security of the Golubić warehouse from the members of the Croatian police who were there on a provisional basis.³²⁹

118. According to **Milas** the 72nd VP Battalion received orders from Laušić on a daily basis. These orders regulated all issues and tasks the VP were to carry out, and the majority of these orders were sent to the attention of General Gotovina.³³⁰ The 72nd Battalion's area of responsibility overlapped with the area of the Split MD, and the Military Court and Military Prosecutor's Office in Split.³³¹

119. Milas further testified that the majority of Gotovina's orders to the 72nd VP Battalion concerned the use of VP in combat activities, VP securing movements such as the transfer of military units, weapons, and explosives.³³² Members of the Anti-Terrorist VP could not be engaged without permission of the Chief of the VP Administration. The witness was present at briefings of the battalion commander where the latter assigned tasks to the commander of the Anti-Terrorist Unit of the 72nd VP Battalion to engage men for the Split MD Commander, thereby indicating that Laušić had approved a corresponding request by Gotovina.³³³ According to Milas, Gotovina could not order an operative action like Operation Varivode, which concerned the VP and civilian police and was initiated through the professional chain of command by Laušić in coordination with the MUP.³³⁴

³²⁵ P875 (Boško Džolić, witness statement, 18 May 2004), para. 43; P876 (Boško Džolić, witness statement, 20 August 2008), para. 13; Boško Džolić, T. 9006-9008, 9033-9035.

³²⁶ Boško Džolić, T. 8992-8993.

³²⁷ Boško Džolić, T. 8973, 8996-8997.

³²⁸ P875 (Boško Džolić, witness statement, 18 May 2004), para. 43; Boško Džolić, T. 8995, 9003-9004, 9091-9092.

³²⁹ Boško Džolić, T. 8972-8973, 9088-9089.

³³⁰ D1533 (Boris Milas, witness statement, 22 June 2009), para. 15.

³³¹ D1532 (Boris Milas, witness statement, 19 May 2009), para. 8.

³³² D1533 (Boris Milas, witness statement, 22 June 2009), para. 15; Boris Milas, T. 19323.

³³³ D1532 (Boris Milas, witness statement, 19 May 2009), paras 35, 53.

³³⁴ Boris Milas, T. 19212.

120. The Chief of the VP administration had the ultimate responsibility for rewarding, promoting, sanctioning or replacing anyone within the Crime Prevention Service of the 72nd VP Battalion.³³⁵ Milas testified that no one other than Eljuga, Jurić, Budimir, the Chief of the VP Administration, or the Deputy Chief of the VP had the responsibility or even possibility of reviewing his work.³³⁶

121. According to **Damir Šimić**, a former investigator of the VP crime investigation section of the 72nd VP battalion,³³⁷ the MD command, or the forward command post, could issue an order to the VP to investigate, probably addressed to the command of the VP battalion, who would then order the VP to investigate.³³⁸ Šimić testified that even though the VP belonged formally to the VP administration in Zagreb, in their daily work the VP command would also receive requests from the MD command or from other segments.³³⁹ According to Šimić, daily work encompassed, among other things, taking measures to maintain security and discipline, crime investigation including arresting and detaining alleged perpetrators, and, as far as the anti-terrorist unit was concerned, sometimes assisting other military units by short combat tasks.³⁴⁰ According to Šimić, he never directly received an order to investigate or another order by a unit commander outside the VP, for instance by the Split MD commander.³⁴¹ According to him, the VP never received any order listing specific individuals to be processed for crimes.³⁴² Nor did he know of any involvement of a unit commander outside the VP in investigations. The witness considered involvement in conducting investigations to be outside of the competence of a military commander.³⁴³

122. **Laušić** testified that the 72nd VP battalion, just as any other unit within the Split MD, was duty-bound to report any extraordinary events taking place in the unit to the

³³⁵ D1533 (Boris Milas, witness statement, 22 June 2009), para. 14; Boris Milas, T. 19204-19206, 19208; D1537 (Laušić Diary Excerpt Regarding Promotions).

³³⁶ Boris Milas, T. 19210.

³³⁷ P967 (Damir Šimić, witness statement, 27 January 2008), p. 1, para. 1; P968 (Damir Šimić, witness statement, 8 October 2008), p. 1; D840 (Damir Šimić, witness statement, 24 July 2008), p. 1; Damir Šimić, T. 10197; P971 (Military crime police department official record of interview with Damir Šimić, 16 May 2002), pp. 1-2; D846 (Organigram prepared by defence commanding and reporting structure of the VP administration and 72nd battalion).

³³⁸ P967 (Damir Šimić, witness statement, 27 January 2008), para. 16; P969 (Letter Damir Šimić of 12 March 2008 correcting P967), p. 5.

³³⁹ P967 (Damir Šimić, witness statement, 27 January 2008), para. 16; P968 (Damir Šimić, witness statement, 8 October 2008), para. 4; P969 (Letter Damir Šimić of 12 March 2008 correcting P967), p. 5.

³⁴⁰ P967 (Damir Šimić, witness statement, 27 January 2008), para. 16; P969 (Letter Damir Šimić of 12 March 2008 correcting P967), pp. 5-6; D840 (Damir Šimić, witness statement, 24 July 2008), p. 4.

³⁴¹ D840 (Damir Šimić, witness statement, 24 July 2008), p. 4; Damir Šimić, T. 10334.

³⁴² P969 (Letter Damir Šimić of 12 March 2008 correcting P967), p. 5.

³⁴³ D840 (Damir Šimić, witness statement, 24 July 2008), p. 4.

operations centre of the Split MD. At the same time, VP battalions reported through the forward command posts to the VP administration.³⁴⁴

123. When the VP in **Jurić**'s area of responsibility received orders to secure churches or buildings of strategic importance, the orders came from the VP Administration, the Main Staff, or the MoD.³⁴⁵

124. Jurić testified that all the subordinate units at the forward command post of the 72nd VP Battalion, where he was located, sent him reports.³⁴⁶ Then, based on these reports, he or one of his colleagues would compile a single, comprehensive report which, in accordance with Laušić's orders, they sent to Zagreb everyday by 8 p.m.³⁴⁷ Jurić was only obligated to send his reports to the VP Administration, and the reports had to include the occurrence of all crimes that occurred throughout the area, reported by the witness's subordinates.³⁴⁸ The witness explained that, while he was only duty-bound to report to the VP Administration, the commanders of the VP Battalions were also supposed to report on a daily basis to the highest ranking operative commander in their area of responsibility: for instance, pursuant to a procedure introduced by the Rules of Service of the VP, the commander of the 72nd VP Battalion was supposed to report on security developments from the past 24-48 hours to the commander of the MD.³⁴⁹

125. **Ljiljana Botteri**, Assistant Commander for Legal Affairs of the Split MD during and after Operation Storm,³⁵⁰ testified that whilst operating within the Split MD, the 72nd VP Battalion commanded by Mihael Budimir was subordinated to the Split MD. Gotovina could issue orders to members of the Battalion within their scope of activity and in accordance with the VP's Standard Operating Procedures.³⁵¹ Such orders could include daily police work, like securing a facility or escorting a vehicle. Botteri testified however that Gotovina could not issue orders for basic VP tasks like preventing criminal offences, detecting perpetrators, and conducting criminal investigations

³⁴⁴ Mate Laušić, T. 15305, 15370.

³⁴⁵ Ivan Jurić, T. 27420-27421.

³⁴⁶ Ivan Jurić, T. 27431, 27503, 27516.

³⁴⁷ Ivan Jurić, T. 27431-27432.

³⁴⁸ Ivan Jurić, T. 27431-27432, 27439.

³⁴⁹ Ivan Jurić, T. 27438-27440, 27477.

³⁵⁰ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), paras 11, 30-31; P1006 (Ljiljana Botteri, witness statement, 8 November 2007), para. 15; P1017 (Report on disciplinary measures and penalties for the third quarter of 1995, signed by Ljiljana Botteri), p. 1.

³⁵¹ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), paras 51-52; P1006 (Ljiljana Botteri, witness statement, 8 November 2007), para. 21; D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 16; Ljiljana Botteri, T. 10888.

because the completion of those tasks was either required by law or initiated pursuant to a request by the state attorney or a warrant issued by the military prosecutor or investigative judge.³⁵² In this respect, the VP was under the control of the VP Administration, through the VP Crime Investigations Department.³⁵³

126. On 4 January 1995, Gotovina requested that Laušić issue an order to the Commander of the Joint Company of the VP in Sector South to provide 20 troops to the Platoon of the VP in the zone of responsibility of the Livno OG to assist with military and police tasks.³⁵⁴ On 15 June 1995, Gotovina ordered the Commander of the 72nd VP Battalion to relocate the Anti-terrorist group to the area of responsibility of the Livno OG before 4 p.m. on 16 June 1995. He also ordered that transportation and weaponry was to be provided by the VP.³⁵⁵ In an order dated 15 September 1995, Gotovina ordered the Anti-terrorist platoon of the 72nd VP Battalion to conduct a search and mopping-up operation near Dvar in Bosnia-Herzegovina to be carried out between 8 a.m. and 6 p.m. on 16 September 1995. Gotovina also ordered the Commander of the 72nd VP Battalion to submit a report on the execution and results of the task at a regular meeting.³⁵⁶ On 6 October 1995, Gotovina ordered the Anti-terrorist group of the 72nd VP Battalion to be put immediately at the first level of combat readiness.³⁵⁷ On 31 October 1995, Gotovina ordered the Commander of the 72nd VP Battalion in Split to send one squad to provide security at the Forward Command Post of the Croatian Forces in Šipovo, Bosnia-Herzegovina.³⁵⁸

127. **Džolić** testified that on 28 July 1995, over 50 VP members from different companies of the 72nd VP Battalion, including himself, were based in Rujani in Bosnia-Herzegovina.³⁵⁹ Their tasks included securing the combat zone, escorting convoys, and providing security for Gotovina's Sector Command in Gornji Rujani.³⁶⁰ According to

³⁵² D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 16.

³⁵³ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), para. 52; D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 16.

³⁵⁴ D1290 (Request from Ante Gotovina to Mate Laušić to provide troops to the Platoon of the VP in the Livno OG area of responsibility, 4 January 1995).

³⁵⁵ P2216 (Order by Ante Gotovina to relocate the Anti-terrorist group of the 72nd Battalion to the area of responsibility of the Livno OG, 15 June 1995).

³⁵⁶ P2211 (Order by Ante Gotovina initiating mopping-up operation near Dvar, Bosnia-Herzegovina, 15 September 1995).

³⁵⁷ P2218 (Order by Ante Gotovina to prepare the Anti-terrorist group of the 72nd Battalion for military intervention, 6 October 1995).

³⁵⁸ P2213 (Order by Ante Gotovina to send a squad from the 72nd VP Battalion to the Forward Command Post in Šipovo, Bosnia-Herzegovina, 31 October 1995).

³⁵⁹ P875 (Boško Džolić, witness statement, 18 May 2004), paras 15, 19.

³⁶⁰ P875 (Boško Džolić, witness statement, 18 May 2004), para. 15.

Džolić, one or two days before Operation Storm, Gotovina moved his forward command post to Sajković in Bosnia-Herzegovina.³⁶¹ On 30 July 1995, 15-30 members of the 66th VP Battalion arrived in Rujani.³⁶² Džolić testified that on the night of 3 August 1995, 72nd VP Battalion Commander Mihael Budimir read an order from Gotovina to him and the other VP Commanders who were in Rujani at the time about the beginning of Operation Storm. They were told that an attack was about to commence, that they should get their men prepared and the attack lines for the Guard Brigades were described as well.³⁶³

128. On 5 August 1995, Laušić, with a view to ensuring a high level of public law, order and general safety, and the prevention of crimes by the HV, issued an order to the commanders of the VP Battalions and Companies that the commanders of VP units should embark on the final preparations for the establishment of VP units in the newly liberated areas, establish crime VP and duty services, and establish a communications and reporting system. The order was copied to among others MD commanders.³⁶⁴ **Laušić** testified that between 5 and 10 August 1995, 16 VP units were established in the newly “liberated” areas, among others in Knin (company size), Benkovac, Drniš, and Obrovac from the 72nd battalion.³⁶⁵ Laušić further ordered the VP commanders to act with firmness towards members of the HV in breach of Rules of Military Discipline and Regulations on Safety in Military Traffic on Roads, and that arrested HV members should be kept in the detention facilities of their respective units until the facilities of the newly established VP units were in place.³⁶⁶ Pursuant to the order, the commanders of the newly established VP units in the liberated areas were, for the execution of their daily operations, subordinated to the most senior HV commander in their respective

³⁶¹ P875 (Boško Džolić, witness statement, 18 May 2004), para. 17.

³⁶² P875 (Boško Džolić, witness statement, 17-18 August 2004), paras 15, 17, 19.

³⁶³ P875 (Boško Džolić, witness statement, 18 May 2004), para. 18; Boško Džolić, T. 9086.

³⁶⁴ P881 (Order by Major General Mate Laušić on the establishment of VP units in the newly liberated areas, 5 August 1995), paras 1-3.

³⁶⁵ P2159 (Mate Laušić, witness statement, 11 August 2004), para. 178; Mate Laušić, T. 15604; see also P875 (Boško Džolić, witness statement, 18 May 2004), para. 59; Boško Džolić, T. 9056, 9068; P879 (Report on the execution of tasks by Major Ivan Jurić to the VP Administration, 5 August 1995), paras 1.5-1.6; P881 (Order by Major General Mate Laušić on the establishment of VP units in the newly liberated areas, 5 August 1995), para. 1; P882 (Report by Major General Mate Laušić on the use of VP units in Operation Storm, 6 August 1995), para. 1; D292 (Croatian defence report on Operation Storm, signed by Mate Laušić, 15 August 1995), pp. 6-8; D399 (Croatian defence report, Mate Laušić, 7 August 1995), p. 2.

³⁶⁶ P881 (Order by Major General Mate Laušić on the establishment of VP units in the newly liberated areas, 5 August 1995), paras 5-6.

zones of responsibility,³⁶⁷ which the Trial Chamber understands as a reference to Article 9 of the VP Rules.

129. On 13 August 1995, Commander Budimir reported to the Chief of the VP Administration that pursuant to the attack order of the Commander of the Split MD a VP combat group consisting of anti-terrorist unit members, general VP, and traffic VP, had been created, deployed in combat during Operation Storm, and assigned break on 10 August 1995 pursuant to an order of the Commander of the Split MD.³⁶⁸

130. On 15 August 1995, Laušić reported that by order of the commander of the Split MD, the “72nd Company of the VP, with its anti-terrorist platoon, and members of the General VP” were subordinated to the 1st Croatian Guard Corps, when the operation for the liberation of Knin began.³⁶⁹ He also reported that, since 13 August 1995, anti-terrorist units of the VP were engaged independently and together with the MUP in searching the newly-liberated areas.³⁷⁰

131. On an earlier occasion, in January 1995, Gotovina issued orders instituting commissions of inquiry to deal with routine military offences such as failure to execute an order.³⁷¹ On 21 May 1995, members of the 114th Brigade allegedly threw a hand grenade in front of the Trogir police station in Split municipality causing damage to a vehicle and serious bodily injuries to one person.³⁷² Consequently, Budimir received orders to notify Gotovina and have him issue an order to Skejo regarding the incident.³⁷³ In an order dated 22 May 1995, Gotovina ordered the immediate assembly of a commission for investigation into the causes and consequences of the incident.³⁷⁴ Gotovina’s order mandated that the commission consist of five members of the Split VP including the SIS, and Assistant for Propaganda Activities.³⁷⁵ Gotovina also ordered the submission of a detailed report no later than 8 a.m. on 24 May 1995 and ordered all

³⁶⁷ P881 (Order by Major General Mate Laušić on the establishment of VP units in the newly liberated areas, 5 August 1995), para. 7.

³⁶⁸ D737 (Report by Commander Major Budimir, 13 August 1995), pp. 1-4.

³⁶⁹ D292 (Croatian defence report on Operation Storm, signed by Mate Laušić, 15 August 1995), p. 11.

³⁷⁰ D292 (Croatian defence report on Operation Storm, signed by Mate Laušić, 15 August 1995), p. 13.

³⁷¹ P1033 (Decision instituting a disciplinary inquiry signed by Ante Gotovina, 4 January 1995).

³⁷² P1018 (Report regarding incident at Trogir police station signed by Major Mihael Budimir, 22 May 1995), p. 1.

³⁷³ P1018 (Report regarding incident at Trogir police station signed by Major Mihael Budimir, 22 May 1995), p. 3.

³⁷⁴ P1019 (Order assembling investigatory commission signed by Ante Gotovina, 22 May 1995), p. 1.

³⁷⁵ P1019 (Order assembling investigatory commission signed by Ante Gotovina, 22 May 1995), para. 1.

individuals at the commanding level to act so as to prevent similar incidents.³⁷⁶ In a decision dated 31 May 1995, Gotovina initiated a disciplinary inquiry against two members of the 1080 military post in the Split MD based on reasonable suspicion that the men had violated military discipline by receiving two salaries.³⁷⁷ Gotovina appointed Corporal Josip Galić from military post 6070 to lead the disciplinary inquiry team and requested that he submit the entire case file, a report and a proposal to Gotovina within 15 days of receipt of the decision.³⁷⁸ According to **Botteri**, Gotovina would have then forwarded the file to the military disciplinary prosecutor who would write an indictment at which point the disciplinary court chamber would have been formed.³⁷⁹

132. On 23 and 24 August 1995, the Viskogradnja and Predvodnik Housing Cooperatives in Split sent letters to the Chief of the Main Staff, Zvonimir Červenko complaining of uniformed HV members' violent entry into and illegal occupation of flats.³⁸⁰ On 23 August 1995, Červenko ordered the Split MD Commander to immediately form a commission comprised of the Split MD Chief of Staff, the Commander of the 1114 military post office, and the Assistant Commanders of Political Affairs, the SIS, and Legal Affairs.³⁸¹ According to Červenko's order, the commission was to establish the names of the perpetrators and suggest possible measures to evict and retrieve property before 26 August 1995.³⁸² A report on the progress of implementation of those measures was to be submitted to Červenko no later than 15 September 1995.³⁸³ Additionally, Červenko's order obligated the Split MD Commander to file criminal charges in cooperation with the VP office to the competent military prosecutor's office in Split.³⁸⁴ By an order dated 29 August 1995, and according to Botteri, pursuant to Article 9 of the VP Rules, Gotovina appointed a Commission for

³⁷⁶ P1019 (Order assembling investigatory commission signed by Ante Gotovina, 22 May 1995), paras 2, 4.

³⁷⁷ P1023 (Decision initiating disciplinary inquiry signed by Ante Gotovina, 31 May 1995), pp. 1-2.

³⁷⁸ P1023 (Decision initiating disciplinary inquiry signed by Ante Gotovina, 31 May 1995), p. 1.

³⁷⁹ P1006 (Ljiljana Botteri, witness statement, 8 November 2007), para. 27.

³⁸⁰ D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 18; D879 (Visokogradnja Housing Cooperative letter, 23 August 1995; Predvodnik Housing Cooperative letter, 24 August 1995), pp. 3-6.

³⁸¹ D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 18; Ljiljana Botteri, T. 10928; D879 (Order obligating the MD Commander to form a commission signed by General Zvonimir Červenko, 23 August 1995), p. 1.

³⁸² D879 (Order obligating the MD Commander to form a commission signed by General Zvonimir Červenko, 23 August 1995), p. 1.

³⁸³ D879 (Order obligating the MD Commander to form a commission signed by General Zvonimir Červenko, 23 August 1995), p. 2.

Investigation charged with establishing facts related to the matter, and proposing measures to evict the HV members, and to discipline them, and their superior commanders.³⁸⁵ Botteri was appointed to the commission along with Colonel Ivo Brbora, Colonel Ivan Zelić, Brigadier Andrija Matijaš, Deputy Commander of the military post 1114, Major Marijan Milas, Assistant Commander of the “ZZP”, and Major Miro Promorac, Deputy Commander of the 72nd VP Battalion.³⁸⁶ According to Botteri, it was not regular practice to initiate disciplinary inquiries regarding breaches of discipline against unknown offenders.³⁸⁷ In Botteri’s opinion, Gotovina’s orders did not initiate a disciplinary inquiry in this matter but instead, formed a “war-time commission” to obtain or discover the names of perpetrators.³⁸⁸ Gotovina’s order also required the commission to file criminal reports in collaboration with the 72nd VP Battalion to the military prosecutor against the perpetrators or their superiors.³⁸⁹ In Botteri’s opinion, Gotovina’s order was superfluous as the VP was already obliged to file criminal reports by virtue of their obligations under the rules.³⁹⁰ The Commission established the name and unit of the 36 HV members who, it concluded, had forcibly and illegally occupied newly constructed flats belonging to various private enterprises, the city of Split, the Croatian Government, the MoD, and civilians. Of the identified perpetrators the Commission concluded that 34 belonged to the 4th Guards Brigade (four of which were by then retired), one to the 72nd VP Battalion, and one to the 83rd VP Battalion.³⁹¹ As for disciplinary measures, the Commission determined that all perpetrators who had already moved out and returned the keys or who did so immediately upon returning from mission would have their disciplinary violation pardoned while the Commander of the 4th Guards Brigade would implement disciplinary measures against those who refused to move out and the 72nd VP Battalion

³⁸⁴ D879 (Order obligating the MD Commander to form a commission signed by General Zvonimir Červenko, 23 August 1995), p. 1.

³⁸⁵ D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 18; Ljiljana Botteri, T. 10871; P1013 (Order establishing a commission of investigation signed by Ante Gotovina, 29 August 1995), p. 1.

³⁸⁶ P1013 (Order establishing a commission of investigation signed by Ante Gotovina, 29 August 1995), p. 1.

³⁸⁷ D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 5.

³⁸⁸ Ljiljana Botteri, T. 10866-10868.

³⁸⁹ P1013 (Order establishing a commission of investigation signed by Ante Gotovina, 29 August 1995), p. 2.

³⁹⁰ Ljiljana Botteri, T. 10943.

³⁹¹ Ljiljana Botteri, T. 10864, 10866; P1013 (Report on measures taken signed by Ante Gotovina, 8 September 1995), pp. 3-4.

would file criminal reports with the military prosecutor in Split.³⁹² Consequently, on 8 September 1995, Gotovina ordered the Commanding Officer of the 4th Guards Brigade and the Commanding Officer of the 72nd VP Battalion to implement the Commission's proposed disciplinary measures.³⁹³

133. On 9 August 1995, Laušić ordered that all VP units which had been engaged in combat activities during Operation Storm be disengaged from the area of combat activities at 7 a.m. on 10 August 1995. The same units were ordered to engage in mopping-up operations of the liberated territory as of 7 a.m. on 12 August 1995.³⁹⁴ The order was addressed to the commanders of the 67th Battalion in Zagreb, the 69th Company in Bjelovar, the 70th Company in Karlovac, the 71st Battalion in Rijeka, and the 72nd and 73rd Battalions in Split.³⁹⁵

134. The Trial Chamber has further received evidence in relation to Gotovina's powers and obligations vis-à-vis crimes and disciplinary infractions committed by units under his command. According to **Marko Rajčić**, the chief of artillery of the Split MD from April 1993 to June 1996,³⁹⁶ Gotovina had no command authority over the VP in Knin, but he could ask the VP battalion commander to initiate a procedure under the rules of discipline.³⁹⁷ The VP could then submit a report, whereafter a disciplinary measure could be imposed, as in the Law on Defence Forces.³⁹⁸

135. Gotovina stated in a letter dated 23 May 1995 that through oral communications with members of the recipient's unit, he had discovered that reports were sent to the offenders' original units so that disciplinary proceedings could be initiated. According to the letter, reports were sent to Gotovina's department for informational purposes. Gotovina requested information regarding the unit to which the offenders belonged so that his command could have thorough insight and carry out appropriate preventative activities.³⁹⁹ Consequently, in a report dated 29 September 1995 sent to Gotovina, Colonel Mihael Budimir enclosed the disciplinary and misdemeanour charges filed by

³⁹² Ljiljana Botteri, T. 10864, 10866; P1013 (Report on measures taken signed by Ante Gotovina, 8 September 1995), pp. 5-6.

³⁹³ P1013 (Order imposing disciplinary measures signed by Ante Gotovina, 8 September 1995), p. 7.

³⁹⁴ D837 (Order by Mate Laušić, 9 August 1995), p. 2.

³⁹⁵ D837 (Order by Mate Laušić, 9 August 1995), p. 1.

³⁹⁶ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 1; Marko Rajčić, T. 16236, 16275; P2323 (Military Police official note of Rajčić interview, 11 July 2008), p. 1.

³⁹⁷ Marko Rajčić, T. 16509-16510, 16512-16513.

³⁹⁸ Marko Rajčić, T. 16513.

³⁹⁹ P1029 (Letter regarding reports on traffic offenders signed by Ante Gotovina, 23 May 1995), p. 3.

the Traffic Company of the 72nd VP Battalion for traffic offences committed between 25 August and 25 September 1995.⁴⁰⁰

136. **Botteri** testified that the commander of a unit had the obligation to inform the VP as soon as he learned of the commission of a criminal offence.⁴⁰¹ Botteri testified that not every criminal offence involved a breach of the rules of military discipline and that criminal charges against military personnel were therefore conducted in separate proceedings before a military court.⁴⁰²

137. Article 5 of the Code of Military Discipline defined two types of disciplinary breaches: minor and major disciplinary offences.⁴⁰³ For a minor disciplinary offence, any commander from the platoon commander level upwards could take disciplinary measures, while the disciplinary sentence for a major violation could only be issued by a military disciplinary court.⁴⁰⁴ Criminal investigations generally subsumed disciplinary investigations.⁴⁰⁵ Although Article 31 of the Code of Military Discipline allowed an officer to initiate disciplinary proceedings after informing the Prosecutor of his findings that a certain offence against military discipline was also a criminal offence, Botteri testified that in practice such cases were only dealt with in the investigative department of the County Courts.⁴⁰⁶

138. Article 35 of the Code of Military Discipline, authorized superior officers to conduct regular evaluations of decisions on disciplinary measures within 30 days of the date that they were pronounced.⁴⁰⁷ According to Botteri, Gotovina's position required that he assess the regularity and adequacy of every disciplinary measure pronounced by his direct subordinates.⁴⁰⁸ Gotovina's assessment of the disciplinary measures issued by

⁴⁰⁰ P1030 (Report on traffic offenders signed by Colonel Mihael Budimir, 29 September 1995).

⁴⁰¹ P1006 (Ljiljana Botteri, witness statement, 8 November 2007), para. 10.

⁴⁰² D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 23; D893 (Report on military courts' disciplinary measures and sentences from October to December 1995 signed by Brigadier Pero Toljan, 15 April 1996), p. 7.

⁴⁰³ P1006 (Ljiljana Botteri, witness statement, 8 November 2007), para. 3; D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 4; Ljiljana Botteri, T. 10962; P1007 (Code of Military Discipline, 25 April 1992), Article 5.

⁴⁰⁴ P1006 (Ljiljana Botteri, witness statement, 8 November 2007), para. 3; P1007 (Code of Military Discipline, 25 April 1992), Articles 21, 23, 53.

⁴⁰⁵ Ljiljana Botteri, T. 10948-10949.

⁴⁰⁶ D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 8, Ljiljana Botteri, T. 10944; P1007 (Code of Military Discipline, 25 April 1992), Article 31.

⁴⁰⁷ P1007 (Code of Military Discipline, 25 April 1992), Article 35.

⁴⁰⁸ Ljiljana Botteri, T. 10936.

his direct subordinates dealt only with the procedural adequacy of the measure when compared with the Code of Military Discipline and not the merits.⁴⁰⁹

139. A company commander, upon knowledge of a major disciplinary offence being committed by a subordinate in his unit, was required to report the incident to the battalion commander, who reported to the brigade commander.⁴¹⁰ The brigade commander would then decide whether to take action himself or to launch an investigation.⁴¹¹ If the brigade commander or battalion commander concluded that the results of the investigation indicated that a disciplinary offence had been committed then he could propose, in writing, to the commander of the MD that the matter be dealt with by a military disciplinary court.⁴¹²

140. Although the Code of Military Discipline applied equally to active duty and reserve soldiers, Botteri believed that in practice commanders preferred to demobilize reserve soldiers who committed offences rather than start the very complicated and long process of disciplinary measures.⁴¹³

141. When asked about the difference between criminal proceedings before the military prosecutor's office and disciplinary procedures handled internally by the HV, **Mladen Bajić**, Deputy Military Prosecutor for the Split MD from 1992 to 1996,⁴¹⁴ explained that these were two distinct procedures.⁴¹⁵ He stated that military prosecutor's offices and courts had nothing to do with disciplinary procedures because there were separate HV disciplinary prosecutor's offices and courts established for this specific purpose.⁴¹⁶ Bajić explained that the decision on whether minor or major disciplinary infractions, especially in the HV, would be processed by a disciplinary procedure depended upon the commander who received notice of the breach.⁴¹⁷

142. In a letter of 12 September 1995, Červenko informed Gotovina that as a commander he was personally responsible for the way UNCRO members were treated

⁴⁰⁹ Ljiljana Botteri, T. 10936-10937.

⁴¹⁰ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), para. 21; Ljiljana Botteri, T. 10970; P1007 (Code of Military Discipline, 25 April 1992), Article 61.

⁴¹¹ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), para. 21; Ljiljana Botteri, T. 10970; P1007 (Code of Military Discipline, 25 April 1992), Article 61.

⁴¹² P1005 (Ljiljana Botteri, witness statement, 20 January 2004), para. 21.

⁴¹³ P1006 (Ljiljana Botteri, witness statement, 8 November 2007), para. 9; D878 (Ljiljana Botteri, witness statement, 24 October 2008), para. 10; Ljiljana Botteri, T. 10915.

⁴¹⁴ D1626 (Mladen Bajić, witness statement, 21 May 2009), para. 2; Mladen Bajić, T. 20731, 20784.

⁴¹⁵ Mladen Bajić, T. 20735-20736, 20812-20813; P1007 (Croatian Code of Military Discipline, 11 May 1992), pp. 2-3, 10.

⁴¹⁶ Mladen Bajić, T. 20735-20736.

in the area of responsibility of the Split MD, and was obliged to take all necessary actions under military regulations to ensure discipline in subordinated units. He further informed Gotovina that such behaviour reflected poorly on the HV, was contrary to state policy and the views of Croatian leaders, and violated Croatia's international obligations. He added that he would take vigorous and strict measures against all HV commanders who behaved in an undisciplined way or contrary to orders.⁴¹⁸

143. The Trial Chamber is mindful that while on the one hand, members of the VP were duty-bound to combat crimes committed by the military, on the other hand they were allegedly involved in committing crimes themselves.

144. In relation to Gotovina's powers vis-à-vis crimes and disciplinary infractions committed by units under his command, the Trial Chamber finds that upon learning of a crime or disciplinary infraction, like any other military commander, Gotovina had the power to initiate relevant proceedings, resulting in the involvement of either the VP and the military prosecutor (crimes) or the disciplinary prosecutor (major disciplinary infractions), or sanction the perpetrator directly (minor disciplinary infractions). Moreover, Gotovina by virtue of his position could also perform regular evaluations of decisions on disciplinary measures taken by subordinated commanders and thus performing his duties as their commander. In relation to non-organic units temporarily attached to the Split MD, the Trial Chamber acknowledges that there may have been confusion or inconsistency about whether the commander of the Split MD or the original unit commander would exercise disciplinary control. In any event, the Trial Chamber is satisfied that in order to give effect to the subordination, the Split MD commander had at least the power to initiate or review temporary disciplinary measures. Based on D1538 and other evidence received, the Trial Chamber further considers that geographical absence of the Split MD commander from areas of the Split MD where combat operations did not require his presence any further does not per se affect his obligation to retain control over subordinated units still in those areas.

145. In relation to Gotovina's authority over VP units, the Trial Chamber finds that the VP Rules of 1994 (Exhibit P880), which were in force throughout 1995, established a system of command and control whereby VP units would be subordinate to a military commander for performance of regular VP tasks, under Article 9. This system was also

⁴¹⁷ Mladen Bajić, T. 20735-20736, 20831-20832.

⁴¹⁸ D1538 (Letter from General Červenko to Gotovina, 12 September 1995).

reflected in an order by the Minister of Defence (D35) and orders by the Chief of the VP Administration (P2171, P881, D47). A number of witnesses, including members of the VP, also confirmed this system. The Gotovina Defence submits in paragraph 800 of its Final Trial Brief that a reasonable interpretation of the evidence is that the VP units were not subordinated to the military commander for VP tasks, but for military tasks of the military commander. The wording of the VP Rules is inconsistent with this explanation. The same is true for Milas's explanation of the system of Articles 8 and 9 of the VP Rules. Milas testified that the system of VP command and control was one of vertical subordination and horizontal coordination, meaning that the VP Administration was vertically superior and that VP units would be duty-bound to horizontally coordinate with the military commander in their areas of responsibility. Accordingly, the Trial Chamber finds that Gotovina, by virtue of his function, had authority over VP units in the area of operations of the Split MD under Article 9 of the VP Rules.

146. In relation to the scope of Gotovina's authority, the Trial Chamber had to interpret Article 9 of the VP Rules. In this context, it also considered the way in which witnesses interpreted this rule. Article 9 subordinates VP units to a military commander in the performance of regular VP tasks. Article 10 of the VP Rules lists VP tasks, including the prevention and processing of crimes. The Gotovina Defence submits that preventing and investigating crimes did not fall within the ambit of Article 9, as *regular* VP tasks. Botteri and Milas testified that crime prevention and processing did not fall within the competence of a military commander under Article 9, although Botteri qualified these tasks as "basic tasks". Šimić testified that an MD commander also had the power to order the VP in relation to crime investigations. The Trial Chamber further considered exhibits P1013 and P1019 which illustrate Gotovina's powers in using his authority over the VP in relation to initiating crime investigations and crime processing. Apart from setting up commissions to investigate certain offences, Gotovina also ordered that VP members be part of such commissions. Different elements of a task could reasonably fall within the ambit of either Article 8 or 9 of the VP Rules. For example, providing logistical or organizational aspects of a crime investigation would be covered by Article 8 of the VP Rules, whereas the initiation of behaviour to be investigated may fall within the ambit of Article 9 of the VP Rules. Accordingly, the Trial Chamber finds that crime prevention and processing, depending on the

circumstances, was not excluded from the ambit of Article 9 of the VP Rules, thereby giving Gotovina authority over the VP in this regard.

3.2 Ivan Čermak and the Knin garrison

147. According to the Indictment, Ivan Čermak became Commander of the Knin Garrison on 5 August 1995, established his headquarters in Knin on or about 5 or 6 August 1995, and remained in that position until approximately 15 November 1995.⁴¹⁹ The Trial Chamber will examine in turn Čermak's appointment, his role as a representative dealing with members of the international community and their impressions as to his position, the legal basis in Croatian law for the position of garrison commander, and the end of Čermak's term.

148. The Trial Chamber first turns to Čermak's appointment. **Borislav Škegro**, Deputy Prime Minister of the Republic of Croatia for the Economy from April 1993 until 2000,⁴²⁰ testified that on 5 August 1995 Tuđman told him and others that he needed a person to integrate and resuscitate the economy and establish communication with the international community, with the experience of a former minister, knowledge of military logistics, who spoke a foreign language and was multidimensional.⁴²¹ According to Škegro, Tuđman stated that somebody had recommended Čermak to him because he had experience in business and as a former assistant minister in the MoD, had an atypical style as a general, and would establish relations with civilian authorities and the international community.⁴²²

149. When interviewed by the Prosecution, Čermak stated that in the morning of 5 August 1995, President Tuđman got on the phone with him, and asked him to come to his office.⁴²³ Čermak arrived there in the afternoon, and Tuđman appointed him Commander of the Knin Garrison Headquarters.⁴²⁴ The meeting lasted approximately

⁴¹⁹ Indictment, para. 6. See also para. 5.

⁴²⁰ D1679 (Borislav Škegro, witness statement, 21 April 2009), p. 1, paras 1-2; Borislav Škegro, T. 22219.

⁴²¹ D1679 (Borislav Škegro, witness statement, 21 April 2009), para. 4; Borislav Škegro, T. 22214-22215.

⁴²² D1679 (Borislav Škegro, witness statement, 21 April 2009), paras 4-5, 7; Borislav Škegro, T. 22214-22215.

⁴²³ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 5, 8-9, 38, 65, 144, 177; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 4, 8; P2532 (Accused interview with Ivan Čermak, 7 June 2004), p. 1; P2355 (Nacional interview with Ivan Čermak, 29 October 1997), p. 5.

⁴²⁴ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 5-9, 25, 29, 38, 65, 116, 128, 136, 144, 146, 177; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 4, 6, 8-11; P2532 (Accused interview with Ivan Čermak, 7 June 2004), p. 1; P2355 (Nacional interview with Ivan Čermak,

five to ten minutes.⁴²⁵ There was no one else present, apart from security staff.⁴²⁶ Tuđman orally assigned tasks to Čermak, which they discussed, and which were clear to Čermak.⁴²⁷ Čermak's tasks were logistical, to re-establish and support civilian authorities and re-establish normal life (electricity, water, hospitals) in Knin, hygiene and sanitation (dispose of food and dead livestock), cooperate with international organizations, deal with problems relating to the UNCRO camp, and media contacts and public relations; they did not include freedom of movement, providing salary or accommodation for military in Knin, security, organizing the police, or reporting crimes.⁴²⁸ While his role was defined by his tasks rather than by a geographical area, Čermak stated that his activity was limited to the Knin Garrison, meaning Knin and the surrounding area.⁴²⁹ Čermak explained that his media- and international community-related tasks covered all of Sector South.⁴³⁰ Čermak stated that he held the rank of Colonel General.⁴³¹ However, he also stated that he got his rank of general on the basis of logistical and administrative tasks.⁴³² Čermak stated that he never commanded units, and had no role in Operation Storm.⁴³³ Čermak also stated that Tuđman chose him not for his title but for his organizational and logistical skills and because he trusted him.⁴³⁴ However, Čermak added that his title helped his authority to command the men.⁴³⁵

29 October 1997), p. 5; D296 (Transcript of a meeting between Franjo Tuđman and Croatian officials, 7 August 1995), pp. 1, 20.

⁴²⁵ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 65-66, 145.

⁴²⁶ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 38, 65.

⁴²⁷ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 5, 7-9, 11, 13, 26-27, 38-39, 144, 187; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 10-11, 16, 51; P2532 (Accused interview with Ivan Čermak, 7 June 2004), pp. 1, 13, 42, 142.

⁴²⁸ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 5-6, 8-9, 11-14, 24, 32, 38-39, 41, 53-54, 56, 63, 74, 108, 115-116, 131, 138, 144, 153, 155-156, 158-159, 165, 169, 177-178, 180; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 9-10, 13, 15-16, 27, 47, 51, 61, 96-97, 102; P2532 (Accused interview with Ivan Čermak, 7 June 2004), pp. 1-2, 7, 12-13, 42, 46, 96-97, 126; P2707 (Additional portions of suspect interview with Ivan Čermak, 17 March 1998), p. 3; P2355 (National interview with Ivan Čermak, 29 October 1997), pp. 5-7; D38 (Večernji list interview with Ivan Čermak, 11 August 1995), p. 1.

⁴²⁹ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 11, 53-56, 136, 168-169; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 9-10; P2532 (Accused interview with Ivan Čermak, 7 June 2004), p. 60.

⁴³⁰ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 55-56, 169.

⁴³¹ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 126; P2532 (Accused interview with Ivan Čermak, 7 June 2004), p. 56.

⁴³² P2532 (Accused interview with Ivan Čermak, 7 June 2004), pp. 27, 36. See also D1678 (Gordan Radin, witness statement, 14 April 2009), paras 10, 12.

⁴³³ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 5, 35; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), p. 87; P2532 (Accused interview with Ivan Čermak, 7 June 2004), pp. 26, 37.

⁴³⁴ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 6-7, 25, 27, 34, 116-117, 127, 143-144; P2532 (Accused interview with Ivan Čermak, 7 June 2004), p. 57.

⁴³⁵ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 144-145.

Tuđman issued a written order dated 5 August 1995, appointing with immediate effect reserve Colonel General Ivan Čermak as Commander of the Knin Garrison, and demoted Major Marko Gojević (who had been acting commander of the Knin Garrison) to Čermak's deputy.⁴³⁶

150. **Gordan Radin**, Chef de Cabinet of the President of the Republic of Croatia from 30 January 1995 to 30 January 2000,⁴³⁷ testified that on 4 August 1995 President Tuđman informed him that he intended to appoint Ivan Čermak as civilian commander of Knin right after the liberation.⁴³⁸ Radin recalled with some hesitation that when he asked Tuđman what the position of "civilian commander" meant, Tuđman replied it was a military person assigned to establish normal civilian life, which would involve cooperating with civilian authorities.⁴³⁹ The position of civilian commander of Knin did not exist, which created difficulties for Radin and others in finding a formal method of appointment.⁴⁴⁰ They asked the President's Military Office to find an appropriate position, and that Office drafted and sent to the President a decree on appointing Čermak as the commander of the Knin garrison.⁴⁴¹ After failing to find Čermak on 4 August 1995, Radin and others located him on 5 August 1995, and he immediately came to Tuškanac.⁴⁴² Radin spoke with Čermak, who then had a meeting with the President which lasted a few minutes, and upon leaving the President's office Čermak told Radin that he had been appointed commander of the Knin garrison by President Tuđman, and that he was going to the HV Main Staff.⁴⁴³ Radin understood that Čermak's appointment was a military appointment that gave him the responsibilities and powers of a garrison commander, yet included civilian functions of establishing conditions for normal life.⁴⁴⁴

⁴³⁶ D31 (Order by Tuđman appointing Čermak as Commander of the Knin Garrison, 5 August 1995); D994 (Order from Ante Gotovina temporarily assigning acting commander of Knin Garrison, 1 March 1994), p. 1.

⁴³⁷ D1678 (Gordan Radin, witness statement, 14 April 2009), p. 1, paras 1-2, 4, 18; Gordan Radin, T. 22155, 22168.

⁴³⁸ D1678 (Gordan Radin, witness statement, 14 April 2009), para. 8.

⁴³⁹ D1678 (Gordan Radin, witness statement, 14 April 2009), para. 8; Gordan Radin, T. 22155-22157, 22160, 22166.

⁴⁴⁰ D1678 (Gordan Radin, witness statement, 14 April 2009), para. 10; Gordan Radin, T. 22155, 22157. See also Franjo Feldi, T. 21828-21829.

⁴⁴¹ D1678 (Gordan Radin, witness statement, 14 April 2009), para. 10; Gordan Radin, T. 22155-22156; P2639 (Decision on the basis of organization of the Ministry of Defence, 13 November 1991), para. III.

⁴⁴² D1678 (Gordan Radin, witness statement, 14 April 2009), paras 9-10.

⁴⁴³ D1678 (Gordan Radin, witness statement, 14 April 2009), para. 11; Gordan Radin, T. 22159, 22163-22164, 22166.

⁴⁴⁴ D1678 (Gordan Radin, witness statement, 14 April 2009), para. 12; Gordan Radin, T. 22157, 22160-22166.

151. Čermak left the President's office, called General Laušić at the MoD for official IDs and cars to go to Knin.⁴⁴⁵ Laušić testified that on 5 August 1995 in Červenko's office, Čermak showed him the decision appointing him to the Garrison Command in Knin.⁴⁴⁶ Čermak stated that he also called the logistics base in Šibenik, and told them that he was coming, and needed people for logistical support to go to Knin.⁴⁴⁷ In the evening, the jeeps from the MoD arrived, and Čermak, two drivers and one or two security men left Zagreb and drove to Šibenik.⁴⁴⁸ They arrived there in the early morning of 6 August 1995, gathered through Major Jonjić some logistics people at the logistics base, and in the afternoon went by helicopter to Knin.⁴⁴⁹ Čermak stated that in the evening of the day of his arrival in Knin or the next morning, he met Gotovina, whom he told why he had come, and who replied that he knew and that he was glad that Čermak had come.⁴⁵⁰

152. Vesna Škare-Ožbolt, Assistant Chief of Staff of the Office of the President of Croatia from January 1995,⁴⁵¹ testified that before 4 August 1995, and in the context of Operation Storm, Čermak's name had not been mentioned. According to the witness, she heard around 5 August 1995, that Čermak was being considered for the commander of the Knin garrison.⁴⁵² Škare-Ožbolt testified that as the goals were to bring the military operation to its end as soon as possible, to start restoring the communications system, and to revitalize the entire area, Čermak was considered the man for the job.⁴⁵³ Further, an individual was sought who had the qualities of a businessman and a soldier.⁴⁵⁴ She noted that prior to Čermak's arrival the government's trustee, Petar Pašić, was responsible for Knin. According to the witness, while normalization of life in Knin would have been his responsibility the problems prevalent in the area went far

⁴⁴⁵ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 38, 66, 69.

⁴⁴⁶ P2159 (Mate Laušić, witness statement, 11 August 2004), para. 235.

⁴⁴⁷ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 42, 66.

⁴⁴⁸ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 66, 69, 163.

⁴⁴⁹ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 10-11, 67-68; P2532 (Accused interview with Ivan Čermak, 7 June 2004), p. 31. See also D1723 (Ivo Cipci, witness statement, 12 June 2009), para. 17; Ivo Cipci, T. 23161.

⁴⁵⁰ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 10-11; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), p. 101; P2532 (Accused interview with Ivan Čermak, 7 June 2004), pp. 2-3.

⁴⁵¹ Vesna Škare-Ožbolt, T. 18039; D1472 (Decision Appointing Škare-Ožbolt Assistant Head of the Office of the President, 30 January 1995).

⁴⁵² Vesna Škare-Ožbolt, T. 18096.

⁴⁵³ Vesna Škare-Ožbolt, T. 18096-18099.

⁴⁵⁴ D1471 (Vesna Škare-Ožbolt, witness statement, 3 October 2007), para. 10.

beyond the abilities of Pašić.⁴⁵⁵ She testified that Čermak was not sent to Knin as a commander of the civilian police or military regime, yet he was wearing a military uniform at the time.⁴⁵⁶ Škare-Ožbolt stated that Čermak's authority emerged from the Office of the President as there was nothing in the Croatian Constitution which defined such a situation, resulting in his actual area of responsibility being undefined. She stated that due to this uncertainty as to his geographic area of responsibility, Čermak called and complained on numerous occasions.⁴⁵⁷

153. **Karolj Dondo**, HV Liaison Officer with the UN and EC in Sector South in 1995,⁴⁵⁸ testified that from the beginning, Čermak was signing his memoranda and letters as the Commander of the Knin Garrison,⁴⁵⁹ which was corroborated by Čermak,⁴⁶⁰ and **Cipci**.⁴⁶¹ According to Dondo, at the first meeting between Forand and Čermak on 7 August 1995, Čermak stated that he was in charge of communicating with the UN, with normalization of civilian life in Knin, and with providing the refugees at the UN compound with as much assistance as possible.⁴⁶² However, according to Dondo, Čermak was in many respects dependent on the authorization of the command of the Split MD.⁴⁶³ Dondo also testified that in the beginning, Čermak did not know whom to approach regarding certain problems that occurred in Knin at the time.⁴⁶⁴ Čermak's area of responsibility extended to Knin town and the villages connected to Knin.⁴⁶⁵

154. The Trial Chamber now turns to Čermak's role as a representative dealing with members of the international community and their impressions as to his position. When interviewed by the Prosecution, Čermak stated that he and others made contact and organized cooperation with international organizations, including the UNCRO camp.⁴⁶⁶ Čermak stated that whatever international organizations wanted, they all came to him, as the representative of the authorities, and he tried to assist with everything and

⁴⁵⁵ Vesna Škare-Ožbolt, T. 18098.

⁴⁵⁶ Vesna Škare-Ožbolt, T. 18099-18101.

⁴⁵⁷ D1471 (Vesna Škare-Ožbolt, witness statement, 3 October 2007), para. 10.

⁴⁵⁸ D1695 (Karolj Dondo, witness statement, 9 March 2005), p. 1, paras 1-2; D1696 (Karolj Dondo, witness statement, 18 August 2009), p. 1, para. 2.

⁴⁵⁹ D1695 (Karolj Dondo, witness statement, 9 March 2005), para. 16.

⁴⁶⁰ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 173-175.

⁴⁶¹ D1723 (Ivo Cipci, witness statement, 12 June 2009), para. 18.

⁴⁶² D1695 (Karolj Dondo, witness statement, 9 March 2005), paras 11, 16; D1696 (Karolj Dondo, witness statement, 18 August 2009), paras 6, 11.

⁴⁶³ D1696 (Karolj Dondo, witness statement, 18 August 2009), para. 17.

⁴⁶⁴ Karolj Dondo, T. 22581.

⁴⁶⁵ D1695 (Karolj Dondo, witness statement, 9 March 2005), para. 19.

resolved everything that he could.⁴⁶⁷ Someone in his office would always be available.⁴⁶⁸ He also stated that they could speak with whomever they wanted, and that all contacts went through liaison officers.⁴⁶⁹ He further stated that he had very good relations and contacts with all members of the international community, including Al-Alfi, ICRC, and ECMM representatives, and, until a certain moment, Forand.⁴⁷⁰ According to Čermak, three days after he arrived, a liaison officer of an international organization got an office within Čermak's offices, and was there all the time.⁴⁷¹

155. **Alain Forand**, UNCRO Sector South Commander from 8 July 1995 to 10 October 1995,⁴⁷² testified that he twice met Čermak, who presented himself as the Military Governor responsible for the Knin region, on 7 August 1995 during a visit by Akashi to Knin.⁴⁷³ Forand testified that the term Military Governor was translated as such to him and that, ever since, they continued using that term.⁴⁷⁴ Forand testified that every letter he sent to Čermak addressed him as the Military Governor of Knin and that no one ever corrected that title.⁴⁷⁵ According to Forand, others also referred to him by that title.⁴⁷⁶ On the other hand, Forand stated that Čermak never signed his letters to him as military governor.⁴⁷⁷ Forand thought that Čermak was overwhelmed by his responsibilities because his office looked disorganized.⁴⁷⁸ Forand was under the impression that Čermak's tasks were mainly administrative ones.⁴⁷⁹ Forand and Al-Alfi only dealt with Čermak and his staff, even though Forand did not know whether

⁴⁶⁶ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 10, 15.

⁴⁶⁷ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 12, 50-51, 54, 59-60, 64, 168, 173, 175; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), p. 60.

⁴⁶⁸ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 30.

⁴⁶⁹ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 12, 64, 168; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 87-89; P2707 (Additional portions of suspect interview with Ivan Čermak, 17 March 1998), p. 24.

⁴⁷⁰ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 30; D37 (Slobodna Dalmacija interview with Ivan Čermak, 10 August 1995), p. 2.

⁴⁷¹ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 19, 30, 124; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), p. 68; P2707 (Additional portions of suspect interview with Ivan Čermak, 17 March 1998), p. 17.

⁴⁷² P330 (Alain Forand, witness statement, 20 August 1996), pp. 2, 15; P333 (Alain Forand, witness statement, 25 January 2008), para. 2; Alain Forand, T. 4098-4099, 4180, 4186.

⁴⁷³ P331 (Alain Forand, witness statement, 29 September 1997), pp. 16-17, 25; P333 (Alain Forand, witness statement, 25 January 2008), para. 13; Alain Forand, T. 4123-4124, 4159, 4186, 4198, 4204, 4206, 4215-4216, 4522-4523; P356 (UNCRO Sector South situation report, 7:30 a.m., 8 August 1995), pp. 2-3; D346 (Alain Forand's interview in Globus newspaper, 12 March 2004), pp. 2-3.

⁴⁷⁴ Alain Forand, T. 4123, 4127-4128.

⁴⁷⁵ Alain Forand, T. 4125, 4185, 4194.

⁴⁷⁶ P333 (Alain Forand, witness statement, 25 January 2008), para. 13.

⁴⁷⁷ Alain Forand, T. 4185-4186.

⁴⁷⁸ P331 (Alain Forand, witness statement, 29 September 1997), p. 20.

⁴⁷⁹ P331 (Alain Forand, witness statement, 29 September 1997), p. 18; Alain Forand, T. 4538-4539.

Čermak had any authority.⁴⁸⁰ Forand testified that Čermak was the only person who had been identified to him as being responsible within Forand's area of responsibility.⁴⁸¹ **Ermolaev** testified that Čermak was UNMO's main interlocutor for all matters in Sector South.⁴⁸²

156. **Hussein Al-Alfi**, the UN Civil Affairs Coordinator, later renamed Political and Human Affairs Coordinator, for Sector South in Knin from June 1995 to January 1996,⁴⁸³ testified that after Operation Storm, Čermak became the witness's official contact for Knin in the Croatian government.⁴⁸⁴ According to Al-Alfi, Čermak was the HV military commander or governor in charge of the Knin area, but Čermak's area of responsibility encompassed, at most, half of Sector South.⁴⁸⁵ The area south of Knin fell under Čermak's responsibility, while the area north of Knin fell under another commander.⁴⁸⁶ According to Al-Alfi, Čermak was often away from Knin and in Zagreb.⁴⁸⁷ Al-Alfi stated that Čermak answered to a higher authority in Zagreb, as well as to the Župan of Zadar, as it had been formally announced that Knin fell under the Župan's authority.⁴⁸⁸ Whenever Al-Alfi discussed matters with Pašić, the Serb mayor of Knin, Pašić would promise to take matters up with Čermak or would advise Al-Alfi to contact Čermak directly.⁴⁸⁹

157. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,⁴⁹⁰ testified that at a meeting on 7 August 1995 with Forand, other UN Sector officials and Čermak, Čermak explained that he was the focal point for all needs of the UN and that he had the authority for

⁴⁸⁰ Alain Forand, T. 4235-4236, 4311, 4316, 4539.

⁴⁸¹ Alain Forand, T. 4522.

⁴⁸² Mikhail Ermolaev, T. 2502-2503; P147 (UNMO Sector South daily situation report, 8 p.m., 11 September 1995), p. 6.

⁴⁸³ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 5; Hussein Al-Alfi, T. 13805-13806, 13932-13933.

⁴⁸⁴ Hussein Al-Alfi, T. 13810-13811, 13936.

⁴⁸⁵ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 47, 49, 65-66, 75, 95, 101-103; Hussein Al-Alfi, T. 13812, 13825.

⁴⁸⁶ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 66.

⁴⁸⁷ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 53.

⁴⁸⁸ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 57-59, 69, 92, 97-98, 101.

⁴⁸⁹ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 49, 62, 68-69; Hussein Al-Alfi, T. 13819-13820, 13849-13850, 13853, 13942; D1211 (UN Sector South report, by Hussein Al-Alfi, 12 August 1995), p. 1.

⁴⁹⁰ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

security in and around Knin and the power to restore Croatian authority in the area.⁴⁹¹ Forand emphasized that the UN was limited in its movement and could not monitor the situation on the ground.⁴⁹² Čermak responded that he had to ensure security and safety for everybody in the city as this was his mandate.⁴⁹³ According to Roberts, at the meeting Čermak clearly gave the impression that he was the person who had authority to get issues addressed.⁴⁹⁴ Roberts concluded that Čermak was the most senior Croatian official responsible for all security matters as at several meetings between the UN and the civilian Mayor of Knin, Petar Pašić, requests for cooperation often yielded no results, while meetings with Čermak were followed by instructions for cooperation.⁴⁹⁵ According to Roberts, Čermak was also the focal point for the UN when they wanted to discuss the problem of internally displaced persons.⁴⁹⁶ Roberts testified that Čermak was the military governor of Knin in August 1995, “apparently” appointed by Tuđman.⁴⁹⁷ Roberts was not aware of the exact powers officially entrusted upon Čermak.⁴⁹⁸

158. **Søren Liborius**, an ECMM Operations Officer and team leader based in Knin from 28 July 1995 until 27 November 1995,⁴⁹⁹ stated that Čermak had the official title of military governor, which according to the witness meant that Čermak would direct and control an area once forces had moved on.⁵⁰⁰ Liborius testified that he addressed Čermak in meetings as “military governor” to which Čermak did not protest.⁵⁰¹ Čermak himself described his role to Liborius as the person responsible for law and order and for assisting in the restoration of normal life until political figures were elected and had

⁴⁹¹ P675 (Alun Roberts, witness statement, 27 August 1997), paras 18, 20; Alun Roberts, T. 6876, 6882-6883, 6885, 6887, 6902, 6904-6905, 6922.

⁴⁹² P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; Alun Roberts, T. 6883.

⁴⁹³ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; Alun Roberts, T. 6876, 6885.

⁴⁹⁴ Alun Roberts, T. 6924-6925.

⁴⁹⁵ P677 (Alun Roberts, witness statement, 28 February 2007), p. 12.

⁴⁹⁶ Alun Roberts, T. 6905.

⁴⁹⁷ P675 (Alun Roberts, witness statement, 27 August 1997), para. 9; P676 (Alun Roberts, witness statement, 31 July 1998), p. 4; P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 4; Alun Roberts, T. 6898, 6903-6904; D36 (Slobodna Dalmacija article about Ivan Čermak’s appointment, 6 August 1995).

⁴⁹⁸ Alun Roberts, T. 6901-6903, 6943-6944; D38 (Večernji List article about an interview with Ivan Čermak, 11 August 1995), p. 2.

⁴⁹⁹ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 1, 3; P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; P801 (Søren Liborius, witness statement, 12 October 2005), p. 2; P803 (Søren Liborius, witness statement, 6 September 2008), para. 6; Søren Liborius, T. 8229; D741 (Diary of Liborius), p. 3.

⁵⁰⁰ P800 (Søren Liborius, witness statement, 11 November 1997), p. 2.

⁵⁰¹ P803 (Søren Liborius, witness statement, 6 September 2008), para. 16; Søren Liborius, T. 8357, 8627.

taken up their positions.⁵⁰² According to Liborius, Čermak claimed to have authority to control the area of Sector South.⁵⁰³ Liborius stated that Čermak was the person responsible to grant freedom of movement to staff of international organizations.⁵⁰⁴

159. **Stig Marker Hansen**, an ECMM monitor in Knin from June to September 1995 and head of ECMM Knin from approximately 5 September to 23 September 1995,⁵⁰⁵ testified that ECMM monitors referred to Čermak by a variety of titles including “military governor”, “civilian governor”, “commander of the operation zone”, “military commander”, and “administrator of Knin”, and there was a difference of understanding about his responsibilities amongst ECMM monitors.⁵⁰⁶ The witness met with Čermak on a number of occasions from the middle of August 1995 onwards, and during these meetings Čermak gave him the impression that he was the person in charge of the situation in Sector South, however he was not able to control and guarantee the ECMM’s freedom of movement.⁵⁰⁷ Čermak never informed the witness that he was not in charge, or gave him the impression that he was not in charge.⁵⁰⁸ Čermak wore a uniform and was introduced to the witness as “General”.⁵⁰⁹ Although he was in uniform Čermak had a very different character than he would expect from a “military man”, and according to the witness it would be fair to describe him as “a civilian in a uniform”.⁵¹⁰

160. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,⁵¹¹ stated that he participated in several meetings with Ivan Čermak.⁵¹² Flynn testified that Čermak was open to meetings with UN staff, which could

⁵⁰² P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; Søren Liborius, T. 8358, 8623, 8681, 8683.

⁵⁰³ P800 (Søren Liborius, witness statement, 11 November 1997), p. 2.

⁵⁰⁴ P800 (Søren Liborius, witness statement, 11 November 1997), p. 3.

⁵⁰⁵ P1283 (Stig Marker Hansen, witness statement, 18 December 1995) p. 2; P1284 (Stig Marker Hansen, witness statement, 22 August 1997), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 3.

⁵⁰⁶ P1283 (Stig Marker Hansen, witness statement, 18 December 1995) p. 3; P1284 (Stig Marker Hansen, witness statement, 22 August 1997), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 15; Stig Marker Hansen, T. 14956-14959; P1300 (ECMM daily monitoring report, 7 August 1995), p. 2.

⁵⁰⁷ P1284 (Stig Marker Hansen, witness statement, 22 August 1997), p. 3, P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 15.

⁵⁰⁸ Stig Marker Hansen, T. 15097-15098.

⁵⁰⁹ Stig Marker Hansen, T. 14955, 14959-14960, 15098.

⁵¹⁰ Stig Marker Hansen, T. 14960.

⁵¹¹ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

⁵¹² P20 (Edward Flynn, witness statement, 29 June 1997), pp. 8-9; Edward Flynn, T. 1082.

sometimes be arranged on very short notice.⁵¹³ He testified that the meetings were cordial and respectful, though sometimes tense when Forand had concerns about the continuing serious lack of security, which Čermak did not always seem to fully share (e.g. regarding the scale of burnings in August).⁵¹⁴ In these meetings, according to Flynn, Čermak spoke like a leader and indicated that he would take action on various issues that Flynn and others brought to his attention.⁵¹⁵ Flynn testified that he and other international monitors looked to Čermak as their contact person within the Croatian authorities on all and any matters, and considered that informing him of an issue was sufficient for informing the Croatian authorities.⁵¹⁶ Flynn testified that this included questions about where they could go or not go, and that the information he got from Čermak about this almost always turned out to correspond to the reality on the ground.⁵¹⁷ Flynn testified that when he reported something to someone in the office of Čermak, it never happened that he later found Čermak to be unaware of that information.⁵¹⁸

161. **Maria Teresa Mauro**, a UN civil affairs officer and HRAT member in the former Sector South based in Knin from March to December 1995,⁵¹⁹ believed that Čermak was the highest authority in the area because her colleagues, and once Čedo Romanić, referred to Čermak when difficult situations arose and needed to be resolved, and she and her colleagues saw him as their only point of reference.⁵²⁰ Mauro testified that she understood Čermak's function in Knin to be to assist the people in Sector South and facilitate UN work.⁵²¹ According to the witness, Čermak wore a uniform and was always accompanied by some soldiers.⁵²²

162. According to an ECMM report, as of 12 September 1995 the MoD had ordered that only Gotovina and Čermak were authorized to deal directly with international organizations, while all other official contacts had to be passed through liaison

⁵¹³ P20 (Edward Flynn, witness statement, 29 June 1997), p. 10; Edward Flynn, T. 1093, 1099, 1177, 1201-1202.

⁵¹⁴ Edward Flynn, T. 1199-1200.

⁵¹⁵ P20 (Edward Flynn, witness statement, 29 June 1997), p. 9; Edward Flynn, T. 1108-1109, 1200-1201.

⁵¹⁶ Edward Flynn, T. 1130-1133, 1177, 1189, 1197, 1348, 1353-1354.

⁵¹⁷ Edward Flynn, T. 1086-1087, 1130, 1251.

⁵¹⁸ Edward Flynn, T. 1100.

⁵¹⁹ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

⁵²⁰ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 3; Maria Teresa Mauro, T. 12005-12007, 12040-12045, 12092, 12096-12097.

⁵²¹ Maria Teresa Mauro, T. 12028.

officers.⁵²³ The Trial Chamber has further considered the evidence of Alain Forand regarding his 8 August 1995 meeting with Gotovina, reviewed in chapter 6.3.5.

163. The Trial Chamber now turns to the legal basis in Croatian law for the position of garrison commander. According to the Croatian regulations of the armed forces that were in force in 1995, a “garrison” was an area of a populated place and its immediate surroundings where a company or higher units of the armed forces were quartered.⁵²⁴ The “garrison commander”, designated by the Main Staff, was responsible for placement, order, discipline and service in the garrison.⁵²⁵ Among his responsibilities was to issue rules on order, discipline and supervision of the behaviour of military personnel in the garrison.⁵²⁶ On 16 February 1993, Chief of the HV Main Staff General Janko Bobetko ordered the setting up of several garrisons, including the Knin Garrison which was to include Knin, Nadvoda, Kistanje, Ervenik, Orlič, Kijevo and Civljane municipalities, and based Knin Garrison in Gospić pending its move to Knin.⁵²⁷ The commander of the Knin Garrison was directly subordinate to the Commander of Split MD.⁵²⁸ On 27 August 1993, Minister of Defence Šušak and Chief of the HV Main Staff Bobetko ordered that commanders of MDs be superior and responsible for the entire work, order and discipline in garrisons in their areas.⁵²⁹ The garrison commands did not have an operational function or the right to command HV units, except precisely prescribed authorities regarding work, order and discipline in the garrison outside of military facilities.⁵³⁰ The garrison commander was required to arrange with VP a procedure for calling VP units to re-establish, in case of need, order and discipline in the garrison, and arrange for the temporary deployment of VP patrols to supervise work,

⁵²² P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 3; Maria Teresa Mauro, T. 12041.

⁵²³ Stig Marker Hansen, T. 14924-14925; P958 (ECMM daily report, 12 September 1995), p. 2; P1288 (ECMM daily report, 12 September 1995), p. 1. See also P147 (UNMO Sector South daily situation report, 8 p.m., 11 September 1995), p. 6.

⁵²⁴ Liljana Botteri, T. 10926; D32 (Croatian Regulations of the Armed Forces, 20 May 1992), p. 12 (provision 50).

⁵²⁵ D32 (Croatian Regulations of the Armed Forces, 20 May 1992), pp. 12-13 (provisions 51-52). See also D1673 (Expert Report of Franjo Feldi, July 2009), paras 2.3.2-2.3.6; D1674 (Franjo Feldi, witness statement, 16 July 2003), pp. 9-10.

⁵²⁶ D32 (Croatian Regulations of the Armed Forces, 20 May 1992), p. 13 (provisions 54-55).

⁵²⁷ D33 (Excerpt of order by Chief of the HV Main Staff General Janko Bobetko, 16 February 1993, and reports on number of personnel for Knin Garrison, 31 August and 26 September 1995), pp. 1-2, 4.

⁵²⁸ D33 (Excerpt of order by Chief of the HV Main Staff General Janko Bobetko, 16 February 1993, and reports on number of personnel for Knin Garrison, 31 August and 26 September 1995), pp. 1-3.

⁵²⁹ D34 (Order by Minister of Defence Gojko Šušak and Chief of the HV Main Staff General Janko Bobetko regarding work, order and discipline in garrisons, 27 August 1993, and attached instructions), pp. 1-2.

discipline and conduct of military personnel in public places.⁵³¹ The garrison commander was also required to establish cooperation and coordination with the police in the area of the garrison.⁵³² The commander of a garrison with several barracks was required to issue an order setting up a detention unit to enforce disciplinary measures against soldiers from any unit from the area of the garrison.⁵³³ All garrison commanders were required to lay down instructions on order, discipline and supervision of the conduct of military personnel at the garrison, and hold monthly reviews of the situation.⁵³⁴

164. Čermak identified the order by Chief of the HV Main Staff General Janko Bobetko dated 16 February 1993 as the legal basis for establishing garrison headquarters.⁵³⁵ However, Čermak stated that he was not in the military structure and in practice received no orders from his military superiors, since he had received a special oral appointment by the President.⁵³⁶ Čermak stated that all his legal authorities stemmed from his meeting with Tuđman.⁵³⁷ With regard to his assigned tasks, Čermak's superiors were President Tuđman, and his office, including Šarinić and Vesna Škare-Ožbolt, with whom Čermak was often in touch.⁵³⁸ According to Čermak, it was not the President's task to appoint a garrison commander, a very unimportant military position which a general had never held before.⁵³⁹ Čermak stated that some of his tasks, such as his logistical functions, were different from the normal tasks of a garrison commander,

⁵³⁰ D34 (Order by Minister of Defence Gojko Šušak and Chief of the HV Main Staff General Janko Bobetko regarding work, order and discipline in garrisons, 27 August 1993, and attached instructions), p. 2.

⁵³¹ D34 (Order by Minister of Defence Gojko Šušak and Chief of the HV Main Staff General Janko Bobetko regarding work, order and discipline in garrisons, 27 August 1993, and attached instructions), p. 4 (provision 4).

⁵³² D34 (Order by Minister of Defence Gojko Šušak and Chief of the HV Main Staff General Janko Bobetko regarding work, order and discipline in garrisons, 27 August 1993, and attached instructions), p. 4 (provision 5).

⁵³³ D34 (Order by Minister of Defence Gojko Šušak and Chief of the HV Main Staff General Janko Bobetko regarding work, order and discipline in garrisons, 27 August 1993, and attached instructions), p. 6 (provision 16).

⁵³⁴ D34 (Order by Minister of Defence Gojko Šušak and Chief of the HV Main Staff General Janko Bobetko regarding work, order and discipline in garrisons, 27 August 1993, and attached instructions), pp. 7, 10 (provisions 17 and 28).

⁵³⁵ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 128.

⁵³⁶ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 26-27, 115, 138; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 30-31; P2707 (Additional portions of suspect interview with Ivan Čermak, 17 March 1998), pp. 3-4.

⁵³⁷ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 145.

⁵³⁸ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 26; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 15-16; P2707 (Additional portions of suspect interview with Ivan Čermak, 17 March 1998), p. 3.

⁵³⁹ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 6, 27, 129.

and hence he was not a garrison commander in the classical sense.⁵⁴⁰ Čermak also stated that he was part of the military organization as far as his logistical tasks were concerned.⁵⁴¹ Čermak stated that he had executive powers in logistical and technical matters, and that he was the only military authority in Knin for logistical matters.⁵⁴²

165. The Trial Chamber finally turns to the end of Čermak's term. When interviewed by the Prosecution, Čermak stated that he remained Commander of the Knin Garrison Headquarters until sometime in or around the end of October 1995, when the civilian authorities had started working and it was decided between President Tuđman, Šarinić, and Čermak that he was no longer needed in Knin.⁵⁴³ Towards the end, Čermak was mostly dealing with contacts with the international community, delegations, and minor logistical issues.⁵⁴⁴ Marko Gojević acceded to Čermak's position when he left.⁵⁴⁵ Čermak stayed in Knin for some time after leaving his position, but had gone to Zagreb by mid-November 1995.⁵⁴⁶ According to **Al-Alfi**, Čermak left the Knin area by the end of September or beginning of October 1995, following the Varivode events.⁵⁴⁷

166. Based on the evidence above, the Trial Chamber finds that the formal appointment and title of Čermak was Commander of the Knin Garrison. The Trial Chamber further finds Čermak held this position from 5 August 1995, prior to his arrival in Knin on 6 August 1995, and until the end of the Indictment period. Titles such as "military governor" with which some witnesses addressed or associated Čermak do not have a solid basis. However, the Trial Chamber notes the evidence of Radin, Škare-Ožbolt and the Čermak interviews indicating that Tuđman bestowed upon Čermak responsibilities beyond those normally attached to a garrison commander. This evidence, in particular that of Radin, further indicates that the garrison commander title was chosen in order to provide some sort of formal legal basis for the position that Tuđman wanted Čermak to hold. The Trial Chamber therefore finds that Čermak's

⁵⁴⁰ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 26-27, 115, 128-129, 136-138, 141-142; P2532 (Accused interview with Ivan Čermak, 7 June 2004), pp. 1, 10-11, 57-59.

⁵⁴¹ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 28, 116.

⁵⁴² P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 13, 24, 116.

⁵⁴³ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 36-37, 68-69, 185; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 12-13, 101.

⁵⁴⁴ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), p. 36.

⁵⁴⁵ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 37, 135, 185; P2526 (Suspect interview with Ivan Čermak, 17 March 1998), pp. 13, 108.

⁵⁴⁶ P2525 (Suspect interview with Ivan Čermak, 13 March 2001), pp. 68-69.

⁵⁴⁷ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 51, 70; Hussein Al-Alfi, T. 13866; P1169 (UN Sector South report, by Hussein Al-Alfi, 3 October 1995), p. 3. See also P166 (UNMO Sector South daily situation report, 8 p.m., 5 October 1995), pp. 5-6.

position was *sui generis*, and that his area of responsibility was ill-defined and did not necessarily correspond to the legally defined area of responsibility of the commander of the Knin garrison. Consequently, the formal powers of a garrison commander may be indicative, but are not dispositive, of the powers, responsibilities and functions actually wielded by Čermak. The Trial Chamber finds that one of those functions was to be the main designated representative to deal with members of the international community in Knin. The Trial Chamber further examines his role with regard to the media in chapters 6.2.6 and 6.4.7. The Trial Chamber will further examine the powers, responsibilities and functions of Čermak in chapters 6.4.2, 6.4.3, 6.4.6, and 6.4.7, with focus on how and where Čermak exercised his powers in practice, and how others responded to that exercise. The Trial Chamber will also consider, but give comparatively less weight to, the formal limits in Croatian law on the exercise of the powers of a garrison commander.

3.3 Mladen Markač and the Special Police

167. According to the Indictment, Mladen Markač was during the Indictment period Assistant Minister of the Interior and Commander of the Special Police, including the Lučko Anti-Terrorist Unit, and possessed effective control over HV rocket and artillery units attached to his forces or subordinated to his command.⁵⁴⁸ The Trial Chamber will examine in turn some general evidence on Markač and the Special Police, the relationship between the HV and the Special Police, the Special Police's participation in Operation Storm (including the artillery assets and geographical boundaries of the Special Police), the involvement of the Special Police in the search operations conducted in the newly controlled territories after Operation Storm, the uniforms and insignia worn by the Special Police, and the reporting and processing of crimes within the framework of the Special Police.

168. The Trial Chamber first turns to general evidence on Markač and the Special Police. On 18 February 1994, Croatian President Franjo Tuđman appointed Markač as Assistant Minister of the Interior, with responsibility for the Special Police.⁵⁴⁹ When interviewed by the Prosecution, Markač stated that the Special Police's main tasks were

⁵⁴⁸ Indictment, paras 10-11. See also paras 8-9.

fighting terrorism and de-mining minefields.⁵⁵⁰ **Zdravko Janić**, the chief of the Anti-Terrorist Department of the Special Police Sector in 1995,⁵⁵¹ gave further examples of Special Police duties, including dealing with hostage situations and protecting important individuals.⁵⁵²

169. **Dragutin Repinć**, Chief of the Planning Department in the HV Main Staff and an expert on military training and planning,⁵⁵³ testified that the Special Police Sector was based on hierarchical relations, being administered by the Assistant Minister of the Interior and under the control of the Sector Chief.⁵⁵⁴ Special Police units, which had between 100 and 250 members each, were part of the police administration of a county.⁵⁵⁵ The Special Police Sector established, managed and directed the work of Special Police units; *inter alia*, it proposed the adoption of acts related to the internal discipline of Special Police members.⁵⁵⁶ Markač did not issue orders directly to the commanders of the Special Police units while they were in their police administrations, he had to go through the chief of the relevant police administration.⁵⁵⁷ This was confirmed by **Josip Turkalj**, commander of the Anti-Terrorist Unit Lučko and commander of the Special Police artillery unit during Operation Storm,⁵⁵⁸ who testified that all orders given by the Special Police Sector or which concerned the Special Police, were addressed to the police administrations to be passed on to their Special Police

⁵⁴⁹ P2381 (Tuđman decision appointing Markač Assistant Minister of the Interior, 18 February 1994), p. 1; P962 (MUP structure in August and September 1995). See also Witness 86, T. 5243-5247; Stjepan Buhin, T. 9929; P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 27, 42.

⁵⁵⁰ P2530 (Suspect interview with Markač, 3-4 March 2003), p. 74. See also P552 (Zdravko Janić, witness statement, 14 January 2004), para. 19; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 6; Željko Sačić, T. 27598, 27973.

⁵⁵¹ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 13; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 25; Zdravko Janić, T. 6099.

⁵⁵² P552 (Zdravko Janić, witness statement, 14 January 2004), para. 4.

⁵⁵³ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 1-16; Dragutin Repinć, T. 26661-26665.

⁵⁵⁴ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 54; D527 (Directive Governing the Internal Structure and Operating Methods of the Ministry of Internal Affairs of the Republic of Croatia, 23 February 1995), Article 27.

⁵⁵⁵ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 53, 60; Dragutin Repinć, T. 26686-26688, 26690. See also P2530 (Suspect interview with Markač, 3-4 March 2003), p. 119; P1149 (Josip Turkalj, witness statement, 4 February 2004), paras 2-3; P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 11, 13-14; Željko Sačić, T. 27598; D1745 (Ivica Cetina, witness statement, 26 February 2002), p. 14; Zdravko Janić, T. 6103-6106; P555 (List of Special Police units that participated in Operation Storm).

⁵⁵⁶ D527 (Directive Governing the Internal Structure and Operating Methods of the Ministry of Internal Affairs of the Republic of Croatia, 23 February 1995), Article 27.

⁵⁵⁷ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 55; Dragutin Repinć, T. 26690-26691.

⁵⁵⁸ P1149 (Josip Turkalj, witness statement, 4 February 2004), paras 11, 31; P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 14-15, 34; Josip Turkalj, T. 13541, 13551.

units.⁵⁵⁹ He added that while each Special Police unit belonged to and was answerable to the head of its respective police administration, the Special Police Sector could also independently direct these units.⁵⁶⁰ **Ivica Cetina**, the Chief of the Zadar-Knin Police Administration throughout 1995,⁵⁶¹ testified that Special Police units were not under the command of the police administration, but were directly answerable to the MUP.⁵⁶² **Repinć** testified that Markač directly commanded the Special Police units when they were part of the Collective Special Police Forces in the operations area, like during Operation Storm or during the clearing and search operations which followed.⁵⁶³

170. With regard to the Lučko Anti-Terrorist Unit, **Turkalj** testified that it had been a separate unit without corresponding police administration since its formation in 1990, therefore coming directly under the Special Police Sector.⁵⁶⁴ This was the elite unit, and it operated in the whole of Croatia.⁵⁶⁵ According to Janić, it was better equipped, better trained, and had the ability to deal with specific assignments such as hijacked airplanes and complex hostage situations.⁵⁶⁶ **Josip Čelić**, an assistant commander of the Lučko Anti-Terrorist Unit in 1995,⁵⁶⁷ testified that, aside from himself, the unit had two assistant commanders, namely Stjepan Žinić and Božo Krajina, although the witness was uncertain as to when they were appointed assistant commanders.⁵⁶⁸ The unit also had ten instructors, including Branko Balunović and Frano Drljo.⁵⁶⁹ The strength of the Lučko unit during Operation Storm was 120-130 men.⁵⁷⁰ With regard to the unit's reporting obligations, **Janić** testified that up until 1993, when he left it, and as far as he

⁵⁵⁹ P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 86-87.

⁵⁶⁰ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 4; P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 40-42; Josip Turkalj, T. 13721-13722.

⁵⁶¹ D1743 (Ivica Cetina, witness statement, 26 August 2009), p. 1; D1745 (Ivica Cetina, witness statement, 26 February 2002), pp. 3-4; Ivica Cetina, T. 23396, 23486, 23517.

⁵⁶² D1745 (Ivica Cetina, witness statement, 26 February 2002), pp. 4, 14; Ivica Cetina, T. 23591.

⁵⁶³ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 56; Dragutin Repinć, T. 26691, 26845-26846.

⁵⁶⁴ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 11; P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 15-17, 40; Josip Turkalj, T. 13723.

⁵⁶⁵ Zdravko Janić, T. 6231-6232; D526 (Collection of documents on the functions of the Special Police), Article 30 of the Directive on the structure and operating methods of the Croatian Ministry of Internal Affairs, 23 February 1995, p. 14.

⁵⁶⁶ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, pp. 33-35; Zdravko Janić, T. 6231-6232.

⁵⁶⁷ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, pp. 5, 58; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 9, 16-17, 135, 161, Part III, pp. 6, 181-182; Josip Čelić, T. 7928.

⁵⁶⁸ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, pp. 14, 58; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 16-17, 161-162, 170.

⁵⁶⁹ P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 162-164.

⁵⁷⁰ P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, p. 14.

knew throughout the 1990s, it would send a detailed written report to the Special Police Department every 15 days, setting out what the unit's activities had been over the past 15 days.⁵⁷¹ An order sent from Markač to the Special Police Air force unit commander confirmed that all Special Police unit commanders were expected to send bi-weekly written reports to the Minister of Interior.⁵⁷² Weekly meetings within the Lučko Anti-Terrorist Unit were also held and Markač would attend these around once a month.⁵⁷³

171. The Trial Chamber now turns to the relationship between the HV and the Special Police. **Repinć** testified that the process of participation of the Special Police in military operations began with a request from the Chief of the HV Main Staff to the Commander in Chief, and after approval of the request, the Minister of the Interior gave consent, and the Special Police Sector began preparation for participation in the operation. Thereafter, the Special Police became part of the combat forces, and all the activities were carried out in accordance with the orders of the Chief of the HV Main Staff.⁵⁷⁴ Together with the MD Commands, the Collective Special Police Forces Staff (see further below) was directly subordinated to the Chief of the HV Main Staff and became part of the unified command and control system in Operation Storm.⁵⁷⁵

172. When interviewed by the Prosecution, Markač stated that until the actual launching of an operation, the Special Police still fell under the MUP.⁵⁷⁶ The moment the Special Police received orders about the launch of an operation, it became subordinated to the HV Main Staff.⁵⁷⁷ Markač stated that although he always kept his supervisor Jarnjak informed of what he was doing, even when he was subordinated to the Main Staff, he did not copy him on the reports he sent to Červenko.⁵⁷⁸

173. The Trial Chamber now turns to the Special Police's participation in Operation Storm. **Repinć** testified that the Collective Special Police Forces were formed to participate in operations executed under the command of the Chief of the HV Main

⁵⁷¹ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 11; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, pp. 19-21; Zdravko Janić, T. 6181-6182.

⁵⁷² P612 (Order from Markač to Special Police Air Force Unit Commander, 18 July 1995), p. 1.

⁵⁷³ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 11; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 19.

⁵⁷⁴ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 41; Dragutin Repinć, T. 26679.

⁵⁷⁵ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 60.

⁵⁷⁶ P2530 (Suspect interview with Markač, 3-4 March 2003), pp. 16, 27-28.

⁵⁷⁷ P2530 (Suspect interview with Markač, 3-4 March 2003), pp. 26-28, 30; P2531 (Accused interview with Markač, 8 June 2004), pp. 3, 5, 10.

⁵⁷⁸ P2531 (Accused interview with Markač, 8 June 2004), p. 41.

Staff, like Operations Flash and Storm.⁵⁷⁹ Collective forces were unified under one command for a specific task, at the end of which they were disbanded and the troops returned to their original units.⁵⁸⁰ During Operation Storm, the forces were organized according to different advance routes taken by Special Police units from various police administrations and under different commanders.⁵⁸¹ The Collective Special Police Forces did not have a permanent organizational form or structure, and their size and composition depended among other things on the specific task they were assigned.⁵⁸² Special Police units from all but two police administrations were tasked for Operation Storm.⁵⁸³

174. On 22 July 1995, Markač issued an order, co-signed by the Minister of Interior Jarnjak, establishing the Collective Special Police Forces Staff.⁵⁸⁴ It was comprised of 15 members headed by Markač, as the Operation Commander, and Sačić, who was the Chief of the Staff and it commanded a force of about 2,200 Special Police, including the Lučko Anti-Terrorist Unit.⁵⁸⁵ On 29 July 1995, Červenko issued the Special Police orders for the conduct of Operation Storm, and stated that Markač would be the person responsible for the carrying out of these orders.⁵⁸⁶ In this order, Červenko ordered the Special Police to work in constant coordination with the Split MD command, the Zadar forward command post, and the Gospić MD command.⁵⁸⁷ According to Repinć, the tasks of the Staff included the establishment of an effective and continuous system of command and control of the Collective Special Police Forces for the entire duration of Operation Storm.⁵⁸⁸ The Staff was divided between the Main Command Post in Celine, in Starigrad municipality, and the Forward Command Post, in Mali Golić, in Gračac municipality.⁵⁸⁹ Markač was at the Main Command Post while Sačić stayed at the

⁵⁷⁹ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 63.

⁵⁸⁰ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 64.

⁵⁸¹ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 64-65.

⁵⁸² D1932 (Dragutin Repinć, Expert Report, December 2009), paras 62, 64.

⁵⁸³ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 62.

⁵⁸⁴ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 66; P554 (Order establishing the Collective Forces Staff, signed by Markač and Jarnjak, 22 July 1995); Dragutin Repinć, T. 26694.

⁵⁸⁵ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 66; P554 (Order establishing the Collective Forces Staff, signed by Markač and Jarnjak, 22 July 1995), p. 1; Dragutin Repinć, T. 26694-26695, 26700.

⁵⁸⁶ D535 (HV orders to Markač for Operation Storm, 26 June 1995); D543 (Special Police orders for Operation Storm sent to Markač from Zvonimir Červenko, 29 July 1995).

⁵⁸⁷ D543 (Special Police orders for Operation Storm sent to Markač from Zvonimir Červenko, 29 July 1995), p. 2.

⁵⁸⁸ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 66; Dragutin Repinć, T. 26694-26695.

⁵⁸⁹ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 66.

Forward Command Post with most of the Staff.⁵⁹⁰ However, according to **Janić**, Markač only remained at Celine until 5 August 1995, when the headquarters moved to Gračac.⁵⁹¹ According to **Davorin Pavlović**, who during Operation Storm was Chief of the Operative Equipment Sector of the MUP,⁵⁹² the Gračac headquarters operated from 5 August 1995 until the first days of October 1995.⁵⁹³

175. With the establishment of the Collective Special Police Forces Staff, the command and control process at the onset of Operation Storm, and partly thereafter, was such that Markač received orders from the Chief of the HV Main Staff and then transmitted them to the Forward Command Post, where Sačić analysed them, made decisions and then issued orders to the commanders on the axes of attack.⁵⁹⁴ Markač was responsible for the overall activity of the Collective Special Police Forces.⁵⁹⁵ **Janić** testified that during and after Operation Storm the Special Police received orders from Markač.⁵⁹⁶ He added that during Operation Storm he received his orders from Željko Sačić.⁵⁹⁷ **Željko Sačić**, chief of the Special Police sector of the MUP during and after Operation Storm,⁵⁹⁸ confirmed that Markač appointed him as the chief of the Collective Special Police Forces Staff for Operation Storm.⁵⁹⁹ Sačić was in direct communication with the ground commanders who were directly subordinated to him.⁶⁰⁰ On the eve of the operation until noon on 5 August 1995, Sačić was at his forward command post in Veliki Golić on Mount Velebit with all engaged forces.⁶⁰¹ Markač was at that time at the basic forward command post in the territory of Stari Grad and Sačić maintained continuous contact with him.⁶⁰²

176. **Repinć** testified that on 6 August 1995 the Chief of the HV Main Staff changed the reporting requirements, ordering that clear, operative reports be sent every day by

⁵⁹⁰ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 66; Dragutin Repinć, T. 26696.

⁵⁹¹ Zdravko Janić, T. 6340, 6349-6350. See also D1745 (Ivica Cetina, witness statement, 26 February 2002), pp. 8, 14.

⁵⁹² D1830 (Davorin Pavlović, witness statement, 11 May 2009), p. 1, paras 1-4; Davorin Pavlović, T. 25237, 25239-25240, 25277-25278, 25289.

⁵⁹³ Davorin Pavlović, T. 25293.

⁵⁹⁴ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 59, 71; Dragutin Repinć, T. 26691, 26702-26703.

⁵⁹⁵ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 71; Dragutin Repinć, T. 26703.

⁵⁹⁶ P552 (Zdravko Janić, witness statement, 14 January 2004), paras 23, 74; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 42.

⁵⁹⁷ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 62.

⁵⁹⁸ Željko Sačić, T. 27597, 27875, 27946.

⁵⁹⁹ Željko Sačić, T. 27599, 27987.

⁶⁰⁰ Željko Sačić, T. 27601, 27745.

⁶⁰¹ Željko Sačić, T. 27600.

⁶⁰² Željko Sačić, T. 27600-27601, 27737.

noon and by 7 p.m., indicating, respectively, the status as of 11 a.m. and as of 6 p.m.⁶⁰³ These reports had to indicate, *inter alia*, the development of the situation, emerging problems, lines reached and requests.⁶⁰⁴ This was binding on all the commanders directly subordinated to the Chief of the HV Main Staff, including Markač, who was amongst the order's recipients.⁶⁰⁵ With regard to reporting, the Trial Chamber has also considered relevant evidence from Sačić, reviewed in chapter 4.2.4.

177. With regard to the artillery assets available to the Special Police during Operation Storm, **Turkalj** testified that Special Police units that possessed their own artillery were Zagreb, Karlovac, Zadar, Sisak, Slavonski Brod, Požega, and Osijek.⁶⁰⁶ In theory, each of these units should have at least one artillery unit, which would mean four to six 120-millimetre mortars, and one or two 128-millimetre multi-barrel rocket launchers, or so-called RAK-12.⁶⁰⁷ The Lučko Anti-Terrorist Unit occasionally carried anti-tank weapons during their searches.⁶⁰⁸ According to **Janić**, the Special Police had its own artillery which could cover up to twelve kilometres, and during Operation Storm was supported by 128-millimetre rockets and 130-millimetre cannons from the HV.⁶⁰⁹ He added that he could directly command the lighter artillery of the Special Police, though if he wanted the heavier HV artillery to act on certain targets, he had to go through Turkalj at the Collective Forces Staff.⁶¹⁰ **Sačić** testified that a reserve unit was in charge of escorting the artillery unit.⁶¹¹ There were six 128-millimetre mortar batteries, multiple rocket launchers, and 75-millimetre mortars and the artillery unit

⁶⁰³ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 142; P2521 (Order prescribing new reporting obligations, HV Main Staff, 6 August 1995), p. 1.

⁶⁰⁴ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 142; P2521 (Order prescribing new reporting obligations, HV Main Staff, 6 August 1995), p. 2.

⁶⁰⁵ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 143; P2521 (Order prescribing new reporting obligations, HV Main Staff, 6 August 1995), pp. 2-3.

⁶⁰⁶ P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 97-100; see also P1233 (Report of used material during Operation Storm from Požega Special Police unit, 18 August 1995), p. 2; D1206 (Report on the participation of the artillery battery of the Brod-Posavina police administration in Operation Storm, 18 August 1995), p. 1.

⁶⁰⁷ P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 97, 101; Josip Turkalj, T. 13697; see e.g. P1236 (War path of Brod-Posavina Special Police unit, 1 April 1999), pp. 2-3; D1206 (Report on the participation of the artillery battery of the Brod-Posavina police administration in Operation Storm, 18 August 1995), p. 1.

⁶⁰⁸ P1152 (Josip Turkalj, third witness interview of 11 March 2005), pp. 110-111.

⁶⁰⁹ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 59; Zdravko Janić, T. 6299-6304, 6309; D539 (Order to Brod-Posavina Police Administration, 22 July 1995); D540 (Order to Varaždin Police Administration signed by Markač, 22 July 1995); D542 (Special Police order to the Osijek-Baranja and Sisak units signed by Željko Sačić, 23 July 1995).

⁶¹⁰ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 74; Zdravko Janić, T. 6323-6324.

⁶¹¹ Željko Sačić, T. 27759.

operated on call from axis commanders or from Sačić in order to clear the passage.⁶¹² According to **Cetina**, the Special Police also had APCs.⁶¹³ With regard to the Special Police's use of artillery the Trial Chamber has also considered the testimony of Marko Rajčić, reviewed in chapter 3.1, as well as exhibits P1125 and D970, reviewed in chapter 4.4.3.

178. With regard to the geographical boundaries of the Special Police, **Janić** testified that on the right of the Special Police's designated area of responsibility for the attack was the Split MD and to the left the Gospić MD.⁶¹⁴ The witness explained that the Special Police coordinated its operations with these two MDs.⁶¹⁵ The Trial Chamber has considered the evidence of Repinć on the topic, reviewed in chapter 3.1.1. The lack of a precise zone of responsibility assigned to the Special Police during Operation Storm implied, according to **Repinć**, that Markač neither had territorial responsibility nor the task, the forces or the mechanisms to control, prohibit, or allow entry or departure of any forces, except for his own, along the axes of attack or in areas of deployment of the Collective Special Police Forces.⁶¹⁶ More specifically, the Special Police were responsible for the area where they were at a specific moment and the axis along which they carried out an attack, but upon leaving an area they had no obligation to keep monitoring it by establishing check-points or by leaving forces behind.⁶¹⁷ The establishment of such check-points, together with the prevention and repression of crime, was the responsibility of the VP and of the civilian police.⁶¹⁸ In addition, because of the high tempo of the attack, the large area that the Special Police units had to cover on foot, and the available manpower, Markač was in no position to establish check-points or roadblocks behind the reached lines.⁶¹⁹ Repinć further testified that, after the first two days of fierce fighting, during which the enemy's frontline was severed and Gračac was taken, Markač moved to pursue enemy forces to prevent their consolidation and took Bruvno. Thereafter, the Collective Special Police Forces in the territories of

⁶¹² Željko Sačić, T. 27759-27760.

⁶¹³ D1745 (Ivica Cetina, witness statement, 26 February 2002), p. 5.

⁶¹⁴ Zdravko Janić, T. 6325; D280 (Map depicting the areas of responsibility of the Split MD and the Gospić MD).

⁶¹⁵ Zdravko Janić, T. 6325; D543 (Special Police orders for Operation Storm sent to Markač from Zvonimir Červenko, 29 July 1995), p. 2.

⁶¹⁶ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 97; Dragutin Repinć, T. 26716.

⁶¹⁷ Dragutin Repinć, T. 26716-26717.

⁶¹⁸ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 97.

⁶¹⁹ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 97; Dragutin Repinć, T. 26717-26718.

Medak, Udbina, and Donji Lapac linked with troops of the Gospić MD, and in the territory of Otrić with units of the Split MD.⁶²⁰

179. The Trial Chamber now turns to the involvement of the Special Police in the search operations conducted in the newly controlled territories after Operation Storm. **Repinć** testified that, even after the HV had reached the Croatian state border there were still enemy units which launched attacks against units of the HV and Special Police, some times causing fatalities.⁶²¹ Because of the reports he received about such incidents, the Chief of Staff of the HV decided that it was necessary to prevent such activities and create conditions for normal life.⁶²² Therefore, on 21 August 1995 he ordered the preparation of a map indicating the areas where contact was made with the enemy as well as the number of enemies observed; the areas where enemy presence was assumed; and the areas which had not yet been inspected and required further check.⁶²³ The order's recipients included the commanders of the Split and Gospić MDs and the Knin Garrison Command, and a hand written note in the order indicates that it was brought to the attention of the Croatian Assistant Minister of Interior in charge of special units.⁶²⁴

180. Repinć testified that Operation Storm-Encirclement was initiated at the orders of the Chief of the Special Police Sector to the Special Police commanders in various police administrations.⁶²⁵ From 13 August until 9 October 1995, a daily average of 625 Special Police examined 5,000 square kilometres in the course of search operations, with eight persons killed in two separate incidents (three armed persons killed on 23 August 1995, and the Grubori incident on 25 August 1995) and no casualties amongst Special Police members.⁶²⁶ The operational commander supervised the forces engaged in the search from outside the search area, usually by meeting and seeing them off at the beginning of the operation and, if physically possible and safe, by meeting them again at the opposite boundary of the area.⁶²⁷ During the search, the operational commander had

⁶²⁰ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 175.

⁶²¹ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 201; D1930 (Extraordinary Report of the Gospić MD to the Ministry of Defence of the Republic of Croatia, 13 August 1995); D1931 (Intelligence Report of the Gospić MD, 11 August 1995); Dragutin Repinć, T. 26764.

⁶²² Dragutin Repinć, T. 26764.

⁶²³ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 202.

⁶²⁴ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 203.

⁶²⁵ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 211.

⁶²⁶ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 210, 258, 260-261; Dragutin Repinć, T. 26875-26876.

⁶²⁷ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 262.

to be in constant contact, by radio or other means, with the subordinate commanders although, due to the size and configuration of the terrain this was not always possible.⁶²⁸

181. According to Repinć, the Collective Special Police Forces Staff had developed a standard procedure for search operations.⁶²⁹ The procedure began with a request by the HV Main Staff or the MUP to conduct a search.⁶³⁰ At the end of the search, the commanders of the units which carried out the operation reported to the operational commander of the action on all relevant observations made during the search.⁶³¹ Subsequently, the operational commander wrote a report to the commander of the Special Police, based on his subordinates' reports and on his personal observations.⁶³² Lastly, Markač issued his report to the Chief of the HV Main Staff, which generally had the same content as the report of the operational commander.⁶³³ Regardless of Markač's whereabouts, such reports would always be sent out with his name printed at the bottom.⁶³⁴ In this regard, **Sačić** testified that Markač would normally authorize and sign all reports sent out on his behalf. If he was absent when a report was to be sent, the report could still be sent without a signature but Markač needed to be informed of this by Sačić or Janić the following day.⁶³⁵ Daily reports were sometimes only sent on the following day's morning.⁶³⁶ The reports were first sent to the Inner Control Department, where the duty officer typed them up and then sent them through the rebus encryption system.⁶³⁷ According to **Repinć**, a comparison of the reports compiled by the operational commanders with the ones sent by Markač to the Chief of the HV Main Staff at the end of each day shows that they were identical in almost all of the cases.⁶³⁸ Search operations were managed from the Special Police command post in Gračac, which was moved to the Plitvice Lakes from 6 to 13 September when the focus of the

⁶²⁸ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 263.

⁶²⁹ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 207; Dragutin Repinć, T. 26768.

⁶³⁰ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 207.

⁶³¹ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 207; Dragutin Repinć, T. 26769.

⁶³² D1932 (Dragutin Repinć, Expert Report, December 2009), paras 207, 264; Dragutin Repinć, T. 26874.

See also Davorin Pavlović, T. 25278-25280.

⁶³³ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 207, 264, 266; Dragutin Repinć, T. 26768-26770.

⁶³⁴ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 208; Dragutin Repinć, T. 26771, 26866-26868, 26871. See also P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 99-100; Zdravko Janić, T. 6122, 6147-6149, 6373; P574 (Special Police report, 25 August 1995); P579 (Report from the Special Police to the HV Main Staff signed by Markač, 26 August 1995); D562 (Special Police report, 21 August 1995); D565 (Special Police report signed by Markač, 9 September 1995).

⁶³⁵ Željko Sačić, T. 27901, 27916.

⁶³⁶ Željko Sačić, T. 27908-27909.

⁶³⁷ Željko Sačić, T. 27916.

search had moved to that area, although a part of the command staff remained in Gračac to follow parallel search activities in that area.⁶³⁹

182. **Janić** confirmed that after Operation Storm, and up until the beginning of 1996, a number of search operations were undertaken in order to find any hidden weapons or ordinances, locate any remaining enemy soldiers, and restore security.⁶⁴⁰ Janić testified that there were scores of reports indicating that SVK soldiers who had fled were still launching attacks.⁶⁴¹ He stated that as the chief of the Anti-Terrorist Department of the Special Police he commanded the majority of these search operations.⁶⁴² The HV Main Staff was kept updated about the searches through daily reports sent from the Gračac headquarters to the Chief of the Main Staff.⁶⁴³ Janić testified that he was always able to contact the unit commanders via radio, and it was common for the person in charge of the unit to call in every hour during the operation, and as the overall commander the witness expected to be kept updated of anything that happened in the course of the search.⁶⁴⁴ The witness also testified that at the end of such operations, he would firstly receive a one-minute de-brief from the unit commanders, and then receive a written report from the unit commanders involved in the operation based on which he would compile a written report for submission to the Internal Control Department along with the written reports from the unit commanders.⁶⁴⁵

183. The Trial Chamber has also reviewed evidence, consisting of a number of reports issued between 21 August 1995 and 9 October 1995, which show that Markač planned,

⁶³⁸ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 208; Dragutin Repinć, T. 26770-26771.

⁶³⁹ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 209. See also P552 (Zdravko Janić, witness statement, 14 January 2004), paras 47-48.

⁶⁴⁰ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 43; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 68-74, 86-88; Zdravko Janić, T. 6100-6101, 6375; P556 (Special Police order signed by Markač, 28 September 1995); P557 (Special Police order signed by Markač, 29 September 1995).

⁶⁴¹ Zdravko Janić, T. 6368, 6375; D558 (MoD report, 14 August 1995); D564 (Report from the HV Gospić MD to the HV Main Staff, 1 September 1995), p. 1.

⁶⁴² P552 (Zdravko Janić, witness statement, 14 January 2004), para. 46; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, p. 79.

⁶⁴³ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 74-76.

⁶⁴⁴ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 132, 135-136, part III, pp. 13-14; Zdravko Janić, T. 6118-6119.

⁶⁴⁵ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 53; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 96-101; part III, pp. 21, 35; Zdravko Janić, T. 6120, 6122, 6147-6149.

directed and coordinated the activities of the Special Police during the search operations conducted in the aftermath of Operation Storm.⁶⁴⁶

184. When interviewed by the Prosecution, Markač stated that if anything happened during a Special Police operation, it would have been reported to him. Markač stated that he knew where his commanders were deployed and that they would report to him every five or ten minutes.⁶⁴⁷ He stated that no murders or burning of houses were reported.⁶⁴⁸

185. The Trial Chamber now turns to the uniforms and insignia worn by the Special Police. According to documentary evidence confirmed by various witnesses, during Operation Storm and the follow-up operations carried out in its aftermath, Special Police members wore green uniforms. On the left sleeve there was a yellow patch of a sword and on the right sleeve a green Croatian coat of arms patch.⁶⁴⁹ All Special Police members also wore matching ribbons on their left shoulder.⁶⁵⁰ The HV had different colour ribbons.⁶⁵¹ Ribbons were changed strictly and frequently.⁶⁵²

186. The Trial Chamber finally turns to the reporting and processing of crimes within the framework of the Special Police. **Janić** testified that the Special Police had a book setting out a code of discipline, which only dealt with minor offences while policemen who committed serious offences would have criminal complaints filed against them with the state prosecutor and the policemen would be dealt with in the same way as

⁶⁴⁶ See for instance D2109 (Reports from Sačić to Markač and from Markač to the Chief of Staff of the HV on the completion of tasks for 21 August 1995, both dated 21 August 1995); D2114 (Report from Markač to the Chief of Staff of the HV on activities performed on 1 September 1995); D2115 (Report from Markač to the Chief of Staff of the HV on activities performed on 2 September 1995), p. 1; D2131 (Report on planned activities for the Collective Special Police Forces on 22 September 1995, 21 September 1995); D2134 (Report from Markač to the Chief of Staff of the HV on activities performed on 22 September 1995, 23 September 1995), p. 1; D2145 (Report from Markač to the Chief of Staff of the HV on activities performed on 9 October 1995, 9 October 1995), p. 1.

⁶⁴⁷ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), p. 1.

⁶⁴⁸ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), p. 1; P2708 (Discrepancy report of Markač's 2003 suspect interview), p. 1.

⁶⁴⁹ P329 (MUP rules on uniforms and insignia of the Special Police), pp. 1, 12-13, Articles 2-14, 16; P2531 (Accused interview with Mladen Markač, 8 June 2004), pp. 46, 74; P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 69-70; P552 (Zdravko Janić, witness statement, 14 January 2004), para. 28; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 102; Zdravko Janić, T. 6214-6125; P325 (Photographs of uniformed persons in Gračac on 8 August 1995), photographs 2-3; P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, pp. 31-32, Part II, p. 5; Željko Sačić, T. 27734, 27736.

⁶⁵⁰ See P2524 (Markač letter re mopping-up operation); P2529 (Suspect interview with Markač, 10-12 December 2002), p. 69.

⁶⁵¹ P2529 (Suspect interview with Markač, 10-12 December 2002), p. 69.

⁶⁵² See P2524 (Markač letter re mopping-up operation); P2529 (Suspect interview with Markač, 10-12 December 2002), p. 70.

normal citizens who committed a crime.⁶⁵³ He added that if a serious crime was committed by one of the men under his command, he would immediately report it to either Sačić or Markač, who in turn would notify the criminal police.⁶⁵⁴ Policemen who had criminal complaints filed against them would also be subjected to disciplinary proceedings.⁶⁵⁵ Unit commanders were responsible for instituting disciplinary procedures against their men if they received information that there had been a breach of discipline.⁶⁵⁶ During Operation Storm, the Special Police was responsible for the discipline of its members and this was monitored by the Special Police's Inner Control Department.⁶⁵⁷ A decree on the internal structure and the principles of work of the MUP described the functions of the Internal Control Department of the Special Police as being one of intelligence gathering as well as the processing of information concerning internal discipline in the Special Police.⁶⁵⁸ Janić specified that the Department gathered information, and it was up to the unit commanders or superiors to initiate disciplinary proceedings.⁶⁵⁹ The head of the Inner Control Department of the Special Police, Ante Šoljić, would report separately to both Sačić, to whom he was directly subordinated, and to Markač.⁶⁶⁰ Janić testified that there was also an Inner Control Department which dealt with disciplinary matters for the whole MUP, which was not directly responsible for the Special Police Inner Control Department.⁶⁶¹

⁶⁵³ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 12; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, pp. 21-23; Zdravko Janić, T. 6209-6210, 6234-6235.

⁶⁵⁴ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 78.

⁶⁵⁵ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, pp. 21-23; Zdravko Janić, T. 6246, 6258-6259. See also Josip Čelić, T. 8080.

⁶⁵⁶ Zdravko Janić, T. 6252-6253, 6391-6392.

⁶⁵⁷ P552 (Zdravko Janić, witness statement, 14 January 2004), paras 14, 42; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, pp. 26-27; part II, pp. 73-74; Zdravko Janić, T. 6234-6235, 6248-6252; P619 (Split Special Police unit annual report to the Special Police Inner Control Department), 15 December 1995; P620 (Karlovac Special Police unit annual report to the Special Police Inner Control Department), 20 December 1995; D526 (Collection of documents on the functions of the Special Police), Article 28 of the Directive on the structure and operating methods of the Croatian Ministry of Internal Affairs, 23 February 1995, p. 12; D527 (Directive Governing the Internal Structure and Operating Methods of the Ministry of Internal Affairs of the Republic of Croatia, 23 February 1995), Article 28.

⁶⁵⁸ D526 (Collection of documents on the functions of the Special Police), Article 28 of the Directive on the structure and operating methods of the Croatian Ministry of Internal Affairs, 23 February 1995, p. 12; D527 (Directive Governing the Internal Structure and Operating Methods of the Ministry of Internal Affairs of the Republic of Croatia, 23 February 1995), Article 28. For the functions of the Internal Control Department of the Special Police see also P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 48-49, 60-62; Josip Turkalj, T. 13547, 13619; Dražen Vitez, T. 25979-25982, 26067-26068.

⁶⁵⁹ Zdravko Janić, T. 6234.

⁶⁶⁰ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 15; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 28; Zdravko Janić, T. 6256.

⁶⁶¹ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 14; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, pp. 26-28; Zdravko Janić, T. 6245.

187. According to documentary evidence, on one occasion Markač ordered the investigation of a suspected arson attack on a civilian home in Podkokirna in Gračac municipality by members of the Zadar-Knin Special Police Unit.⁶⁶² The perpetrator was identified and received a ten per cent cut in his salary.⁶⁶³ According to another document, Markač ordered the commander of the Lučko Anti-Terrorist Unit to deliver a decision of suspension from duty to a member of the unit pending the initiation of disciplinary measures.⁶⁶⁴ A further document recorded Markač requesting that a Special Police commander investigate and, if necessary, discipline a member of the Special Police for “allegedly violating work discipline”.⁶⁶⁵

188. When interviewed by the Prosecution, Markač stated that if his subordinates, verbally or in written form, reported infractions committed by a Special Police member to him, he would be duty-bound to refer that case to a disciplinary committee to decide on a punishment.⁶⁶⁶ Smaller disciplinary infractions would be referred to the disciplinary committee by unit commanders.⁶⁶⁷ In case of a criminal act though, the police would be in charge.⁶⁶⁸ Smaller offences would be referred to the chief of the police administration by the unit commanders.⁶⁶⁹ Markač stated that he could only ask for disciplinary measures to be taken against people in the Special Police Sector.⁶⁷⁰ Police administrations had their own disciplinary committees for their employees, including Special Police members.⁶⁷¹ If there was a disciplinary issue, the unit commander would notify Markač, but the disciplinary action to be taken would be

⁶⁶² D530 (Order by Markač to the commander of the Zadar Special Police unit, 3 October 1995).

⁶⁶³ D531 (Letter from Special Police unit commander to Markač, 4 October 1995).

⁶⁶⁴ P609 (Request from Markač to the commander of the Lučko Anti-Terrorist Unit, 7 April 1995).

⁶⁶⁵ P610 (Order by Markač, 28 July 1997).

⁶⁶⁶ P2530 (Suspect interview with Markač, 3-4 March 2003), p. 115. On 7 July 1995, Markač put forward a number of proposals for conducting disciplinary proceedings against members of the Special Police due to their refusal to carry out an order issued by the Lučko unit's Deputy Commander Dražen Čurković on 14 June 1995 regarding the implementation of education in a field of specialized training. See P2364 (Markač proposal for launching and conducting disciplinary proceedings against Vidaković, 7 July 1995), p. 1; P2365 (Markač proposal for launching and conducting disciplinary proceedings against Županić, 7 July 1995), p. 1; P2366 (Markač proposal for launching and conducting disciplinary proceedings against Išpan, 7 July 1995), p. 1; P2367 (Markač proposal for launching and conducting disciplinary proceedings against Mihalinić, 7 July 1995), p. 1; P2368 (Markač proposal for launching and conducting disciplinary proceedings against Kebet, 7 July 1995), p. 1.

⁶⁶⁷ P2531 (Accused interview with Markač, 8 June 2004), p. 55.

⁶⁶⁸ P2530 (Suspect interview with Markač, 3-4 March 2003), p. 116; P2531 (Accused interview with Markač, 8 June 2004), p. 55.

⁶⁶⁹ P2531 (Accused interview with Markač, 8 June 2004), p. 55.

⁶⁷⁰ P2530 (Suspect interview with Markač, 3-4 March 2003), p. 118; P2531 (Accused interview with Markač, 8 June 2004), p. 55.

⁶⁷¹ P2530 (Suspect interview with Markač, 3-4 March 2003), p. 118.

determined by the police administration's disciplinary committee.⁶⁷² Disciplinary action of the Lučko Anti-Terrorist Unit would be dealt with by a disciplinary committee common to the whole MUP, which according to **Janić** was also called Inner Control.⁶⁷³ Markač stated that he would forward cases from the unit commander to this disciplinary committee of the MUP.⁶⁷⁴

189. **Turkalj** testified that there was a practice in place that all major matters would be reported in writing by the unit commanders to Markač who in turn would decide how the matter was to be resolved.⁶⁷⁵ However, the witness testified that Markač could not initiate this process if he did not have the initial request from a unit commander.⁶⁷⁶ For minor breaches of discipline, unit commanders were obligated to deal with the matters themselves.⁶⁷⁷ Turkalj added that crimes committed by a member of the Special Police would be forwarded by Markač to the criminal police for further investigation.⁶⁷⁸ Only the criminal police could carry out such investigations, not the unit or the Special Police itself.⁶⁷⁹

190. **Joško Morić**, who in 1995 was Assistant Minister of the Interior in charge of regular police,⁶⁸⁰ testified that the Special Police fell under the jurisdiction of Disciplinary Courts.⁶⁸¹ Morić believed that the Inner Control of the Special Police had the role of gathering and processing information about discipline in the various Special Police units.⁶⁸² According to Morić, they did not deal with disciplinary proceedings.⁶⁸³ According to Morić, Markač and the others in the management of the Special Police

⁶⁷² P2530 (Suspect interview with Markač, 3-4 March 2003), p. 120.

⁶⁷³ P2530 (Suspect interview with Markač, 3-4 March 2003), p. 120; P552 (Zdravko Janić, witness statement, 14 January 2004), para. 14; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, pp. 26-28; Zdravko Janić, T. 6245.

⁶⁷⁴ P2530 (Suspect interview with Markač, 3-4 March 2003), p. 120; P2531 (Accused interview with Markač, 8 June 2004), p. 56.

⁶⁷⁵ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 69; P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 46-48; Josip Turkalj, T. 13616-13617; P1155 (Proposal by Markač for launching disciplinary proceedings against Lučko unit member Davor Kovačev, 7 July 1995).

⁶⁷⁶ Josip Turkalj, T. 13617.

⁶⁷⁷ Josip Turkalj, T. 13616. See also Zoran Cvrk, T. 25349, 25352, 25360-25361, 25402; D1835 (Criteria on charging a penalty to Special Police members for violation of work discipline, 24 July 1992), pp 1-2.

⁶⁷⁸ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 69; Josip Turkalj, T. 13624.

⁶⁷⁹ P1152 (Josip Turkalj, third witness interview of 11 March 2005), pp. 36-37, 39-41; Josip Turkalj, T. 13682. See also Josip Čelić, T. 8079-8080.

⁶⁸⁰ D1841 (Joško Morić, witness statement, 15 May 2009), p. 1, paras 1-2; D1842 (Joško Morić, witness interview, 17 January 2004), pp. 1-10, 13, 25, 110, 119; Joško Morić, T. 25502-25505, 25508-25511, 25514-25515, 25523, 25528, 25640, 25785, 25806, 25842, 25926-25927.

⁶⁸¹ D1842 (Joško Morić, witness interview, 17 January 2004), pp. 130-131.

⁶⁸² D1842 (Joško Morić, witness interview, 17 January 2004), pp. 131, 134, 136; Joško Morić, T. 25790, 25914-25917.

⁶⁸³ Joško Morić, T. 25790.

were duty-bound to forward information in their possession of crimes or breaches of discipline to the chief of the police administration to which the suspect belonged.⁶⁸⁴ However, **Morić** did not think that the Special Police was tasked, trained or equipped to do crime investigation.⁶⁸⁵ **Cetina** testified that he could not request disciplinary procedures against Special Police members, but that the Chief of the Special Police Sector could.⁶⁸⁶

191. **Ivan Galović**, District Public Prosecutor in Zadar since 1990,⁶⁸⁷ testified that up until the time that the District Public Prosecutor's jurisdiction changed in September 1997, he did not receive a single report against members of the Special Police in his role as Public Prosecutor.⁶⁸⁸ According to Galović, had a member of the Special Police committed a crime it would have been dealt with by the appropriate County or Municipal Prosecutor's Office.⁶⁸⁹

192. **Zoran Cvrk**, who was commander of the Special Unit of the Zagreb Police Administration from May 1993 to February 2000 and was commander of the Special Police's 4th auxiliary axis of operation during Operation Storm,⁶⁹⁰ testified that all members of the MUP, including the Special Police, were subject to the MUP Rules on Disciplinary Infractions, a set of disciplinary rules that clearly specified which disciplinary violations were major and minor.⁶⁹¹ The commanders of Special Police units attached to individual police administrations had the responsibility, delegated by the police administration commander, to respond to major infringements and suspected criminal activity by commencing disciplinary proceedings before their police administration's independent disciplinary court in accordance with the MUP disciplinary rules.⁶⁹² This responsibility applied even if the major infringement occurred outside of the police administration, such as during MUP or joint-force operations at the national level.⁶⁹³ Special Police members accused of misdemeanours or other crimes

⁶⁸⁴ Joško Morić, T. 25794-25799.

⁶⁸⁵ Joško Morić, T. 25799-25800.

⁶⁸⁶ Ivica Cetina, T. 23592-23593.

⁶⁸⁷ D1553 (Ivan Galović, witness statement, 18 May 2009), pp. 1-2, 5; Ivan Galović, T. 19666-19669.

⁶⁸⁸ Ivan Galović, T. 19732.

⁶⁸⁹ Ivan Galović, T. 19734.

⁶⁹⁰ D1833 (Zoran Cvrk, witness statement, 13 May 2009), p. 1, paras 1, 17; Zoran Cvrk, T. 25331-25332, 25367-25369, 25422, 25427, 25466.

⁶⁹¹ D1833 (Zoran Cvrk, witness statement, 13 May 2009), para. 9; Zoran Cvrk, T. 25349, 25402, 25406, 25414.

⁶⁹² D1833 (Zoran Cvrk, witness statement, 13 May 2009), paras 9-11; Zoran Cvrk, T. 25349-25350, 25352-25354, 25402, 25422.

⁶⁹³ D1833 (Zoran Cvrk, witness statement, 13 May 2009), para. 10.

faced regular judicial investigation by the regular Croatian misdemeanour and criminal courts; Special Police members who were suspected of criminal activity or who had committed major infringements of discipline that had grave consequences of any section of the MUP faced suspension by the MUP, which generally had to be authorized by the Minister of the Interior or the chief of a police administration in accordance with the MUP's disciplinary procedures.⁶⁹⁴ Although territorial Special Police commanders were responsible for initiating disciplinary proceedings against Special Police under their command, the initiation and conduct of criminal proceedings against Special Police members was under the jurisdiction of the regular Croatian judicial investigation organs.⁶⁹⁵ If a Special Police member was convicted externally, the superior officer would recommend an additional internal disciplinary measure to the MUP Disciplinary Court, which had the power to exclude the member from serving in the Special Police.⁶⁹⁶ Cvrk recalled that there were in fact several instances in which Special Police members were accused of crimes, and the internal disciplinary procedures resulted in the termination of their employments.⁶⁹⁷

193. Cvrk testified that Markač, being at the top of the Special Police chain of command, had the authority to request the initiation of disciplinary proceedings against Special Police members.⁶⁹⁸ The witness confirmed that if the Minister of the Interior transferred to Markač the authority to suspend a Special Police member, then Markač would have the authority to do so.⁶⁹⁹ Cvrk also testified that Markač could ask disciplinary proceedings to be initiated against a Special Police member before the disciplinary court of that member's home police administration.⁷⁰⁰ The witness believed that the authority to order the Special Police to investigate crimes committed by a member of the witness's unit could fall within Markač's authority to ask for proceedings to be initiated against members of the Special Police, but he insisted that the Special Police could not undertake a criminal investigation because it was not within their job description to do so.⁷⁰¹

⁶⁹⁴ D1833 (Zoran Cvrk, witness statement, 13 May 2009), paras 11-12; Zoran Cvrk, T. 25352-25254.

⁶⁹⁵ D1833 (Zoran Cvrk, witness statement, 13 May 2009), para. 11.

⁶⁹⁶ D1833 (Zoran Cvrk, witness statement, 13 May 2009), paras 9, 12.

⁶⁹⁷ Zoran Cvrk, T. 25406.

⁶⁹⁸ Zoran Cvrk, T. 25402-25404, 25408-25409, 25422.

⁶⁹⁹ Zoran Cvrk, T. 25407-25409.

⁷⁰⁰ Zoran Cvrk, T. 25419, 25422.

⁷⁰¹ Zoran Cvrk, T. 25424-25425, 25471.

194. With regard to Markač's role and powers, the Trial Chamber finds that on 18 February 1994 President Tuđman appointed Markač as Assistant Minister of Interior in charge of Special Police matters. In this capacity, Markač administered the Special Police Sector, which planned and ordered tasks for the Special Police. The Chief of the Special Police Sector was Željko Sačić, who was directly responsible to Markač. Based on the evidence of Repinć, Janić, Turkalj, Cetina, Cipci and Markač, and on D543 and D560, the Trial Chamber further finds that although the Special Police was formally part of the Croatian MUP it could be subordinated to the HV Main Staff to be used in military operations. The Trial Chamber further finds that approximately 2,200 Special Policemen from different police administrations, including approximately 80 to 130 members of the Lučko Anti-Terrorist Unit, were subordinated to the HV Main Staff from the beginning of Operation Storm and throughout the search operations subsequently carried out in the newly controlled territories. Based on Repinć's evidence and on P554, the Trial Chamber finds that the Collective Special Police Forces were managed by the Collective Forces Staff. Markač was the Operation Commander, while Sačić was Chief of the Staff. Based on the testimony of Janić and Cetina, and on article 674 of D1781, the Trial Chamber finds that the commanders of Special Police units engaged in these operations were subordinated to and answered to Markač, and not to the Chiefs of the Police Administrations to which they normally belonged. Based on the evidence of Repinć, Cipci, Cetina, Markač, and on D543, the Trial Chamber finds that, upon establishment of the Collective Forces Staff, Special Police units that were engaged in Operation Storm and the operations that followed had the following chain of command: the Chief of the HV Main Staff issued orders to Markač, who would in turn transmit them to Sačić, who would then make decisions and transmit orders to the commanders of the axes of attack on the ground. The commanders of the attack axes would then transmit their orders to the battalion commanders. Based on the evidence of Repinć, Pavlović, and Markač, the Trial Chamber finds that this subordination continued until the first days of October 1995.

195. With regard to the reporting system during Operation Storm and in the continuing related operations, the Trial Chamber finds, based on Markač's interviews, that while units of the Special Police operated on the ground, Markač was kept regularly informed by his subordinates of the developments in the field. Based on the evidence of Repinć and on P2521, the Trial Chamber finds that, as of 6 August 1995, Markač had to

send clear operative reports to Červenko twice a day and state, *inter alia*, the problems that were emerging in the course of the operations. Based on the evidence of Repinć, Sačić, and Janić, the Trial Chamber finds that these reports were sent on Markač's behalf by the Internal Control Department, which operated in Gračac. When Markač was not present in Gračac, these reports could nevertheless be sent on his behalf with his name printed at the bottom of the report. On such instances he would be informed of the report on the following day by either Sačić or Janić. The Trial Chamber further finds that Markač's reports were in most instances identical in content to those of Sačić, which were based on the written or oral reports of the commanders of the units operating on the ground.

196. Based on the evidence of Rajčić, the Trial Chamber finds that pursuant to an order of the Chief of the HV Main Staff passed on from Gotovina to Rajčić, on 3 August 1995 the latter detached for operational purposes assets of the HV artillery group TS-5 to the Special Police. The detached artillery consisted of three 130-millimetre cannons from the Rovanksa area, three 122-millimetre Howitzers and one 122-millimetre BM-21 launcher. On this basis, and considering Markač's position as Operation Commander for the Special Police forces, the Trial Chamber finds that these artillery assets were under Markač's command and control.

197. Based on the evidence of Repinć and Janić, the Trial Chamber finds that during Operation Storm the Collective Special Police Forces did not have a clearly defined geographical zone of responsibility, but operated between the areas of responsibility of the Gospić and Split MDs. The forces of the Gospić MD operated on the Special Police forces' left flank and the forces of the Split MD on its right.

198. Finally, the Trial Chamber finds that, if Markač received information concerning crimes allegedly committed by members of the Special Police, he was duty-bound to forward the information to the criminal police for further investigation. Based on the evidence of Janić and Galović, the Trial Chamber further finds that crimes committed by members of the Special Police fell under the jurisdiction of State Prosecutors. Based on the evidence of Janić, the Trial Chamber finds that the filing of criminal charges did not exclude the initiation of parallel disciplinary proceedings against the same Special Police member. Based on the evidence of Cvrk and on P609, the Trial Chamber finds that Markač could request the suspension of a Special Police member from his duty.

4. Crimes committed in municipalities (July-September 1995)

4.1 Murders

4.1.1 Overview of the charges

199. The Indictment charges the Accused with murder as a crime against humanity and a violation of the laws or customs of war, from at least July 1995 to about 30 September 1995, in the following municipalities: Donji Lapac, Drniš, Ervenik, Gračac, Kistanje, Knin, and Orlić. The Indictment also charges the Accused with murder as an underlying act of the crime against humanity of persecution, during the same time period, in the above-mentioned and the following municipalities: Benkovac, Civljane, Lišane Ostrovičke, Lisičić, Nadvoda, Obrovac, and Oklaj. As set out by the Trial Chamber in its decision on the challenges of the Indictment and by the Trial Chamber in its decision with regard to the Further Clarification, the Indictment is not limited to the murder incidents set out in Schedule A and the Further Clarification of Identity of Victims.⁷⁰²

200. On 27 March 2009, the Prosecution withdrew their allegations in relation to Danica Šarić under Scheduled Killing number 8, as well as victims 10-12, 82-83, 164-179, 216-217, 224, 234, 239, 243, 270, 300, and 318-319 from the Further Clarification.⁷⁰³ On 3 April 2009, the parties agreed that no evidence had been presented with regard to these incidents.⁷⁰⁴ Furthermore, in their final brief the Prosecution withdrew their allegations in relation to Scheduled Killing number 5 and 6, as well as victims 56, 140-141, 198, 200, 207, 214-215, 228, 246, and 320 from the Further Clarification.⁷⁰⁵ The Trial Chamber will therefore not consider these incidents.

201. The Trial Chamber has received and considered evidence on a large number of specific incidents of alleged murder and disappearances. As discussed in chapter 2, it will, however, here only address those incidents for which the evidence is sufficiently detailed to consider whether a crime occurred and, if so, whether the affiliation of the principal perpetrator can be identified.

⁷⁰² Decision on Ante Gotovina's Preliminary Motions Alleging Defects in the Forms of the Joinder Indictment, 19 March 2007, para. 44; Second Decision on Joint Defence Motion to Strike the Prosecution's Further Clarification of Identity of Victims, 2 March 2009, para. 8.

⁷⁰³ Prosecution's Notification Regarding Murder Victims, 27 March 2009, Appendix A.

⁷⁰⁴ T. 17621-17623.

⁷⁰⁵ Prosecution's Final Brief, 16 July 2010, p. 250, fn. 2375.

4.1.2 Benkovac municipality

Ljubica Stegnajić

202. The Trial Chamber has received relevant evidence with regard to the alleged murder of Ljubica Stegnajić primarily through the testimony of Jacques Morneau and through a UNCIVPOL report. According to the latter, dated 23 August 1995, Mile Stegnajić from Stegnajić in Benkovac municipality informed UNCIVPOL that around 3 p.m. on 21 August 1995 two armed men in civilian clothes and with long hair came to his house. The men threatened him and his wife, Ljubica Stegnajić, with death if they did not leave their house by the next day. Mile Stegnajić immediately left the house as a result of the threat but his wife stayed behind as she was not well enough to travel with him. Around 6 p.m. on the same day, Mile Stegnajić heard gunshots coming from the house and he returned to the house some hours later but could not find his wife. He left for Camp Rašević which he reached the following morning. He then travelled back to his house, accompanied by an UNMO team, and they found his wife dead in a well. In front of the well, the wife's apron was folded neatly with her shoes placed on top and her cane tied to the wall of the well. A log was placed next to the wall of the well, as a step. The UNMO team went to the military police in Benkovac to report the incident. Around 10 a.m. on 23 August 1995, UNCIVPOL, Canadian military police, and the Benkovac police went to Mile Stegnajić's house and Ljubica Stegnajić was brought out of the well. There were no visible signs of gunshot wounds. Her remains were taken to Zadar cemetery for burial. Mile Stegnajić was brought to the UN compound in Knin to join other refugees although he requested to join relatives in Serbia.⁷⁰⁶

203. **Jacques Morneau**, the Battalion Commander of Canbat 1 from April to September 1995,⁷⁰⁷ learned from his staff that in mid-August 1995, Mile Stegnajić, a Serb man between 60 and 70 years old from Stegnajić, in Benkovac municipality, came to the Canadian camp in Rašević, in Polača municipality.⁷⁰⁸ Stegnajić had told the staff that during the day two Croatians, dressed in civilian clothing, with long hair, carrying AK-47 rifles, had come to his house and told him to go away.⁷⁰⁹ Stegnajić had replied

⁷⁰⁶ P233 (UNCIVPOL incident report, S2-95-477, 23 August 1995).

⁷⁰⁷ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 2.

⁷⁰⁸ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 5; Jacques Morneau, T. 3949-3950; P318 (Canbat report on human rights abuses, August 1995), p. 2; P320 (Annexes to Canbat report on human rights abuses, August 1995), p. 1.

⁷⁰⁹ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 5; Jacques Morneau, T. 3950; P320 (Annexes to Canbat report on human rights abuses, August 1995), p. 2.

that he was too old and wanted to stay in his home, whereupon the Croatians threatened to kill him and fired in the air to scare him away.⁷¹⁰ Stegnajić then ran away, leaving his wife behind.⁷¹¹ Later that evening, Stegnajić heard gunfire coming from the direction of his house.⁷¹² The following morning, Canbat members of the Canadian camp escorted Stegnajić to his house, where they found his wife's dead body in a well.⁷¹³ Sergeant Vaughan examined the body and found no external signs of force and the Canbat report concluded that she had committed suicide.⁷¹⁴

204. The evidence indicates that on 21 August 1995, around 3 p.m., in Stegnajić, Ljubica Stegnajić was threatened by two armed men, with long hair, dressed in civilian clothes and that she died on 21 or 22 August 1995. Her body was found in a well and did not have any gunshot wounds or other signs of external force. This, in combination with the observations around the well, does not allow for a conclusion that Ljubica Stegnajić was killed. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Count 1 of the Indictment.

Petar Bota

205. The Trial Chamber has received relevant evidence with regard to the alleged murder of Petar Bota primarily through the testimony of Ive Kardum and documentation related to a Croatian criminal investigation into the matter.

206. The Trial Chamber considered the relevant evidence, including from Kardum and Bajić, reviewed in Chapters 4.1.6 (Sava Babić) and 6.2.5.

207. On the basis of exhibits P2611, D802 and the evidence of Ive Kardum, the Trial Chamber finds that in Kolarina on 28 September 1995, Mario Dukić, a member of the HV 134th Home Guards Brigade shot Petar Bota, a Serb, twice, once hitting his chest, which resulted in Bota's death. The Trial Chamber notes in this regard that the County Court in Zadar convicted Dukić on 31 January 1998 for the murder of Bota and that

⁷¹⁰ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 5; Jacques Morneau, T. 3950-3951; P320 (Annexes to Canbat report on human rights abuses, August 1995), p. 2.

⁷¹¹ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 5; P320 (Annexes to Canbat report on human rights abuses, August 1995), p. 2.

⁷¹² P320 (Annexes to Canbat report on human rights abuses, August 1995), p. 2.

⁷¹³ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 5; Jacques Morneau, T. 3949-3950; P318 (Canbat report on human rights abuses, August 1995), p. 2; P320 (Annexes to Canbat report on human rights abuses, August 1995), p. 2.

there is no indication in the evidence that this judgement did not become final under Croatian law. The Trial Chamber will further consider this incident in relation to Count 1 of the Indictment in Chapter 5.8.2 (b) below.

4.1.3 Civljane municipality

208. The Trial Chamber has received no, or insufficient, relevant evidence with regard to alleged murders in Civljane municipality.

4.1.4 Donji Lapac municipality

Marko Ilić and others (Schedule no. 10)

209. The Trial Chamber has received relevant evidence with regard to Scheduled Killing number 10 primarily through the testimony of Milan Ilić and forensic documentation.

210. **Milan Ilić**, a Serb from Donji Lapac,⁷¹⁵ testified that he was close to his home when sporadic shelling hit Donji Lapac around 9-10 a.m. on 7 August 1995, and that he saw shells fall in town.⁷¹⁶ Ilić testified that there was a police station, a municipal building, and a “committee” building in the centre of town, close to where the shells fell.⁷¹⁷ The shells were coming from Mazin, Udbina, and Korenica.⁷¹⁸ The Trial Chamber will further consider this evidence in Chapter 4.4.7 below. The witness left for Oraovac in Donji Lapac municipality in order to see his brother Marko (born in 1919), who lived in the family house close to the woods.⁷¹⁹ While walking towards Oraovac, Ilić saw some houses that had been destroyed by shelling, even though, according to

⁷¹⁴ P318 (Canbat report on human rights abuses, August 1995), p. 2; P320 (Annexes to Canbat report on human rights abuses, August 1995), p. 2.

⁷¹⁵ P725 (Milan Ilić, witness statement, 6 July 1999), pp. 1-2; P726 (Milan Ilić, witness statement, 25 March 2005), p. 1, paras 1-2; Milan Ilić, T. 7547-7548, 7551, 7570, 7573.

⁷¹⁶ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2; P726 (Milan Ilić, witness statement, 25 March 2005), para. 5; Milan Ilić, T. 7552-7554, 7580-7581.

⁷¹⁷ Milan Ilić, T. 7570-7571, 7581-7582.

⁷¹⁸ P726 (Milan Ilić, witness statement, 25 March 2005), para. 5; Milan Ilić, T. 7552-7553.

⁷¹⁹ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2; P726 (Milan Ilić, witness statement, 25 March 2005), paras 2, 6; Milan Ilić, T. 7552, 7572; D726 (Map with location of Oraovac).

him, there were no SVK units or military facilities in or around Donji Lapac.⁷²⁰ He stated that Donji Lapac was mainly inhabited by Serbs.⁷²¹

211. Around noon, the witness arrived at the house, where he met his brother.⁷²² Both of them were unarmed and in civilian clothes.⁷²³ The witness saw some buildings burn in Donji Lapac.⁷²⁴ Around 1-1:30 p.m., two or three armed soldiers dressed in greyish-green or plain grey uniforms came to the house from the direction of Gornji Lapac.⁷²⁵ In his witness statement, the witness testified that these soldiers had patches on the sleeves of their uniforms in the form of branches.⁷²⁶ Their uniforms looked like old washed-out JNA uniforms.⁷²⁷ The witness stated that the soldiers called them “Chetniks” and ordered them out of the garden.⁷²⁸ The soldiers forced the witness and his brother to sit on the ground, searched them, and then left one soldier as guard and began searching houses, not taking anything from them.⁷²⁹ Even though the witness’s brother had his wallet in a pocket, the soldiers did not take anything from them.⁷³⁰ The soldier who guarded the witness and the witness’s brother told them that he was from Vukovar in Slavonia.⁷³¹ In his witness statement, the witness stated that this soldier was wearing a grey-green uniform and had insignia on his upper arm and collar, which looked like a sprig or a branch and were shaped like a “V”.⁷³² More soldiers arrived, some of whom were wearing camouflage uniforms.⁷³³ In Court, the witness testified that the soldiers in camouflage uniforms had insignia on their sleeves, while those in grey uniforms did not.⁷³⁴ The witness estimated that there were around 200 soldiers in Oraovac.⁷³⁵ Some of them had blue ribbons, and others had other coloured ribbons attached to the epaulets

⁷²⁰ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2; P726 (Milan Ilić, witness statement, 25 March 2005), para. 6; Milan Ilić, T. 7554, 7581.

⁷²¹ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2; Milan Ilić, T. 7556.

⁷²² P726 (Milan Ilić, witness statement, 25 March 2005), para. 6.

⁷²³ P726 (Milan Ilić, witness statement, 25 March 2005), para. 7.

⁷²⁴ P726 (Milan Ilić, witness statement, 25 March 2005), para. 6.

⁷²⁵ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2; P726 (Milan Ilić, witness statement, 25 March 2005), paras 8-9; Milan Ilić, T. 7574-7575.

⁷²⁶ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2

⁷²⁷ Milan Ilić, T. 7569, 7574.

⁷²⁸ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2; P726 (Milan Ilić, witness statement, 25 March 2005), para. 8.

⁷²⁹ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2; P726 (Milan Ilić, witness statement, 25 March 2005), para. 8.

⁷³⁰ P726 (Milan Ilić, witness statement, 25 March 2005), para. 8.

⁷³¹ P725 (Milan Ilić, witness statement, 6 July 1999), p. 3; P726 (Milan Ilić, witness statement, 25 March 2005), para. 9.

⁷³² P726 (Milan Ilić, witness statement, 25 March 2005), para. 9.

⁷³³ P726 (Milan Ilić, witness statement, 25 March 2005), paras 9-10; Milan Ilić, T. 7556-7557, 7574.

⁷³⁴ Milan Ilić, T. 7574-7575.

⁷³⁵ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2.

on their shoulders.⁷³⁶ Some had caps under their epaulets and the witness noticed checkerboards on some of the caps.⁷³⁷ Most of the soldiers were bare-headed but some were wearing white head bands.⁷³⁸ Many of the soldiers also wore black fingerless knitted gloves.⁷³⁹ The witness stated that there were 86-100 houses in Oraovac.⁷⁴⁰ According to the witness, most people had left Oraovac before Operation Storm began, so that there were only six people left in the town on 7 August 1995.⁷⁴¹ In addition to the witness and his brother Marko, these were Rade Bibić (born in 1917), his wife Ruža Bibić (a little younger), Stevo Ajduković (born around 1935), and an old immobile woman named “Bika” Đukić.⁷⁴² Soldiers brought them, all in civilian clothes, to the place where the witness and his brother were sitting, with the exception of Bika Đukić.⁷⁴³ The witness stated that he did not know what happened to her.⁷⁴⁴ Another armed soldier in a grey-green uniform, who was thin and about 1.86 metres tall, came to the group, called them “Chetniks”, threatened, and cursed them.⁷⁴⁵ The witness had been sitting for less than one hour, when the soldier ordered the group to stand up and start walking.⁷⁴⁶ The soldier was walking in front of the group, going in the direction of Gornji Lapac, and some other soldiers were walking some 30 metres behind.⁷⁴⁷ Around 50 metres before the last house in Oraovac, the witness saw an open gate and immediately ran into it.⁷⁴⁸ The witness stated that nobody shouted or shot and he believed that nobody even noticed his escape.⁷⁴⁹ The witness then hid in a bush and about five to ten minutes later heard eight single pistol shots fired in sets of four coming

⁷³⁶ P726 (Milan Ilić, witness statement, 25 March 2005), para. 9.

⁷³⁷ P726 (Milan Ilić, witness statement, 25 March 2005), para. 9; Milan Ilić, T. 7574.

⁷³⁸ P726 (Milan Ilić, witness statement, 25 March 2005), para. 9.

⁷³⁹ P726 (Milan Ilić, witness statement, 25 March 2005), para. 9.

⁷⁴⁰ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2; P726 (Milan Ilić, witness statement, 25 March 2005), para. 18.

⁷⁴¹ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2.

⁷⁴² P725 (Milan Ilić, witness statement, 6 July 1999), p. 2; P726 (Milan Ilić, witness statement, 25 March 2005), para. 10.

⁷⁴³ P725 (Milan Ilić, witness statement, 6 July 1999), p. 2; P726 (Milan Ilić, witness statement, 25 March 2005), para. 10.

⁷⁴⁴ P725 (Milan Ilić, witness statement, 6 July 1999), pp. 2-3.

⁷⁴⁵ P725 (Milan Ilić, witness statement, 6 July 1999), p. 3; P726 (Milan Ilić, witness statement, 25 March 2005), para. 11.

⁷⁴⁶ P725 (Milan Ilić, witness statement, 6 July 1999), p. 3; P726 (Milan Ilić, witness statement, 25 March 2005), paras 10-11.

⁷⁴⁷ P725 (Milan Ilić, witness statement, 6 July 1999), p. 3; P726 (Milan Ilić, witness statement, 25 March 2005), para. 11.

⁷⁴⁸ P725 (Milan Ilić, witness statement, 6 July 1999), p. 3.

⁷⁴⁹ P725 (Milan Ilić, witness statement, 6 July 1999), p. 3.

from the direction where the soldier had taken the group.⁷⁵⁰ The witness stated that he reported about his brother and the other people from Oraovac to the ICRC, but received the response that none of them were registered, neither dead nor alive.⁷⁵¹ He also informed the police in Donji Lapac, who eventually told him that most of the victims from the area were buried in the Gračac cemetery.⁷⁵²

212. The Trial Chamber has received forensic documentation with regard to all of the victims and this will be reviewed below. On 4 September 1995, a male between 65 and 75 years old was found with a gunshot wound to the head, determined by a forensic pathologist to be the cause of death, 50 metres east of the last house in Oraovac.⁷⁵³ On the body, a wallet and an identification of Marko Ilić were found, among other items.⁷⁵⁴ According to his report on circumstances of death, which is based at least in part on information provided by Marko Ilić's son Đuro Ilić, Marko Ilić, a Serb, died in Oraovac on 5 August 1995.⁷⁵⁵ On 18 May 2003, Đuro Ilić identified the body of Marko Ilić and told the witness about it.⁷⁵⁶ The body was then buried in the cemetery in Oraovac on 24 May 2003.⁷⁵⁷ The following bodies were also found 50 metres east of the last house of Oraovac on 4 September 1995: a 55-65-year-old male with a gunshot injury to the head – found by a forensic pathologist to be the cause of death – and bits of a projectile in his skull cavity, a 60-80-year-old female dressed in a blue sleeveless buttoned-up dress with lining and a negligee and a rubber shoe, with a gunshot injury to the head - found by a forensic pathologist to be the cause of death, and a 40-60-year-old male with damage to the front of the skull, fractures to the ribs on both the left and right side, and bruising to the torso, for which a forensic pathologist determined an explosive injury to the head and trunk to be the probable cause of death.⁷⁵⁸ With respect to remains G03/017B, Dr. Eric Baccard, who worked for the Office of the Prosecutor at the International Criminal

⁷⁵⁰ P725 (Milan Ilić, witness statement, 6 July 1999), p. 3; P726 (Milan Ilić, witness statement, 25 March 2005), para. 11.

⁷⁵¹ P725 (Milan Ilić, witness statement, 6 July 1999), p. 3.

⁷⁵² P725 (Milan Ilić, witness statement, 6 July 1999), p. 3; P726 (Milan Ilić, witness statement, 25 March 2005), paras 19-20.

⁷⁵³ P727 (Supplement mortal remains of G03/015B), p. 2; P728 (Autopsy report of G03/015B, 1 October 2002), pp. 1-3, 25-26, 29.

⁷⁵⁴ P728 (Autopsy report of G03/015B, 1 October 2002), pp. 1-2, 6-7, 12.

⁷⁵⁵ P730 (Report on circumstances of death of Marko Ilić, 16 May 2003), pp. 1-2.

⁷⁵⁶ P726 (Milan Ilić, witness statement, 25 March 2005), para. 21.

⁷⁵⁷ P726 (Milan Ilić, witness statement, 25 March 2005), para. 21.

⁷⁵⁸ P731 (Supplement mortal remains of G03/018B); P732 (Autopsy report of G03/018B, 15 October 2002), pp. 1-2, 8, 24, 27, 31; P734 (Supplement mortal remains of G03/017B), p. 2; P735 (Autopsy report of G03/017B, 15 October 2002), pp. 1-3, 21, 24; P737 (Supplement mortal remains of G03/016B); P738 (Autopsy report of G03/016B, 1 October 2002), pp. 1-2, 9-11, 19, 22, 25.

Tribunal for the Former Yugoslavia as a Forensic Pathologist in July 1999 and from October to November 1999, and as Chief Forensic Pathologist from March 2000 to November 2000,⁷⁵⁹ testified that the injury to the head was more likely to have been caused by a gunshot than an explosion.⁷⁶⁰ Milan Ilić stated that Ruža Bibić normally wore a pair of plastic shoes and a button-up dress.⁷⁶¹ According to their reports on circumstances of death, which are based at least in part on information provided by Rade Bibić's son Đuro Bibić and Stevo Ajduković's son Milan Ajduković, Rade Bibić and Stevo Ajduković, both Serbs, died in Oraovac on 4 September 1995.⁷⁶² The witness also stated that he knew that the bodies of Stevo Ajduković and Rade Bibić had been positively identified.⁷⁶³ The names of Stevo Ajduković, Rade Bibić, and Marko Ilić are also on a list of identified individuals whose mortal remains were exhumed in Gračac.⁷⁶⁴

213. In addition to the evidence above, the Trial Chamber has considered evidence of Josip Čelić (reviewed in chapter 4.4.7), Josip Turkalj (reviewed in chapter 4.4.7), Zdravko Janić (reviewed in chapter 4.4.7), Željko Sačić (reviewed in chapter 4.2.4), Davorin Pavlović (reviewed in chapter 4.2.4), Dražen Vitez (reviewed in chapter 4.2.4), Witness 82 (reviewed in chapter 4.2.4), and Ivan Herman (reviewed in chapter 4.2.4) in relation to Scheduled Killing number 10. The Trial Chamber has further considered portions of the suspect/accused interviews of Mladen Markač (reviewed in chapter 4.2.4).

214. Based on the evidence received, the Trial Chamber finds that on 7 August 1995, around 1 p.m., in Oraovac, a number of persons wearing uniforms gathered Milan Ilić, Marko Ilić, Rade Bibić, Ruža Bibić, and Stevo Ajduković, who were all wearing civilian clothes. Milan and Marko Ilić were unarmed. A person wearing a grey-green uniform ordered the group to proceed in the direction of Gornji Lapac, to the east of Oraovac, and walked in front of them. Around 50 metres west of the last house in Oraovac, Milan Ilić ran away from the group and hid in a bush. Shortly thereafter, Milan Ilić heard two sets of four shots fired from the direction the group was walking

⁷⁵⁹ Eric Baccard, T. 15740-15742; P2313 (Curriculum Vitae of Dr. Eric Baccard, 3 October 2008), p. 2; P2314 (Redacted Report on Autopsies of Victims Exhumed from Korenica and Gračac in 2002, 6 June 2003), p. 4.

⁷⁶⁰ P2314 (Redacted Report on Autopsies of Victims Exhumed from Korenica and Gračac in 2002, 6 June 2003), pp. 55-56.

⁷⁶¹ P726 (Milan Ilić, witness statement, 25 March 2005), para. 21.

⁷⁶² P733 (Report on circumstances of death of Rade Bibić, 5 June 2003), pp. 1-2; P736 (Report on circumstances of death of Stevo Ajduković, 5 June 2003), pp. 1-2.

⁷⁶³ P726 (Milan Ilić, witness statement, 25 March 2005), para. 21.

⁷⁶⁴ P729 (List of identified individuals whose mortal remains were exhumed).

in. On 4 September 1995, four sets of remains were found 50 metres east of the last house in Oraovac.

215. The autopsy report stated that the wallet and identification of Marko Ilić were found on one of the bodies, which belonged to a 65-75-year-old male. The Trial Chamber notes that the report on circumstances of death of Marko Ilić suggests that he died on 5 August 1995. However, the report is based at least in part on information provided by a relative, whose source of knowledge is unclear. Based on the date the body was found, its location, the identification found on the body, and the gender and estimated age of the body, combined with Milan Ilić's testimony, the Trial Chamber concludes that this body belonged to Marko Ilić.

216. The autopsy report further stated that a second set of remains belonged to a 60-80-year-old female and was dressed in a buttoned-up dress and a rubber shoe. According to Milan Ilić, Ruža Bibić was a little younger than 77 or 78 years old and normally wore a buttoned-up dress and plastic shoes. Considering the date the body was found, its location and proximity to the remains of Marko Ilić, and the gender, estimated age, and clothing of the body, combined with Milan Ilić's testimony, the Trial Chamber concludes that this body belonged to Ruža Bibić. The autopsy report further stated that the two other sets of remains belonged to a 55-65-year-old male, and a 40-60-year-old male. According to Milan Ilić, Rade Bibić was 77 or 78 years old and Stevo Ajduković was 59 or 60 years old. The Trial Chamber notes that the reports on circumstances of death of Rade Bibić and Stevo Ajduković suggest that they died in September 1995. However, these reports are based at least in part on information provided by relatives, whose sources of knowledge are unclear. Despite the inconsistencies regarding the estimated age of one of the bodies and the reported dates of death of Rade Bibić and Stevo Ajduković, considering the bodies' genders, the date they were found, their location and proximity to each other and to the bodies of Marko Ilić and Ruža Bibić, combined with Milan Ilić's testimony, the Trial Chamber concludes that these two bodies belonged to Rade Bibić and Stevo Ajduković.

217. The gunshot injuries to the heads of three of the bodies, their geographic location, and their proximity to each other are consistent with Milan Ilić's testimony. Consequently, the Trial Chamber finds that, shortly after a person wearing a grey-green uniform ordered them to walk away from Oraovac, at least one of the persons in uniform present in Oraovac shot Marko Ilić, Rade Bibić and Ruža Bibić, thereby killing

them. The forensic evidence does not establish whether the injury to Stevo Ajduković's body was caused by a gunshot or an explosion. Nonetheless, considering that Stevo Ajduković was last seen with Marko Ilić, Rade Bibić, and Ruža Bibić on 7 August 1995 shortly before they were killed, and that his body was found in close proximity to their bodies at the same location as where they were last seen, the Trial Chamber finds that at least one of the persons in uniform present in Oraovac also killed Stevo Ajduković. Based on their reports of circumstances of death, the Trial Chamber finds that Marko Ilić, Rade Bibić, and Stevo Ajduković were of Serb ethnicity. Considering that the persons in uniform referred to the group as "chetniks", that her husband was Serb, and that according to the 1991 Population Census 294 out of 303 inhabitants in 1991 were Serb, the Trial Chamber finds that Ruža Bibić was also of Serb ethnicity.

218. The person who ordered the group to walk away from Oraovac wore a grey-green uniform and also threatened and cursed the group, calling them "Chetniks" Milan Ilić further described seeing some 200 persons in Oraovac on 7 August 1995, wearing grey-green, plain grey, or camouflage uniforms, some with V-shaped insignia of sprigs or branches on the upper arm and collar, some with coloured ribbons, including blue ribbons, on their epaulets, and some with checkerboards on caps worn under their epaulets. Željko Sačić testified that on 7 August 1995 300-400 Special Police troops moved from Bruvno via Kovačevići, both in Gračac municipality, past Oraovac, to Donji Lapac, where they arrived around 2 p.m. According to witnesses Josip Čelić, Josip Turkalj, Davorin Pavlović, Dražen Vitez, Ivan Herman, Zdravko Janić, and Witness 82, Special Police units moved through Bruvno and arrived in Donji Lapac early in the afternoon, and HV units followed later that afternoon or evening. Special Police records (including exhibits P2383 and D1897) report that the Special Police took control of Zalužje early that afternoon. The Trial Chamber notes that the plain grey and grey-green uniforms observed by Milan Ilić in Oraovac appear to correspond with evidence reviewed in Chapter 3.3 of a uniform worn by the Special Police during Operation Storm. Based on this evidence, considering in particular the presence of Special Police units near Oraovac in the early afternoon on 7 August 1995 and that the person who ordered the group to walk away from Oraovac wore a grey-green uniform, the Trial Chamber finds that the person or persons who killed Marko Ilić, Rade Bibić, Ruža Bibić, and Stevo Ajduković were members of the Special Police. The Trial

Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in Chapters 5.3.2 and 5.8.2 (b) below.

4.1.5 Drniš municipality

219. The Trial Chamber has received no, or insufficient, relevant evidence with regard to alleged murders in Drniš municipality.

4.1.6 Ervenik municipality

Marta Vujnović, Stevo Vujnović, and Marija Vujnović (Schedule no. 9; Further Clarification no. 17)

220. The Trial Chamber has received relevant evidence with regard to the alleged murder of Marta Vujnović, Stevo Vujnović, and Marija Vujnović primarily through the testimonies of Jovan Vujnović, Petar Knežević, and Petro Romassev, and through forensic documentation. According to the 1991 Population Census, the population of Oton, in Ervenik municipality, consisted of 692 Serbs out of a total of 699 persons in 1991.⁷⁶⁵

221. **Jovan Vujnović**, a Serb from the hamlet Oton Polje in Ervenik municipality,⁷⁶⁶ testified that sometime on 4 August 1995, RSK officials, some wearing military uniform and most of them locals, told the people in the hamlet that “Ustashi” forces were coming and that they had to leave.⁷⁶⁷ They also provided fuel to persons who had vehicles, for the purpose of leaving.⁷⁶⁸ The witness’s family, with the exception of himself and his mother, Marta Vujnović née Knežević (born 1910), left the hamlet on this day.⁷⁶⁹ According to him most of the 200 inhabitants of the hamlet, who were all Serbs, left on 4 and 5 August 1995 and only four or five men and 13 women remained.⁷⁷⁰ Most of the people remaining were elderly and the witness, at the age of

⁷⁶⁵ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

⁷⁶⁶ P412 (Jovan Vujnović, witness statement, 20 January 1999), pp. 1-2; P414 (Jovan Vujnović, witness statement, 4 April 2007), para. 2; Jovan Vujnović, T. 4554.

⁷⁶⁷ P414 (Jovan Vujnović, witness statement, 4 April 2007), para. 3; Jovan Vujnović, T. 4566-4567.

⁷⁶⁸ P414 (Jovan Vujnović, witness statement, 4 April 2007), para. 3; Jovan Vujnović, T. 4566.

⁷⁶⁹ P412 (Jovan Vujnović, witness statement, 20 January 1999), p. 2; P413 (Jovan Vujnović, witness statement, 12 October 2004), para. 1; P414 (Jovan Vujnović, witness statement, 4 April 2007), para. 4.

⁷⁷⁰ P412 (Jovan Vujnović, witness statement, 20 January 1999), pp. 2-3; P414 (Jovan Vujnović, witness statement, 4 April 2007), para. 3; Jovan Vujnović, T. 4557; D386 (Jovan Vujnović, supplemental information sheet, 4 June 2008), p. 1.

60, was the youngest.⁷⁷¹ They were all unarmed.⁷⁷² According to the witness, nobody was driving the villagers away but they left “voluntarily”.⁷⁷³

222. Vujinović testified that HV soldiers entered the hamlet on 5 August 1995 without any resistance.⁷⁷⁴ The witness recognized the soldiers as HV soldiers by their uniforms, by the Croatian coat of arms on their hat badges, and by the fact that the vehicles had HV number plates.⁷⁷⁵ At that time there were only 17 or 18 persons, mostly elderly, left in the hamlet.⁷⁷⁶ The villagers were unarmed.⁷⁷⁷ According to the witness, there were no RSK forces in the area.⁷⁷⁸ He stated, however, that there were RSK military barracks in Stara Straža and Pađene in Knin municipality.⁷⁷⁹ The HV soldiers started to loot the homes in the hamlet, including the witness’s home.⁷⁸⁰ Vujinović personally observed soldiers coming in military and civilian trucks and tractors and looting houses.⁷⁸¹ On or about 18 August 1995, Croatian soldiers took the witness from his home to a building at the railway stop, which the soldiers used for accommodation.⁷⁸² The witness observed many soldiers and a number of military vehicles with HV number plates.⁷⁸³ The soldiers questioned the witness and called him a “Chetnik”.⁷⁸⁴ One officer told him that he had to go with them when they moved, otherwise he would be killed.⁷⁸⁵ One soldier told the witness to hide since “things are going on”.⁷⁸⁶ The witness then went back home to check on his mother, Marta Vujinović.⁷⁸⁷ He left his mother at 11:15 a.m. on or about 18

⁷⁷¹ P412 (Jovan Vujinović, witness statement, 20 January 1999), pp. 1-3.

⁷⁷² P412 (Jovan Vujinović, witness statement, 20 January 1999), pp. 2-3.

⁷⁷³ Jovan Vujinović, T. 4566.

⁷⁷⁴ P412 (Jovan Vujinović, witness statement, 20 January 1999), pp. 2-3.

⁷⁷⁵ P412 (Jovan Vujinović, witness statement, 20 January 1999), p. 3; P413 (Jovan Vujinović, witness statement, 12 October 2004), para. 2.

⁷⁷⁶ P412 (Jovan Vujinović, witness statement, 20 January 1999), pp. 2-3; P414 (Jovan Vujinović, witness statement, 4 April 2007), para. 3.

⁷⁷⁷ P412 (Jovan Vujinović, witness statement, 20 January 1999), p. 3.

⁷⁷⁸ P412 (Jovan Vujinović, witness statement, 20 January 1999), p. 3.

⁷⁷⁹ Jovan Vujinović, T. 4572; D384 (Map of the Oton-Knin area), p. 2.

⁷⁸⁰ P412 (Jovan Vujinović, witness statement, 20 January 1999), p. 2; P413 (Jovan Vujinović, witness statement, 12 October 2004), para. 2.

⁷⁸¹ P413 (Jovan Vujinović, witness statement, 12 October 2004), para. 2.

⁷⁸² P412 (Jovan Vujinović, witness statement, 20 January 1999), p. 2; P413 (Jovan Vujinović, witness statement, 12 October 2004), para. 6; Jovan Vujinović, T. 4549, 4574; D386 (Jovan Vujinović, supplemental information sheet, 4 June 2008), p. 1.

⁷⁸³ P412 (Jovan Vujinović, witness statement, 20 January 1999), p. 2.

⁷⁸⁴ P412 (Jovan Vujinović, witness statement, 20 January 1999), p. 2; P413 (Jovan Vujinović, witness statement, 12 October 2004), para. 6.

⁷⁸⁵ P412 (Jovan Vujinović, witness statement, 20 January 1999), p. 2.

⁷⁸⁶ P412 (Jovan Vujinović, witness statement, 20 January 1999), p. 2; D386 (Jovan Vujinović, supplemental information sheet, 4 June 2008), p. 1.

⁷⁸⁷ P412 (Jovan Vujinović, witness statement, 20 January 1999), p. 2; P413 (Jovan Vujinović, witness statement, 12 October 2004), para. 6.

August 1995 in his home but returned at 4 p.m. on the same day.⁷⁸⁸ Upon returning he saw that his house was destroyed by fire.⁷⁸⁹ Approximately 80 metres from the house, he found his mother dead with three bullet holes in her face, two above her eyes and one under them, just on the side of the nose.⁷⁹⁰ The witness did not formally report the death of his mother to the Croatian police although he did tell Croatian police who came to his house about the death.⁷⁹¹ He did not talk about the death of his mother with soldiers in the village.⁷⁹² According to the witness, nobody from the Croatian police or military ever investigated his mother's death or asked him questions about what had happened.⁷⁹³ The witness testified that on the same day eleven houses in the hamlet were destroyed by fire.⁷⁹⁴ On 21 or 22 August 1995, the witness found the body of Stevo Vujnović, born around 1939, in front of the latter's house in Oton Polje.⁷⁹⁵ Stevo Vujnović was in his underwear and face down in a pool of blood.⁷⁹⁶ The witness had been told by a relative of Stevo Vujnović that Stevo had been killed.⁷⁹⁷ According to the witness, he was a civilian.⁷⁹⁸ After seven or eight days the witness told policemen about the body and took the police to the place where the body was lying.⁷⁹⁹ The police said that there was a stench coming from inside the house and the witness thought that it was the body of Stevo Vujnović's mother, Marta or Marija Vujnović, born around 1912 or 1913.⁸⁰⁰ Neither the witness nor the police entered the house.⁸⁰¹ The police did not take Stevo Vujnović's body with them.⁸⁰² The witness heard from other villagers that Marta

⁷⁸⁸ P412 (Jovan Vujnović, witness statement, 20 January 1999), p. 2; P413 (Jovan Vujnović, witness statement, 12 October 2004), para. 6.

⁷⁸⁹ P412 (Jovan Vujnović, witness statement, 20 January 1999), p. 2; P413 (Jovan Vujnović, witness statement, 12 October 2004), para. 6.

⁷⁹⁰ P412 (Jovan Vujnović, witness statement, 20 January 1999), p. 2; P413 (Jovan Vujnović, witness statement, 12 October 2004), para. 6; Jovan Vujnović, T. 4574; D386 (Jovan Vujnović, supplemental information sheet, 4 June 2008), p. 2.

⁷⁹¹ Jovan Vujnović, T. 4560, 4575-4578; D386 (Jovan Vujnović, supplemental information sheet, 4 June 2008), p. 2.

⁷⁹² D386 (Jovan Vujnović, supplemental information sheet, 4 June 2008), p. 1.

⁷⁹³ D386 (Jovan Vujnović, supplemental information sheet, 4 June 2008), p. 2.

⁷⁹⁴ P412 (Jovan Vujnović, witness statement, 20 January 1999), p. 2; D386 (Jovan Vujnović, supplemental information sheet, 4 June 2008), p. 1.

⁷⁹⁵ P412 (Jovan Vujnović, witness statement, 20 January 1999), p. 3; P413 (Jovan Vujnović, witness statement, 12 October 2004), paras 1, 3; Jovan Vujnović, T. 4558-4559, 4570.

⁷⁹⁶ P413 (Jovan Vujnović, witness statement, 12 October 2004), para. 5; Jovan Vujnović, T. 4570.

⁷⁹⁷ P413 (Jovan Vujnović, witness statement, 12 October 2004), para. 4.

⁷⁹⁸ Jovan Vujnović, T. 4558.

⁷⁹⁹ P413 (Jovan Vujnović, witness statement, 12 October 2004), para. 3; Jovan Vujnović, T. 4559; D386 (Jovan Vujnović, supplemental information sheet, 4 June 2008), p. 2.

⁸⁰⁰ P412 (Jovan Vujnović, witness statement, 20 January 1999), p. 3; P413 (Jovan Vujnović, witness statement, 12 October 2004), paras 1, 3; Jovan Vujnović, T. 4570.

⁸⁰¹ P413 (Jovan Vujnović, witness statement, 12 October 2004), para. 3; Jovan Vujnović, T. 4570.

⁸⁰² P413 (Jovan Vujnović, witness statement, 12 October 2004), para. 3. See Jovan Vujnović, T. 4570-4571.

or Marija Vujnović's son, Momčilo Vujnović, came from Serbia almost a year later and found his mother's skeleton.⁸⁰³ The witness had seen Stevo and Marta or Marija Vujnović alive at their home a few days before Operation Storm, when the latter was bed-ridden.⁸⁰⁴ On 21 August 1995, all the remaining persons in the hamlet, except the witness and two others, left with the assistance of members of the international community.⁸⁰⁵

223. **Petar Knežević**, another Serb from Oton Polje in Ervenik municipality,⁸⁰⁶ stated that during the first week of August 1995, people started fleeing from this Serb village of approximately 200 families.⁸⁰⁷ Hours after most of the families had left, persons wearing camouflage uniform came to Knežević's village and asked him and the remaining villagers about who were present in the houses.⁸⁰⁸ Approximately eight days later, three or four uniformed persons appeared at Knežević's home, asking him about any persons, soldiers, or weapons in the house.⁸⁰⁹ The uniformed persons told Knežević that Marta Vujnović had been killed, threatened him, and left.⁸¹⁰ Knežević, accompanied by Dušan Vujnović and Jovan Vujinović, went to Marta's house, which was burnt.⁸¹¹ Knežević found Marta's corpse lying in a hallway, and noticed bullet wounds to her head.⁸¹² Knežević stated that a couple of days later, uniformed persons returned to his village, taking household items from homes.⁸¹³ Knežević was present while uniformed individuals took his television, refrigerator, and other items.⁸¹⁴

224. **Petro Romassev**, Monitor and Station Commander at UNCIVPOL Sector South in Knin municipality between January 1995 and December 1995,⁸¹⁵ stated that villagers who had fled from Oton village in Ervenik municipality to Serbia had told him that there had been three people in the village who had been killed in connection with Operation Storm. Specifically, Jovan Vujinović said that after Operation Storm, his son

⁸⁰³ P413 (Jovan Vujinović, witness statement, 12 October 2004), para. 3; Jovan Vujinović, T. 4570.

⁸⁰⁴ P413 (Jovan Vujinović, witness statement, 12 October 2004), para. 4.

⁸⁰⁵ P414 (Jovan Vujinović, witness statement, 4 April 2007), para. 5; D386 (Jovan Vujinović, supplemental information sheet, 4 June 2008), p. 2.

⁸⁰⁶ P634 (Petar Knežević, witness statement, 12 October 2004), p. 1, para. 3.

⁸⁰⁷ P634 (Petar Knežević, witness statement, 12 October 2004), paras 3-4.

⁸⁰⁸ P634 (Petar Knežević, witness statement, 12 October 2004), paras 4-5.

⁸⁰⁹ P634 (Petar Knežević, witness statement, 12 October 2004), para. 6.

⁸¹⁰ P634 (Petar Knežević, witness statement, 12 October 2004), para. 6.

⁸¹¹ P634 (Petar Knežević, witness statement, 12 October 2004), paras 7-8.

⁸¹² P634 (Petar Knežević, witness statement, 12 October 2004), para. 8.

⁸¹³ P634 (Petar Knežević, witness statement, 12 October 2004), para. 9.

⁸¹⁴ P634 (Petar Knežević, witness statement, 12 October 2004), para. 9.

⁸¹⁵ P2513 (Petro Romassev, two witness statements), pp. 2 (Petro Romassev, witness statement, 14 February 1996), 6-7 (Petro Romassev, witness statement, 8 June 1997).

and other relatives fled to Serbia while he and his mother, Marta Vujnović, stayed in the village. On 18 August 1995 about ten Croatian soldiers came to his house. At first he greeted them, gave them wine, and cooked food for them. He left them for some time and upon his return found that his house was on fire and that the Croatian soldiers had shot his mother. When he asked them why they had killed his mother, he was told that she had said something wrong to them.⁸¹⁶ Romashev also stated that prior to Operation Storm there was no destruction in Oton.⁸¹⁷ However, after the military operation, Croats looted and burned most of the houses.⁸¹⁸ The Croatian authorities had taken measures to protect the village, but not until after it had already been destroyed and only a few residents remained.⁸¹⁹ According to the UNCIVPOL incident report, dated 24 August 1995, six people in Oton in Ervenik municipality died “during [the] Croatian offensive”. These were Marija and Stevo Vujnović, Ilija and Branko Sudar, Duka Zunić who was found drowned in a well, and Marta Vujnović who was killed by HV soldiers on 18 August 1995 and whose house was also set on fire. According to the report, UNCIVPOL was going to inform the police. Six villagers expressed their wish to go to the UN refugee camp and then to Serbia because of the “continuous harassments [and] killing of livestock”.⁸²⁰

225. The Trial Chamber has only received forensic evidence with regard to one of the victims, namely Stevo Vujnović. Male body KN01/303B, with identification number 613, was retrieved on 15 September 1995 from the village of Oton, Knin municipality, wearing green trousers, and buried in a local cemetery in Knin.⁸²¹ Body KN01/303B, exhumed with a tag marked “613” from a cemetery in Knin, was an approximately 1.66-1.81-metre-tall male between 45 and 60 years old, wearing a grey shirt, a white pullover, and for whom the cause of death was unascertained.⁸²² On 5 October 2004, body KN01/303B was identified as Stevo Vujnović, born on 1 January 1900, son of

⁸¹⁶ P2513 (Petro Romashev, two witness statements), p. 4 (Petro Romashev, witness statement, 14 February 1996).

⁸¹⁷ P2513 (Petro Romashev, two witness statements), p. 11 (Petro Romashev, witness statement, 8 June 1997).

⁸¹⁸ P2513 (Petro Romashev, two witness statements), p. 11 (Petro Romashev, witness statement, 8 June 1997).

⁸¹⁹ P2513 (Petro Romashev, two witness statements), p. 4 (Petro Romashev, witness statement, 14 February 1996).

⁸²⁰ P234 (UNCIVPOL incident report, S2-95-481, 24 August 1995).

⁸²¹ P1325 (Information on KN01/303B, including photo).

⁸²² P1542 (Autopsy report of KN01/303B, 3 July 2001), pp. 1-2, 4-6, 11, 13-14, 16.

Ivan.⁸²³ According to a report of the Zagreb Institute for Forensic Medicine, dated 5 October 2004 and based on details provided by Stevo's brother Đuro Vujnović, Stevo Vujnović, a Serb and son of Ivan, died on 25 August 1995.⁸²⁴ The Chamber considers that the date of birth set out in exhibit P2004 is not the actual date of birth but merely indicates that this information was unknown to the drafter of the document, also since Jovan Vujinović testified that Stevo was born in 1939.

226. Based on the evidence received, the Trial Chamber finds that Marta Vujnović, mother of Jovan Vujinović, was killed by gunshots to her head between 11:15 a.m. and 4 p.m. on or about 18 August 1995 in Oton Polje in Ervenik municipality. The Trial Chamber notes that Jovan Vujinović's and Petar Knežević's descriptions of where the body of Marta Vujnović was found differ slightly. The Trial Chamber relies in this respect on the more detailed testimony of Jovan Vujinović, whose evidence, as opposed to Petar Knežević's, was also subject to cross-examination and direct credibility analysis. On or about 18 August 1995, a large number of persons described as soldiers, driving military vehicles with HV number plates, were present in Oton Polje, some of whom used a building at the railway stop for accommodation. These persons called the witness "Chetnik". Based on the above, the Trial Chamber finds that members of Croatian military forces were present in the village of Oton Polje on or about 18 August 1995.

227. Petro Romassev stated that Jovan Vujinović had told him that on 18 August 1995, ten Croatian soldiers came to his house, after which he left, and when he returned, the Croatian soldiers told him that they had killed his mother. Jovan Vujinović testified that he did not talk about the death of his mother with the soldiers in the village. The Trial Chamber considers that this is not necessarily contradictory as the soldiers may have told Jovan Vujinović about having killed his mother without any further discussion taking place. Further considering the presence of a large number of members of Croatian military forces in Oton Polje on the day that Marta Vujnović was killed by gunshots, as established above, the Trial Chamber finds that members of Croatian military forces shot Marta Vujnović, thereby killing her. Considering that both Jovan Vujinović and Petar Knežević referred to Oton Polje as a Serb village, which is not contradicted by the 1991 Census, the Trial Chamber finds that Marta Vujnović was of

⁸²³ P2004 (List of identified persons whose mortal remains were exhumed at the Novo Groblje cemetery in Knin, and in Gračac and Korenica).

Serb ethnicity. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in Chapters 5.3.2 and 5.8.2 (b).

228. The evidence indicates that Stevo Vujnović was killed between the beginning of August and 21 or 22 August 1995 in Oton Polje and that Stevo's mother, named Marta or Marija Vujnović was killed there in early August 1995. However, the Trial Chamber has received insufficient evidence regarding the causes, dates, and other circumstances of these two persons' deaths. In this regard, the Trial Chamber considered also that the autopsy report with regard to Stevo Vujnović set out that the cause of death could not be ascertained. The Trial Chamber will therefore not further consider these incidents in relation to Counts 1, 6, and 7 of the Indictment.

Stana and Mirko Popović (Further Clarification nos 5-6)

229. The Trial Chamber has received relevant evidence with regard to the alleged murder of Stana and Mirko Popović through the testimony of **Jovan Popović**. This witness, a Serb from Popovići hamlet, Mokro Polje village in Ervenik municipality,⁸²⁵ stated that between 3 and 6 August 1995, he used binoculars to watch from his house many cars drive from the direction of Ervenik towards Gračac.⁸²⁶ On the morning of 6 August 1995, he saw projectiles being fired to and from Kom Hill.⁸²⁷ At 5 p.m. that day, he saw through his binoculars three medium-sized tanks with cannons, each with about eight soldiers sitting or standing on top of them, on the road from Lika to Popovići.⁸²⁸ He saw that the soldiers were wearing grey-green camouflage uniforms with wide rimmed grey-green camouflage hats and that their faces were painted black.⁸²⁹ The witness heard shooting, and when the chimney of his house was hit he ran about one kilometre and hid behind a stone wall, where he continued to hear shots, see flames, and smell smoke.⁸³⁰ He returned to his home after sundown, after seeing the soldiers and the tanks leaving, and found the house ransacked and smelling of smoke.⁸³¹ Damage included broken windows, the burning of three stables and around 20 haystacks, and the

⁸²⁴ P2032 (Report on circumstances of death of Stevo Vujnović, 5 October 2004), pp. 1-2.

⁸²⁵ P2512 (Jovan Popović, witness statement, 25 January 1999), p. 1, paras 1, 4.

⁸²⁶ P2512 (Jovan Popović, witness statement, 25 January 1999), paras 3, 9.

⁸²⁷ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 11.

⁸²⁸ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 12.

⁸²⁹ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 12.

⁸³⁰ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 13.

⁸³¹ P2512 (Jovan Popović, witness statement, 25 January 1999), paras 13-14.

disappearance of Popović's guitar and several kilograms of honey.⁸³² On 7 August 1995, Popović awoke around 5 or 6 a.m. and saw soldiers in Mokro Polje through his binoculars.⁸³³ When he heard a tractor approaching Popovići he hid behind his house.⁸³⁴ He was soon approached by his father and around five soldiers who were dressed and had their faces painted like the soldiers he had seen the day before, and the witness stated that he saw the letters "HV" on oval patches on their uniforms.⁸³⁵ The witness believed one soldier, who neither wore a hat nor had his face painted black, to be the commander because he heard that soldier tell another, very young, soldier, "Little one, take him over" and add, "We must hand him over to the police".⁸³⁶ Popović told the soldiers that he had a document stating that he had not been in the army, and the soldier he believed to be the commander told him to bring it.⁸³⁷ According to the witness, the "commander" spoke with a Drniš accent, and the witness heard someone call him "Stipe".⁸³⁸ The witness went and got his documents while being escorted by the soldier called "little one", who also spoke with a Drniš accent.⁸³⁹ After Popović showed the "commander" his documents, he and his father walked to a nearby house in the hamlet with the soldiers, who told the witness to sit down.⁸⁴⁰ He watched soldiers enter every house in Popovići, forcibly opening any locked doors, taking valuable objects such as hams and television sets and placing them on a tractor.⁸⁴¹ The witness's mother came to him and told him that the "commander" had told her that the witness could return home, after which they returned home at approximately 1 p.m.⁸⁴² The witness went upstairs to his bedroom and fell asleep.⁸⁴³

230. Popović stated that he was awoken when he heard shooting and screams nearby.⁸⁴⁴ He heard the "commander" shout, "don't shoot, if you fire one more bullet I will kill you", after which he heard more shots.⁸⁴⁵ After he stood up and opened his bedroom door, he heard the downstairs entrance being closed and then someone whose

⁸³² P2512 (Jovan Popović, witness statement, 25 January 1999), paras 4, 14.

⁸³³ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 15.

⁸³⁴ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 15.

⁸³⁵ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 16.

⁸³⁶ P2512 (Jovan Popović, witness statement, 25 January 1999), paras 17-18.

⁸³⁷ P2512 (Jovan Popović, witness statement, 25 January 1999), paras 7, 18.

⁸³⁸ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 18.

⁸³⁹ P2512 (Jovan Popović, witness statement, 25 January 1999), paras 19-20.

⁸⁴⁰ P2512 (Jovan Popović, witness statement, 25 January 1999), paras 20-21.

⁸⁴¹ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 22.

⁸⁴² P2512 (Jovan Popović, witness statement, 25 January 1999), paras 23-24.

⁸⁴³ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 24.

⁸⁴⁴ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 24.

⁸⁴⁵ P2512 (Jovan Popović, witness statement, 25 January 1999), paras 24-25.

voice he did not recognize with an accent from Vodice say, “[...] I killed another one [...] that we have to burn them before the monitors come”.⁸⁴⁶ After he stepped onto his terrace, he saw the backs of two men just outside his house, both wearing grey-green camouflage uniforms with wide rimmed grey-green camouflage hats.⁸⁴⁷ Popović stated that he heard one of the men, whose voice he did not recognize, say, “is there anything else up there”, with an accent similar to the one from Vodice.⁸⁴⁸ After the men left, the witness came downstairs and saw his mother, Stana Popović (born in 1926), lying face-down in the kitchen doorway.⁸⁴⁹ He propped her up and asked her if “a rifle shot her”, she nodded, before making a gesture he believed meant that he should flee.⁸⁵⁰ She then died.⁸⁵¹ The witness then saw his mentally ill brother, Mirko Popović (born in 1953) sitting behind the open kitchen door with two bullet wounds to the forehead.⁸⁵² The witness saw a smashed window and bullet holes around the kitchen, including in the kitchen door, and he stated that it looked like bullets had been fired through the window.⁸⁵³ After escaping to the hills, at approximately 10 p.m. that night the witness met his father, Obrad Popović (born in 1920), who had wounds on his head.⁸⁵⁴ Popović’s father told him that individuals whom he did not identify had shot at him through the windows of their house, and that he had escaped by running outside.⁸⁵⁵ The witness and his father buried the bodies of his mother and brother in a cornfield later that night.⁸⁵⁶ The witness never reported what had happened to the police.⁸⁵⁷ According to the 1991 Population Census, the population of Mokro Polje, in Ervenik municipality, consisted of 801 Serbs out of a total of 803 persons in 1991.⁸⁵⁸ Popović stated that in 1995 Mokro Polje was an entirely Serb village with 380 inhabitants, of whom approximately 50 people remained after Operation Storm.⁸⁵⁹

⁸⁴⁶ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 25.

⁸⁴⁷ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 26.

⁸⁴⁸ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 27.

⁸⁴⁹ P2512 (Jovan Popović, witness statement, 25 January 1999), paras 2, 28.

⁸⁵⁰ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 28.

⁸⁵¹ P2512 (Jovan Popović, witness statement, 25 January 1999), paras 2, 28.

⁸⁵² P2512 (Jovan Popović, witness statement, 25 January 1999), paras 2, 29.

⁸⁵³ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 29.

⁸⁵⁴ P2512 (Jovan Popović, witness statement, 25 January 1999), paras 2, 30.

⁸⁵⁵ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 30.

⁸⁵⁶ P2512 (Jovan Popović, witness statement, 25 January 1999), paras 2, 31.

⁸⁵⁷ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 32.

⁸⁵⁸ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

⁸⁵⁹ P2512 (Jovan Popović, witness statement, 25 January 1999), para. 8.

231. Based on the evidence received, the Trial Chamber finds that Stana Popović and Mirko Popović were shot and killed on 7 August 1995 in Mokro Polje in Ervenik municipality. Considering that Jovan Popović was of Serb ethnicity, and based on Jovan Popović's statement that Mokro Polje was an entirely Serb village before Operation Storm, the Trial Chamber concludes that Stana Popović and Mirko Popović were of Serb ethnicity also.

232. The Trial Chamber considered the close proximity in time and space between the sound of shooting, a man saying "I killed another one ... that we have to burn them before the monitors come ...", the sighting by Jovan Popović of two men in uniforms outside his house, and the discovery by Jovan Popović of his mother and brother who had both been shot. Based on these considerations, the Trial Chamber finds that Mirko Popović and Stana Popović were shot and killed by either or both of the men wearing uniforms that Jovan Popović saw just outside his house on 7 August 1995. The Trial Chamber concludes that exhibits P1320, P1538, P1777, P2000, P2029, and P1538 do not relate to the Mirko Popović described in this incident due to inconsistencies in age, names of relatives, injuries sustained, and location of burial. Based on the witness's description of their uniforms, in particular the patches with the letters "HV", and the similarity of their uniforms to those of the men standing or sitting on tanks the previous day, the Trial Chamber finds that the approximately five men who came to Jovan Popović's house in the morning or early afternoon of 7 August 1995 were HV soldiers. Based on the similarity in the uniforms of the men who killed Stana and Mirko Popović to those of the HV soldiers at Jovan Popović's house earlier that day; the presence of HV soldiers in the area, and at his house, earlier that day; the presence of the particular HV soldier described as a "commander" near Jovan Popović's house at the time of the shootings; and the descriptions of the accents of the man or men who killed Stana and Mirko Popović as from or similar to accents from Vodice, the Trial Chamber finds that Stana and Mirko Popović were shot and killed by (an) HV soldier(s). The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in Chapters 5.3.2 and 5.8.2 (b) below.

Sava Babić (Further Clarification no. 7)

233. The Trial Chamber has received relevant evidence with regard to the alleged murder of Sava Babić primarily through the testimonies of Peter Marti, Witness 136, Alun Roberts, and documentation on criminal investigations carried out in Croatia.

234. **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,⁸⁶⁰ testified that on 28 August 1995, together with three colleagues, he found an old woman by the name of Sava Babić, born 1913, in the Babić hamlet in the Mokro Polje area in Ervenik municipality.⁸⁶¹ She was almost blind and alone in her house.⁸⁶² Marti testified that an old yellow car with flat tires was located in the yard.⁸⁶³ Marti heard that another patrol team returned without him to Sava Babić's house later and found Sava Babić dead, sitting in the yellow car with a hole in her forehead.⁸⁶⁴ **Tor Munkelien**, an UNMO based in Knin from 14 August 1995 to 1 December 1995,⁸⁶⁵ testified that on 4 September 1995 he was part of the UNMO patrol which found the body of Sava Babić who had been shot in the head and was situated in a yellow car in the hamlet of Babić in the village of Mokro Polje, Ervenik municipality.⁸⁶⁶ According to UNMO and UNCIVPOL reports dated 4 and 10 September 1995 respectively, UNMO found the body at 3:15 p.m. on 4 September 1995, it had two gunshot wounds to the head and belonged to an 82-year-old woman, whom UNMO had seen alive on 1 September 1995.⁸⁶⁷

235. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,⁸⁶⁸ testified that on 5 September 1995, she accompanied a patrol to Babići hamlet, in the village of

⁸⁶⁰ P415 (Peter Marti, witness statement, 13 February 1996), pp. 1-2; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17.

⁸⁶¹ P416 (Peter Marti, witness statement, 29 June 1997), pp. 11-12; P417 (Peter Marti, witness statement, 14 December 2007), paras 48, 64.

⁸⁶² P416 (Peter Marti, witness statement, 29 June 1997), pp. 11-12.

⁸⁶³ P416 (Peter Marti, witness statement, 29 June 1997), pp. 11-12; P417 (Peter Marti, witness statement, 14 December 2007), para. 48.

⁸⁶⁴ P416 (Peter Marti, witness statement, 29 June 1997), pp. 11-12; P417 (Peter Marti, witness statement, 14 December 2007), paras 48, 64.

⁸⁶⁵ P60 (Tor Munkelien, witness statement, 18 December 1995, co-signed by Kari Anttila), p. 1; P61 (Tor Munkelien, witness statement, 10 January 2008), paras 1, 3; D91 (Tor Munkelien, witness statement, 4 September 1999), p. 3; Tor Munkelien, T. 1514, 1546.

⁸⁶⁶ P61 (Tor Munkelien, witness statement, 10 January 2008), paras 45-46; D91 (Tor Munkelien, witness statement, 4 September 1999), p. 3; Tor Munkelien, T. 1525-1527, 1635, 1681; P69 (Photographs of the body of Sava Babić).

⁸⁶⁷ P141 (UNMO Sector South daily situation report, 8 p.m., 4 September 1995), pp. 1, 4; P248 (UNCIVPOL weekly report 4-10 September 1995, 10 September 1995), p. 6.

⁸⁶⁸ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

Mokro Polje, Ervenik municipality, where she saw the corpse of Sava Babić (67 years old) in a sitting or semi-lying position on the right front seat of a yellow car.⁸⁶⁹ The car was parked in front of Sava Babić's house, which the witness observed had been hit by an explosive device.⁸⁷⁰ Sava Babić had a big hole in the back of her head, and her brains lay on the seat of the car.⁸⁷¹ The witness stated that the day before, another translator, Biljana Trivić, had accompanied a UN patrol to the hamlet to see Sava Babić, and found her dead.⁸⁷² A few days prior, the same team had helped Sava Babić put her car back into the garage after it had been taken out by HV soldiers who Sava Babić also claimed had mistreated her.⁸⁷³ According to a UNCIVPOL incident report, dated 5 September 1995, on the same day UNCIVPOL found the body of a woman on the floor of the passenger side of a car parked in a yard in the hamlet of Babić in Kistanje. The woman had two gunshot wounds to the head. The "station commander of Knin station" informed a UNCIVPOL official that the woman was Sava Babić, age 82.⁸⁷⁴ **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,⁸⁷⁵ testified that he photographed the body on 5 September 1995.⁸⁷⁶

236. On 6 September 1995, Jan Elleby reported the killing to the Knin police commander.⁸⁷⁷ On the same day, the chief of the Kotar-Knin Police Administration, Čedo Romanić, informed the Zadar-Knin Police Administration that the chief of UNCIVPOL Sector South had requested information from the civilian police in Knin regarding the circumstances of the death of Sava Babić, the measures that had been taken, and the ways in which the on-site investigation was carried out.⁸⁷⁸ According to

⁸⁶⁹ P2 (Witness 136, witness statement, 4 July 1996), p. 14; Witness 136, T. 747-751.

⁸⁷⁰ P2 (Witness 136, witness statement, 4 July 1996), p. 14.

⁸⁷¹ P2 (Witness 136, witness statement, 4 July 1996), p. 14; Witness 136, T. 747-751.

⁸⁷² P2 (Witness 136, witness statement, 4 July 1996), p. 14.

⁸⁷³ P2 (Witness 136, witness statement, 4 July 1996), p. 14; Witness 136, T. 748.

⁸⁷⁴ P250 (UNCIVPOL incident report, S02-95/573, 5 September 1995), p. 1.

⁸⁷⁵ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

⁸⁷⁶ P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 8; P69 (Photographs of body of Sava Babić); P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 23-24.

⁸⁷⁷ D1752 (UNCIVPOL memo signed by Jan Elleby, 6 September 1995).

⁸⁷⁸ D230 (Letter from the Knin district police administration to the Zadar-Knin police administration, 6 September 1995).

this communication, Sava Babić was found on 5 September 1995 at 10:30 a.m.⁸⁷⁹ A criminal report by the Zadar-Knin Police Administration, signed by Ive Kardum and dated 19 September 1995, documents that Sava Babić, a Serb woman born 1913, was found with three entry-exit wounds to the head and two entry-exit wounds to the chest, establishing that the cause of death was “compression of the brain”.⁸⁸⁰ An on-site investigation was performed on 7 September 1995 on behalf of the Zadar County Court, during which an empty 7.62-millimetre cartridge was found at the scene.⁸⁸¹ Following on from this, a report by the Zadar-Knin Police Administration, signed by Ive Kardum and dated 2 January 1996, was sent to the Military Prosecutor in Zadar stating that, since a forensic analysis of the cartridge found at the scene indicated that it had been fired from a weapon belonging to Mario Dukić, a member of the “third Battalion of the 134th Home Guard Brigade”, there were reasonable grounds to believe that this individual was responsible for the murder of Sava Babić.⁸⁸²

237. **Ive Kardum**, Chief of the crime police department for the Zadar-Knin police administration in 1995,⁸⁸³ confirmed that he had prepared and signed a criminal report on the death of Sava Babić dated 19 September 1995.⁸⁸⁴ He also confirmed that he had prepared a special report, mentioning as a suspect Mario Dukić, a member of the 134th Home Guards Regiment, and sent it to the military prosecutor in Zadar.⁸⁸⁵ Kardum testified that Mario Dukić, identified as having killed Petar Botar, a Serb civilian on 28 September 1995 during a separate investigation, was suspected of killing Sava Babić based on forensic analysis conducted by the centre in Zagreb on a 7.62-millimetre cartridge found near Sava Babić’s body which showed that it came from the same gun as was used to kill Petar Bota.⁸⁸⁶ On 31 January 1998, the County Court in Zadar convicted Mario Dukić of murdering Petar Bota in Kolarina in Benkovac municipality,

⁸⁷⁹ D230 (Letter from the Knin district police administration to the Zadar-Knin police administration, 6 September 1995).

⁸⁸⁰ D9 (Documents of the Zadar-Knin police administration relating to the death of Sava Babić), p. 1.

⁸⁸¹ D9 (Documents of the Zadar-Knin police administration relating to the death of Sava Babić), pp. 1, 3-5.

⁸⁸² D9 (Documents of the Zadar-Knin police administration relating to the death of Sava Babić), pp. 6-9.

⁸⁸³ P2396 (Ive Kardum, witness statement, 3-4 May 2007), p. 1, paras 2-3; P2397 (Ive Kardum, witness statement, 22-23 March 2004), p. 1, paras 1-3, 12, 15, 17; Ive Kardum, T. 9231, 9251-9252, 9398, 9498-9499.

⁸⁸⁴ P2396 (Ive Kardum, witness statement, 3-4 May 2007), para. 8; Ive Kardum, T. 9328-9330, 9464-9465.

⁸⁸⁵ Ive Kardum, T. 9465-9466.

⁸⁸⁶ Ive Kardum, T. 9465-9467, 9470; P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Botar and Sava Babić), Part III, p. 17.

but acquitted him of Sava Babić's murder.⁸⁸⁷ Dukić was originally convicted of murdering Petar Bota by a Military Court in Split on 13 September 1996.⁸⁸⁸ This judgement was appealed and on 13 August 1997 the Supreme Court of Croatia in Zagreb annulled the original judgement and remanded the case to the County Court in Zadar.⁸⁸⁹ According to the judgement, at 10 p.m., on 28 September 1995 Gojko Ljutić, Mario Dukić and Neven Brčić (the accused) went to the house of Petar Bota in Kolarina (which both Dukić and Brčić identified as a Serb, or Chetnik town) with the intention of obtaining sheep.⁸⁹⁰ Considering the evidence, the Croatian Court determined that Petar Bota willingly gave his sheep to the accused that night.⁸⁹¹ Brčić and Ljutić observed Dukić arguing with Bota while they carried sheep towards their van.⁸⁹² As Brčić and Ljutić arrived at the van, both heard a pair of gunshots.⁸⁹³ During the investigation and at trial, Dukić stated that he carried a pistol in his belt on the night of the incident.⁸⁹⁴ During the investigation, Dukić also stated he could not remember killing Bota, and that he was drunk on the night of the incident, and at trial Dukić repeated his earlier statements and added that he may have heard a shot fired but did not know who fired it.⁸⁹⁵ Evidence from a pathologist introduced to the Croatian Court showed that Bota sustained two gunshot wounds, one of which was to the chest, and fatal.⁸⁹⁶ A ballistics report confirmed that the *Crevena zastava* M-57 pistol, confiscated from Dukić, had fired the cartridge found at the crime scene.⁸⁹⁷ Relying on the evidence before it, the

⁸⁸⁷ Mladen Bajić, T. 20837-20838; P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), pp. 1, 35-37, 45-47, 49-53.

⁸⁸⁸ P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), Part I, p. 19.

⁸⁸⁹ P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), Part III, p. 4.

⁸⁹⁰ P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), Part III, p. 1, 9.

⁸⁹¹ P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), Part III, pp. 5-7, 9-10, 15.

⁸⁹² P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), Part III, pp. 6, 8.

⁸⁹³ P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), Part III, pp. 7-8.

⁸⁹⁴ P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), Part III, p. 4-5.

⁸⁹⁵ P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), Part III, pp. 4-5.

⁸⁹⁶ P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), Part III, p. 10.

⁸⁹⁷ P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), Part III, p. 11.

Croatian Court found that Dukić fired two shots at Bota, killing him.⁸⁹⁸ Dukić's acquittal in the Sava Babić case was based on, *inter alia*, the County Court's finding that Mario Dukić purchased the pistol used to kill Sava Babić in mid-September 1995 while Sava Babić died, according to the County Court, between 1 and 5 September 1995.⁸⁹⁹

238. The evidence indicates that sometime between 1 and 4 September 1995, Sava Babić died from gunshot wounds to the head in Mokro Polje, a hamlet in Ervenik municipality. In this regard, the Trial Chamber is aware that part of the evidence refers to Mokro Polje as being located in the Kistanje area, however it has concluded that this was due to clerical errors and/or to the fact that Mokro Polje is situated roughly at the same distance from both Ervenik and Kistanje. The evidence also indicates that Sava Babić was of Serb ethnicity and that, on 1 September 1995, she told international observers that HV soldiers had mistreated her. The Trial Chamber received evidence that, at the time, Croatian investigators suspected Mario Dukić, a member of the 3rd battalion of the 134th Home Guard Regiment, of murdering Sava Babić because a 7.62-millimetre cartridge identified as being fired from his gun was found in the vicinity of her body. However, the same source also indicates that Mario Dukić purchased the gun used to kill Sava Babić sometime after her death, and that this led, together with other factors, to Dukić's acquittal. Under these circumstances, there is insufficient evidence as to by whom the victim was killed. Therefore, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

4.1.7 Gračac municipality

Dušan Brkić (Further Clarification no. 22)

239. The Trial Chamber has received relevant evidence with regard to the alleged murder of Dušan Brkić, through the testimonies of Laila Malm and Bogdan Brkić, as well as forensic documentation. **Laila Malm**, a UNCIVPOL member working in Knin, Benkovac, Gračac, and Obrovac municipalities between 26 August and December

⁸⁹⁸ P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Bota and Sava Babić), Part III, p. 1.

⁸⁹⁹ P2611 (Documentation on legal proceedings against Dukić, Ljutić, and Brčić for the murder of Petar Botar and Sava Babić), pp. 51-52.

1995,⁹⁰⁰ testified that on 6 September 1995, she patrolled the village of Palanka, Gračac municipality, and was told by Boško Brkić and Kata Čuk that Dušan Brkić (born 1926), who had been dressed in military uniform but was unarmed, had been shot by Croatian soldiers who later burned his body.⁹⁰¹ In addition to this evidence, the Trial Chamber has considered evidence of Bogdan Brkić (reviewed in chapter 4.3.7) in relation to this incident.

240. According to the forensic documentation, decomposing body number 395 was retrieved on 15 September 1995 from the village of Palanka, Gračac municipality, and was identified by Bogdan Brkić from Palanka as Dušan Brkić born in Palanka on 19 August 1926, and buried in the City cemetery in Gračac.⁹⁰² Body G07/022B exhumed from a cemetery in Gračac on 29 May 2002 with a metal tag numbered 395, was an approximately 1.79-metre-tall male between 40 and 55 years old, wearing a partially burned and shredded olive-green shirt with epaulettes and blue-orange striped nylon shorts, whom the forensic pathologist found most likely died from explosive injuries.⁹⁰³ On 29 September 2003, at the Zagreb Institute for Forensic Medicine and Criminology, body G07/022B was identified as Dušan Brkić, born in 1926.⁹⁰⁴ According to a report of the Zagreb Forensic Institute, dated 29 September 2003 and based on details provided by his daughter, Dušan Brkić, a Serb of SFRY citizenship born in Palanka on 20 August 1926, died on 13 August 1995 in Palanka, probably due to explosive injuries.⁹⁰⁵

241. The evidence indicates that the body of Dušan Brkić, born in 1926, was found in the morning of 9 August 1995 with a bullet mark on his left side. The Trial Chamber also received evidence that a person referred to as a Croatian soldier had told Bogdan Brkić that he had killed Brkić's neighbour. The Trial Chamber considers that there is insufficient evidence to connect the soldier's comment specifically to the murder of Dušan Brkić. Further, the hearsay evidence from Boško Brkić and Kata Čuk insufficiently establishes their source of knowledge in relation to the incident. The Trial

⁹⁰⁰ P774 (Laila Malm, witness statement, 30 July 2008, corrected 4 September 2008), paras 1, 13; Laila Malm, T. 8147; P775 (Map of Gračac area, marked by Laila Malm).

⁹⁰¹ Laila Malm, T. 8199-8201; P789 (UNCIVPOL incident report, S05-95-086, 6 September 1995).

⁹⁰² P1327 (Information on Dušan Brkić, including photo), p. 1; P1544 (Autopsy report of G07/022B, 9 October 2002), pp. 15-17.

⁹⁰³ P1544 (Autopsy report of G07/022B, 9 October 2002), pp. 1-2, 6, 11, 13-14, 19; P1778 (Photo of bones of G07/022B); P1779 (Photo of clothes of G07/022B); P1780 (Photo of bones of G07/022B); D1410 (Autopsy report of G07/022B, 9 October 2002), pp. 1-5, 7.

⁹⁰⁴ P669 (List of identified persons exhumed in Knin and Gračac from the Croatian Government Office for Co-operation with ICTY and ICC, 2 October 2003); D1410 (Autopsy report of G07/022B, 9 October 2002), p. 7.

Chamber considers their evidence regarding the perpetrator to be uncorroborated, and as the date of the incident is unclear, this hearsay evidence cannot be corroborated by evidence of troop presence in or near Palanka at any specific time. In addition, the forensic evidence indicates explosive injuries as the probable cause of death. Therefore, although the evidence indicates that Dušan Brkić was killed, there is insufficient evidence showing when, by whom, and the circumstances under which he was killed. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

Vlado Milanović and Đurad Čanak (Further Clarification nos 25-26)

242. The Trial Chamber has received relevant evidence with regard to the alleged murder of Vlado Milanović and Đurad Čanak primarily through the testimony of Pero Perković and documentation related to the Croatian criminal investigation into the matter.

243. **Pero Perković**, a Croat from the village of Vodice and a member of the HV 15th Home Guards Regiment prior to, during, and after Operation Storm,⁹⁰⁶ testified that one day, when he and others were mopping up the terrain in the Zrmanja area, Gračac municipality, Nikola Rašić tied an old man, named Đurad Čanak, to a railing and set some rags around him on fire.⁹⁰⁷ When Čanak confessed that he had a rifle, he was untied and took the group to the forest where he handed over the weapon.⁹⁰⁸ When they returned from the forest to go back to their unit, the group encountered Milenko Hršić as well as Ivica Petrić, who was furious when he heard that the man had given a weapon to them.⁹⁰⁹ Perković stated that he subsequently heard that an old man got killed, which he presumed was this old man because he was the only one in their close proximity, and that his battalion commander, Ante Belak, was furious when he heard about the incident.⁹¹⁰ Hršić and Petrić were both charged with this offence and Petrić was

⁹⁰⁵ P2034 (Report on circumstances of death of Dušan Brkić, 29 September 2003), pp. 1-2.

⁹⁰⁶ Pero Perković, T. 19448, 19451, 19470, 19511, 19527, 19546-19547.

⁹⁰⁷ Pero Perković, T. 19454, 19456, 19466, 19468-19469, 19489-19491.

⁹⁰⁸ Pero Perković, T. 19466-19467.

⁹⁰⁹ Pero Perković, T. 19467-19469, 19482-19483; D1542 (MUP official note of interview with Milenko Hršić, 18 October 1995), pp. 1-3.

⁹¹⁰ Pero Perković, T. 19466-19468, 19471.

sentenced to six years imprisonment.⁹¹¹ In addition to this evidence, the Trial Chamber has considered evidence of the same witness reviewed in chapter 4.2.7.

244. According to a UNCIVPOL incident report, dated 6 September 1995, Dušan Suica from Zrmanja in Gračac municipality informed UNCIVPOL that Croatian soldiers had shot Serbs Vlado Milanović, age 50, and Đuro Canak, age 62 or 63, during “some of the first days of the attack”.⁹¹²

245. **Ivan Galović**, District Public Prosecutor in Zadar since 1990,⁹¹³ testified that in mid-August 1995, accused persons Ivica Petrić and Milenko Hrستیć were in the village of Zrmanja, Gračac municipality, where they were stationed as HV members.⁹¹⁴ He stated that according to a witness, Petrić asked the victim, Đurad Čanak, if he had any hunting rifles, to which Čanak said he had none.⁹¹⁵ Galović testified that after Petrić and Hrستیć later learned from some of their colleagues that two rifles were seized from Čanak, they killed him in retaliation for his dishonesty by firing several shots at him.⁹¹⁶ Petrić and Hrستیć were then charged with murder in connection with this event.⁹¹⁷ According to Galović, outside of the specific murder of Čanak in Zrmanja, no mention was made of the civilian or military status of the accused in the indictments of other similar incidents.⁹¹⁸ The Trial Chamber has further considered evidence of Željko Žganjer reviewed in chapter 6.2.5.

246. On the basis of P1076, the Trial Chamber finds that in Zrmanja on a day in mid August 1995, Ivica Petrić shot Đurad Čanak several times, including in the chest, which resulted in Čanak’s death.⁹¹⁹ On this day, Petrić and Milenko Hrستیć had met Nikola Rašić and Zvornimir Lasan, who had obtained two hunting rifles from Čanak. Petrić believed Čanak had previously told other soldiers that he had no weapons, and asked

⁹¹¹ Pero Perković, T. 19467-19468, 19487; P2560 (Transcript of a Zadar Court hearing, 25 June 1996), pp. 4-5.

⁹¹² P252 (UNCIVPOL incident report, S05-95/088, 6 September 1995).

⁹¹³ D1553 (Ivan Galović, witness statement, 18 May 2009), pp. 1-2, 5; Ivan Galović, T. 19666-19669.

⁹¹⁴ D1553 (Ivan Galović, witness statement, 18 May 2009), p. 7; P2582 (Indictment of Perković, Rašić, Petrić, Ladović and Hrستیć in Zadar County Court Concerning Varivode killing, 13 February 1996), p. 3.

⁹¹⁵ D1553 (Ivan Galović, witness statement, 18 May 2009), p. 7; P2582 (Indictment of Perković, Rašić, Petrić, Ladović and Hrستیć in Zadar County Court Concerning Varivode killing, 13 February 1996), p. 3.

⁹¹⁶ D1553 (Ivan Galović, witness statement, 18 May 2009), p. 7; P2582 (Indictment of Perković, Rašić, Petrić, Ladović and Hrستیć in Zadar County Court Concerning Varivode killing, 13 February 1996), p. 3.

⁹¹⁷ D1553 (Ivan Galović, witness statement, 18 May 2009), p. 7; P2582 (Indictment of Perković, Rašić, Petrić, Ladović and Hrستیć in Zadar County Court Concerning Varivode killing, 13 February 1996), pp. 3-4.

⁹¹⁸ Ivan Galović, T. 19821-19822.

Čanak about the weapons before he shot him. The Trial Chamber notes in this regard that the District Court in Zadar convicted Petrić on 27 May 1997 of the murder of Đurad Čanak and that there is no indication in the evidence that this judgement in respect of Petrić did not become final under Croatian law. On the basis of P1076 and the evidence of Perković, the Trial Chamber finds that Ivica Petrić was a member of the HV 15th Home Guard Regiment, 2nd Battalion, 2nd Company, and was engaged in mop-up operations in the area of Zrmanja on the day he killed Đurad Čanak. Based on a number of similarities, the Trial Chamber considers that UNCIVPOL's incident report of 6 September 1995 in relation to the shooting of Đuro Canak relates to the same incident. According to this report, Dušan Suica, who was also from Zrmanja, referred to Đurad Čanak as a Serb. Based on this evidence, the Trial Chamber finds that Đurad Čanak was a Krajina Serb. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 (b) below.

247. The evidence suggests that Vlado Milanović was killed by persons referred to as Croatian soldiers in early August 1995. There is insufficient relevant evidence as to where, the circumstances under which, and by whom the victim was killed. Under these circumstances the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

Milan Marčetić and Dušan Šuica (Further Clarification nos 27-28)

248. The Trial Chamber has received relevant evidence with regard to the alleged murder of Milan Marčetić and Dušan Šuica primarily through the testimonies of Peter Marti and Maria Teresa Mauro as well as HRAT and UNCIVPOL reports.

249. **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,⁹²⁰ testified that on one of his missions after Operation Storm, he and his team met Milan Marčetić, a Serb male born in 1948, in the hamlet of Gudura in Zrmanja village, Gračac municipality.⁹²¹ Marčetić explained to them that he

⁹¹⁹ Although the spelling of the victim's first name differs somewhat in different pieces of evidence, as does the age of the victim in P1076 and P252, the Trial Chamber is convinced, based on the description of the relevant events, that the different pieces of evidence refer to the same person: Đurad Čanak.

⁹²⁰ P415 (Peter Marti, witness statement, 13 February 1996), pp. 1-2; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17.

⁹²¹ P415 (Peter Marti, witness statement, 13 February 1996), pp. 2-3; P417 (Peter Marti, witness statement, 14 December 2007), paras 11-12; P425 (UNCIVPOL incident report, S05-95-282, 7 October 1995 and HRAT report, 9 October 1995), pp. 1-2.

believed that the HV would leave him in peace because he had a paper to certify that he had never served in the SVK.⁹²² A few days later the same team, without the witness, came back to this village and found Marčetić killed.⁹²³ Members of UNCIVPOL visited the hamlet of Gudura sometime on 7 October 1995 and spoke to a Serb villager, Sava Trivić, born 1928, who told them that on 29 September 1995 at around 4:30 p.m., eight to ten men in military uniforms, driving two armoured white cars, entered the hamlet and searched the houses.⁹²⁴ She heard some shots, and later when the soldiers left the hamlet, Janka Krkljes, born 1933, found the body of Milan Marčetić on the street near his house with four bullet wounds in his chest.⁹²⁵ Sava Trivić informed the team that the same soldiers went to the house of Dušan Šuica born 1927, and that his body was found in a stable two days later by someone from Šibenik, who informed the police.⁹²⁶

250. **Maria Teresa Mauro**, a UN civil affairs officer and HRAT member in the former Sector South based in Knin from March to December 1995,⁹²⁷ visited on 9 October 1995 the Zrmanja valley, in Gračac municipality, and was told by some of the residents that on 29 September 1995, two men, named Milan Marčetić (born 1948) and Dušan Šuica (born 1927), were shot dead by a group of six uniformed men.⁹²⁸ Milan's mother, Smilka Marčetić, stated that at around 4 p.m. three uniformed men carrying weapons asked Milan Marčetić to show them his Croatian documents and then dragged him out of her house.⁹²⁹ Approximately ten minutes later shots were heard a couple of hundred metres from the house.⁹³⁰ Smilka Marčetić told HRAT that a neighbour then went in the direction of where the shots were heard and found the body of Milan

⁹²² P415 (Peter Marti, witness statement, 13 February 1996), pp. 2-3; P417 (Peter Marti, witness statement, 14 December 2007), paras 11-12; Peter Marti, T. 4627-4629.

⁹²³ P415 (Peter Marti, witness statement, 13 February 1996), pp. 2-3; P417 (Peter Marti, witness statement, 14 December 2007), paras 11-12; Peter Marti, T. 4627-4629; P425 (UNCIVPOL incident report, S05-95-282, 7 October 1995 and HRAT report, 9 October 1995), pp. 2-3.

⁹²⁴ P417 (Peter Marti, witness statement, 14 December 2007), para. 12; P425 (UNCIVPOL incident report, S05-95-282, 7 October 1995 and HRAT report, 9 October 1995), p. 1.

⁹²⁵ P425 (UNCIVPOL incident report, S05-95-282, 7 October 1995 and HRAT report, 9 October 1995), pp. 1-2.

⁹²⁶ P425 (UNCIVPOL incident report, S05-95-282, 7 October 1995 and HRAT report, 9 October 1995), p. 1.

⁹²⁷ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

⁹²⁸ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), paras 53-54; P1106 (HRAT report, 9 October 1995), pp. 1-2; P1107 (HRAT report, 6-11 October 1995), p. 3.

⁹²⁹ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), p. 2.

⁹³⁰ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), p. 2.

Marčetić.⁹³¹ According to the villagers HRAT spoke to, Dušan Šuica was having a conversation with some of his neighbours in one of the houses in the hamlet around 5 p.m. on 29 September 1995.⁹³² He left the house at 5:15 p.m. and the persons who were having a conversation with him then heard a few shots.⁹³³ A few minutes later, six uniformed men arrived at the place Dušan Šuica had just left and requested the persons there to show them their Croatian documents.⁹³⁴ Two of the villagers were relatives of one of the soldiers, while one villager had an HV ID card.⁹³⁵ According to the villagers, this was the reason the perpetrators did not kill anybody else.⁹³⁶ The villagers stated that four bullet holes were visible in the chest of Milan Marčetić's body, and that Šuica's blackened body was found on 2 October 1995 with lots of blood on his chest and a patch of blood on his forehead.⁹³⁷ On 30 September 1995, Croatian police arrived at the scene and took the bodies (which were later returned) for autopsy and a few days later they drove two villagers to Zadar to assist with the identification of three suspects.⁹³⁸ These two villagers told Mauro that they could not identify the perpetrators among the suspects and stressed that even if they could, they would not have done so out of fear of retaliation.⁹³⁹ HRAT met four anti-terrorist policemen from Zadar, who said that they were under instructions since 30 September 1995 to patrol the area on a 24-hour basis, and also met Croatian civilian police, who were under the same instructions.⁹⁴⁰

251. A criminal report by the Zadar-Knin Police Administration concerning the murders of Milan Marčetić and Dušan Šuica, dated 5 October 1995, records that on-site investigations of these murders were conducted on 1 and 3 October 1995 respectively, by the Investigative Judge of the Zadar county court and members of the police crime

⁹³¹ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), p. 2.

⁹³² P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), p. 2.

⁹³³ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), p. 2.

⁹³⁴ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), p. 2.

⁹³⁵ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), pp. 2-3.

⁹³⁶ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), pp. 2-3.

⁹³⁷ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), p. 2.

⁹³⁸ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), p. 2.

⁹³⁹ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), p. 3.

investigation department. Casings that were determined to “probably” be from a 7.62-millimetre calibre rifle were discovered at both scenes. Members of the police crime investigation department of the Gračac third police station conducted interviews with Smiljka Marčetić, Simeon Marčetić, Sava Trivić, Boško Lukić, Milan Puača, and Duro Puvoac. The criminal report records that both the men were taken from their homes by unknown perpetrators, and that independently of each other, they were shot multiple times. Milan Marčetić had seven bullet wounds, with the cause of death a contusion of the cervical spine cord and hemorrhagic shock. Dušan Šuica had eight bullet wounds, with the cause of death determined to be a contusion of the brain.⁹⁴¹ The report concludes by stating that the members of the police administration were conducting necessary measures to investigate the crimes.⁹⁴²

252. In a letter, the ICRC reported to Čermak that Smilja Marčetić and a neighbour could confirm that Milan Marčetić (born 1948) had died of an entry-and-exit wound in the chest.⁹⁴³ According to the ICRC letter, the murders were reported to the police, who reportedly found Dušan Šuica’s body on 2 October 1995, after which Dušan Šuica and Milan Marčetić’s bodies were buried with the help of the Gračac Civilian Police.⁹⁴⁴

253. According to a letter of 10 October 1995 from Cetina to Čermak, on 29 September 1995 around 5 p.m., Milan Marčetić and Dušan Šuica were taken from their homes in Gudure hamlet in Zrmanja village in Gračac municipality, by unidentified persons. Pursuant to an on-site investigation conducted on 1 October 1995 by the Zadar County Court Investigative Judge, a pathologist and officers of the Zadar-Knin Police Administration, at the sites where Marčetić’s and Šuica’s bodies were found, established that both victims died from gunshot wounds.⁹⁴⁵

254. The Trial Chamber finds that on 29 September 1995, between eight and ten armed men in military uniforms entered the village of Zrmanja, Gračac municipality, in two armoured white cars. Between approximately 4 and 4:30 p.m., three of the uniformed men entered Smilka Marčetić’s house, and dragged her son, Milan Marčetić,

⁹⁴⁰ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 53; P1106 (HRAT report, 9 October 1995), p. 3.

⁹⁴¹ D390 (Zadar-Knin Police Administration criminal report for murders of Milan Marčetić and Dušan Šuica, 5 October 1995), pp. 1-2.

⁹⁴² D390 (Zadar-Knin Police Administration criminal report for murders of Milan Marčetić and Dušan Šuica, 5 October 1995), p. 3.

⁹⁴³ D1756 (ICRC letter to Ivan Čermak, 7 September 1995), p. 3.

⁹⁴⁴ D1756 (ICRC letter to Ivan Čermak, 7 September 1995), p. 4.

⁹⁴⁵ P2649 (Correspondence from Ivica Cetina to Ivan Čermak, 10 October 1995), p. 2.

out after asking to see his Croatian ID card. Shots were then heard a couple of hundred metres away within approximately ten minutes of Milan Marčetić being dragged out of his mother's house, while his body was later found by a local resident with four bullet wounds to his chest and seven bullet wounds in total. Based on the description of Milan Marčetić as a Serb, the Trial Chamber finds that he was of Serb ethnicity. Further, the Trial Chamber finds that these three uniformed persons killed Milan Marčetić.

255. At approximately 5 p.m. on the same day, Dušan Šuica was having a conversation with his neighbours in a house in the hamlet of Gudura in Zrmanja, Gračac municipality. He left the house at approximately 5:15 p.m., whereafter the persons that previously had a conversation with him heard shots fired. The Trial Chamber finds that a few minutes later, six uniformed men went to the house that Dušan Šuica had just departed from, and asked the villagers to show their Croatian documents. According to the evidence, the uniformed men did not kill the villagers as one of them presented an HV ID card and two of them were relatives of one of the uniformed men. The Trial Chamber finds that Dušan Šuica's blackened body was found two to three days later in a nearby stable, with eight bullet wounds and blood on his chest and forehead. According to the 1991 Population Census, Zrmanja was an all Serb village and based on this the Trial Chamber finds that Dušan Šuica was Serb. Based on the foregoing, the Trial Chamber finds that these six uniformed persons killed Dušan Šuica.

256. Based on the fact that the uniformed men arrived in armoured vehicles carrying weapons, the fact that Milan Marčetić was asked to produce his Croatian ID card, and the fact that Dušan Šuica's neighbours were treated leniently after presenting an HV ID card, the Trial Chamber finds that they were members of Croatian military forces or Special Police. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 (b) below.

Vlade Sovilj (Further Clarification no. 44)

257. The Trial Chamber has received relevant evidence with regard to the alleged murder of Vlade Sovilj, primarily through the testimony of Mile Sovilj and forensic documentation. **Mile Sovilj**, a Serb journalist from Gračac,⁹⁴⁶ left Gračac and went to

⁹⁴⁶ P86 (Mile Sovilj, witness statement, 22 February 2007), p. 1, paras 1-4; P87 (Mile Sovilj, witness statement, 23 April 2008), p. 1; Mile Sovilj, T. 2216, 2238-2239; P88 (Map of Gračac area, marked by Mile Sovilj), location "A"; D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), paras 2, 7.

Kijani in Gračac municipality around 4 p.m. on 4 August 1995.⁹⁴⁷ He told his family there to leave the village for security reasons because the HV might have entered the area.⁹⁴⁸ While most of the families in Kijani were getting ready to leave, Sovilj's father, Vlade Sovilj, did not want to do so, saying that he had heard hourly radio announcements of Franjo Tuđman's proclamation telling people not to leave their homes as nothing would happen to them.⁹⁴⁹ Around 1 a.m. on 5 August 1995, the witness left Kijani by truck with about ten people from two or three of the Sovilj families in the village.⁹⁵⁰ Having reached Serbia on 6 August 1995, the witness once again tried to convince his father to leave the village, but he refused.⁹⁵¹ Ten to fifteen days later, Sovilj reported to the Red Cross in Serbia, UNPROFOR, Veritas, and one local human rights organization that his father had disappeared.⁹⁵² The organizations were unable to tell him anything about his father.⁹⁵³ The witness later heard that his father was killed by Croatian forces on or about 8 August 1995, along with 13 others who had remained behind in Kijani.⁹⁵⁴ According to the witness, others killed in Kijani were predominantly elderly villagers, and named the following persons whose deaths he did not witness: Mara Sovilj (approximately 70 years old), Mira Sovilj (approximately 45 years old), Radomir Sovilj (approximately 42 years old), Danica Sovilj (approximately 60 years old), Maria Jelača (approximately 75 years old), Mileva Kolundić (approximately 60 years old), Dane Bolta (approximately 75 years old), Dušan Kesić (approximately 60 years old), Sava Bolta, Branko Jelača, Milica Jelača, Ana Jelača, and Smilja Jelača.⁹⁵⁵

⁹⁴⁷ P86 (Mile Sovilj, witness statement, 22 February 2007), para. 7; P87 (Mile Sovilj, witness statement, 23 April 2008), para. 8; Mile Sovilj, T. 2217; P88 (Map of Gračac area, marked by Mile Sovilj), location "H"; D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), para. 9.

⁹⁴⁸ Mile Sovilj, T. 2221; D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), para. 9.

⁹⁴⁹ P86 (Mile Sovilj, witness statement, 22 February 2007), paras 8-9; P87 (Mile Sovilj, witness statement, 23 April 2008), paras 10-11; Mile Sovilj, T. 2220-2221.

⁹⁵⁰ P86 (Mile Sovilj, witness statement, 22 February 2007), para. 12; P87 (Mile Sovilj, witness statement, 23 April 2008), paras 9, 13; D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), para. 9.

⁹⁵¹ P86 (Mile Sovilj, witness statement, 22 February 2007), para. 12; Mile Sovilj, T. 2221.

⁹⁵² Mile Sovilj, T. 2221.

⁹⁵³ Mile Sovilj, T. 2221.

⁹⁵⁴ P86 (Mile Sovilj, witness statement, 22 February 2007), paras 10, 14; P87 (Mile Sovilj, witness statement, 23 April 2008), para. 11; Mile Sovilj, T. 2222-2224; P89 (Report on circumstances of death of Vlade Sovilj, issued by the Zagreb Forensic Institute, 14 December 2004); P90 (List of people exhumed from the cemeteries of Gračac, Knin, and Korenica, and identified on 14 December 2004); D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), para. 11.

⁹⁵⁵ P86 (Mile Sovilj, witness statement, 22 February 2007), para. 11; P87 (Mile Sovilj, witness statement, 23 April 2008), para. 12; Mile Sovilj, T. 2223-2224; P90 (List of people exhumed from the cemeteries of Gračac, Knin, and Korenica, and identified on 14 December 2004); D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), para. 11.

258. According to a Croatian identification form, a completely burned body, numbered 302, was recovered from Bruvno, Gračac municipality, on 12 August 1995, and buried in a local cemetery in Gračac.⁹⁵⁶ Body G04/014B, exhumed with a metal tag marked “302” from a cemetery in Gračac on 3 June 2002, was a burned 1.76-metre-tall male between 60 and 70 years old, wearing partly burned clothes including a brown suit jacket, a blue/grey diamond-patterned woollen sweater, another thinner blue sweater with red stripes, and one rubber sole, and had, among other injuries, a gunshot injury to the trunk, which was found by a forensic pathologist to be the cause of death.⁹⁵⁷ In 2004, Croatian authorities in Zagreb identified by DNA analysis body G04/014B, exhumed from Gračac cemetery, as Vlade Sovilj, born in 1931.⁹⁵⁸ According to a report of the Zagreb Institute for Forensic Medicine dated 14 December 2004 and based on details provided by his sister, Vlade Sovilj, a Serb born in 1930, died from a gunshot injury to the chest in Gračac, on 8 August 1995.⁹⁵⁹

259. The evidence indicates that Vlade Sovilj was killed by a gunshot to his trunk on or about 8 August 1995 in Gračac municipality. However, the Trial Chamber has received insufficient evidence regarding the circumstances under which or by whom Vlade Sovilj was killed. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrator. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

Mira and Radomir (Braco) Sovilj (Further Clarification nos 62-63)

260. The Trial Chamber has received relevant evidence with regard to the alleged murder of Mira and Radomir Sovilj primarily through documentation related to a Croatian criminal investigation into the matter, as well as forensic documentation.

⁹⁵⁶ P91 (Autopsy report of G04/014B, 26 September 2002), p. 17; P1339 (Information on body, ID No. 302, with photograph).

⁹⁵⁷ P91 (Autopsy report of G04/014B, 26 September 2002), pp. 1-3, 7, 12-13, 15-16, 18-20, 23-24, 26, 30; P92 (Photos of clothes, metal tag and cigarillos box, marked G04/014B); P1783 (Photo of a bullet, marked G04/014B); P1784 (Photo of a bone of G04/014B).

⁹⁵⁸ P86 (Mile Sovilj, witness statement, 22 February 2007), para. 10; Mile Sovilj, T. 2222-2223; P89 (Report on circumstances of death of Vlade Sovilj, issued by the Zagreb Forensic Institute, 14 December 2004); P90 (List of people exhumed from the cemeteries of Gračac, Knin, and Korenica, and identified on 14 December 2004).

⁹⁵⁹ P89 (Report on circumstances of death of Vlade Sovilj, 14 December 2004).

261. **Ive Kardum**, Chief of the crime police department for the Zadar-Knin police administration in 1995,⁹⁶⁰ testified that he and others carefully investigated the deaths of members of the Sovilj family in 2001 or 2002, upon being informed by one of Kardum's policemen that a Croatian soldier of Serb ethnicity had murdered a man right after Operation Storm due to some property issues.⁹⁶¹ The murdered man and Mira Sovilj were buried in a graveyard.⁹⁶² Kardum testified that his police searched a home and found a small pile of charred remains that they sent to a forensic lab to test whether they were human remains.⁹⁶³ According to Kardum, they had not managed to establish that the Croatian soldier of Serb ethnicity was the killer.⁹⁶⁴

262. According to a Croatian MUP report, Mira Sovilj, born on 3 September 1950, and Radomir "Braco" Sovilj, born on 14 February 1952, were killed in front of their family home in Kijani in August 1995. The report further stated that two decomposing bodies were found on 10 September 1995 and identified by Vladimir Pavletić as Mira Sovilj and Braco Sovilj. Civilian Protection disposed of the bodies at Gračac city cemetery, under number 384 (ID number 388) for Mira Sovilj, and number 385 (ID number 389) for Braco Sovilj. A special report was sent to the County Public Prosecutor in Zadar, informing him of the matter.⁹⁶⁵ At the same time as these two victims were killed, their mother Mara Sovilj burned to death in her family home in Kijani.⁹⁶⁶ The MUP report also named a suspected perpetrator, who might have been a member of the HV during the Homeland War.⁹⁶⁷ Mile Sovilj testified that he had heard at the time that that person, who was the next door neighbour of most of the people killed, was the alleged perpetrator of those crimes.⁹⁶⁸

263. The Trial Chamber has received forensic evidence with regard to both victims. According to this, a decomposing body, numbered 388, approximately 1.70 metres in length, was found with a white, short-sleeved T-shirt, blue denim skirt and blue plastic slippers on 10 September 1995 in Gornji Kijani, Gračac municipality, identified by

⁹⁶⁰ P2396 (Ive Kardum, witness statement, 3-4 May 2007), p. 1, paras 2-3; P2397 (Ive Kardum, witness statement, 22-23 March 2004), p. 1, paras 1-3, 12, 15, 17; Ive Kardum, T. 9231, 9251-9252, 9398, 9498-9499.

⁹⁶¹ Ive Kardum, T. 9504-9505.

⁹⁶² Ive Kardum, T. 9504-9505.

⁹⁶³ Ive Kardum, T. 9505.

⁹⁶⁴ Ive Kardum, T. 9505.

⁹⁶⁵ D133 (MUP Zadar report on the killings in Kijani, 14 February 2002), p. 1.

⁹⁶⁶ D133 (MUP Zadar report on the killings in Kijani, 14 February 2002), pp. 1-2.

⁹⁶⁷ D133 (MUP Zadar report on the killings in Kijani, 14 February 2002), pp. 2, 4.

⁹⁶⁸ Mile Sovilj, T. 2235.

Vladimir Pavletić as Mirna Sovilj born on 19 September 1950 in Kijani, and buried at a city cemetery in Gračac.⁹⁶⁹ The remains of body G06/021B, exhumed on 6 June 2002 from a cemetery in Gračac with a metal tag marked “388”, jeans-type skirt or trousers with traces of burning, and three rings, one being a wedding band, and a gold necklace, was an approximately 1.80-metre-tall female between 45 and 65 years old, with injuries to the head and trunk, which the forensic pathologist found to probably reflect lethal explosive blast injuries.⁹⁷⁰ Dr. Eric Baccard, who worked for the Office of the Prosecutor at the International Criminal Tribunal for the Former Yugoslavia as a Forensic Pathologist in July 1999 and from October to November 1999, and as Chief Forensic Pathologist from March 2000 to November 2000,⁹⁷¹ testified that injuries to body G06/021B were consistent with gunshots or projectiles to the head and trunk, and that gunshots and/or an explosion were likely hypotheses.⁹⁷²

264. Another decomposing body, numbered 389, approximately 1.80 metres in length, was found with a short-sleeved shirt, blue denim trousers and low leather shoes on 10 September 1995 in Gornji Kijani in Gračac municipality, identified by Vladimir Pavletić as Braco Sovilj, and buried at a cemetery in Gračac.⁹⁷³ Dr. Eric Baccard testified with regard to body G06/020B that he agreed with the report of Dr. Definis, and found that the findings were consistent with a high velocity projectile to the skull.⁹⁷⁴

265. The evidence indicates that Mira and Radomir (Braco) Sovilj were killed in Kijani in Gračac municipality in August 1995. While the Trial Chamber notes some minor discrepancies in the forensic evidence regarding the spelling of Mira’s name, and her date of birth, various similarities, particularly with regard to identification number 388, indicate that the person described in the evidence is the same Mira Sovilj. There is insufficient reliable evidence as to the circumstances under which, and by whom the victim was killed. While the evidence identifies a suspected perpetrator, it provides no

⁹⁶⁹ P1356 (Information on identified body, ID No. 388, with photograph), pp. 1-2; P1559 (Autopsy report of G06/021B, 17 October 2002), pp. 15-17.

⁹⁷⁰ P1559 (Autopsy report of G06/021B, 17 October 2002), pp. 1-2, 5-6, 12, 14, 19, 23, 26; P1805 (Photograph of bones, G06/021B); P1806 (Photograph of remains of clothes and personal possessions, G06/021B); P1807 (Photograph of skull, G06/021B).

⁹⁷¹ Eric Baccard, T. 15740-15742; P2313 (Curriculum Vitae of Dr. Eric Baccard, 3 October 2008), p. 2; P2314 (Redacted Report on Autopsies of Victims Exhumed from Korenica and Gračac in 2002, 6 June 2003), p. 4.

⁹⁷² P2314 (Redacted Report on Autopsies of Victims Exhumed from Korenica and Gračac in 2002, 6 June 2003), pp. 98-99.

⁹⁷³ P1357 (Information on body ID No. 389, with photograph), pp. 1-2.

factual basis on which the Trial Chamber could conclude that that person actually carried out the killings. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrator. Under these circumstances the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

4.1.8 Kistanje municipality

Uroš Šarić and Uroš Ognjenović (Schedule no. 8)

266. The Trial Chamber has received relevant evidence with regard to the alleged murder of Uroš Šarić and Uroš Ognjenović primarily through the testimonies of Mirko Ognjenović and Radoslav Ognjenović and through documentation related to the criminal investigation into the two alleged murders.

267. **Mirko Ognjenović**, a Serb born in 1921 from the village of Kakanj in Kistanje municipality,⁹⁷⁵ testified that on 18 August 1995, at approximately 8:30 p.m., he was in his yard with the villagers Radoslav Ognjenović, the witness's aunt Ljubica Ognjenović (born 1910, daughter of Ivan) and Uroš Ognjenović (born 1928).⁹⁷⁶ Uroš Ognjenović returned to his house to wait for Uroš Šarić (born 1920), who was staying with him at night because he was frightened of the Croatian soldiers.⁹⁷⁷ At about 9 p.m. the witness heard people walking in the direction of his house.⁹⁷⁸ He heard an angry voice he did not recognize shout loudly something like, "Where are the nine people? Come out so I can kill you all".⁹⁷⁹ When Radoslav Ognjenović and the witness came out, Uroš Ognjenović entered the yard of the witness together with two men in military uniforms

⁹⁷⁴ P2314 (Redacted Report on Autopsies of Victims Exhumed from Korenica and Gračac in 2002, 6 June 2003), p. 98; P1808 (Photograph of clothes and personal possessions, G06/020B); P1809 (Photograph of skull, 06/020B).

⁹⁷⁵ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 1-2; P990 (Mirko Ognjenović, witness statement, 12 July 2004), p. 1; Mirko Ognjenović, T. 10701; D873 (MUP official note of interview with Mirko Ognjenović, 6 May 2004), p. 1; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

⁹⁷⁶ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 3, 7; Mirko Ognjenović, T. 10716, 10719; P990 (Mirko Ognjenović, witness statement, 12 July 2004), p. 2; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

⁹⁷⁷ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 3, 7; Mirko Ognjenović, T. 10719; P995 (Letter from Srećko Šarić to Deputy Prime Minister Kostović, 10 September 1995); D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

⁹⁷⁸ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7.

⁹⁷⁹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; Mirko Ognjenović, T. 10717-10718; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

with caps on their head.⁹⁸⁰ One of them was about 165 centimetres and stocky and the other was about 180 centimetres and slim.⁹⁸¹ According to the witness, he only observed the soldiers during ten seconds, it was dark, and he could not see them, in particular he could not see any insignia.⁹⁸² The stocky soldier had an automatic rifle in his hand which he, standing less than a metre away, pointed at the chest of the witness.⁹⁸³ He seemed very angry, called the people Chetniks and asked why they were there.⁹⁸⁴ The witness was afraid the soldier would kill him.⁹⁸⁵ The other soldier said, “Nedo, don’t shoot”.⁹⁸⁶ The witness heard a shot, received a blow from one of the soldiers, and fell to the ground.⁹⁸⁷ He woke up approximately 1.5 hours later.⁹⁸⁸ Radoslav Ognjenović was lying close to him and calling his name.⁹⁸⁹ The soldiers and the other villagers were no longer around.⁹⁹⁰ The witness’s head was painful and he had scratches on the left side of his face.⁹⁹¹ He had a cut from his eye to his ear caused by the hit.⁹⁹² The witness also had a broken right thumb of which the nail later fell off.⁹⁹³ He got Radoslav Ognjenović up and into the house, where he lit a candle and could see that a bone was sticking out of the upper part of the right arm of Radoslav.⁹⁹⁴ Radoslav told the witness that the wound had been caused by a bullet that the shorter soldier had fired after Radoslav fell

⁹⁸⁰ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; Mirko Ognjenović, T. 10717-10718, 10734, 10743; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

⁹⁸¹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), pp. 6, 9.

⁹⁸² P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; Mirko Ognjenović, T. 10717; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), pp. 1, 9.

⁹⁸³ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; Mirko Ognjenović, T. 10742; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

⁹⁸⁴ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

⁹⁸⁵ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; Mirko Ognjenović, T. 10718.

⁹⁸⁶ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; Mirko Ognjenović, T. 10742; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), pp. 6, 9.

⁹⁸⁷ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; P990 (Mirko Ognjenović, witness statement, 12 July 2004), p. 2; Mirko Ognjenović, T. 10717; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

⁹⁸⁸ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

⁹⁸⁹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

⁹⁹⁰ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7.

⁹⁹¹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; P990 (Mirko Ognjenović, witness statement, 12 July 2004), p. 2; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

⁹⁹² P990 (Mirko Ognjenović, witness statement, 12 July 2004), p. 2; Mirko Ognjenović, T. 10717-10718.

⁹⁹³ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7.

⁹⁹⁴ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

on the ground as a result of having been kicked in the stomach by the same soldier.⁹⁹⁵ Then the witness went to the house of Uroš Ognjenović, which was 200-250 metres away.⁹⁹⁶ When he opened the gate to the yard he saw in the bright moonlight the bodies of Uroš Ognjenović and Uroš Šarić lying in the yard.⁹⁹⁷ They were not wearing military trousers, but Uroš Šarić was wearing police trousers, because his son, a policeman, had given him a pair.⁹⁹⁸ They were lying on their left sides and there was a lot of blood around their bodies.⁹⁹⁹ The witness pushed the bodies with his boot and was sure they were dead.¹⁰⁰⁰ Then he went to the house of Rajko Gajica, who told the witness that he had heard shots on two separate occasions with a period of about half an hour between them.¹⁰⁰¹ In the morning, on 19 August 1995, as the witness covered up the two bodies, he saw a hole under the chin of Uroš Ognjenović and noticed that the top of his head was missing.¹⁰⁰² Then the witness went home and saw a number of bullet holes in the concrete of his yard and five or six shell cases from an automatic rifle.¹⁰⁰³ In order to report the dead bodies to the police, the witness went by bicycle to the village of Đevrske in Kistanje municipality.¹⁰⁰⁴ He could not find any police, but he saw soldiers in HV uniforms looting houses.¹⁰⁰⁵ When he asked the soldiers for the police, they told him there were no police.¹⁰⁰⁶ When the witness returned to his village, Radoslav Ognjenović told him that Rajko Gajica had gone to Bratiškovci, in Skradin municipality, to report the bodies to the civilian police.¹⁰⁰⁷

⁹⁹⁵ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7.

⁹⁹⁶ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; Mirko Ognjenović, T. 10718; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

⁹⁹⁷ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), pp. 1, 6.

⁹⁹⁸ Mirko Ognjenović, T. 10719, 10743.

⁹⁹⁹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7.

¹⁰⁰⁰ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 7; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

¹⁰⁰¹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 7-8; Mirko Ognjenović, T. 10733-10734; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

¹⁰⁰² P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 8; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

¹⁰⁰³ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 8.

¹⁰⁰⁴ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 8; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

¹⁰⁰⁵ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 8; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

¹⁰⁰⁶ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 8.

¹⁰⁰⁷ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 8; Mirko Ognjenović, T. 10733, 10742; P992 (Criminal report submitted by Srećko Šarić, 28 August 1995), p. 2; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), pp. 3, 6.

268. **Radoslav Ognjenović**, a Serb born in 1908 from the Serb village of Kakanj in Kistanje municipality,¹⁰⁰⁸ stated that after 7 p.m. on 18 August 1995, while he was at Mirko Ognjenović's house with Mirko Ognjenović (born in 1921) and Uroš Ognjenović (born in 1926), two men with automatic rifles entered through the front gate.¹⁰⁰⁹ One of them wore civilian clothes and looked 20 years old at most, while the other was over 30 years old and wore military camouflage uniform. The latter started shooting on the ground in front of the men. The witness heard the man in civilian clothes say something like, "Nedo, don't shoot", with a local accent.¹⁰¹⁰ The witness saw Mirko Ognjenović fall down. The man in the military camouflage uniform then hit the witness in the side with his rifle butt and the witness collapsed. The witness looked up and saw the man wearing camouflage leading Uroš Ognjenović away. The same man then shot his rifle towards the ground wounding the witness in the upper part of his right arm.¹⁰¹¹ Later, Mirko Ognjenović stood up, and the witness saw that his forehead was bleeding.¹⁰¹² Mirko Ognjenović helped the witness inside the house, and told the witness that he would look for Uroš Ognjenović and another man from Kakanj called Uroš Šarić (born in 1919).¹⁰¹³ Shortly thereafter, Mirko Ognjenović returned and told the witness that Uroš Ognjenović and Uroš Šarić were dead, lying in the former's yard.¹⁰¹⁴

269. The witness stated that on 19 August 1995, Mirko Ognjenović went to Đevrske village in Kistanje municipality and returned saying that he could not find the police. The witness then walked six kilometres to the village of Bratiškovci, in Skradin municipality, to report these incidents to the police. From there, unidentified persons escorted the witness to the police station in Skradin. The Skradin police then took him to the Šibenik hospital where his injury was tended to, and which was described to him as an "enter-exit wound".¹⁰¹⁵ On the following day, he was taken to the island of Obojane where he remained for seven days. On 28 August 1995, the witness went to Knin and stayed with his brother's son in their jointly owned home. He returned to his

¹⁰⁰⁸ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), p. 1, paras 1, 5.

¹⁰⁰⁹ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), paras 6, 15.

¹⁰¹⁰ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 15.

¹⁰¹¹ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 16.

¹⁰¹² P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 17.

¹⁰¹³ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), paras 6, 17.

¹⁰¹⁴ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 17.

¹⁰¹⁵ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 18.

home in Kakanj on 13 January 1996, where he was visited two or three times by the police from Ičovo and Rupe.¹⁰¹⁶

270. **Mirko Ognjenović** testified that on 20 August 1995 people in a vehicle marked with red crosses took photographs of the bodies, which were quickly decomposing in the warm weather.¹⁰¹⁷ On 24 August 1995 just before sunset, the witness saw that the bodies were still there, but when he returned early in the morning of 25 August 1995 the bodies were gone and some surgical gloves and one large rubber glove were left on the spot.¹⁰¹⁸ A Croatian MUP criminal report indicated that on 24 August 1995 Civilian Protection operatives from Zadar recovered in Kakanj two bodies partly dressed in uniforms of paramilitary units, and buried them in the City Cemetery in Zadar under numbers 445 and 446.¹⁰¹⁹

271. On 28 August 1995, the son of Uroš Šarić submitted a criminal report (KTN-59/95) concerning the killing of his father to the Split military prosecutor, in which he stated to have learned that there were not just two but three perpetrators, of whom two were in uniform, and that the Zadar Police Administration conducted an on-site investigation.¹⁰²⁰ In a letter dated 10 September 1995, he requested the Croatian Deputy Prime Minister for information regarding his father, who he stated was buried on 24 August 1995, along with Uroš Ognjenović, as an unknown member of the military at the City Cemetery in Zadar.¹⁰²¹ On 11 September 1995, Ivica Cetina referred him to the Croatian Red Cross.¹⁰²² The criminal report submitted by the son of Uroš Šarić was sent on 2 October 1995 by Deputy Military Prosecutor Denona to the Zadar military police for processing in order to discover the perpetrator.¹⁰²³ On 6 December 1995 the son of Uroš Šarić requested assistance from the public prosecutor, since the Police

¹⁰¹⁶ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 19.

¹⁰¹⁷ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 8; D872 (UNMO report, 27 August 1995), p. 2; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), pp. 6-7.

¹⁰¹⁸ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 8; D872 (UNMO report, 27 August 1995), p. 2.

¹⁰¹⁹ P995 (Letter from Srećko Šarić to Deputy Prime Minister Kostović, 10 September 1995); P996 (Forensic records of Šibenik county state prosecutor's office for Uroš Ognjenović and Uroš Šarić), p. 7; P1003 (Criminal report from Ive Kardum, chief of the Criminal Police Department, 1 April 1996), p. 1; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 1.

¹⁰²⁰ P992 (Criminal report submitted by Srećko Šarić, 28 August 1995); D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 1.

¹⁰²¹ P992 (Criminal report submitted by Srećko Šarić, 28 August 1995), p. 2; P995 (Letter from Srećko Šarić to Deputy Prime Minister Kostović, 10 September 1995).

¹⁰²² D877 (Letters from the Police Administration of Zadar-Knin, 11 September 1995 and 25 March 1996), p. 1.

¹⁰²³ P999 (Letter from Deputy Military Prosecutor Denona to the military police in Zadar, 2 October 1995).

Administration of Zadar-Knin had referred him on 11 September 1995 to the Red Cross, which had pronounced itself incompetent in this case.¹⁰²⁴ On 8 January 1996, the son of Uroš Šarić requested from the military prosecutor in Zadar information regarding any action taken in relation to his criminal report submitted on 28 August 1995.¹⁰²⁵ On 15 January 1996, he wrote to Assistant Minister of the Interior Benko to encourage the investigation.¹⁰²⁶ In reaction to the letter of 2 October 1995 and a reminder of 31 January 1996, Captain Marijan Babić of the VP informed the military prosecutor in Split on 2 February 1996 that the Police Administration Zadar-Knin was dealing with this case, and that Kakanj was not within the territorial competence of his police.¹⁰²⁷ On 20 February 1996, Assistant Military Prosecutor Denona sent copies of this report and the criminal report submitted by the son of Uroš Šarić to the Police Administration Zadar-Knin.¹⁰²⁸ On 25 March 1996, Ive Kardum requested the 7th Knin police station of the Šibenik Police Administration to quickly find the persons stated in the enclosed criminal report submitted by the son of Uroš Šarić and to conduct interviews with them.¹⁰²⁹ On 1 April 1996, Ive Kardum wrote to the Office of the Military Prosecutor in Split that during the recovery of bodies 445 and 446 at the city cemetery in Zadar, an on-site investigation was not conducted by criminal police officers of the Zadar-Knin police administration, nor did they interview witnesses as they could not locate them.¹⁰³⁰ By letter of December 1996, Assistant Military Prosecutor Denona sent the case, among other unresolved cases, to the county public prosecutor of Šibenik.¹⁰³¹ The criminal report of the son of Uroš Šarić was sent on 21 February 2000 by Deputy County Public Prosecutor Višić to the Šibenik-Knin Police Administration with the request to find the perpetrators and report back on all measures taken.¹⁰³²

¹⁰²⁴ P993 (Letter from Srećko Šarić to the public prosecutor, 6 December 1995).

¹⁰²⁵ P1000 (Letter from Srećko Šarić to the military prosecutor, 8 January 1996).

¹⁰²⁶ P994 (Letter from Srećko Šarić to Assistant Minister of the Interior Benko, 15 January 1996).

¹⁰²⁷ P1001 (Letter from Head of the Criminal Police Marijan Babić to the military prosecutor in Split, 2 February 1996).

¹⁰²⁸ P1002 (Letter from Assistant Military Prosecutor Denona to the Zadar-Knin Police Administration, 20 February 1996).

¹⁰²⁹ D877 (Letters from the Police Administration of Zadar-Knin, 11 September 1995 and 25 March 1996), p. 2.

¹⁰³⁰ P1003 (Criminal report from Ive Kardum, chief of the Criminal Police Department, 1 April 1996).

¹⁰³¹ P998 (Letter from Deputy Military Prosecutor Denona to the county public prosecutor of Šibenik, December 1996).

¹⁰³² P996 (Forensic records of Šibenik county state prosecutor's office for Uroš Ognjenović and Uroš Šarić), p. 1; P997 (Letter from Deputy County Public Prosecutor Višić to the Šibenik-Knin Police Administration, 21 February 2000).

272. At 11:35 a.m. on 21 August 1995, an UNMO team found two dead bodies in Kakanj, Kistanje municipality. A villager told the UNMOs that two HV soldiers came to the village on 18 August 1995, at 6 p.m. and that they beat him and they killed the two individuals. The villager also told the UNMOs that his house was burned by two other HV soldiers on 16 August 1995. Another villager informed the UNMOs that HV soldiers stole everything from his house, as well as his tractor.¹⁰³³

273. The Trial Chamber has received forensic documentation with regard to the alleged murders. According to this, on 17 April 2000 two bodies with lead tags respectively marked 445 and 446 were exhumed by employees of a public funeral enterprise from Zadar town cemetery, in the presence of officials of Croatian judicial and prosecuting authorities.¹⁰³⁴ During the exhumation Mirko and Čedomir Ognjenović identified the body marked 446 as Uroš Ognjenović, by his clothes and teeth, and Uroš Šarić's son identified the body marked 445 as Uroš Šarić, by his clothes and teeth.¹⁰³⁵ Uroš Šarić wore greenish long trousers with blue lining and the label Kninjanka on the inside.¹⁰³⁶ A pathologist established that Uroš Šarić died more than four years prior, from crushing of the brain and hemorrhagic shock caused by penetrating wounds to the head and chest.¹⁰³⁷ He established that Uroš Ognjenović died more than four years prior, from crushing of the brain caused by a bullet from a firearm.¹⁰³⁸

274. An investigative judge of the county court in Šibenik sent in late April 2000 both the record on the exhumation and the record on the examination of the mortal remains to the county state prosecutor in Šibenik, and Željko Žganjer in turn sent it on 2 May 2000 to the Police Administration of Šibenik-Knin with a request to interview Mirko Ognjenović and Radoslav Ognjenović.¹⁰³⁹ On 16 May 2000, the witness was interviewed by a Croatian police officer and on 18 July 2000 the police showed the witness and Radoslav Ognjenović a series of nine pictures, among which the photo of

¹⁰³³ D93 (UNMO Sector South daily situation report, 7 p.m., 21 August 1995), p. 3.

¹⁰³⁴ P991 (Photo-documentation of on-site investigation by the Police Administration of Zadar, 17 April 2000); P996 (Forensic records of Šibenik county state prosecutor's office for Uroš Ognjenović and Uroš Šarić), pp. 3, 7; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 1.

¹⁰³⁵ Mirko Ognjenović, T. 10719; P996 (Forensic records of Šibenik county state prosecutor's office for Uroš Ognjenović and Uroš Šarić), pp. 3-5, 7-8.

¹⁰³⁶ P996 (Forensic records of Šibenik county state prosecutor's office for Uroš Ognjenović and Uroš Šarić), pp. 3, 5, 7-8.

¹⁰³⁷ P996 (Forensic records of Šibenik county state prosecutor's office for Uroš Ognjenović and Uroš Šarić), pp. 3-5.

¹⁰³⁸ P996 (Forensic records of Šibenik county state prosecutor's office for Uroš Ognjenović and Uroš Šarić), pp. 3-5.

the possible suspect Nedeljko Mijić, to see if they could recognize him, which they could not.¹⁰⁴⁰ The official notes of the interviews with Mirko Ognjenović, Radoslav Ognjenović, and Rajko Gajica and the photo-confrontation were sent by the Chief of the Šibenik-Knin Crime Police Department Sedlar to the county public prosecutor of Šibenik, on 17 May and 24 July 2000 respectively.¹⁰⁴¹ The measures taken, facts established and future steps of the investigation were reported by this crime police department to its chief on 22 August 2000.¹⁰⁴²

275. The evidence indicates that on the evening of 18 August 1995, in Kakanj, after Mirko Ognjenović heard someone shout “Where are the nine people? Come out so I can kill you all”, Uroš Ognjenović and two men, at least one of whom had an automatic rifle, entered Mirko Ognjenović’s yard, where Mirko and Radoslav Ognjenović were present. The evidence further indicates that one of the two men called Mirko, Radoslav, and Uroš Ognjenović “Chetniks”, hit Radoslav Ognjenović in the side with his rifle butt, and then fired several shots, one of which hit Radoslav Ognjenović in the arm, exposing a bone in his arm. One of the men also hit Mirko Ognjenović to the ground, whereafter Mirko Ognjenović lost consciousness. One of the men then took Uroš Ognjenović away from the yard. When Mirko Ognjenović regained consciousness, his head hurt and he had a cut on his head and a broken thumb. A couple of hours after the two men had entered Mirko Ognjenović’s yard, he found the bodies of Uroš Ognjenović (born 1926 or 1928) and Uroš Šarić (born 1919 or 1920) in Uroš Ognjenović’s yard, about 200-250 metres away from his own yard. The bodies had bullet wounds which were found to be the cause of death.

276. The evidence that Uroš Ognjenović and Uroš Šarić died of bullet wounds indicates that they were killed. Uroš Ognjenović was last seen in the custody of two men, at least one of whom was armed with an automatic rifle, a couple of hours before his body was found. Combined with the statement Mirko Ognjenović had heard just before the two men entered his yard and the behaviour of the two men towards Radoslav and Mirko Ognjenović earlier that evening, this evidence indicates that these two men killed Uroš Ognjenović. Further, the evidence that Uroš Šarić’s body was

¹⁰³⁹ P996 (Forensic records of Šibenik county state prosecutor’s office for Uroš Ognjenović and Uroš Šarić), pp. 1-2, 6.

¹⁰⁴⁰ Mirko Ognjenović, T. 10718, 10741-10742; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), pp. 1-2, 5-6, 8-9.

¹⁰⁴¹ D874 (Letters from the Police Administration of Šibenik-Knin with official notes), pp. 5, 8.

¹⁰⁴² D874 (Letters from the Police Administration of Šibenik-Knin with official notes), pp. 1-2.

found lying next to Uroš Ognjenović's, indicates that the same two men killed Uroš Šarić.

277. The evidence of Radoslav and Mirko Ognjenović on the two men's clothing is inconsistent: Mirko Ognjenović testified that the two men both wore camouflage uniforms, while Radoslav Ognjenović stated that one of the men wore a uniform and the other civilian clothes. Further, the UNMO report of a villager telling an UNMO team that two HV soldiers had killed two individuals in Kakanj on the evening of 18 August 1995 appears to relate to the same incident, but does not provide further details as to the factual basis for the villager's qualification of the two perpetrators as HV soldiers. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Kakanj at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, 7, 8, and 9 of the Indictment.

Vojin Šarić (Further Clarification no. 84)

278. The Trial Chamber has received relevant evidence on the alleged murder of Vojin Šarić primarily through the testimony of Mirko Ognjenović, and from documentation related to a criminal investigation in Croatia. **Mirko Ognjenović**, a Serb born in 1921 from the village of Kakanj in Kistanje municipality,¹⁰⁴³ stated that he was informed that Vojin Šarić (born in 1911) had been found dead in a well.¹⁰⁴⁴ According to the witness, Vojin Šarić was the only person left in Kakanj when the witness left on 26 August 1995.¹⁰⁴⁵ According to a criminal report, signed by Ive Kardum and dated 20

¹⁰⁴³ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 1-2; P990 (Mirko Ognjenović, witness statement, 12 July 2004), p. 1; Mirko Ognjenović, T. 10701; D873 (MUP official note of interview with Mirko Ognjenović, 6 May 2004), p. 1; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

¹⁰⁴⁴ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 3, 9; D873 (MUP official note of interview with Mirko Ognjenović, 6 May 2004), p. 2; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 4.

¹⁰⁴⁵ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 9; D873 (MUP official note of interview with Mirko Ognjenović, 6 May 2004), p. 2; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 4.

October 1995, sometime between 18 and 24 September (an) unknown perpetrator(s) shot Vojin Šarić in the chest and abdomen with a 7.62-millimetre calibre firearm, and then threw his body in a well in his backyard in Kakanj.¹⁰⁴⁶ According to the same report, on 14 October 1995 an investigative judge of the Zadar County Court and crime police officers conducted an on-site investigation, finding 7.62-millimetre calibre cartridges at the scene of the crime, and retrieved from the well the body of Vojin Šarić, whom a forensic pathologist established had died from gunshot wounds to the chest and abdomen.¹⁰⁴⁷ According to a MUP official note, Vojin Šarić was buried by his son in the family grave site in Bratiškovci, in Skradin municipality.¹⁰⁴⁸

279. According to a UNCIVPOL incident report, dated 13 October 1995, Vojo Ivica and Mladen Surija informed UNCIVPOL that Vojin Šarić, a Serb born in 1911, had been found dead in Kakanj in Kistanje municipality. On 26 September 1995, the victim's son had found his body at the bottom of a well. UNCIVPOL and Croatian police went to the hamlet and found the victim as described by the son.¹⁰⁴⁹ According to a UNCIVPOL incident report, dated 14 October 1995, a UNCIVPOL team monitored the investigation of the death of Vojin Šarić. They were informed by an investigative judge at the scene that Šarić had been killed by one bullet to the chest. A Croatian police officer had first prevented UNCIVPOL access to the crime scene and only after intervention by the chief of police of the Knin police station was such access granted.¹⁰⁵⁰

280. The evidence suggests that sometime between 18 and 24 September 1995, one or more unknown perpetrators shot Vojin Šarić, a Serb born 1911, in Šarići hamlet in Kakanj village, in the chest and abdomen, thereby killing him. The above evidence does not identify the perpetrator(s) in any way and does not establish to which armed forces, if any, the perpetrator(s) belonged. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Kakanj at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrator(s). Under these circumstances, the Trial

¹⁰⁴⁶ D875 (Criminal report of the Police Administration of Zadar-Knin, 20 October 1995), pp. 1-2.

¹⁰⁴⁷ D875 (Criminal report of the Police Administration of Zadar-Knin, 20 October 1995), p. 2.

¹⁰⁴⁸ D873 (MUP official note of interview with Mirko Ognjenović, 6 May 2004), p. 2; see also D875 (Criminal report of the Police Administration of Zadar-Knin, 20 October 1995), p. 2.

¹⁰⁴⁹ P273 (UNCIVPOL incident report, 13 October 1995).

¹⁰⁵⁰ D740 (Collection of UNCIVPOL documents), p. 19 (UNCIVPOL incident report, S2-95-777, 14 October 1995).

Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

Dušan Borak and others (Further Clarification nos 87-93)

281. The Trial Chamber has received relevant evidence with regard to the alleged murders of Dušan Borak and others primarily through the testimonies of Milan Letunica and Bogdan Dobrić and documentary evidence, including documentation on the criminal investigation conducted in Croatia with regard to the alleged murders. Letunica and Dobrić were in, or in the vicinity of, Gošić at the time of the alleged murders.

282. **Milan Letunica**, a Serb inhabitant of the Serb village of Gošić in Kistanje municipality,¹⁰⁵¹ stated that on 5 August 1995, upon discovering that Knin had been captured by the HV, he decided to hide in the forest.¹⁰⁵² At approximately 4 p.m. on 27 August 1995 he visited Gošić where he met Dušan and Milka Borak at Nebojša Borak's house. During this time he heard a car engine and fled to the forest. En route to the forest, the witness saw a white car. The witness shortly thereafter heard gunshots for approximately ten minutes. Letunica went through the forest to his house and saw the same car driving along the road. He remained at his house for ten to fifteen minutes and met Bogdan Dobrić there who told him that he had found people dead at the houses of the Boraks. The witness spent the night in the forest. On 28 August 1995, at 6 a.m., the witness went to the village, where a policeman brought him to the houses of the Boraks.¹⁰⁵³ He saw a police car, a military truck, and an ambulance, and he identified the bodies of Sava, Gordana, Vaso, Kosa, Marija, Dušan, and Milka Borak, and Gojko Ležajić to a nurse.¹⁰⁵⁴ Persons on the scene placed the bodies in separate plastic bags, labelled them, and put them in the truck.¹⁰⁵⁵

283. **Bogdan Dobrić**, a Serb from Dobropoljci in Lišane Ostrovičke municipality,¹⁰⁵⁶ stated that on 27 August 1995 he saw, from a hiding place in the forest at a distance of some 100-150 metres from the Letunica-Gošić road, a white civilian car and a small truck with a blue tent flap and soldiers in camouflage uniform in the back driving

¹⁰⁵¹ P635 (Milan Letunica, witness statement, 22 April 1998), pp. 1-2.

¹⁰⁵² P635 (Milan Letunica, witness statement, 22 April 1998), p. 2.

¹⁰⁵³ P635 (Milan Letunica, witness statement, 22 April 1998), p. 3.

¹⁰⁵⁴ P635 (Milan Letunica, witness statement, 22 April 1998), pp. 2-3.

¹⁰⁵⁵ P635 (Milan Letunica, witness statement, 22 April 1998), p. 3.

towards Gošić in Kistanje municipality.¹⁰⁵⁷ After ten to fifteen minutes, he heard shots coming from the direction of Gošić and another 30 minutes later he saw the same vehicles with soldiers driving back towards Letunice in Kistanje municipality.¹⁰⁵⁸ The witness went to Gošić, some 200 metres away, and in front of Ilija Borak's house he saw Dušan Borak, born 1939, lying face-down with a puddle of blood in front of his head.¹⁰⁵⁹ Some two to three metres from Dušan, he saw the body of Milka Borak, born 1921, leaning with her head on a table with blood on her nose.¹⁰⁶⁰ Next, Dobrić found the bodies of Sava, Grozda, and Vajkan Borak, born 1924, 1920, and 1927, respectively, at the gate of the front yard of Sava's house.¹⁰⁶¹ Sava and Grozda were lying face-down and Vajkan was leaning on the gate.¹⁰⁶² Another three to four metres further, Dobrić saw Kosa Borak, born 1932, in her front yard lying face-down with a lot of blood around her.¹⁰⁶³ Lastly, he went to Mara Borak's house where he found her body on a chair in the kitchen.¹⁰⁶⁴ Mara Borak was born in 1902.¹⁰⁶⁵ The blood that Dobrić saw when he found the bodies appeared fresh to him.¹⁰⁶⁶ All bodies were in civilian clothing.¹⁰⁶⁷

284. According to a report by an HRAT from Knin of 29 August 1995, ECMM reported that the number of victims of an alleged massacre in the hamlet of Gošić, in Kistanje municipality, on 27 August 1995, was seven, not eight as they had reported the day before.¹⁰⁶⁸ **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,¹⁰⁶⁹ testified that on 24 October 1995, he participated in an investigation conducted by HRAT in Gošić, Kistanje municipality,

¹⁰⁵⁶ P2508 (Bogdan Dobrić, witness statements), 7 September 2003 statement, p. 1, para. 1, 10 September 2003 statement, p. 1.

¹⁰⁵⁷ P2508 (Bogdan Dobrić, witness statements), 7 September 2003 statement, para. 6, 10 September 2003 statement, para. 4.

¹⁰⁵⁸ P2508 (Bogdan Dobrić, witness statements), 7 September 2003 statement, para. 6, 10 September 2003 statement, para. 4.

¹⁰⁵⁹ P2508 (Bogdan Dobrić, witness statements), 7 September 2003 statement, paras 5-7, 10 September 2003 statement, paras 4-5.

¹⁰⁶⁰ P2508 (Bogdan Dobrić, witness statements), 7 September 2003 statement, paras 5, 7.

¹⁰⁶¹ P2508 (Bogdan Dobrić, witness statements), 7 September 2003 statement, paras 5, 8.

¹⁰⁶² P2508 (Bogdan Dobrić, witness statements), 7 September 2003 statement, para. 8.

¹⁰⁶³ P2508 (Bogdan Dobrić, witness statements), 7 September 2003 statement, paras 5, 9.

¹⁰⁶⁴ P2508 (Bogdan Dobrić, witness statements), 7 September 2003 statement, para. 10.

¹⁰⁶⁵ P2508 (Bogdan Dobrić, witness statements), 7 September 2003 statement, para. 5.

¹⁰⁶⁶ P2508 (Bogdan Dobrić, witness statements), 10 September 2003 statement, para. 5.

¹⁰⁶⁷ P2508 (Bogdan Dobrić, witness statements), 7 September 2003 statement, paras 7-8, 10 September 2003 statement, para. 5.

¹⁰⁶⁸ D631 (HRAT daily report, 29 August 1995), p. 2.

¹⁰⁶⁹ P415 (Peter Marti, witness statement, 13 February 1996), pp. 1-2; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17.

where seven individuals had been murdered in the afternoon of 27 August 1995.¹⁰⁷⁰ HRAT was further informed by the chief of the Kistanje police station that the police station in Benkovac was responsible for the Gošić area.¹⁰⁷¹

285. The Trial Chamber has received extensive evidence on the criminal investigation into the alleged murders that was conducted by Croatian authorities. This is evidence from (and tendered through) Witness 84, Ivica Cetina, Pero Perković, Ivan Galović, Damir Šimić, Željko Žganjer, Mate Laušić, and Ive Kardum (all reviewed in chapter 6.2.5).

286. On 29 August 1995, Ivica Cetina submitted a report to the “Return” Operations Staff at the MUP, listing seven dead bodies found during hygiene and sanitation measures in Gošić hamlet Donji Borci, namely: Dušan, Milka, Kosa, Vasilj, Sava, Grozda, and Marija Borak.¹⁰⁷²

287. **Ive Kardum**, Chief of the crime police department for the Zadar-Knin police administration in 1995,¹⁰⁷³ testified that in the Gošić case, he himself, having learned about the killings from a relative of one of the deceased, went to the crime scene where he met Chief of Knin-Kotar police administration Čedo Romanić and some men from the MUP in Zagreb, some of whom were in uniform and some in plain clothes.¹⁰⁷⁴ They directed Kardum and others to the Borak family houses, where they saw seven dead bodies in various locations.¹⁰⁷⁵ Kardum and others informed the prosecutor and the investigative judge, who attended the crime scene.¹⁰⁷⁶ According to Kardum, spent Kalashnikov shells were found at the crime scene.¹⁰⁷⁷ Kardum testified that a Serb witness named Živko Borak was able to help him.¹⁰⁷⁸ Kardum also testified that once it became clear that the military was involved, the civilian police had to involve the VP in

¹⁰⁷⁰ P417 (Peter Marti, witness statement, 14 December 2007), paras 87, 101; P68 (Summary of UNMO Sector South situation reports from 7 August to 22 November 1995), p. 61.

¹⁰⁷¹ P417 (Peter Marti, witness statement, 14 December 2007), paras 87, 101; P68 (Summary of UNMO Sector South situation reports from 7 August to 22 November 1995), p. 61.

¹⁰⁷² D361 (Report by Ivica Cetina to MUP “Return” Operations Staff, 29 August 1995), pp. 1-2.

¹⁰⁷³ P2396 (Ive Kardum, witness statement, 3-4 May 2007), p. 1, paras 2-3; P2397 (Ive Kardum, witness statement, 22-23 March 2004), p. 1, paras 1-3, 12, 15, 17; Ive Kardum, T. 9231, 9251-9252, 9398, 9498-9499.

¹⁰⁷⁴ P2396 (Ive Kardum, witness statement, 3-4 May 2007), para. 8; P2397 (Ive Kardum, witness statement, 22-23 March 2004), paras 33, 50; Ive Kardum, T. 9328, 9359-9360, 9429-9430.

¹⁰⁷⁵ P2397 (Ive Kardum, witness statement, 22-23 March 2004), para. 33.

¹⁰⁷⁶ P2397 (Ive Kardum, witness statement, 22-23 March 2004), para. 33.

¹⁰⁷⁷ P2397 (Ive Kardum, witness statement, 22-23 March 2004), para. 33.

¹⁰⁷⁸ P2397 (Ive Kardum, witness statement, 22-23 March 2004), para. 34.

the investigation.¹⁰⁷⁹ Kardum confirmed that a criminal report on the deaths of seven people in Gošić in Kistanje municipality, dated 4 October 1995, had been prepared by the crime police of the Zadar-Knin police administration and signed for Kardum *propria persona*.¹⁰⁸⁰

288. The Trial Chamber has received forensic documentation with regard to the alleged murders. According to this, the bodies of six persons in civilian clothes were found on 28 August 1995 in Donji Borak hamlet in Gošić, Kistanje municipality, identified by Živko Borak from Gošić as Dušan Borak born on 1 January 1940, Grozda Borak born on 9 March 1922, Marija Borak born on 2 May 1914, Sava Borak born on 14 February 1925, and Vasilj Borak born on 1 June 1927 (only Milka Borak, numbered 545, was identified by Milan Letunica), and buried at a city cemetery in Knin.¹⁰⁸¹

289. Body KN01/246B, exhumed in civilian clothing on 14 June 2001 from a cemetery in Knin with a metal tag marked “545”, was an approximately 1.55-1.71-metre-tall female between 50 and 70 years old, with a high velocity gunshot injury to the skull which was found by the forensic pathologist to be the cause of death.¹⁰⁸² Fully skeletonized and incomplete body KN01/316B, exhumed in remains of civilian clothing on 15 June 2001 from a cemetery in Knin was an approximately 1.51-1.68-metre-tall female between 50 and 75 years old for whom John Clark could not ascertain the cause of death.¹⁰⁸³

290. On 6 December 2002, bodies KN01/246B and KN01/316B were identified by classical method as, respectively, Milica Borak born in 1920 and Marija Borak born in 1914.¹⁰⁸⁴ According to a death certificate dated 6 December 2002 issued by the Zagreb Institute for Forensic Medicine, Marija Borak, a Serb born on 14 April 1914, died from

¹⁰⁷⁹ P2397 (Ive Kardum, witness statement, 22-23 March 2004), paras 33, 50; Ive Kardum, T. 9429-9430.

¹⁰⁸⁰ Ive Kardum, T. 9471; D807 (Criminal report on the murder of seven persons in Gošić in Kistanje municipality, 4 October 1995).

¹⁰⁸¹ P1373 (Information on identified body, ID No. 544, with photograph); P1374 (Information on identified body, ID No. 550, with photograph); P1375 (Information on identified body, ID No. 549, with photograph); P1376 (Information on identified body, ID No. 545, with photograph); P1377 (Information on identified body, ID No. 548, with photograph); P1378 (Information on identified body, ID No. 547, with photograph).

¹⁰⁸² P1256 (Photographs of bodies and bones), p. 5; P1576 (Autopsy report of KN01/246B, 11 July 2001), pp. 1-6, 10-13, 16; P1841 (Photograph of skull, KN01/246B).

¹⁰⁸³ P1575 (Autopsy report of KN01/316B, 10 July 2001), pp. 1-2, 4-5, 11-13, 15; P1840 (Photograph of bones, KN01/316B).

¹⁰⁸⁴ P2000 (List of identified bodies exhumed at the new cemetery in Knin); P2002 (List of identified persons exhumed in Knin).

unknown causes in the yard of her house, no. 19, in Gošić on 27 August 1995.¹⁰⁸⁵ According to a death certificate dated 6 December 2002 issued by the Zagreb Institute for Forensic Medicine, Milica Borak, a Serb with FRY citizenship born on 2 August 1920, died from a gunshot injury to the head in Gošić on 27 August 1995.¹⁰⁸⁶

291. The above evidence indicates that seven persons, namely Sava Borak, Grođana Borak, Vasilj Borak, Kosa Borak, Marija Borak, Dušan Borak, and Milka Borak were shot and killed shortly after 4 p.m. on 27 August 1995 in Gošić in Kistanje municipality. These seven persons wore civilian clothing on that date and were all born between 1902 and 1940.

292. The evidence indicates that a white civilian car and a small truck with a blue tent flap entered the village shortly before the seven victims were shot. Persons wearing camouflage uniforms were travelling in the back of the small truck. Shortly after these vehicles arrived in Gošić, Milan Letunica and Bogdan Dobrić heard gunshots, which the latter specified came from the direction of Gošić. The vehicles left Gošić shortly thereafter. This evidence indicates that the persons in the two vehicles, including those in uniform in the back of the truck, shot and killed the seven victims identified above.

293. The evidence indicates that VP crime investigators were involved in the investigation into the Gošić killings because men in camouflage uniform and an olive-coloured "TAM road mender" vehicle were seen at the place and time of the crime. However, the evidence of the Croatian investigations into the incident is inconclusive as to the identity or affiliation of the perpetrators. The Croatian investigation did not find a vehicle that corresponded with the description of the "TAM" vehicle among the vehicles of that type used by the military companies in the area. Pero Perković, Nikola Rašić, Ivica Petrić, and Zlatko Ladović were indicted and then acquitted of the killings in Gošić by a Zadar court. On appeal, the case was remitted to a Šibenik court for trial, after which the Šibenik Prosecutor dropped the charges against them. According to Šimić and Žganjer, Goran Vunić was also suspected of having been involved in the murders. However, Mrkota terminated the investigations into Vunić's involvement in 1995, prior to a search of Vunić's premises, and the evidence does not establish the results, if any, of the investigations into Vunić's involvement which were resumed in 2002. The Trial Chamber has received no other reliable evidence about which armed

¹⁰⁸⁵ P2051 (Death certificate of Marija Borak, 6 December 2002).

¹⁰⁸⁶ P2052 (Death certificate of Milica Borak, 6 December 2002).

forces, if any, the persons in camouflage uniforms observed entering Gošić at the time of the killings belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Gošić at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

294. The statement of Milan Letunica suggests that an eighth person, Gojko Ležajić, was also killed in Gošić on 27 August 1995. The Trial Chamber notes that in his written statement, Bogdan Dobrić did not mention seeing Gojko Ležajić's body in Gošić on that day. Ive Kardum testified that he saw seven victims when he visited Gošić. Similarly, the HRAT and Croatian police documents relating to this evidence mention seven victims in Gošić. The evidence from the Croatian investigations indicates that Goran Vunić and two unidentified persons were suspected of having shot and killed Gojko Ležajić in the courtyard of his house in Gošić, on an unspecified date after Operation Storm. A letter by Zadar Public Prosecutor Rukavina refers to statements by Milan and Sava Letunica in this respect. However, in his written statement in evidence before the Trial Chamber, Milan Letunica did not provide information regarding circumstances or perpetrators in relation to Gojko Ležajić's death. Consequently, there is insufficient reliable evidence as to whether, the circumstances under which, or by whom, Gojko Ležajić was killed. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

Jovo Berić and others (Further Clarification nos 95-103)

295. The Trial Chamber has received relevant evidence with regard to the alleged murders of Jovo Berić and others through numerous testimonies, including those of Alun Roberts, Petro Romashev, and Witness 84. The Trial Chamber has also received documentary evidence, including UNCIVPOL and HRAT reports and documents on the criminal investigation conducted in Croatia with regard to the alleged murders.

296. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,¹⁰⁸⁷ testified that he heard from

¹⁰⁸⁷ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678

other UN personnel who visited Varivode in Kistanje municipality regularly that most inhabitants of this largely Serb village had fled “in the face of Operation Storm” while only elderly had remained.¹⁰⁸⁸ One villager, Milan Pokrajac, told the UN in October that he believed that after 4 or 5 August 1995 only 13 villagers remained in the village.¹⁰⁸⁹ Another villager, Bojanka Milošević, told UNCIVPOL that those remaining villagers were herself, Marija Dukić (born 1913), Milan Pokrajac (born 1921), Vukica Berić (born 1920), Mirko Dobrijević (1913), Spiro Dobrijević (born 1936), Simeona Dobrijević (1913), and Dragina Gajica (1914).¹⁰⁹⁰ Roberts testified that on 1 October 1995 the “Helsinki International Human Rights Committee” told the UN that twelve persons had been killed in Varivode on 28 September 1995.¹⁰⁹¹ The organization handed over a list of twelve names of persons between 75 and 82 years old who had been killed.¹⁰⁹²

297. Roberts heard from an employee of the “Helsinki International Human Rights Committee” that Danica Maksimilijanović went to Varivode in the afternoon of 28 September 1995 in order to deliver food, but was stopped by Croatian police who informed her that they were investigating a murder.¹⁰⁹³ She continued nevertheless, and saw in one yard a body covered with a white sheet, and a remaining villager, Bojanka Milošević.¹⁰⁹⁴ Bojanka Milošević told UNCIVPOL, that on 28 September 1995 she had heard small arms fire in Varivode at about 5 p.m., which lasted for about an hour.¹⁰⁹⁵ She could hear the shooting proceeding from one house of a neighbour to the next houses.¹⁰⁹⁶ Villager Milan Pokrajac told the UN that he had heard the shooting in the

(Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

¹⁰⁸⁸ P675 (Alun Roberts, witness statement, 27 August 1997), para. 92; P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 3.

¹⁰⁸⁹ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), paras 2, 10.

¹⁰⁹⁰ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), supplementary notes, paras 9- 10.

¹⁰⁹¹ P675 (Alun Roberts, witness statement, 27 August 1997), para. 94; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 31-32; P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), paras 1, 6-7, 20.

¹⁰⁹² P675 (Alun Roberts, witness statement, 27 August 1997), paras 94-95; P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 6.

¹⁰⁹³ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 11.

¹⁰⁹⁴ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 11.

¹⁰⁹⁵ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), supplementary notes, paras 6-7.

¹⁰⁹⁶ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), supplementary notes, para. 7.

late afternoon of 28 September 1995, but had not seen anything.¹⁰⁹⁷ In the morning of 29 September 1995, Bojanka Milošević accompanied Croatian police officers to the houses and helped to identify the victims.¹⁰⁹⁸ She established that she and Milan Pokrajac were the only remaining villagers.¹⁰⁹⁹ After some time a police team from Zadar arrived to investigate the crime sites and did so until 6 p.m. on the same day.¹¹⁰⁰ Then the nine bodies were put on a yellow truck and brought to Zadar.¹¹⁰¹ A person called Ante Tićić reported to the UN, that he had tried to visit his parents in Varivode on about 29 September 1995, and that the police had denied him access to the village because some “training” had taken place there.¹¹⁰² When he called the Zadar police department, the senior officer Adam Mehmedović told him that his parents-in-law were among those killed.¹¹⁰³ Bojanka Milošević saw the villager Marija Dukić in Varivode in the morning of 28 September 1995, and saw a yellow car outside Marija Dukić’s house at about 10 a.m. on the same day, but did not find her or her body anywhere in the village after that.¹¹⁰⁴ On 30 September 1995, the police took Bojanka Milošević to the Šibenik police station and to the detention/refugee centre on Oboljan island near Šibenik.¹¹⁰⁵

298. On 2 October 1995, Roberts and an HRAT saw many recently burnt and partly damaged houses in Varivode and heavy blood stains in five locations close to the doorways of houses, where apparently nine bodies had been removed.¹¹⁰⁶ At one location, there were blood stains on the wall, to the left of the front door and on an old

¹⁰⁹⁷ P685 (CNN video Varivode, 3 October 1995), p. 1; P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 10, supplementary notes, para. 3.

¹⁰⁹⁸ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), supplementary notes, paras 7-8.

¹⁰⁹⁹ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), supplementary notes, para. 7.

¹¹⁰⁰ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), supplementary notes, paras 7-8.

¹¹⁰¹ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), supplementary notes, para. 7.

¹¹⁰² P675 (Alun Roberts, witness statement, 27 August 1997), para. 96.

¹¹⁰³ P675 (Alun Roberts, witness statement, 27 August 1997), para. 96.

¹¹⁰⁴ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), supplementary notes, paras 9-10.

¹¹⁰⁵ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), supplementary notes, para. 7.

¹¹⁰⁶ P675 (Alun Roberts, witness statement, 27 August 1997), paras 90-91, 93; P677 (Alun Roberts, witness statement, 28 February 2007), p. 9; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 12; P684 (Alun Roberts report to press on HV’s human rights violations in Sector South, 12 October 1995), p. 1; P685 (CNN video Varivode, 3 October 1995), p. 1; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 2, 31-32; P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), paras 2, 4, 9.

stove nearby.¹¹⁰⁷ At another location there were two separate pools of blood in the yard near the front of the house and bullet marks in the wall of the house.¹¹⁰⁸ A walking stick lay on the ground nearby.¹¹⁰⁹ At these two locations the UN personnel found several pairs of surgical gloves.¹¹¹⁰ At these locations Roberts saw several plastic arrows to indicate the location of bullet marks and he assumed they indicated that Croatian investigations had started.¹¹¹¹ Roberts and the HRAT found three other locations with heavy stains or puddles of blood in or close to doorways of houses.¹¹¹² The only remaining villager on that day was the 74-year-old Serb Milan Pokrajac.¹¹¹³ Also on 2 October 1995, Roberts and other UN personnel saw several new crosses in the Knin cemetery, among them crosses with names on them which matched nine of the names on the list the “Helsinki International Human Rights Committee” had given to the UN in relation to the Varivode incident.¹¹¹⁴ These were Marija Berić (1930), Radivoj Berić (1926), Jovo Berić (1920), Milka Berić (1924), Marko Berić (1913), Spiro Berić (1940), Jovan Berić (1939), Dušan Dukić (1937), and Mirko Pokrajac (1911).¹¹¹⁵

299. UNMO reports, UNCIVPOL reports, one UN Sector South report of 3 October 1995, and the testimony of Tchernetsky corroborates Roberts’ account of the visit to Varivode and the Knin cemetery on that day.¹¹¹⁶ One of the reports, further sets out that at 3:15 p.m. on 2 October 1995, a patrol consisting of UNMO, HRAT, and a representative of the Croatian Helsinki Committee visited Knin hospital, where the head

¹¹⁰⁷ P675 (Alun Roberts, witness statement, 27 August 1997), para. 93; P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 4.

¹¹⁰⁸ P675 (Alun Roberts, witness statement, 27 August 1997), para. 93; P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 5.

¹¹⁰⁹ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 5.

¹¹¹⁰ P675 (Alun Roberts, witness statement, 27 August 1997), para. 94; P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 6.

¹¹¹¹ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 7.

¹¹¹² P675 (Alun Roberts, witness statement, 27 August 1997), para. 93; P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 8.

¹¹¹³ P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 10.

¹¹¹⁴ P675 (Alun Roberts, witness statement, 27 August 1997), para. 95; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 12; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 2, 31-32; P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), paras 12, 18-19.

¹¹¹⁵ P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 12; P685 (CNN video Varivode, 3 October 1995), p. 1; P700 (UNCRO photographs of bodies and crime sites in Sector South), p. 2; P718 (Roberts’s report on UN HRAT visit to Varivode on 2 October, dated 3 October), para. 12.

¹¹¹⁶ P161 (UNMO report on Varivode investigation, 2 p.m., 2 October 1995); P163 (UNMO update on Varivode investigation, 10 p.m., 2 October 1995); P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 6; P205 (Alexander Tchernetsky, witness statement, 6 December 2007), para. 4; P206 (Map of Sector South, marked by Alexander Tchernetsky), grid reference WJ 7067; P268 (UNCIVPOL memo from Dmitriy Oshchepkov to the Chief of UNCIVPOL Sector South, 2 October 1995); P269

doctor gave them the names of the patients from Varivode, who he said were admitted on 28 September 1995.¹¹¹⁷ The two patients told the patrol that they had been in the hospital since 26 September 1995, which fitted with the dates that the patrol saw on their patient files.¹¹¹⁸ Tchernetsky further testified that when he later returned to Varivode, he noted that someone had tried to remove the evidence, in at least one case by burning hay on bloodstained spots.¹¹¹⁹ According to the UNCIVPOL reports, during a meeting on or about 2 October 1995, the commander of the Knin police station, Miloš Mihaljević, informed UNCIVPOL that nine persons from Varivode in Kistanje municipality had been killed on 28 September 1995.¹¹²⁰ According to “unconfirmed information” four masked men in camouflage or black uniform had committed the killings.¹¹²¹ Bojanka Milošević had managed to escape, and arrived at Kistanje police station from where she was transported to Šibenik.¹¹²² The commander stated that the Zadar police station was investigating the case.¹¹²³

300. **Petro Romassev**, Monitor and Station Commander at UNCIVPOL Sector South in Knin municipality between January 1995 and December 1995,¹¹²⁴ stated that a team from the Knin UNCIVPOL station, upon receiving information from a human rights organization of killings, visited Varivode in Kistanje municipality. They found that nine Serbs had been killed: Spiro Berić, Jovan Berić, another Jovan Berić, Marija Berić, Marko Berić, Milka Berić, Radivoj Berić, Dušan Dukić, and Mirko Pokrajac. In the victims’ houses, the team saw traces of blood and evidence that the Croatian police had been to and examined the scenes.¹¹²⁵ On 2 October 1995, Romassev, along with Dmitriy Oshchepkov, visited the Knin cemetery and found nine graves with the names of the

(UNCIVPOL incident report, 2 October 1995); P1169 (UN Sector South report, by Hussein Al-Alfi, 3 October 1995).

¹¹¹⁷ P163 (UNMO update on Varivode investigation, 10 p.m., 2 October 1995), p. 1.

¹¹¹⁸ P163 (UNMO update on Varivode investigation, 10 p.m., 2 October 1995), p. 1.

¹¹¹⁹ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 6.

¹¹²⁰ P268 (UNCIVPOL memo from Dmitriy Oshchepkov to the Chief of UNCIVPOL Sector South, 2 October 1995), p. 2; P269 (UNCIVPOL incident report, 2 October 1995), pp. 2, 4.

¹¹²¹ P268 (UNCIVPOL memo from Dmitriy Oshchepkov to the Chief of UNCIVPOL Sector South, 2 October 1995), p. 2; P269 (UNCIVPOL incident report, 2 October 1995), pp. 2, 4.

¹¹²² P268 (UNCIVPOL memo from Dmitriy Oshchepkov to the Chief of UNCIVPOL Sector South, 2 October 1995), p. 2; P269 (UNCIVPOL incident report, 2 October 1995), pp. 2, 4.

¹¹²³ P268 (UNCIVPOL memo from Dmitriy Oshchepkov to the Chief of UNCIVPOL Sector South, 2 October 1995), p. 2; P269 (UNCIVPOL incident report, 2 October 1995), p. 2.

¹¹²⁴ P2513 (Petro Romassev, two witness statements), pp. 2 (Petro Romassev, witness statement, 14 February 1996), 6-7 (Petro Romassev, witness statement, 8 June 1997).

¹¹²⁵ P2513 (Petro Romassev, two witness statements), p. 9 (Petro Romassev, witness statement, 8 June 1997).

individuals who had been killed.¹¹²⁶ Romashev was informed, unofficially, by the Chief of the Knin Police Department that Boja Milošević, a Serb villager, was present in the village during the killings which had occurred on 28 September 1995 at 5 p.m.¹¹²⁷ Milošević told Romashev that at the time she had been outside her house working with a horse but hid when she heard the shots. After the incident, she fled from the village and reported the shooting to the police. A second villager, Milan Pokrajac, also heard the shooting but did not pay very much attention. Romashev stated that there was information that the murders had been committed by men in black uniforms. Romashev also stated that there was a rumour that a certain paramilitary revenge group that existed in the area may have committed the murders.¹¹²⁸ According to Romashev, the Croatian police investigated this case properly.¹¹²⁹

301. **Witness 84**, a police officer in Knin,¹¹³⁰ testified that an official note showed that on 30 September 1995, the police station in Knin received information from Jagor Tomašević, an employee of the ICRC, notifying the police that earlier that day between 10-11 a.m., he had driven his car with humanitarian aid to Varivode in Kistanje municipality. When Tomašević arrived in Varivode he found the village, where several days ago there had been 13 people, deserted. According to documentary evidence Tomašević had seen blood on the walls and the floors of one of the houses and rubber gloves scattered throughout the village.¹¹³¹

302. On 6 October 1995, at 11 a.m., a duty officer of the Knin Police Station reported to the Knin VP Duty Service that a camouflaged HV TAM Truck that matched the description of a vehicle seen during the murder of nine persons in Varivode in Kistanje municipality, was stopped at the Stara Straža check-point in Knin municipality.¹¹³² It was recorded in the Knin VP duty log that the vehicle and its driver, a member of the

¹¹²⁶ P2513 (Petro Romashev, two witness statements), p. 10 (Petro Romashev, witness statement, 8 June 1997).

¹¹²⁷ P2513 (Petro Romashev, two witness statements), pp. 9-10 (Petro Romashev, witness statement, 8 June 1997).

¹¹²⁸ P2513 (Petro Romashev, two witness statements), p. 10 (Petro Romashev, witness statement, 8 June 1997).

¹¹²⁹ P2513 (Petro Romashev, two witness statements), p. 9 (Petro Romashev, witness statement, 8 June 1997).

¹¹³⁰ P1035 (Witness 84, pseudonym sheet); P2393 (Witness 84, witness statement, 20 November 2007), p. 1; P2394 (Witness 84, witness statement, 11 July 2004), p. 1; P2395 (Witness 84, witness statement 9 March 2002), pp. 1-3; Witness 84, T. 11061, 11073, 11094, 11101, 11358, 11360.

¹¹³¹ P2394 (Witness 84, witness statement, 11 July 2004), para. 10; P1043 (MUP official note of interview with Jagor Tomašević, 30 September 1995).

¹¹³² P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 6 October 1995.

Zadar VP, were brought into the Duty Service and handed over for crime processing to the Company's "SzK" of the Knin regular military police and that after processing, the driver was released so that he could continue to carry out his assigned task.¹¹³³ **Boško Džolić**, a former Company Commander of the 72nd VP Battalion who was the Commander of the Joint VP Company in Knin from 5 to 12 August 1995,¹¹³⁴ testified that, sometime after he left Knin, he heard about the killings in Varivode in Kistanje municipality from colleagues within the 72nd VP Battalion who were involved in the investigation of these killings.¹¹³⁵

303. In a letter, the ICRC reported to Čermak that on 26 September 1995 ICRC personnel had visited Varivode, in Kistanje municipality, and distributed aid to the remaining 13 persons, while in total 18 people in the village were receiving ICRC aid.¹¹³⁶ According to the letter, on 30 September 1995, an ICRC team visited Varivode but found a deserted village with fresh blood on the ground, fresh blood on, and bullet holes in, the walls, and bloody gloves scattered around. On the same day, the ICRC personnel reported the case to the military headquarters and police authorities in Knin, requesting an investigation. On 2 October 1995, Ms Vranković in Smrdelje, also in Kistanje municipality, told the ICRC that on 29 September 1995, a citizen from Šibenik had gone to Varivode, but returned around noon to Smrdelje in a state of shock and told Ms Vranković that he had found nine bodies in Varivode, on which stab and entry-and-exit wounds could be seen. The citizen went to Šibenik on the same day and reported the case to the police. The letter further stated that on 2 October 1995, it was reported that some of the names of the villagers from Varivode, as registered by the ICRC, were inscribed on graves in the Knin cemetery, namely: Dušan Dukić (born 1937); Špiro Berić (born 1940); Jovo/Jovan Berić (born 1920); another Jovo/Jovan Berić (born

¹¹³³ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 6 October 1995.

¹¹³⁴ P875 (Boško Džolić, witness statement, 18 May 2004), p. 1, paras 3, 4, 20, 21, 53; P876 (Boško Džolić, witness statement, 20 August 2008), p. 1, paras 27, 32, 33; Boško Džolić, T. 8888, 8906, 8916, 8922, 8968, 8987, 8999, 9068; P882 (Report by Major General Mate Laušić on the use of VP units in Operation Storm, 6 August 1995); D786 (Organigram of the 72nd VP Battalion from August to October 1995); D787 (Daily Order of the Joint VP Company in Knin from 5 August to 23 September 1995), pp. 7, 10, 17, 21.

¹¹³⁵ P875 (Boško Džolić, witness statement, 18 May 2004), para. 66; P876 (Boško Džolić, witness statement, 20 August 2008), para. 5.

¹¹³⁶ D1756 (ICRC letter to Ivan Čermak, 7 October 1995), p. 2. Although the document is dated 7 September 1995, based on hand-written corrections and the documents' content the Trial Chamber determined that the document should be dated 7 October 1995.

1910); Radivoj/Rajko Berić (born 1922); Marija/Mara Berić (born 1922); Milka Berić (born 1922); Marko Berić (born 1913); and Mirko Pokrajac (born 1911).¹¹³⁷

304. According to a letter of 10 October 1995 from Cetina to Čermak, on 28 September 1995, Jovan Berić (1920), Milka Berić (1924), Marko Berić (1913), Špiro Berić (1940), Jovan Berić (1937), Radivoj Berić (1926), Marija Berić (1926), Mirko Pokrajac (1911), and Dušan Dukić (1937) were killed in Varivode, Kistanje municipality, between 5 and 9 p.m.¹¹³⁸ Pursuant to an on-site investigation by an Investigative Judge, a Public Prosecutor, a pathologist, and police officers, it was established that the nine victims died as a result of gunshot wounds.¹¹³⁹

305. In addition to the evidence above, the Trial Chamber has considered evidence of Alun Roberts, Ivica Cetina, Ivan Galović, Mladen Bajić, Željko Žganjer, Damir Šimić, Ive Kardum, Mate Laušić, Pero Perković, and Elisabeth Rehn (all reviewed in chapter 6.2.5), as well as exhibits P270, P278, and P280 in relation to this killing incident.

306. The Trial Chamber received forensic evidence with regard to all nine victims. Nine bodies in civilian clothing (35-50-year-old male body KN01/307B with a metal tag marked “516”, 35-50-year-old male body KN01/308B with a metal tag marked “517”, 40-60-year-old male body KN01/309B with a tag marked “518”, 40-60-year-old male body KN01/310B with a metal tag marked “519”, 40-55-year-old male body KN01/311B with a metal tag marked “520”, 50-75-year-old female body KN01/312B with a metal tag marked “521”, 50-75-year-old female body KN01/313B with a tag marked “522”, 40-70-year-old male body KN01/314B with a metal tag marked “523”, 55-90-year-old male body KN01/315B with a metal tag marked “524”) were exhumed from a cemetery in Knin on 15 June 2001 and found by forensic pathologists to have died from gunshot injuries.¹¹⁴⁰ On 6 December 2002, the following bodies were

¹¹³⁷ D1756 (ICRC letter to Ivan Čermak, 7 October 1995), p. 3.

¹¹³⁸ P2649 (Correspondence from Ivica Cetina to Ivan Čermak, 10 October 1995), pp. 1-2.

¹¹³⁹ P2649 (Correspondence from Ivica Cetina to Ivan Čermak, 10 October 1995), pp. 1-2.

¹¹⁴⁰ P1256 (Photographs of bodies and bones), p. 6; P1577 (Autopsy report of KN01/308B, 13 July 2001), pp. 1-5, 7-9, 11-14, 17; P1578 (Autopsy report of KN01/310B, 10 July 2001), pp. 1-7, 11-13, 16; P1579 (Autopsy report of KN01/309B, 5 July 2001), pp. 1-2, 4-8, 10-14, 17-18; P1580 (Autopsy report of KN01/314B, 9 July 2001), pp. 1-9, 11-15, 18; P1581 (Autopsy report of KN01/313B, 13 July 2001) pp. 1-8, 11-13, 16-21; P1582 (Autopsy report of KN01/312B, 9 July 2001), pp. 1-8, 11-14, 17; P1583 (Autopsy report of KN01/311B, 2 July 2001), pp. 1-7, 11-13, 16-18; P1584 (Autopsy report of KN01/307B, 12 July 2001), pp. 1-7, 11-13, 16; P1585 (Autopsy report of KN01/315B, 2 July 2001), pp. 1-8, 11-15, 18-19; P1842 (Photograph of skull, KN01/308B); P1843 (Photograph of exhumation site, KN01/308); P1844 (Photograph of skull, KN01/310B); P1845 (Photograph of exhumation site, KN01/310); P1846 (Photograph of bones, KN01/309B); P1847 (Photograph of exhumation site, KN01/309); P1848 (Photograph of exhumation site, KN01/314); P1849 (Photograph of exhumation site,

identified by classical method: KN01/307B as Dušan Đukić born in 1937, KN01/308B as Špiro Berić born in 1940, KN01/309B as Jovo Berić born in 1920, KN01/310B as Jovan Berić born in 1939, KN01/311B as Radivoj Berić born in 1926, KN01/312B as Marija Berić born in 1926, KN01/313B as Milka Berić born in 1924, KN01/314B as Marko Berić born in 1913, and KN01/315B as Mirko Pokrajac born in 1911.¹¹⁴¹ According to death certificates dated 6 December 2002 issued by the Zagreb Institute for Forensic Medicine, the following persons died from gunshot injuries in Varivode, Kistanje municipality, on 28 September 1995: Dušan Đukić, a Serb born on 1 March 1937; Špiro Berić, a Serb born on 20 February 1940; Jovo Berić, a Serb born on 5 June 1920; Jovan Berić, a Serb born in 1939; Radivoj Berić, a Serb born on 28 July 1926; Marija Berić, a Serb born on 17 February 1926; Milka Berić, a Serb born in 1924; Marko Berić, a Serb with SFRY citizenship born on 21 October 1913; whereas for Mirko Pokrajac, a Serb with SFRY citizenship born in 1911, the indicated date of death was 29 September 1995.¹¹⁴²

307. The evidence indicates that on 28 September 1995 between 5 and 9 p.m. Marija Berić (1930), Radivoj Berić (1926), Jovo Berić (1920), Milka Berić (1924), Marko Berić (1913), Spiro Berić (1940), Jovan Berić (1939), Dušan Đukić (1937), and Mirko Pokrajac (1911), all Serbs, died in Varivode in Kistanje municipality. Bojanka Milošević and Milan Pokrajac, who were living in Varivode at the time of the incident, both stated they heard gunfire in the late afternoon of 28 September 1995 although neither observed the shooting. Milošević added that the gunfire lasted for one hour. Although the 7 October 1995 letter from an ICRC team reported stab wounds on the bodies, considering all the evidence, the Trial Chamber is satisfied the victims died from gunshot wounds. Considering the gunshot wounds, the gunfire heard by villagers

KN01/313); P1850 (Photograph of bullet fragments, KN01/313B); P1851 (Photograph of bullet fragments, KN01/313B); P1852 (Photograph of bullet fragments, KN01/313B); P1854 (Photograph of exhumation site, KN01/312); P1855 (Photograph of exhumation site, KN01/311); P1856 (Photograph of exhumation site, KN01/307); P1857 (Photograph of skull, KN01/315B); P1858 (Photograph of exhumation site, KN01/315); D1223 (Supplemental information sheet, John Clark), paras 8-9.

¹¹⁴¹ P2000 (List of identified bodies exhumed at the new cemetery in Knin); P2002 (List of identified persons exhumed in Knin).

¹¹⁴² P2053 (Death certificate of Špiro Berić, 6 December 2002), p. 4; P2054 (Death certificate of Jovan Berić, 6 December 2002), p. 7; P2055 (Death certificate of Jovo Berić, 6 December 2002), p. 3; P2056 (Death certificate of Marko Berić, 6 December 2002), p. 2; P2057 (Death certificate of Milka Berić, 6 December 2002), p. 1; P2058 (Death certificate of Marija Berić, 6 December 2002), p. 5; P2059 (Death certificate of Radivoj Berić, 6 December 2002), p. 6; P2060 (Death certificate of Dušan Đukić, 6 December 2002), p. 11; P2061 (Death certificate of Mirko Pokrajac, 6 December 2002), p. 15.

and blood stains at door frames and in yards the Trial Chamber is satisfied that the nine Varivode villagers were killed.

308. The evidence indicates that VP crime investigators were involved in the Varivode killings investigation because HV members' involvement was suspected and a camouflaged HV TAM Truck was apparently seen at the time and place of the crime. The investigators related unsourced information that four masked men in camouflage or black uniforms committed the killings. However, the evidence of the Croatian investigations into the incident is inconclusive as to the identity or affiliation, if any, of the perpetrators. The Croatian investigation does not provide further details as to the factual basis for these qualifications. Consequently, the Trial Chamber cannot assess whether these qualifications were made on a proper factual basis. Croatian investigations regarding the TAM truck were also inconclusive. Nikola Rašić, Ivan Jakovljević, Zlatko Ladović and Nedjeljko Mijić were indicted and then acquitted of the killings in Varivode by a Zadar Court. On appeal, the acquittal was quashed and the case was transferred to a Šibenik Court after which the Šibenik Prosecutor dropped the charges as he concluded there was no reliable evidence against the accused. According to Simić and Žganjer, Goran Vunić was also suspected of having been involved in the murders. However, Mrkota terminated the original investigations into Vunić's involvement with Varivode and the evidence does not establish the results, if any, of the investigations into Vunić's involvement which were resumed in 2002. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the perpetrators belonged to. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

309. The evidence with regard to "many recently burnt and partly damaged houses" does not indicate how and by whom the houses were burnt and damaged and the Trial Chamber will therefore not further consider this incident in relation to Counts 1 and 5.

Manda Tišma (Further Clarification no. 107)

310. The Trial Chamber has received relevant evidence with regard to the alleged murder of Manda Tišma primarily through documentation related to the Croatian criminal investigation into the matter.

311. On 29 November 2002, the County Court of Šibenik convicted Željko Šunjerga, a member of the HV 15th Guards Brigade, 2nd Battalion, 1st Company, of murdering Manda Tišma, a Serb, in the village of Rudele, the hamlet of Tišme, Kistanje municipality, sometime after the completion of Operation Storm in the first half of August 1995.¹¹⁴³ According to the judgement, in the first half of August 1995 Šunjerga and his colleagues Branko Čadek, Milenko Hrstič, and Goran Tabula used a Renault 4 to reconnoitre the area in Rudele close to Kistanje.¹¹⁴⁴ They stopped the vehicle next to Manda Tišma and Šunjerga talked to her while his colleagues searched nearby houses.¹¹⁴⁵ Šunjerga asked Tišma where her sons were and who she supported, to which she replied that her sons were in Belgrade, and that she supported the Krajina.¹¹⁴⁶ Šunjerga then began to walk back to the vehicle, but before getting in, fired a short burst from an automatic 7.62-millimetre M-70 AB rifle at Tišma from a distance of four metres.¹¹⁴⁷ The County Court found the evidence indisputable that the victim died as a result of Šunjerga firing a short round of bullets at her.¹¹⁴⁸ In his defence Šunjerga admitted to the shooting but argued it was necessary for self defence because just before he fired he saw Tišma reach under her apron which caused him to believe she was preparing to throw a grenade.¹¹⁴⁹ The court dismissed Šunjerga's defence noting that the exhumation record showed the deceased was not wearing an apron.¹¹⁵⁰

312. On the basis of exhibit P2612, the Trial Chamber finds that sometime in the first half of August 1995 Željko Šunjerga, a member of the HV 15th Guards Brigade, 2nd Battalion, 1st Company, fired a round from his automatic rifle at Manda Tišma, thereby killing her. The Trial Chamber notes in this regard that the County Court in Šibenik

¹¹⁴³ Mladen Bajić, T. 20838-20839; P2612 (Documentation on legal proceedings against Šunjerga for the murder of Manda Tišma), pp. 2, 4-5, 7, 9, 11, 24.

¹¹⁴⁴ P2612 (Documentation on legal proceedings against Šunjerga for the murder of Manda Tišma), p. 15.

¹¹⁴⁵ P2612 (Documentation on legal proceedings against Šunjerga for the murder of Manda Tišma), pp. 9, 15.

¹¹⁴⁶ P2612 (Documentation on legal proceedings against Šunjerga for the murder of Manda Tišma), p. 9.

¹¹⁴⁷ P2612 (Documentation on legal proceedings against Šunjerga for the murder of Manda Tišma), p. 9.

¹¹⁴⁸ P2612 (Documentation on legal proceedings against Šunjerga for the murder of Manda Tišma), p. 20.

¹¹⁴⁹ P2612 (Documentation on legal proceedings against Šunjerga for the murder of Manda Tišma), p. 16.

¹¹⁵⁰ P2612 (Documentation on legal proceedings against Šunjerga for the murder of Manda Tišma), pp. 18, 19.

convicted Šunjerga on 29 November 2002 of murder in the death of Tišma and that there is no indication in the evidence that this judgement did not become final under Croatian law. Based on P2612 the Trial Chamber also finds that the victim was of Serb ethnicity. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 (b) below.

4.1.9 Knin municipality

Nikola Dragičević and others (Schedule no. 1)

313. The Trial Chamber has heard relevant evidence with regard to Scheduled Killing number 1, primarily through the testimonies of Witness 1, Dušan Dragičević, and Witness 13. They were all eyewitnesses to the incident and the Trial Chamber will review their testimonies in detail. The Trial Chamber has also heard relevant evidence with regard to several instances of alleged unlawful detentions, primarily through the testimonies of the same witnesses.

314. **Witness 1**, a Serb from a village in Knin municipality and a cook in the SVK who was on sick leave from July 1995 onwards,¹¹⁵¹ testified that on 4 August 1995 at about 5 a.m., the area near Polača was shelled.¹¹⁵² He testified to hearing the sound of gunfire in the early morning and again at approximately 1 or 2 p.m.¹¹⁵³ According to Witness 1, at around 2 p.m., two shells fell behind Saint Peter's church in Polača.¹¹⁵⁴ Witness 1 testified that at the time, there were mainly women, children, and elderly people in Polača.¹¹⁵⁵ According to Witness 1, people had been talking all day about the SVK's warnings to flee to Pađani in Knin municipality.¹¹⁵⁶ Between 8 and 9 p.m. on 4

¹¹⁵¹ P858 (Witness 1, witness statement, 18 August 2000), pp. 1-3; P859 (Witness 1, witness statement, 21 September 2004), paras 1-2; D781 (Witness 1, witness statement, 18 July 2008), pp. 1-2; Witness 1, T. 8774-8775; D776 (Witness 1, MUP official note of interview with Witness 1, 17 August 1995), pp. 1-2; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1

¹¹⁵² D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁵³ P860 (Witness 1, witness statement, 9 July 2007), paras 2-3; D781 (Witness 1, witness statement, 18 July 2008), p. 2; Witness 1, T. 8742; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1.

¹¹⁵⁴ D781 (Witness 1, witness statement, 18 July 2008), p. 2; Witness 1, T. 8717-8718.

¹¹⁵⁵ P860 (Witness 1, witness statement, 9 July 2007), para. 2.

¹¹⁵⁶ P858 (Witness 1, witness statement, 18 August 2000), p. 2; P859 (Witness 1, witness statement, 21 September 2004), para. 3; D781 (Witness 1, witness statement, 18 July 2008), p. 2; Witness 1, T. 8718, 8721; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1.

August 1995, people started fleeing the village by car and tractor.¹¹⁵⁷ The majority of the villagers left.¹¹⁵⁸ According to the 1991 Population Census, Polača consisted of 1,577 Serbs out of a total of 1,586 persons in 1991.¹¹⁵⁹

315. At 4-5 a.m. on 5 August 1995, Witness 1's uncle who was serving in the SVK at the time informed Witness 1 that all soldiers in his uncle's military unit had left the area.¹¹⁶⁰ At that point, Witness 1 decided to flee, and between 7 and 8:30 a.m., Witness 1 left with others aboard a tractor driven by Mile Dragičević.¹¹⁶¹ A Stojadin passenger vehicle, driven by Dušan Dragičević, followed the tractor.¹¹⁶² There were approximately 20-23 individuals, of which at least three were women, who fled along with Witness 1.¹¹⁶³ Of those who travelled on the tractor, Witness 1 testified that like himself and his uncle, Mićo Dragičević and Sava Čeko were also members of the SVK.¹¹⁶⁴ Dušan Dragičević and Vinetu Dragičević, who was also travelling in the Stojadin passenger vehicle that followed the tractor, were also in the SVK.¹¹⁶⁵ Witness 1 further testified that he and Mico Dragičević wore military uniforms, which were old and plain green.¹¹⁶⁶ The tractor was also loaded with the passengers' belongings and food supplies including bags of wheat and smoked ham.¹¹⁶⁷ At about 10 a.m. the tractor was about to enter Kovačić in Knin municipality when Witness 1 saw three tanks, displaying the Croatian red and white checkerboard, at a junction between the roads leading to Knin,

¹¹⁵⁷ P858 (Witness 1, witness statement, 18 August 2000), p. 2; P859 (Witness 1, witness statement, 21 September 2004), para. 3; Witness 1, T. 8718-8719, 8772.

¹¹⁵⁸ P858 (Witness 1, witness statement, 18 August 2000), p. 2; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁵⁹ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

¹¹⁶⁰ P860 (Witness 1, witness statement, 9 July 2007), paras 2, 4; Witness 1, T. 8730-8731; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁶¹ P858 (Witness 1, witness statement, 18 August 2000), p. 2; P859 (Witness 1, witness statement, 21 September 2004), para. 4; D781 (Witness 1, witness statement, 18 July 2008), p. 2; Witness 1, T. 8702; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁶² P859 (Witness 1, witness statement, 21 September 2004), para. 4; D781 (Witness 1, witness statement, 18 July 2008), p. 2; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1.

¹¹⁶³ P858 (Witness 1, witness statement, 18 August 2000), p. 2; P859 (Witness 1, witness statement, 21 September 2004), para. 4; P860 (Witness 1, witness statement, 9 July 2007), para. 5; D781 (Witness 1, witness statement, 18 July 2008), p. 2; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1.

¹¹⁶⁴ P858 (Witness 1, witness statement, 18 August 2000), p. 2; Witness 1, T. 8704, 8737, 8762.

¹¹⁶⁵ Witness 1, T. 8734, 8762, 8782.

¹¹⁶⁶ P859 (Witness 1, witness statement, 21 September 2004), para. 4; Witness 1, T. 8703-8704, 8750, 8764.

¹¹⁶⁷ D781 (Witness 1, witness statement, 18 July 2008), p. 2.

Split, Krčić, and Vedro Polje, located no more than 20 metres in front of him.¹¹⁶⁸ There were approximately 20 soldiers standing alongside the tanks.¹¹⁶⁹ The soldiers identified themselves as Croatian military and twice ordered the tractor to stop.¹¹⁷⁰ Mile Dragičević, the tractor driver, panicked and drove on for a few metres before stopping.¹¹⁷¹ The Croatian soldiers, armed with assault rifles, opened fire on the tractor.¹¹⁷² Some people jumped off the tractor and the vehicle and ran away towards the bushes while the Croatian soldiers shot after them.¹¹⁷³ Witness 1 stated that his aunt and another woman told him that the people were Vinetu Dragičević, Lazo Bilbija, Mičo Dragičević, and one more person.¹¹⁷⁴ According to Witness 1, none of the individuals were killed by those shots.¹¹⁷⁵ Witness 1, who remained on the tractor, attempted to dodge the soldiers' bullets but was hit by a bullet that passed through his right shoulder blade.¹¹⁷⁶ Nikola Dragičević (a Serb born in 1935) and Savo Čeko (a Serb born in 1944) were also shot while on the tractor.¹¹⁷⁷ According to the autopsy reports, the cause of death for Nikola Dragičević and Savo Čeko were gunshot wounds to the chest.¹¹⁷⁸ Mile

¹¹⁶⁸ P858 (Witness 1, witness statement, 18 August 2000), p. 2; P859 (Witness 1, witness statement, 21 September 2004), para. 5; D781 (Witness 1, witness statement, 18 July 2008), p. 2; Witness 1, T. 8707, 8709, 8742, 8744; D779 (Video clip showing the intersection in Kovačić); D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁶⁹ P858 (Witness 1, witness statement, 18 August 2000), p. 2.

¹¹⁷⁰ P859 (Witness 1, witness statement, 21 September 2004), para. 6; Witness 1, T. 8743-8745, 8750, 8772; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁷¹ P858 (Witness 1, witness statement, 18 August 2000), p. 2; P859 (Witness 1, witness statement, 21 September 2004), para. 6; P860 (Witness 1, witness statement, 9 July 2007), para. 7; D781 (Witness 1, witness statement, 18 July 2008), p. 2; Witness 1, T. 8705-8706, 8750-8751, 8772; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1; P861 (Photograph of the road leading to the intersection in Kovačić marked by Witness 1).

¹¹⁷² P858 (Witness 1, witness statement, 18 August 2000), p. 2; P859 (Witness 1, witness statement, 21 September 2004), para. 8; P860 (Witness 1, witness statement, 9 July 2007), para. 7; Witness 1, T. 8707.

¹¹⁷³ P858 (Witness 1, witness statement, 18 August 2000), p. 2; P859 (Witness 1, witness statement, 21 September 2004), para. 7; P860 (Witness 1, witness statement, 9 July 2007), para. 8; Witness 1, T. 8752; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁷⁴ P860 (Witness 1, witness statement, 9 July 2007), para. 8; Witness 1, T. 8761.

¹¹⁷⁵ Witness 1, T. 8761.

¹¹⁷⁶ P858 (Witness 1, witness statement, 18 August 2000), p. 2; P860 (Witness 1, witness statement, 9 July 2007), para. 6; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁷⁷ P858 (Witness 1, witness statement, 18 August 2000), p. 2; D781 (Witness 1, witness statement, 18 July 2008), p. 2; Witness 1, T. 8703; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1; P659 (List of names of persons whose remains were exhumed and identified in Grbolje and Knin in 2002); P864 (Autopsy report of Sava Čeko, 21 June 2001); P865 (Death report of Sava Čeko, 16 April 2002); P866 (Autopsy report of Nikola Dragičević, 21 June 2001); P867 (Death report of Nikola Dragičević, 16 April 2002).

¹¹⁷⁸ P659 (List of names of persons whose remains were exhumed and identified in Grbolje and Knin in 2002); P864 (Autopsy report of Sava Čeko, 21 June 2001); P866 (Autopsy report of Nikola Dragičević, 21 June 2001); P1695 (Photograph of skull, KN03/108B); P1696 (Photograph of skull, KN03/108B); P1697 (Photograph of clothes, KN03/108B); P1698 (Photograph of clothes, KN03/108B); P1705

Dragičević, a Serb born in 1933, was shot while still in the driver's seat of the tractor and Witness 1 later learned that he bled to death.¹¹⁷⁹ The autopsy report of Mile Dragičević states that the cause of death was likely blood loss or other complications caused by gunshot injuries to the legs.¹¹⁸⁰ John Clark found the steel core of a bullet in his remains, along with bullet fragments.¹¹⁸¹

316. Once the soldiers had stopped shooting, they took everyone but Witness 1 and three deceased to a nearby house.¹¹⁸² Witness 1 testified that sometime after the shooting, a man approximately 40 years old, driving a Mercedes and dressed in Serbian camouflage uniform stopped his car three metres away from the tractor.¹¹⁸³ The Croatian soldiers ordered the man out of the vehicle and took him away.¹¹⁸⁴ Witness 1 did not know what happened to this man.¹¹⁸⁵ After Witness 1 had laid on the tractor for some time, a Croatian soldier cocked his gun and suggested that he would kill Witness 1 because Witness 1 had already lost so much blood, but another soldier stopped him arguing that Witness 1 might be innocent.¹¹⁸⁶ Eventually, Witness 1 was removed from the tractor and believed that he was taken by his mother and another woman to a shaded area where he remained for about half an hour and then to the woman's home where he lay for about four hours.¹¹⁸⁷ That evening at approximately 6-8 p.m., Croatian soldiers

(Photograph of identification card, Sava Čeko); P1706 (Photograph of bones, KN03/115B); P1707 (Photograph of bones, KN03/115B); P1708 (Photograph of clothes, KN03/115B); P1709 (Photograph of clothes, KN03/115B); P2002 (List of identified persons exhumed in Knin).

¹¹⁷⁹ P858 (Witness 1, witness statement, 18 August 2000), p. 2; D781 (Witness 1, witness statement, 18 July 2008), p. 2; P869 (Death report of Mile Dragičević, 22 February 2002).

¹¹⁸⁰ P659 (List of names of persons whose remains were exhumed and identified in Grbolje and Knin in 2002); P868 (Autopsy report of Mile Dragičević, 25 June 2001); P869 (Death report of Mile Dragičević, 22 February 2002); P1699 (Photograph of bones, KN02/077B); P1700 (Photograph of bone, KN02/077B); P1701 (Photograph of exhumation site, KN02/077B); P1702 (Photograph of bullet fragments, KN02/077B); P1703 (Photograph of clothes, KN02/077B); P1704 (Photograph of clothes, KN02/077B); P2002 (List of identified persons exhumed in Knin).

¹¹⁸¹ P868 (Autopsy report of Mile Dragičević, 25 June 2001), pp. 1-3, 7, 10-11.

¹¹⁸² P858 (Witness 1, witness statement, 18 August 2000), p. 2; P859 (Witness 1, witness statement, 21 September 2004), para. 9; P860 (Witness 1, witness statement, 9 July 2007), paras 7, 9; Witness 1, T 8762.

¹¹⁸³ P858 (Witness 1, witness statement, 18 August 2000), p. 2; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁸⁴ P858 (Witness 1, witness statement, 18 August 2000), p. 2; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁸⁵ P858 (Witness 1, witness statement, 18 August 2000), p. 2; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁸⁶ P859 (Witness 1, witness statement, 21 September 2004), para. 9; P860 (Witness 1, witness statement, 9 July 2007), para. 10.

¹¹⁸⁷ P858 (Witness 1, witness statement, 18 August 2000), p. 3; P859 (Witness 1, witness statement, 21 September 2004), para. 9; Witness 1, T 8708, 8710, 8762; P862 (Aerial photograph of the road leading to the intersection in Kovačić marked by Witness 1).

took Witness 1 to the home of an SVK soldier, Savo Milovojević.¹¹⁸⁸ There, Milovojević told Witness 1 that he and five other SVK soldiers had been captured on that same day.¹¹⁸⁹ Witness 1 later overheard the Croatian soldiers interrogating the six SVK soldiers.¹¹⁹⁰ He also heard the Croatian soldiers refer to their unit as the Pumas and due to their accents concluded that they were from the Zagore area.¹¹⁹¹ Witness 1 saw the soldiers bring in 20 SVK soldiers whom he later saw in a prison in Split.¹¹⁹² At some point, the Croatian commander put alcohol on Witness 1's wound and dressed it.¹¹⁹³ Due to a loss of blood, Witness 1 drifted in and out of consciousness, but was later told by other detainees, including Dušan Dragičević, that Milovojević was taken from his home by the Croatian soldiers and two shots were heard from a distance.¹¹⁹⁴ According to Witness 1, Milovojević's corpse was later found near his neighbour's home some 100 metres from Milovojević's house.¹¹⁹⁵ Witness 1 and the others spent the night in Milovojević's home guarded by Croatian soldiers.¹¹⁹⁶ Pera Bilbija, who was also detained at Milovojević's house, was suffering from a gunshot wound in the thigh.¹¹⁹⁷ At 5 or 6 p.m. on 6 August 1995, a Croatian soldier took Witness 1 and Pera Bilbija by car to the hospital in Knin where Witness 1 received medical treatment for two months.¹¹⁹⁸ Witness 1 was then taken to Zadar Prison for two days and transferred to Biljice Prison in Split where about 280 Serb prisoners were held.¹¹⁹⁹ At Biljice Prison, Witness 1 met Vinetu Dragičević who had been on the tractor with him when it

¹¹⁸⁸ P858 (Witness 1, witness statement, 18 August 2000), pp. 2-3; P859 (Witness 1, witness statement, 21 September 2004), para. 10; D781 (Witness 1, witness statement, 18 July 2008), p. 2; Witness 1, T. 8710-8711, 8763; P863 (Aerial photograph of the road passing Savo Milivojovic's house marked by Witness 1).

¹¹⁸⁹ P859 (Witness 1, witness statement, 21 September 2004), para. 10.

¹¹⁹⁰ P858 (Witness 1, witness statement, 18 August 2000), p. 3; P859 (Witness 1, witness statement, 21 September 2004), para. 10.

¹¹⁹¹ P858 (Witness 1, witness statement, 18 August 2000), p. 3; D781 (Witness 1, witness statement, 18 July 2008), p. 2; Witness 1, T. 8763.

¹¹⁹² P858 (Witness 1, witness statement, 18 August 2000), p. 3; P859 (Witness 1, witness statement, 21 September 2004), para. 8.

¹¹⁹³ P858 (Witness 1, witness statement, 18 August 2000), p. 3; D781 (Witness 1, witness statement, 18 July 2008), p. 2; Witness 1, T. 8763-8764; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁹⁴ P859 (Witness 1, witness statement, 21 September 2004), para. 10, Witness 1, T. 8763.

¹¹⁹⁵ P859 (Witness 1, witness statement, 21 September 2004), para. 10.

¹¹⁹⁶ P858 (Witness 1, witness statement, 18 August 2000), p. 3; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹¹⁹⁷ P859 (Witness 1, witness statement, 21 September 2004), para. 4; P860 (Witness 1, witness statement, 9 July 2007), para. 11.

¹¹⁹⁸ P858 (Witness 1, witness statement, 18 August 2000), pp. 2-3; P860 (Witness 1, witness statement, 9 July 2007), para. 11; D781 (Witness 1, witness statement, 18 July 2008), p. 2; Witness 1, T. 8725, 8764, 8776, 8778; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1; D783 (Witness 1, Veritas witness statement, 13 February 1996), pp. 1-2.

came under attack by Croatian soldiers.¹²⁰⁰ Vinetu Dragičević told Witness 1 that the day after the shooting incident, he and 20 others had surrendered to the HV.¹²⁰¹ Vinetu Dragičević was then held in the Slavko Rodić military barracks in Knin for 20 days.¹²⁰² According to him, the captives at Slavko Rodić, including females, were beaten, forced to perform hard labour, and then taken to a prison in Zadar by Croatian soldiers.¹²⁰³ Vinetu Dragičević further told Witness 1 that three dead bodies including the body of his father Nikola Dragičević were taken by the Croatian military truck.¹²⁰⁴ On 30 or 31 December 1995, Witness 1 was released due to President Tuđman's amnesty and was taken with all but 20 of the Biljice prisoners to the Gašinci camp in Croatia.¹²⁰⁵ Witness 1 signed paperwork declaring his voluntary decision to travel to Serbia instead of returning to Croatia, because he was afraid that he would be killed by Croatian soldiers if he returned.¹²⁰⁶ After twelve days in Gašinci camp, Witness 1 and others were taken in three Croatian buses to the border of Yugoslavia where they were met by family members and a Red Cross official in charge of prisoners of war.¹²⁰⁷

317. **Dušan Dragičević**, a Serb from Polača in Knin municipality,¹²⁰⁸ stated that on 4 or 5 August 1995 he was home on sick leave from the army and could hear shelling primarily from the direction of Knin.¹²⁰⁹ The witness and approximately 20 other people gathered in the centre of Polača and decided to flee.¹²¹⁰ The majority of the villagers had already left Polača.¹²¹¹ The witness's wife and children had left Polača approximately two days earlier because they knew that fighting would start and that Polača was

¹¹⁹⁹ P858 (Witness 1, witness statement, 18 August 2000), pp. 2-3; Witness 1, T. 8764-8765; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 1; D783 (Witness 1, Veritas witness statement, 13 February 1996), p. 1.

¹²⁰⁰ P858 (Witness 1, witness statement, 18 August 2000), p. 3.

¹²⁰¹ P858 (Witness 1, witness statement, 18 August 2000), p. 3.

¹²⁰² P858 (Witness 1, witness statement, 18 August 2000), p. 3.

¹²⁰³ P858 (Witness 1, witness statement, 18 August 2000), p. 3; D781 (Witness 1, witness statement, 18 July 2008), pp. 2-3.

¹²⁰⁴ P858 (Witness 1, witness statement, 18 August 2000), p. 3.

¹²⁰⁵ P858 (Witness 1, witness statement, 18 August 2000), p. 3; P859 (Witness 1, witness statement, 21 September 2004), para. 11; Witness 1, T 8765, 8774.

¹²⁰⁶ P859 (Witness 1, witness statement, 21 September 2004), para. 11; D781 (Witness 1, witness statement, 18 July 2008), p. 3; Witness 1, T. 8712-8713; D780 (MUP official record of interview with Witness 1, 17 July 2008), p. 2.

¹²⁰⁷ P858 (Witness 1, witness statement, 18 August 2000), p. 3; Witness 1, T 8766.

¹²⁰⁸ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, p. 1, para. 1, 9 July 2007 statement, p. 1.

¹²⁰⁹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 2, 9 July 2007 statement, para. 2.

¹²¹⁰ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 2.

¹²¹¹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 2.

roughly located between the two armies.¹²¹² The witness stated that the people who had gathered in the village climbed onto a tractor and its trailer and that the situation was chaotic.¹²¹³ The witness's father, Mile Dragičević (born in 1933), drove the tractor.¹²¹⁴ The other people on the tractor were the witness's mother Smilja Dragičević (born in 1934), his neighbour Mile Dragičević, Ivka Dragičević, Mićo Dragičević, Gojko Andić, Bosa Andić, Anica Andić, Nikola Dragičević, Marica Dragičević, Mirko Pećar, Sava Čeko, Lazo Bilbija, Pera Bilbija, and others.¹²¹⁵ The witness travelled in a Zastava 101 car behind the tractor together with Vinetu Dragičević and Stevo Čeko.¹²¹⁶ When the group left Polača for Knin at approximately 8 or 9 a.m., they saw shells hitting the main road and therefore decided to travel down the side road.¹²¹⁷ When they commenced the journey, they were all civilians, the ones on the tractor were mostly elderly, and the witness could not see anyone carrying a weapon.¹²¹⁸ The witness was not sure whether any Krajina soldiers joined the tractor during the journey, but remembered that one person, although not in the army at the time, was wearing an olive-green uniform, or at least an olive-green uniform jacket or shirt.¹²¹⁹ The witness stated that, as army uniforms were readily available at the time, he often saw them worn by people who were not in the army.¹²²⁰

318. Around 10-10:30 a.m., when the tractor and the car were approximately 100-200 metres from the cross-roads near the village of Kovačić in Knin municipality, the witness heard rapid bursts of gunfire from the direction of the cross-roads.¹²²¹ He saw two olive-green tanks and a lot of soldiers in camouflage uniforms wearing HV 7th

¹²¹² P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 3, 9 July 2007 statement, para. 4.

¹²¹³ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, paras 2-3.

¹²¹⁴ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, paras 2-3.

¹²¹⁵ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 3.

¹²¹⁶ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 2.

¹²¹⁷ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, paras 2, 4, 9 July 2007 statement, para. 3.

¹²¹⁸ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, paras 3, 7, 9-10.

¹²¹⁹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, paras 7, 9, 9 July 2007 statement, para. 5.

¹²²⁰ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 9.

¹²²¹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 4.

Guards Brigade insignia with red and white checkerboard Croatian flags.¹²²² The witness saw the soldiers pointing their guns at them and heard shooting and screaming.¹²²³ When the car that the witness was driving approached the Croatian tanks, Vinetu Dragičević was able to escape from the passenger seat.¹²²⁴ The witness was not able to escape, as the Croatian soldiers were standing right next to his side of the car.¹²²⁵ The witness saw people running through the fields.¹²²⁶ The witness saw the Croatian soldiers stop a Mercedes and a refrigerator truck which had driven up behind them.¹²²⁷ The soldiers removed from the Mercedes a man who wore a green Serbian Krajina uniform, which according to the witness was the same as the JNA uniforms.¹²²⁸ The witness heard the soldiers order the man to lie down and saw the soldiers search the car whilst the man in the Serbian Krajina uniform was lying on the road.¹²²⁹ The witness also saw another man in a Serbian Krajina uniform.¹²³⁰ The witness stated that when he approached the tractor he saw on the back of the tractor the dead bodies of Nikola Dragičević and Sava Čeko leaning in a sitting position against the side of the trailer.¹²³¹ The witness saw that Nikola Dragičević's forehead was hurt but was unable to determine whether he had suffered other wounds to his body as there was too much blood to tell.¹²³² The witness saw that another man was wounded and leaning against the side of the trailer.¹²³³ The witness also saw and heard Croatian soldiers asking the

¹²²² P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 4.

¹²²³ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, paras 5-6.

¹²²⁴ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 9 July 2007 statement, para. 6.

¹²²⁵ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 9 July 2007 statement, para. 6.

¹²²⁶ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 5.

¹²²⁷ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 6.

¹²²⁸ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 6.

¹²²⁹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 6.

¹²³⁰ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 9 July 2007 statement, para. 5.

¹²³¹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, paras 5, 7.

¹²³² P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 7.

¹²³³ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 7, 9 July 2007 statement, para. 5.

wounded man why he was wearing an army uniform.¹²³⁴ The witness also saw and heard Croatian soldiers ask another man in Serbian uniform why he was wearing the uniform.¹²³⁵ The Croatian soldiers ordered the witness and some others to move the wounded man to a nearby bus stop, and they did so.¹²³⁶ The Croatian soldiers gathered the ten to twelve people that had not managed to escape, and brought them to the bus stop at gunpoint.¹²³⁷ The witness did not see his father.¹²³⁸ Three or four people were wounded, including Marica Dragičević and Pera Bilbija.¹²³⁹ The witness stated that Mirko Pećar was also wounded, but had managed to escape.¹²⁴⁰ According to an official note of an SIS interview conducted on 10 August 1995, Dušan Dragičević had an automatic rifle when he surrendered to the 7th Guards Brigade of the HV in the area of Kovačić.¹²⁴¹

319. Dušan Dragičević stated that they did not stay at the bus stop for long before the Croatian soldiers took them to a nearby house.¹²⁴² The witness and the other people stayed at the house for approximately five to six hours.¹²⁴³ Just before dark the Croatian soldiers took them to another house where they remained overnight.¹²⁴⁴ The next morning the Croatian soldiers took them to a school building in Knin.¹²⁴⁵ The elderly people and the women stayed in the school building whilst the Croatian soldiers took the men to the barracks named Slavko Rodić in Knin where they remained from 6 until on or about 11 August 1995.¹²⁴⁶ The witness stated that he saw the insignia of the 4th

¹²³⁴ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 9, 9 July 2007 statement, para. 5.

¹²³⁵ P2517 (Dušan Dragičević, witness statements and associated exhibits), 9 July 2007 statement, para. 5.

¹²³⁶ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 8.

¹²³⁷ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, paras 8, 10.

¹²³⁸ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 8.

¹²³⁹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 8.

¹²⁴⁰ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 8.

¹²⁴¹ D778 (Official note of SIS interview with Dušan Dragičević), p. 1.

¹²⁴² P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, paras 8, 11.

¹²⁴³ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 11.

¹²⁴⁴ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 11.

¹²⁴⁵ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 11.

¹²⁴⁶ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, paras 11-12.

Guard Brigade on the uniforms of the soldiers who ran the barracks.¹²⁴⁷ He stated that there were more than 30 people held in the barracks but that the number constantly changed.¹²⁴⁸ The soldiers sometimes made him clean the property.¹²⁴⁹ He was beaten by soldiers in camouflage uniforms and saw many other people who were bruised.¹²⁵⁰ On or about 11 August 1995, the Croatian soldiers took the witness and some other people back to the school building where they spent one night.¹²⁵¹ At the school building they were interrogated and beaten by men in civilian clothing.¹²⁵² On or about 11 August 1995, ICRC delegates came to the school building to register and bring food to the detainees.¹²⁵³ The witness knew that the delegates belonged to the ICRC because the registration forms said "ICRC".¹²⁵⁴

320. That evening, individuals whom the witness did not identify loaded the witness and some other persons on a bus which was escorted by military police to Mocire sports hall in Zadar.¹²⁵⁵ During the journey to Zadar, the military police ordered them to sing a Croatian national song and took shifts in beating them with batons.¹²⁵⁶ ICRC delegates later arrived in Zadar and asked the witness whether he had been beaten during the transfer.¹²⁵⁷ The witness did not tell the ICRC delegates that he had been beaten because he had been told that he was not allowed to do so.¹²⁵⁸ In Mocire sports hall, there were many people from the villages around Benkovac and Knin.¹²⁵⁹ The witness spent three days in Mocire sports hall in Zadar before, on 13 August 1995, he was transferred to

¹²⁴⁷ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 11.

¹²⁴⁸ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 11.

¹²⁴⁹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 11.

¹²⁵⁰ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 11.

¹²⁵¹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 12.

¹²⁵² P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 12.

¹²⁵³ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 12.

¹²⁵⁴ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 12.

¹²⁵⁵ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 13.

¹²⁵⁶ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 13.

¹²⁵⁷ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 13.

¹²⁵⁸ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 13.

Zadar district prison where he stayed for approximately two months.¹²⁶⁰ On 13 October 1995, he was transferred to Split prison.¹²⁶¹ ICRC delegates visited him in Split prison.¹²⁶² The witness was treated nicely during his stay in the Zadar and the Split prisons.¹²⁶³ In 1996, the witness stated that he had been charged with armed riot, and in 2003 he stated that he had been charged with being a member of the SVK.¹²⁶⁴ The charges were later dropped and the witness was released from the Split prison on 31 December 1995 and escorted by the regular police to a refugee centre in Đakovo in Slavonia municipality.¹²⁶⁵ Either the ICRC or “the government” gave the witness the choice of remaining in Croatia or going to Serbia.¹²⁶⁶ The witness elected to go to Serbia where his family members were now located, and was transferred to Serbia by bus on 13 January 1996.¹²⁶⁷ The witness and his family settled in Indjija, Serbia.¹²⁶⁸ In 2003, the witness expressed his wish to return to Croatia.¹²⁶⁹

321. When the witness got to Serbia on 13 January 1996, he learned from family members that Croatian police had found his father dead in Kovačić, and that someone had buried him in Knin cemetery.¹²⁷⁰ The police investigation completed in December 1995 concluded that a man by the name of Ivo Vuković had found the body of Mile Dragičević, leaning against a tree one metre from a dry-stone wall near the bus stop in the hamlet of Topolje in Knin municipality.¹²⁷¹ In December 1995, the chief physician of the Zadar hospital identified the body as that of Mile Dragičević and concluded that

¹²⁵⁹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement.

¹²⁶⁰ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 13.

¹²⁶¹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 13.

¹²⁶² P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement.

¹²⁶³ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 13.

¹²⁶⁴ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 13.

¹²⁶⁵ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 13, 9 July 2007 statement, para. 8.

¹²⁶⁶ P2517 (Dušan Dragičević, witness statements and associated exhibits), 9 July 2007 statement, para. 8.

¹²⁶⁷ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 13, 9 July 2007 statement, para. 8.

¹²⁶⁸ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, para. 1.

¹²⁶⁹ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 17.

¹²⁷⁰ P2517 (Dušan Dragičević, witness statements and associated exhibits), 16 February 1996 statement, 13 October 2003 statement, paras 13-14, 9 July 2007 statement, para. 8.

¹²⁷¹ P2517 (Dušan Dragičević, witness statements and associated exhibits), Zadar Cantonal Court Investigations Centre record of onsite investigation, 28 December 1995, p. 1, Zagreb Forensic Institute report on circumstances of death, 22 February 2002, p. 1.

both his legs were broken but that there was no damage to his clothing.¹²⁷² In March 2002, the witness travelled to Zagreb, identified the remains of his father by his clothing, belongings, and medical identification, and received his father's death certificate from the Forensic Institute in Zagreb.¹²⁷³ In April 2002, after a mortician issued a permit to bury his father's body, the witness buried his father in the village cemetery in Polača.¹²⁷⁴

322. **Witness 13**, a Serb from a village in Knin municipality,¹²⁷⁵ testified that during the night between 4 and 5 August and during all of the day of 5 August 1995 there was shelling in the surrounding villages. At approximately 8:15 a.m. on 5 August 1995, the witness and her family decided to flee the village. Along with other villagers, including Mile and Smilja Dragičević and their son Dušan, and Miloš and Ika Dragičević, they got on Mile Dragičević's tractor and set out from the village. According to the witness, there were 22 persons on the tractor including persons who joined later: Pera Bilbija, Lazar Bilbija, Stana Bilbija, Witness 1, Witness 1's uncle, Sava Andić, Anica Andić, Stevo Čeko, Jovo Čeko, Mirko Pećer, Gojko Andić, Bosa Andić, and Nikola Andić.¹²⁷⁶ They were sitting on bags with clothes and other personal belongings.¹²⁷⁷ The witness was sitting at the back of the tractor, facing backwards.¹²⁷⁸ The witness testified that there were no weapons on the tractor and that she could not remember whether anybody on the tractor wore military clothes.¹²⁷⁹ The group arrived in Kosovo in Orlič municipality on a village road and took the main road towards Knin.¹²⁸⁰ Close to the

¹²⁷² P2517 (Dušan Dragičević, witness statements and associated exhibits), Zadar Cantonal Court Investigations Centre record of onsite investigation, 28 December 1995, pp. 2-3; P1703 (Photograph of clothes, KN02/077B); P1704 (Photograph of clothes, KN02/077B).

¹²⁷³ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, paras 14-15, Zagreb Forensic Institute report on circumstances of death, 22 February 2002; P1703 (Photograph of clothes, KN02/077B); P1704 (Photograph of clothes, KN02/077B).

¹²⁷⁴ P2517 (Dušan Dragičević, witness statements and associated exhibits), 13 October 2003 statement, para. 14, Burial permit for Mile Dragičević, 5 April 2002.

¹²⁷⁵ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, pp. 1-2, 2004 statement, p. 1; Witness 13, T. 16653.

¹²⁷⁶ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 2, 2004 statement, para. 2.

¹²⁷⁷ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2008 statement, para. 2; Witness 13, T. 16640.

¹²⁷⁸ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2008 statement, para. 2; Witness 13, T. 16640, 16663.

¹²⁷⁹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2004 statement, para. 2, 2008 statement, para. 2; Witness 13, T. 16639-16640, 16651, 16657-16658; D1430 (Witness 13, supplemental information sheet, 24 February 2009).

¹²⁸⁰ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 2.

lake Sarina the group saw two Serbian soldiers.¹²⁸¹ The group entered Kovačić in Knin municipality.¹²⁸² After passing a bend at the entrance of the village, the group saw three HV tanks, with the Croatian national crest, at a hundred metres distance.¹²⁸³ There were soldiers in and by the tanks, wearing Croatian uniforms with the Croatian national emblem, black or white scarves around their heads, and brown bands around their wrists.¹²⁸⁴ Some of the soldiers were wearing camouflage while others were wearing black shirts.¹²⁸⁵ The witness could not remember the number of soldiers.¹²⁸⁶ The soldiers opened fire on the tractor.¹²⁸⁷ The witness heard a burst of fire and believed that it was from a machine gun.¹²⁸⁸ The witness did not hear any warning by the Croatian soldiers to stop the tractor.¹²⁸⁹ Nikola Dragičević, Sava Čeko, and Mile Dragičević, who was driving the tractor, were immediately killed.¹²⁹⁰ Witness 1, Pera Bilbija, and the witness were injured.¹²⁹¹ The witness suffered injuries to three fingers on her left hand.¹²⁹² The witness indicated to one of the soldiers to kill her but the soldier responded: “It is enough for you”.¹²⁹³ One of the soldiers came up to Pera Bilbija, who was helping Stana Bilbija, and shot her twice in the thigh.¹²⁹⁴ Pera Bilbija fell

¹²⁸¹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 2, 2004 statement, para. 3, 2008 statement, para. 3.

¹²⁸² P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 2.

¹²⁸³ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, pp. 2-3, 2004 statement, para. 4, 2008 statement, para. 4; Witness 13, T. 16641.

¹²⁸⁴ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 2, 2004 statement, para. 8; Witness 13, T. 16665.

¹²⁸⁵ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2004 statement, para. 8.

¹²⁸⁶ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 2.

¹²⁸⁷ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2008 statement, para. 4; Witness 13, T. 16641.

¹²⁸⁸ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2008 statement, para. 4.

¹²⁸⁹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2004 statement, para. 4, 2008 statement, para. 4; Witness 13, T. 16642-16643, 16664.

¹²⁹⁰ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2004 statement, para. 2, 2008 statement, para. 5; Witness 13, T. 16641, 16658.

¹²⁹¹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3; Witness 13, T. 16641, 16665.

¹²⁹² P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3; Witness 13, T. 16641-16642.

¹²⁹³ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2004 statement, para. 4.

¹²⁹⁴ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2004 statement, para. 5, 2008 statement, para. 6; Witness 13, T. 16643-16644, 16669.

unconscious and was bleeding heavily.¹²⁹⁵ According to the witness, Pera Bilbija spent some time in a hospital receiving treatment for the wounds.¹²⁹⁶ Witness 1 had been shot in the shoulder and was bleeding heavily.¹²⁹⁷ The soldiers continued to fire at people who attempted to run away from the tractor.¹²⁹⁸ The witness believed that some of these people managed to escape.¹²⁹⁹ About 15 soldiers then approached the tractor.¹³⁰⁰ The soldiers started to go through the group's belongings and searched the tractor for weapons.¹³⁰¹ The soldiers then assembled the remaining people of the group in front of a nearby house.¹³⁰² The three dead bodies were left on the tractor.¹³⁰³ The witness saw nearby houses in the village on fire.¹³⁰⁴ The soldiers boasted about having killed a lot of "Chetniks" and told the group in a threatening manner to stay in front of the house.¹³⁰⁵ The witness believed that the group consisted of about ten people at that time.¹³⁰⁶ After a while the soldiers who had shot at the group left and the witness saw that the tanks were gone as well.¹³⁰⁷ The witness and Anda Andić decided not to obey the orders of the soldiers to the group to stay at this place. Although they feared to be killed they wanted to get medical help for the wounded.¹³⁰⁸ The group observed other HV soldiers going into houses and coming out with TVs and radios and the witness noticed that the

¹²⁹⁵ Witness 13, T. 16644-16645.

¹²⁹⁶ Witness 13, T. 16644.

¹²⁹⁷ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3; Witness 13, T. 16639.

¹²⁹⁸ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2008 statement, para. 7.

¹²⁹⁹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2004 statement, para. 5, 2008 statement, para. 7.

¹³⁰⁰ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3.

¹³⁰¹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3.

¹³⁰² P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2004 statement, para. 5.

¹³⁰³ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3.

¹³⁰⁴ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2004 statement, para. 5.

¹³⁰⁵ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2004 statement, para. 5.

¹³⁰⁶ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3.

¹³⁰⁷ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3.

¹³⁰⁸ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3.

houses began burning as the soldiers left them.¹³⁰⁹ The witness did not see any Serb civilians in the village.¹³¹⁰

323. The witness and Anica Andić left on foot for Knin to get some help for Witness 1.¹³¹¹ At the small bus stop in Kovačić they saw two dead men, in civilian clothing, lying on the road.¹³¹² They also observed many burning houses and destroyed vehicles along the road.¹³¹³ They entered Knin through an intersection, followed by a bridge.¹³¹⁴ According to the witness, there were many HV soldiers shooting in the air and smashing shop windows.¹³¹⁵ When some soldiers approached them, Anica Andić explained what had happened and the soldiers told them to go to a building where some people had already been assembled.¹³¹⁶ They went there and remained for about four hours.¹³¹⁷ Altogether, there were about 50 Serbs in the assembled group, of whom most were women and children and only five or six were men aged between 50 and 60.¹³¹⁸ Some of the persons were without shoes and socks.¹³¹⁹ After four hours, an HV soldier arrived driving a truck.¹³²⁰ The group was put in the truck and driven to a UN compound, arriving around 6 p.m.¹³²¹ There, the witness met her daughter and grandchildren, who had been living in Knin at the time.¹³²² At the compound the witness gave a statement to

¹³⁰⁹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2008 statement, para. 8.

¹³¹⁰ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3.

¹³¹¹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2004 statement, para. 6; Witness 13, T. 16651.

¹³¹² P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2004 statement, para. 6.

¹³¹³ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3.

¹³¹⁴ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 3, 2004 statement, para. 6.

¹³¹⁵ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, pp. 3-4.

¹³¹⁶ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, pp. 3-4.

¹³¹⁷ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4.

¹³¹⁸ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4.

¹³¹⁹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4.

¹³²⁰ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4, 2004 statement, para. 6.

¹³²¹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4, 2004 statement, para. 6.

¹³²² P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4, 2004 statement, para. 7.

Alun Roberts.¹³²³ Later, Witness 13 also met Witness 1's uncle who told her that he had run away from the tractor together with Witness 13's son.¹³²⁴ Both of them had been captured by HV soldiers the day after the shooting whereupon the former had been released because, according to the witness, he was an old man.¹³²⁵ The witness's son was detained in Split until January 1996.¹³²⁶ He told her later that he had been severely beaten while detained.¹³²⁷

324. The witness stayed in the UN compound for seven weeks.¹³²⁸ There were about 1,300 people staying there. The witness could hear Croats outside the compound whom she believed to be celebrating, and who also called the people inside the compound "Chetniks" and other bad names. Just before the witness left the UN compound, Croatian police entered the compound with the permission of UNPROFOR to search both men and women for weapons. The police separated about 60 men, some of them from the hospital at the compound, and took them to prison.¹³²⁹ After that, Croatian buses, escorted by UNPROFOR, took the witness and others to Sremska Mitrovica in Serbia.¹³³⁰ Alun Roberts was with the convoy during the whole trip. In Sremska Mitrovica, the local Red Cross received the group and directed the people to various places. The witness has lived in Serbia ever since.¹³³¹ The witness testified that her house had burned down and that she had no home to return to.¹³³² In 2002, the body of Nikola Dragičević was identified, and buried in Polača cemetery.¹³³³

325. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-

¹³²³ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4, 2004 statement, para. 7.

¹³²⁴ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4.

¹³²⁵ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, pp. 4-5; Witness 13, T. 16667.

¹³²⁶ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 5.

¹³²⁷ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 5; Witness 13, T. 16659.

¹³²⁸ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4; Witness 13, T. 16652.

¹³²⁹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4.

¹³³⁰ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4; Witness 13, T. 16652.

¹³³¹ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2000 statement, p. 4.

¹³³² Witness 13, T. 16652.

September 1995,¹³³⁴ interviewed on 17 August 1995 three displaced persons at the UN compound in Knin, who told him about HV soldiers killing six persons travelling on a tractor from Kosovo, in Orlić municipality, towards Knin on 5 August 1995.¹³³⁵

326. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,¹³³⁶ testified that she interpreted the statement of a woman from Polača in Knin municipality, who arrived at the UN camp on 5 August 1995 covered in blood with three fingers dangling off her hand.¹³³⁷ The woman told the witness that she had been part of a group of 20 or 23 civilians travelling on a tractor and trailer from the village of Polača in Knin municipality that ran into HV soldiers at a cross-road in Kovačić, Knin municipality.¹³³⁸ According to the woman, the soldiers shot and killed three men, Nicola (born 1930), Mile Dragičević (born 1927), and Savo Čeko (born 1940), and wounded two others.¹³³⁹ The witness testified that the woman did not say anything about whether there were RSK soldiers on the lorry but the witness knew that at the time many elderly persons, who had no other clothes, were wearing camouflage uniforms.¹³⁴⁰

327. According to the operative logbook of the 4th Guards Brigade, on 5 August 1995, at 11:04 a.m., the 7th Guards Brigade needed a medical team at the position T-1 Borića Glava.¹³⁴¹ On the same day, at 11:07 a.m., Zebić reported to the 4th Guards Brigade that the 7th Guards Brigade had entered Knin from the direction of Kovačići, in Knin municipality.¹³⁴²

328. Based on the evidence received, the Trial Chamber finds that on 5 August 1995, around 10-10:30 a.m., in or near the village of Kovačić in Knin municipality, a group of approximately 20 uniformed persons opened fire, from a distance of 20 metres or less, on a tractor and trailer carrying approximately 20 persons, including women and elderly people. These persons included Nikola Dragičević, Sava Čeko, and Mile Dragičević,

¹³³³ P2352 (Witness 13, witness statements of 16 August 2000, 26 September 2004, and 19 February 2008), 2004 statement, paras 10-11.

¹³³⁴ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

¹³³⁵ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 17; Edward Flynn, T. 1110, 1112; P40 (HRAT daily report, 17 August 1995), p. 3.

¹³³⁶ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

¹³³⁷ P2 (Witness 136, witness statement, 4 July 1996), p. 4; Witness 136, T. 711, 715-716, 802.

¹³³⁸ P2 (Witness 136, witness statement, 4 July 1996), p. 4; Witness 136, T. 711, 713.

¹³³⁹ P2 (Witness 136, witness statement, 4 July 1996), p. 4; Witness 136, T. 711, 716.

¹³⁴⁰ Witness 136, T. 711, 713, 751-752.

¹³⁴¹ P2343 (Operative logbook of the 4th Guards Brigade, July and August 1995), p. 36.

who was driving the tractor. According to Witness 1, who was not positively contradicted by any other witnesses in this regard, the uniformed persons twice ordered the tractor to stop but it continued advancing. Two or more persons on the trailer wore military clothing, or clothing appearing to be military. The tractor and trailer was at the head of a convoy of vehicles. When the shooting began, some members of the convoy fled into nearby fields, as the uniformed men fired at them. When Witness 13, being injured, indicated to one of the uniformed persons to kill her, that person responded: "It is enough for you". Witness 1 had been shot in his shoulder. Another uniformed person came up to Pera Bilbija, who was helping Stana Bilbija, and shot her twice in the thigh, causing her to fall unconscious and bleed heavily. Nikola Dragičević, Sava Čeko, and Mile Dragičević were all shot on the tractor. Autopsy reports establish that Nikola Dragičević and Sava Čeko died as a result of gunshot wounds to the chest. As such, the Trial Chamber finds that on 5 August 1995, in or near Kovačić, uniformed persons shot and thereby killed Nikola Dragičević and Sava Čeko. With regard to Mile Dragičević, the Trial Chamber considered both reports of his death. In light of the fact that the chief physician of the Zadar hospital did not notice evidence of bullet damage, including the steel core of a bullet and other bullet fragments that John Clark found in the remains, the Trial Chamber finds John Clark's autopsy report to be more thorough, and to provide more precise information. The Trial Chamber therefore finds that Mile Dragičević died from blood loss or other complications caused by gunshot wounds to his legs he received from the uniformed persons on 5 August 1995.

329. The Trial Chamber considered the evidence contained in an official note of an SIS interview that indicated that Dušan Dragičević was carrying an automatic rifle. In accordance with its general approach (see chapter 2), the Trial Chamber has weighed this evidence, found solely in this official note and not confirmed by any of several witnesses to the incident, and finds that it is not plausible that Dušan Dragičević was carrying an automatic rifle.

330. The persons who opened fire on the convoy identified themselves as Croatian military. They wore camouflage uniforms displaying red and white checkerboard Croatian flags and what Dušan Dragičević recognized as HV 7th Guards Brigade insignia. Some wore black shirts. They were accompanied by two to three olive-green tanks displaying the Croatian red and white checkerboard and national crest. They

¹³⁴² P2343 (Operative logbook of the 4th Guards Brigade, July and August 1995), p. 36.

removed a man who wore what Dušan Dragičević described as a green Serbian Krajina uniform from a Mercedes car, which had stopped behind the tractor. They ordered this man to lie down on the road and searched his car. They boasted about having killed a lot of “Chetniks”. The operative logbook of the 4th Guards Brigade records that on the day of this incident, at 11:04 a.m., the 7th Guards Brigade requested a medical team. On that same day, at 11:07 a.m., the same operative logbook records that the 7th Guards Brigade had entered Knin from the direction of Kovačić, in Knin municipality. The Trial Chamber has in this respect also considered the evidence underlying its findings with regard to the alleged murder of Ilija Šarac. Considering that Dušan Dragičević saw the insignia of the 7th Guards Brigade on the uniforms of the soldiers who opened fire on the convoy, and the recorded movements of the same unit in the vicinity of Kovačić that day, the Trial Chamber finds that the persons who killed Nikola Dragičević, Sava Čeko, and Mile Dragičević were members of the HV 7th Guards Brigade. As for the evidence regarding the alleged death of Savo Milovojević, the Trial Chamber considered the state of consciousness of Witness 1 at the time as well as the hearsay and unsourced nature of the evidence, and decided not to further consider this incident.

331. When assessing the ethnicity of the victims, the Trial Chamber considered that according to Croatian reports on the circumstances of their deaths (exhibits P865, P867, and P869), which are based on information provided by their relatives, Nikola Dragičević, Sava Čeko, and Mile Dragičević were of Serb ethnicity. The Trial Chamber further considered that according to Witness 1, on 4 August 1995, people in his village who had not already left had been talking about the SVK’s warnings to flee to Pađani in Knin municipality. Similarly, the Trial Chamber noted that Witness 1, a Serb, was a cook in the SVK and his uncle, Mićo Dragičević, and Sava Čeko, who were also on the tractor, were members of the SVK. Dušan Dragičević, another member of the convoy and the son of Mile Dragičević, was a Serb on sick leave from the SVK and travelled with Vinetu Dragičević, a further member of the SVK. Witness 13 and Pera Bilbija were also Serbs on the tractor. Based on this evidence, the Trial Chamber finds that Nikola Dragičević, Sava Čeko, and Mile Dragičević were of Serb ethnicity. The Trial Chamber will further consider this incident in relation to Counts 1, 6, 7, 8, and 9 of the Indictment in chapters 5.3.2, 5.7.2, and 5.8.2 below.

332. Based on the evidence of Dušan Dragičević and Witness 1, as well as its finding that the persons who killed Nikola Dragičević, Sava Čeko, and Mile Dragičević were

members of the HV 7th Guards Brigade, the Trial Chamber finds that the HV soldiers then gathered approximately ten to twelve persons, including Dušan Dragičević, and brought them to a nearby bus stop at gunpoint. Shortly thereafter the HV soldiers took them to a nearby house, and just before dark to another house where they stayed overnight. They also brought Witness 1. The next morning, 6 August 1995, the HV soldiers took them – excluding Witness 1 – to a school building in Knin, where the women and elderly remained. The HV soldiers took the men, one of whom was Dušan Dragičević, to the “Slavko Rodić” barracks in Knin, where they remained from 6 until on or about 11 August 1995 with about 30 others. The Trial Chamber further finds that in these barracks, detainees were beaten, including by persons in camouflage uniform, and forced to perform labour, including by persons referred to as soldiers. Considering that Dušan Dragičević saw the insignia of the 4th Guards Brigade on the uniforms of the soldiers who ran the barracks, the Trial Chamber finds that the persons who detained Dušan Dragičević and the other persons at the barracks were members of the HV 4th Guards Brigade. Dušan Dragičević and Witness 1 were eventually taken to Zadar and Split where they stayed at various locations. In this respect, the Trial Chamber recalls its findings with regard to reception and collection centres in chapter 4.5.5. The evidence regarding their passage in prisons in Zadar and Split is insufficiently detailed for the Trial Chamber to make relevant factual findings.

333. The Trial Chamber finds, based on Witness 1’s and Dušan Dragičević’s evidence, that they were Serbs. According to Witness 1’s evidence, Savo Milovojević and more than 20 others detained at the latter’s house were in the SVK. Based on this affiliation evidence, the Trial Chamber finds that most or all of these SVK detainees were Krajina Serbs. As for the other persons brought with Dušan Dragičević to the bus stop at gunpoint, the Trial Chamber finds, considering the ethnic composition of Polača in 1991 and the nature of the convoy stopped in or near the village of Kovačić, that most of them were of Serb ethnicity. The Trial Chamber has received insufficient evidence to be able to determine the ethnicity of the persons held at the “Slavko Rodić” barracks, other than as mentioned above. The Trial Chamber will further consider these incidents in relation to Count 1 of the Indictment in chapter 5.8.2 (e) below.

Sava Đurić (Schedule no. 2)

334. The Trial Chamber has received relevant evidence with regard to the alleged murder of Sava Đurić primarily through the testimonies of Mile Đurić and Milica Đurić who were eye witnesses to the incident. The Trial Chamber will review their testimonies in turn.

335. **Mile Đurić**, a Serb from Plavno in Knin municipality,¹³⁴³ went to have lunch with his parents, sister, and grandmother in their family house in the hamlet of Đurići, Plavno village, on 6 August 1995.¹³⁴⁴ After lunch, the witness set off for his summer house and was half way there when he noticed that the family house he had just left, along with the workshop, was on fire.¹³⁴⁵ As a result of what he observed, the witness decided to return to the family house.¹³⁴⁶ On the road, the witness saw approximately 15 Croatian soldiers wearing camouflage uniforms.¹³⁴⁷ Upon arrival, the witness entered his neighbour's backyard and from there he saw one soldier with his grandmother and two soldiers with his father, Sava Đurić, standing in front of the workshop.¹³⁴⁸ The witness testified that his father was disabled and was only able to walk slowly.¹³⁴⁹ The soldiers had the same camouflage uniforms as those the witness had seen on the road and were wearing black ski-masks.¹³⁵⁰ The witness was standing about ten metres away, behind a metre-high wall, and testified that he had a very good view while being concealed by a tree.¹³⁵¹ The soldier holding the witness's grandmother told the other two soldiers to "throw the man into the fire", and then said that he would take the grandmother to the end of the village and by the time she returned all should be

¹³⁴³ P436 (Mile Đurić, witness statement, 25 September 2004), p. 1; P437 (Mile Đurić, witness statement, 13 July 2007), p. 1.

¹³⁴⁴ P436 (Mile Đurić, witness statement, 25 September 2004), para. 5.

¹³⁴⁵ P437 (Mile Đurić, witness statement, 13 July 2007), para. 5; Mile Đurić, T. 4842-4843; D396 (Maps of Plavno).

¹³⁴⁶ P436 (Mile Đurić, witness statement, 25 September 2004), para. 6; P437 (Mile Đurić, witness statement, 13 July 2007), para. 5; Mile Đurić, T. 4842-4843.

¹³⁴⁷ P436 (Mile Đurić, witness statement, 25 September 2004), para. 6; P437 (Mile Đurić, witness statement, 13 July 2007), para. 5.

¹³⁴⁸ P436 (Mile Đurić, witness statement, 25 September 2004), para. 6; P439 (Sketch by Mile Đurić of his position and that of the soldiers holding Sava Đurić).

¹³⁴⁹ P436 (Mile Đurić, witness statement, 25 September 2004), para. 10; P437 (Mile Đurić, witness statement, 13 July 2007), para. 2; Mile Đurić, T. 4843-4844.

¹³⁵⁰ P436 (Mile Đurić, witness statement, 25 September 2004), paras 6-7; P437 (Mile Đurić, witness statement, 13 July 2007), para. 5.

¹³⁵¹ P436 (Mile Đurić, witness statement, 25 September 2004), para. 6; P437 (Mile Đurić, witness statement, 13 July 2007), para. 6; Mile Đurić, T. 4845-4848; P439 (Sketch by Mile Đurić of his position and that of the soldiers holding Sava Đurić); P440 (Photographs of Mile Đurić's family home and yard, marked by Mile Đurić), pp. 2-3, indicating the location from where the witness watched the killing of his father.

burnt.¹³⁵² After the same soldier again told the other two to “throw the man into the fire”, the witness’s grandmother was taken away by one soldier, while the other two threw his father into the burning workshop and locked the door.¹³⁵³ One of the soldiers then told another to check the front of the house to see if anyone was trying to escape from the house.¹³⁵⁴ The witness’s mother told him later that she at the time was hiding in the basement together with the witness’s sisters and five others.¹³⁵⁵ At this point, the witness decided to flee, and in doing so came across another group of Croatian soldiers in the same uniform, who began shooting at him.¹³⁵⁶ The soldiers eventually gave up once the witness managed to reach the woods.¹³⁵⁷ The next day, the witness left for Belgrade which he reached about three weeks later and where he still lives.¹³⁵⁸ The witness testified that his mother told him a year after the incident that they had collected whatever bones of his father remained, placed them in a shoe box, and buried them in the graveyard.¹³⁵⁹ The witness’s mother later received his father’s death certificate from Knin municipality, confirming that his father had died in Plavno on 6 August 1995, though no cause of death was recorded.¹³⁶⁰ According to the death certificate Sava Đurić was of Serb ethnicity.¹³⁶¹ Croatian authorities analyzed the remains purported to belong to Sava Đurić, exhumed from the Plavno cemetery, a place which had been indicated by two women, both called Đraginja Đurić.¹³⁶² The result of the DNA analysis was that the remains were human, though because of the complete degradation of the biological substance due to high temperatures during burning, it was not possible to isolate sufficient quantity of DNA necessary for further analysis.¹³⁶³

¹³⁵² P436 (Mile Đurić, witness statement, 25 September 2004), para. 6.

¹³⁵³ P436 (Mile Đurić, witness statement, 25 September 2004), para. 6; P437 (Mile Đurić, witness statement, 13 July 2007), para. 6; Mile Đurić, T. 4848, 4851; P440 (Photographs of Mile Đurić’s family home and yard, marked by Mile Đurić), p. 4, indicating where Sava Đurić was thrown into the fire.

¹³⁵⁴ P436 (Mile Đurić, witness statement, 25 September 2004), para. 8.

¹³⁵⁵ P436 (Mile Đurić, witness statement, 25 September 2004), para. 8; Mile Đurić, T. 4866, 4870.

¹³⁵⁶ P436 (Mile Đurić, witness statement, 25 September 2004), paras 8-9; P437 (Mile Đurić, witness statement, 13 July 2007), para. 7.

¹³⁵⁷ P436 (Mile Đurić, witness statement, 25 September 2004), para. 9; P437 (Mile Đurić, witness statement, 13 July 2007), para. 7.

¹³⁵⁸ P436 (Mile Đurić, witness statement, 25 September 2004), para. 9; P437 (Mile Đurić, witness statement, 13 July 2007), paras 8-9; Mile Đurić, T. 4837.

¹³⁵⁹ Mile Đurić, T. 4867.

¹³⁶⁰ P436 (Mile Đurić, witness statement, 25 September 2004), para. 11; P438 (Death certificate of Sava Đurić, 8 July 1996).

¹³⁶¹ P438 (Death certificate of Sava Đurić, 8 July 1996).

¹³⁶² P441 (Report of the exhumation of Sava Đurić’s alleged remains, 12 December 2007); P442 (Forensic analysis report of Sava Đurić’s alleged remains, 11 December 2007).

¹³⁶³ P442 (Forensic analysis report of Sava Đurić’s alleged remains, 11 December 2007).

336. **Milica Đurić**, a Serb from the hamlet Đurići in Plavno village in Knin municipality,¹³⁶⁴ testified that on 4 August 1995, she heard and saw shelling of the Plavno area, including two or three grenades coming from Strmica and landing in the vicinity of Rusići hamlet with a puff of smoke.¹³⁶⁵ On 5 August 1995, the witness heard the noise of grenades landing on the other side of her hamlet and, around 5 p.m., saw grenades hit both the home across from her house, owned by Sava Bučić, and the one on the other side of her house.¹³⁶⁶ The witness testified that there were about 45 households in Đurići hamlet, but that people began leaving in the morning of 4 August 1995 and that most people left in the night between 4 and 5 August 1995.¹³⁶⁷ The witness testified that she and others decided to stay because they did not believe anything bad would happen.¹³⁶⁸ The witness further testified that she went to her son Mile Đurić, who was herding sheep on a mountain, on 4 and 5 August 1995, and told him that he should leave since everyone else had left the village.¹³⁶⁹ Her son told the witness that he was not scared and did not plan on leaving.¹³⁷⁰ The witness testified that her son was not in the Serbian army.¹³⁷¹

337. At 8 a.m. on 6 August 1995, the witness and six others, including Draginja Đurić, took shelter from the shelling in the cellar of the witness's house.¹³⁷² The witness's mother-in-law and husband chose instead to stay in the kitchen of the house, due to her husband's handicap and her mother-in-law's old age.¹³⁷³ When the witness told her husband to come to the cellar, he replied that no one would touch him because he was an invalid and had never had any soldiers, weapons, or ammunition in the

¹³⁶⁴ P443 (Milica Đurić, witness statement, 13 July 2007), p. 1; P1004 (Milica Đurić, witness statement, 23 September 2004), p. 1, paras 1, 3; D397 (Milica Đurić, witness statement, 2 April 1998), pp. 1-2; Milica Đurić, T. 10770.

¹³⁶⁵ P443 (Milica Đurić, witness statement, 13 July 2007), para. 2; D397 (Milica Đurić, witness statement, 2 April 1998), p. 2; Milica Đurić, T. 10807.

¹³⁶⁶ P443 (Milica Đurić, witness statement, 13 July 2007), para. 2; D397 (Milica Đurić, witness statement, 2 April 1998), p. 3; Milica Đurić, T. 10781.

¹³⁶⁷ P443 (Milica Đurić, witness statement, 13 July 2007), para. 3; D397 (Milica Đurić, witness statement, 2 April 1998), p. 2.

¹³⁶⁸ P443 (Milica Đurić, witness statement, 13 July 2007), para. 3.

¹³⁶⁹ P443 (Milica Đurić, witness statement, 13 July 2007), para. 4; ; D397 (Milica Đurić, witness statement, 2 April 1998), p. 2; Milica Đurić, T. 10797-10803, 10807-10809.

¹³⁷⁰ P443 (Milica Đurić, witness statement, 13 July 2007), para. 4; Milica Đurić, T. 10802.

¹³⁷¹ Milica Đurić, T. 10802-10805, 10808-10810.

¹³⁷² P443 (Milica Đurić, witness statement, 13 July 2007), para. 6; P1004 (Milica Đurić, witness statement, 23 September 2004), para. 3; D397 (Milica Đurić, witness statement, 2 April 1998), p. 3; Milica Đurić, T. 10775, 10782, 10811.

¹³⁷³ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 4; D397 (Milica Đurić, witness statement, 2 April 1998), p. 3; Milica Đurić, T. 10775, 10781-10782, 10801, 10811.

house.¹³⁷⁴ The witness stated that her husband was not wearing any military clothing.¹³⁷⁵ The witness and the others staying in the cellar all came up to the kitchen for lunch, and were joined by the witness's son Mile, who left again after lunch.¹³⁷⁶ While in the cellar, the witness heard shots outside and roof tiles falling off the house.¹³⁷⁷ At 5 p.m., the witness left the cellar through a door leading outside and saw that her house was burning, and that there was a person in a black balaclava and camouflage uniform, who she thought was a Croatian soldier, standing in front of her house.¹³⁷⁸ Four of the neighbours who had been in the cellar with the witness fled.¹³⁷⁹ Only the witness, her daughter, and her neighbour Draginja Đurić remained in front of the burning house.¹³⁸⁰ When the witness began searching for her husband and mother-in-law, the soldier in front of her house told her that no one was inside and blocked her entrance through the front door.¹³⁸¹ Going back into the cellar from the outside door and then into the rest of the house, the witness went through all the smoky rooms in the house and confirmed that her husband and mother-in-law were not there.¹³⁸² When the witness went outside again, the same soldier again told the witness that no one was in the house.¹³⁸³ The house was burning by the time the witness's son returned.¹³⁸⁴ The witness heard Draginja Đurić, whose house was also burning, ask the soldiers why they burned her house down when neither her husband nor her son participated in the fighting.¹³⁸⁵ The soldier told Draginja Đurić something like "your son burned Kijevo, now we burn your village".¹³⁸⁶ The witness then saw another soldier standing near the workshop located about two metres from her house.¹³⁸⁷ The witness stated that she later saw a third soldier

¹³⁷⁴ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 4; Milica Đurić, T. 10775, 10781-10782, 10801.

¹³⁷⁵ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 11.

¹³⁷⁶ Milica Đurić, T. 10782, 10806, 10808, 10811, 10813.

¹³⁷⁷ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 5; D397 (Milica Đurić, witness statement, 2 April 1998), p. 3; Milica Đurić, T. 10812.

¹³⁷⁸ P1004 (Milica Đurić, witness statement, 23 September 2004), paras 5-6, 10; D397 (Milica Đurić, witness statement, 2 April 1998), p. 3; Milica Đurić, T. 10782, 10784, 10811-10815.

¹³⁷⁹ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 5; Milica Đurić, T. 10782.

¹³⁸⁰ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 5; Milica Đurić, T. 10782.

¹³⁸¹ P1004 (Milica Đurić, witness statement, 23 September 2004), paras 5-6; Milica Đurić, T. 10782-10783, 10812.

¹³⁸² P1004 (Milica Đurić, witness statement, 23 September 2004), para. 6; Milica Đurić, T. 10783.

¹³⁸³ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 6; Milica Đurić, T. 10783.

¹³⁸⁴ Milica Đurić, T. 10775-10776, 10806, 10824.

¹³⁸⁵ P443 (Milica Đurić, witness statement, 13 July 2007), para. 5; D397 (Milica Đurić, witness statement, 2 April 1998), p. 3; Milica Đurić, T. 10782-10783.

¹³⁸⁶ P443 (Milica Đurić, witness statement, 13 July 2007), para. 5; D397 (Milica Đurić, witness statement, 2 April 1998), p. 3; Milica Đurić, T. 10783.

¹³⁸⁷ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 6.

come near her.¹³⁸⁸ Shortly thereafter, the witness's mother-in-law arrived back at the house.¹³⁸⁹ The witness's mother-in-law said that she and the witness's husband had been hiding in the kitchen when they heard the noise of fire from upstairs and the sound of other people in the house, and then soldiers entered the kitchen and forced them out of the house.¹³⁹⁰ The witness asked her mother-in-law where her husband was, and the mother-in-law replied that she had heard one soldier say to another that she should be taken to the village and then heard him order the witness's husband to go into the workshop which was also on fire.¹³⁹¹ The witness stated that her mother-in-law pleaded with the soldiers to not order the witness's husband into the fire because he was handicapped and had never served in the army.¹³⁹² The witness's mother-in-law also stated that the witness's husband told the soldiers, which was difficult for him to do because he did not have any teeth, that he could not go into the workshop.¹³⁹³ The witness's mother-in-law said that as one soldier was leading her away, she saw one soldier push the man inside the burning workshop and then shut the door behind him.¹³⁹⁴ The next day, the witness and her mother-in-law went to the workshop, where they found a big heap of white ash and a few bones including half of a skull.¹³⁹⁵ The witness took the ashes and bones and placed them in a cup, wrapped it in some of her husband's clothes (sandals, two shirts, a suit jacket, a pair of suit trousers, and a cap) and a sheet, then placed everything in a box that she and her mother-in-law buried in the local graveyard.¹³⁹⁶ The witness added in 1998 that she never saw her husband again.¹³⁹⁷

338. The witness saw that approximately 20 houses in her hamlet were burnt.¹³⁹⁸ The witness and her daughter began to live in the house of the witness's mother-in-law's

¹³⁸⁸ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 10; Milica Đurić, T. 10775, 10784, 10812.

¹³⁸⁹ D397 (Milica Đurić, witness statement, 2 April 1998), p. 3; P1004 (Milica Đurić, witness statement, 23 September 2004), para. 6; Milica Đurić, T. 10784, 10812.

¹³⁹⁰ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 6; D397 (Milica Đurić, witness statement, 2 April 1998), p. 3; Milica Đurić, T. 10775, 10812, 10814-10815.

¹³⁹¹ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 6; Milica Đurić, T. 10784, 10812, 10815-10816.

¹³⁹² P1004 (Milica Đurić, witness statement, 23 September 2004), para. 11; Milica Đurić, T. 10775.

¹³⁹³ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 6; Milica Đurić, T. 10775, 10784.

¹³⁹⁴ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 6; D397 (Milica Đurić, witness statement, 2 April 1998), p. 3; Milica Đurić, T. 10775, 10784, 10787-10788, 10812.

¹³⁹⁵ P1004 (Milica Đurić, witness statement, 23 September 2004), paras 7, 12; D397 (Milica Đurić, witness statement, 2 April 1998), p. 4; Milica Đurić, T. 10784-10785, 10816, 10818, 10821.

¹³⁹⁶ P1004 (Milica Đurić, witness statement, 23 September 2004), paras 7, 12; Milica Đurić, T. 10785-10786, 10816, 10818-10819, 10821-10823.

¹³⁹⁷ D397 (Milica Đurić, witness statement, 2 April 1998), pp. 1, 4.

niece.¹³⁹⁹ On 7 August 1995, four men came to the house where the witness was staying and one of them asked the witness why her daughter had stayed in the village.¹⁴⁰⁰ The witness replied that she had nowhere else to send her daughter.¹⁴⁰¹ The man told the witness that she should not leave her daughter in the house.¹⁴⁰² He told the witness that she should hide her daughter in the shrubs behind the house or in a corner of the witness's burned house.¹⁴⁰³ After speaking with the witness, the men removed objects from the house.¹⁴⁰⁴ On 8 August 1995, four other men came to the house and asked the witness where her daughter was.¹⁴⁰⁵ The witness's daughter hid behind a door in the shed.¹⁴⁰⁶ The witness stated that some of these men wore camouflage and green uniforms while others wore civilian clothing.¹⁴⁰⁷ They threatened to kill the witness and other persons staying in the house.¹⁴⁰⁸ The witness and her daughter ran to hide in the shrubs behind the house, but the soldiers shot at them, so the witness and her daughter instead ran across the hill.¹⁴⁰⁹ About eight days after her husband was killed, the witness was at her house, in a room which had not burned down, and was confronted by soldiers whom she believed to be Croatian.¹⁴¹⁰ In the room, a uniformed soldier saw a picture of the witness's son and asked the witness where he was.¹⁴¹¹ When the witness told the soldier that her son was in Belgrade working, the soldier responded by saying he was going to slit the picture. The soldier, while holding a gun to the witness's chest, ordered her to put all of the pictures in a bag. The soldier told the witness that he would return the next day and said that if he found the witness in the house, he would kill her on the spot. The witness began to cry as she collected her things and then threw them away in some shrubs. The next day, the soldier found the witness and asked her to go back to her house so that he could check to see whether she had removed all of the things from the house as he had instructed her to do.¹⁴¹² The witness stated that over the next 13 months,

¹³⁹⁸ D397 (Milica Đurić, witness statement, 2 April 1998), p. 4.

¹³⁹⁹ P1004 (Milica Đurić, witness statement, 23 September 2004), para. 7; D397 (Milica Đurić, witness statement, 2 April 1998), p. 4; Milica Đurić, T. 10789.

¹⁴⁰⁰ P443 (Milica Đurić, witness statement, 13 July 2007), para. 7; Milica Đurić, T. 10788-10790.

¹⁴⁰¹ P443 (Milica Đurić, witness statement, 13 July 2007), para. 7.

¹⁴⁰² Milica Đurić, T. 10789-10790.

¹⁴⁰³ Milica Đurić, T. 10789-10790.

¹⁴⁰⁴ D397 (Milica Đurić, witness statement, 2 April 1998), p. 4; Milica Đurić, T. 10789.

¹⁴⁰⁵ P443 (Milica Đurić, witness statement, 13 July 2007), para. 7; Milica Đurić, T. 10789.

¹⁴⁰⁶ P443 (Milica Đurić, witness statement, 13 July 2007), para. 7; Milica Đurić, T. 10789-10790.

¹⁴⁰⁷ D397 (Milica Đurić, witness statement, 2 April 1998), p. 4; Milica Đurić, T. 10793.

¹⁴⁰⁸ D397 (Milica Đurić, witness statement, 2 April 1998), p. 4.

¹⁴⁰⁹ Milica Đurić, T. 10790.

¹⁴¹⁰ Milica Đurić, T. 10792-10794.

¹⁴¹¹ Milica Đurić, T. 10793-10794.

¹⁴¹² Milica Đurić, T. 10793.

soldiers returned frequently to Đurići and removed tractors and other items from the homes there.¹⁴¹³ In September 1996, once her papers were in order, the witness moved to Serbia, where she lived in 1998 with her mother-in-law, daughter, and son.¹⁴¹⁴

339. The Trial Chamber further received hearsay evidence from Sava Đurić's mother, through the testimony of Petro Romassev and UNCIVPOL reports. **Petro Romassev**, Monitor and Station Commander at UNCIVPOL Sector South in Knin municipality between January 1995 and December 1995,¹⁴¹⁵ stated that Mika Đurić told him that Croatian soldiers killed her son, Sava Đurić, a handicapped man, on 4 August 1995, in Đurići hamlet, Plavno village in Knin municipality. The soldiers set her house on fire but when she tried to save her son they would not allow her. Instead, they laughed and one of them said that the Serbs had done it in Kijevo village before, and now they were doing it in Đurići.¹⁴¹⁶ According to a UNCIVPOL incident report, dated 26 August 1995, Mika Đurić from Đurići hamlet in Plavno village in Knin municipality informed UNCIVPOL that on 6 August 1995 she and her neighbours were in a shelter due to the Croatian military operation which had started on 4 August 1995.¹⁴¹⁷ Around 6 p.m. they heard something sounding like rain falling on the roof.¹⁴¹⁸ Leaving the shelter they saw that the house was on fire. Mika Đurić said that her son, Sava Đurić, was in the master room and that he tried but could not leave because he was invalid. She saw two Croatian soldiers by the house. When she tried to save her son, one of the Croatian soldiers pulled her back. The soldier told her that he was from Kijevo and that the same had been done by Serbs there several years before.¹⁴¹⁹ On the next day, Mika Đurić recovered the remains of her son and buried them.¹⁴²⁰

340. Based on the evidence received, the Trial Chamber finds that on 6 August 1995, Sava Đurić's home and workshop in Đurići hamlet in Plavno in Knin municipality caught fire; approximately 20 other houses in the hamlet were also burnt at this time. The Trial Chamber cannot exclude that Mile Đurić, Milica Đurić and Sava Đurić's

¹⁴¹³ D397 (Milica Đurić, witness statement, 2 April 1998), p. 4.

¹⁴¹⁴ P1004 (Milica Đurić, witness statement, 23 September 2004), paras 2, 8; D397 (Milica Đurić, witness statement, 2 April 1998), pp. 2, 4.

¹⁴¹⁵ P2513 (Petro Romassev, two witness statements), pp. 2 (Petro Romassev, witness statement, 14 February 1996), 6-7 (Petro Romassev, witness statement, 8 June 1997).

¹⁴¹⁶ P2513 (Petro Romassev, two witness statements), p. 11 (Petro Romassev, witness statement, 8 June 1997).

¹⁴¹⁷ P239 (UNCIVPOL incident report, S2-95-498, 26 August 1995).

¹⁴¹⁸ P239 (UNCIVPOL incident report, S2-95-498, 26 August 1995).

¹⁴¹⁹ P239 (UNCIVPOL incident report, S2-95-498, 26 August 1995); P241 (UNCIVPOL weekly report, 27 August-3 September 1995, 3 September 1995), p. 5.

mother discussed the incident prior to Mile and Milica's testimony and thereby may have influenced each other to a certain extent. However, having observed the demeanour of Mile and Milica Đurić during their testimonies in Court, the Trial Chamber finds their testimonies to be credible. In this regard, the Trial Chamber further considers that their testimonies are generally consistent with each other as well as with the hearsay statements of Sava Đurić's mother relayed by Petro Romashev and in the UNCIVPOL reports. The Trial Chamber finds that two to three persons in camouflage uniforms and referred to as Croatian soldiers entered Sava Đurić's home and forced him, an invalid, and his elderly mother outside. The Trial Chamber further finds that one of the men ordered the others to shove Sava Đurić into the burning workshop adjacent to the house; one of them complied, locking the workshop's door behind Sava Đurić, as a result of which he died; and Sava Đurić's wife and mother found his remains in the workshop the following day.

341. When assessing the identities of the perpetrators, the Trial Chamber considered the witnesses' descriptions of the perpetrators as soldiers wearing camouflage uniforms. Similarly, the Trial Chamber considered that there were two to three perpetrators directly involved in the incident, that one of them appeared to issue an order to the others, and that an additional perpetrator was guarding the house. Further, the Trial Chamber considered that Mile Đurić twice observed other groups of persons referred to as soldiers near the village on the same day with the same uniforms, once before and once after the incident. Finally, the Trial Chamber considered that the perpetrators stated they were burning houses in retribution for the Serbs' burning of Kijevo. In this context, the Trial Chamber considered the evidence that the perpetrators also wore black ski-masks inconclusive as a factor in determining whether or not these persons belonged to armed forces. For these reasons, the Trial Chamber finds that the perpetrators were members of Croatian military forces or Special Police. Based on the evidence of Sava Đurić's son's Serb ethnicity, and considering the death certificate of Sava Đurić, the Trial Chamber finds that the victim was of Serb ethnicity. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in Chapters 5.3.2 and 5.8.2 (b) below.

¹⁴²⁰ P239 (UNCIVPOL incident report, S2-95-498, 26 August 1995).

Dmitar Rašuo, Milka Petko, Ilija Petko, Đuro Rašuo, and one unidentified person
(Schedule no. 3)

342. The Trial Chamber has received relevant evidence with regard to Scheduled Killing number 3 through the testimony of Witness 69 and documentation related to the Croatian criminal investigation into the matter.

343. **Witness 69**, a Serb from a village in Knin municipality,¹⁴²¹ heard shooting from automatic weapons in Žagrović, in Knin municipality, between 4 and 6 p.m. on 5 August 1995, and saw a soldier in camouflage uniform with Croatian insignia from a distance of about 30 metres.¹⁴²² The soldier forced the villager Dmitar (Mile) Rašuo (born in 1914), who was dressed in civilian clothes, to go with him behind a house about 50 metres from where Witness 69 was standing.¹⁴²³ Dmitar Rašuo explained to the soldier that he was exempted from military obligations.¹⁴²⁴ About half a minute after the Croatian soldier had taken Dmitar behind the house, Witness 69 heard a burst of automatic gunfire.¹⁴²⁵ When asked to further describe the sound of gunfire and to clarify where it had come from, he stated that “it’s like it was half a kilometre away when in fact it was 50 metres”.¹⁴²⁶ He also stated that “there was shooting all around”, and that when he heard the burst this triggered him to run away, in panic.¹⁴²⁷ Around 10 p.m. on 5 August 1995, and on 11 or 12 August 1995, Witness 69 saw the body of Ilija Petko lying on his back in a puddle of blood in a yard in Žagrović; the witness had met Petko and his mother Milica Petko earlier on 5 August 1995 in Žagrović, when he noticed that Petko was unarmed, and dressed in a short-sleeved checkered shirt and jeans.¹⁴²⁸ Petko was about 40 years old, not in the army, and had a “bad eye”.¹⁴²⁹ In addition to the

¹⁴²¹ P179 (Witness 69, witness statement, 31 May 1997), pp. 1-2; P180 (Witness 69, witness statement, 18 October 2004), p. 1; Witness 69, T. 2707.

¹⁴²² P179 (Witness 69, witness statement, 31 May 1997), p. 2; P180 (Witness 69, witness statement, 18 October 2004), paras 2-3; D180 (Documentation of Croatian authorities’ investigation of murders of Ilija and Milka Petko, and Dmitar and Đuro Rašuo), pp. 18, 24; Witness 69, T. 2707.

¹⁴²³ P179 (Witness 69, witness statement, 31 May 1997), p. 2; P180 (Witness 69, witness statement, 18 October 2004), para. 3; Witness 69, T. 2747, 2749; D180 (Documentation of Croatian authorities’ investigation of murders of Ilija and Milka Petko, and Dmitar and Đuro Rašuo), pp. 18-19, 24.

¹⁴²⁴ P179 (Witness 69, witness statement, 31 May 1997), p. 2.

¹⁴²⁵ P179 (Witness 69, witness statement, 31 May 1997), p. 2; Witness 69, T. 2747-2749.

¹⁴²⁶ Witness 69, T. 2747-2749.

¹⁴²⁷ Witness 69, T. 2747-2749.

¹⁴²⁸ P179 (Witness 69, witness statement, 31 May 1997), pp. 2-3; P180 (Witness 69, witness statement, 18 October 2004), para. 2; Witness 69, T. 2699, 2721-2723, 2727, 2730; P183 (Photograph of a house, seen from outside the walls surrounding the yard); P184 (Sketch by Witness 69 of where he found a body in a yard); D180 (Documentation of Croatian authorities’ investigation of murders of Ilija and Milka Petko, and Dmitar and Đuro Rašuo), p. 18.

¹⁴²⁹ P179 (Witness 69, witness statement, 31 May 1997), p. 3; Witness 69, T. 2728-2729.

above, the Trial Chamber has considered evidence of Witness 69 reviewed in chapter 4.2.9.

344. Đuja Nonković from Žagrović told the Croatian police on 23 December 2004 that on about 13 August 1995, she had accompanied members of UNPROFOR who had come to Žagrović and she had identified the body of Đuro Rašuo at the doorstep of Đorđe Rašuo's house, two metres from the body of Dmtar Rašuo in the front yard, the body of Ilija Petko at the doorstep of another house, and the body of Milica Petko in front of Lako Rašuo's garage.¹⁴³⁰ When seeking refuge at the UN compound in Knin sometime at the end of August or beginning of September 1995, Witness 69 talked to Saša Milošević of the Human Rights Centre in Zagreb about dead bodies in Žagrović, and Saša Milošević, after visiting the sites, confirmed that he had seen three corpses still lying there.¹⁴³¹ In the UN compound, Witness 69 also told members of UNCIVPOL about the bodies.¹⁴³² In October 2004, exhumations, subsequent identifications, and forensic examinations revealed that some of the bodies that had been collected in the aftermath of Operation Storm in the course of the human sanitation were those of Milica Petko, Ilija Petko, and Dmtar Rašuo, all civilians, who had died in Žagrović on 5 August 1995.¹⁴³³ According to the Šibenik-Knin Crime Investigation Police Department, the 3rd Infantry Battalion of the HV 4th Guards Brigade operated on 5 August 1995 in the area of Žagrović, and military presence in that area was also confirmed by a number of villagers.¹⁴³⁴

345. According to a report by the HV 4th Guards Brigade, dated 7 August 1995, soldiers of that brigade were reportedly injured and killed due to an air raid in the village of Obljaj (Bosansko Grahovo in Bosnia-Herzegovina) on 1 August (1 wounded), an artillery-infantry attack in Lisina in Bosnia-Herzegovina on 2 August (2 wounded), at Mount Lisina (Grahovo axis) on 3 August (1 killed), combat activities in the Golubić area in Knin municipality on 5 August (8 wounded), search operations in Golubić on the

¹⁴³⁰ D180 (Documentation of Croatian authorities' investigation of murders of Ilija and Milka Petko, and Dmtar and Đuro Rašuo), pp. 28-29.

¹⁴³¹ P179 (Witness 69, witness statement, 31 May 1997), p. 4.

¹⁴³² Witness 69, T. 2754; D179 (UNCIVPOL report of 19 September 1995 on reported murders), p. 12.

¹⁴³³ D180 (Documentation of Croatian authorities' investigation of murders of Ilija and Milka Petko, and Dmtar and Đuro Rašuo), p. 21.

¹⁴³⁴ D180 (Documentation of Croatian authorities' investigation of murders of Ilija and Milka Petko, and Dmtar and Đuro Rašuo), pp. 2-9, 23, 27, 28.

same day (3 killed in close combat with Serbian soldiers), and search operations in Dragišići in Bosnia-Herzegovina on 6 August 1995 (1 killed by a civilian).¹⁴³⁵

346. Male body KN01/298B, numbered 604, was found on 9 September 1995 at Rašule, house no. 304, wearing a checkered shirt, grey jacket and slacks and black high top shoes, and buried at Knin community cemetery.¹⁴³⁶ Body KN01/298B, exhumed from a cemetery in Knin on 15 June 2001 with a metal tag marked “604”, was an approximately 1.62-1.77-metre-tall male between 40 and 60 years old, wearing a green jacket, a diamond pattern sweater, grey trousers, dark boots, and a wallet containing an ID card of D Mitar Rašuo, and with a gunshot injury to the chest found by John Clark to be the cause of death.¹⁴³⁷ Clark specified that a bullet-shaped defect was located in one of the ribs in the outer part of the right side of the victim’s body, that the bullet was probably fired from right to left, and that there was neither obvious bullet damage anywhere else in the body nor any remaining bullet fragment.¹⁴³⁸ He further added that the body was partly preserved and skin was left only on the front part of the trunk, upper arms and thighs.¹⁴³⁹ On 19 December 2001, body KN01/298B was identified by classical method as D Mitar Rašuo, born in 1914.¹⁴⁴⁰ According to a report on facts of death, dated 19 December 2001 and based on details provided by the deceased’s daughter, D Mitar Rašuo, a Serb with Yugoslav citizenship born on 7 November 1914, died from a gunshot injury to the torso in Žagrović, Knin municipality, on 5 August 1995.¹⁴⁴¹

347. Male body KN01/297B, numbered 605, was found on 9 September 1995 at Rašule, house no. 304, wearing a short-sleeved checkered shirt, grey trousers and black high top shoes, and was buried at Knin community cemetery.¹⁴⁴² Body KN01/297B, exhumed from a cemetery in Knin on 15 June 2001 with a tag marked “605”, was an approximately 1.62-1.78-metre-tall male between 40 and 50 years old, wearing a green, brown and blue checkered shirt with two bullet holes in the middle part of the back, brown trousers and brown shoes, and had remains of two bullets in the lower end of the

¹⁴³⁵ D178 (Special report of the 4th Guards Brigade, 7 August 1995).

¹⁴³⁶ P1304 (Information on body KN01/298B, ID No. 604, with photograph).

¹⁴³⁷ P1522 (Autopsy report of KN01/298B, 12 July 2001), pp. 1-6, 8, 11-13, 16; P1717 (Photograph of clothes, KN01/298B).

¹⁴³⁸ P1522 (Autopsy report of KN01/298B, 12 July 2001), pp. 1-3, 8.

¹⁴³⁹ P1522 (Autopsy report of KN01/298B, 12 July 2001), p. 2.

¹⁴⁴⁰ P659 (List of identified persons exhumed from a cemetery in Knin), p. 3.

¹⁴⁴¹ P2011 (Report on facts of death of D Mitar Rašuo, 19 December 2001).

¹⁴⁴² P1303 (Information on body KN01/297B, ID No. 605, with photograph).

right thigh and two gunshot injuries to the chest of which the latter injuries were found by John Clark to be the cause of death.¹⁴⁴³ On 5 June 2002, body KN01/297B was identified by classical method as Ilija Petko, born in 1950.¹⁴⁴⁴ According to a report of the Zagreb Institute of Forensic Medicine, dated 5 June 2002 and based on details provided by the deceased's niece, Ilija Petko, a Serb with Croatian citizenship born on 25 May 1950, died of a gunshot injuries to the torso in Žagrović, Knin municipality, on 5 August 1995.¹⁴⁴⁵

348. Female body KN01/212B, numbered 426, was found on 14 August 1995 in Žagrović, Knin municipality, wearing a blue wool dress and black shoes, and buried at the Knin community cemetery.¹⁴⁴⁶ Body KN01/212B, exhumed from a cemetery in Knin, was an approximately 1.53-1.68-metre-tall female between 40 and 60 years old, wearing a dark blue and red checkered jacket and skirt, a black left slipper and a metal tag marked "426", with gunshot injuries to the chest which were found by John Clark to be the cause of death.¹⁴⁴⁷ Body KN01/212B was exhumed in 2001 and identified by classical method on 5 June 2002 as Milica Petko, born in 1923.¹⁴⁴⁸ According to a report of the Zagreb Institute of Forensic Medicine, dated 5 June 2002 and based on details provided by the deceased's granddaughter, Milica Petko, born on 13 October 1923, died of gunshot wounds to the chest in Žagrović, Knin municipality, on 5 August 1995.¹⁴⁴⁹

349. The only witness who gave evidence about the unfolding of events in Zagrović on 5 August 1995 is Witness 69. In assessing his evidence, the Trial Chamber has considered that there are some inconsistencies between his testimony and his previous statements. While on 24 August 1995 he had stated that on 5 August 1995 he himself had seen four bodies in the woods and other two persons shot dead in the village,¹⁴⁵⁰ in 1997 he stated to have seen one body on 5 August 1995 and five bodies (including the

¹⁴⁴³ P1521 (Autopsy report of KN01/297B, 28 June 2001), pp. 1-5, 7-13, 16; P1713 (Photograph of bones, KN01/297B); P1714 (Photograph of bones, KN01/297B); P1715 (Photograph of clothes, KN01/297B).

¹⁴⁴⁴ P659 (List of identified persons exhumed from a cemetery in Knin), p. 3.

¹⁴⁴⁵ P2010 (Report on facts of death of Ilija Petko, 5 June 2002), pp. 61-62.

¹⁴⁴⁶ P1302 (Information on body KN01/212B, ID No. 426, with photograph).

¹⁴⁴⁷ P1520 (Autopsy report of KN01/212B, 27 June 2001), pp. 1-2, 4-5, 8, 11-13; P1710 (Photograph of bones of KN01/212B); P1711 (Photograph of clothes of KN01/212B); P1712 (Photograph of clothes of KN01/212B).

¹⁴⁴⁸ P659 (List of identified persons exhumed from a cemetery in Knin), p. 2.

¹⁴⁴⁹ P2009 (Report on facts of death of Milica Petko, 5 June 2002), pp. 59-60.

¹⁴⁵⁰ P235 (UNCIVPOL incident report, S2-95-484, 24 August 1995).

same body he had first seen on 5 August 1995) on 11 or 12 August 1995.¹⁴⁵¹ However, on 13 May 2008 he testified that he himself had only seen one body, and that he had been told about the others by a woman who was not “quite sane”.¹⁴⁵² Further, when asked on 13 May 2008 to confirm in court the accuracy of the statement given in 1997, Witness 69 stated that a stroke suffered after he gave the 1997 statement had affected his memory, but he was eventually able to confirm the content of the statement, and its admission of which was not objected by the parties.¹⁴⁵³ Having observed his demeanour in court and analyzed his testimony in its entirety, also in relation to other available evidence, the Trial Chamber found him credible in relation to the events he personally witnessed on 5 August 1995.

350. Dmtar Rašuo was last seen alive in Žagrović on 5 August 1995, and on 13 August 1995 his body was identified by Đuja Nonković in the same village. Around 6 p.m. on 5 August 1995, Witness 69 heard a burst of gunfire shortly after Dmtar Rašuo, aged 81, went with a uniformed man behind a house. Although Witness 69 was not able to identify with certainty from which direction the burst of gunfire came from, he also stated that “it’s like it was half a kilometre away, when, *in fact, it was 50 metres*”. The Trial Chamber also considered the Gotovina Defence’s contention, contained in paragraph 938 of their final brief, that the burst of gunfire heard by Witness 69 was connected to ongoing armed clashes in the vicinity of Žagrović. However, the evidence only indicates armed fighting in the Golubić area on 5 August 1995, with Golubić being about 5 km away from Žagrović. Considering that Witness 69 heard the burst shortly after Dmtar Rašuo and the uniformed man disappeared from Witness 69’s sight, as well as the distance between Golubić and Zagrović, the Trial Chamber finds that the uniformed man fired the burst. The Trial Chamber has further considered the forensic evidence, according to which the victim died of a gunshot injury to the chest. Considering the above, the Trial Chamber finds that the uniformed man seen by Witness 69 shot and killed Dmtar Rašuo, a Serb, shortly after they disappeared behind the house. Based on the presence of Croatian insignia on the perpetrator’s uniform, as well as on the fact that on 5 August 1995 the 3rd Infantry Battalion of the HV 4th Guards Brigade operated in the area of Žagrović, the Trial Chamber finds that the perpetrator was a member of the HV. Therefore, the Trial Chamber will further consider this

¹⁴⁵¹ P179 (Witness 69, witness statement, 31 May 1997), pp. 3-4.

¹⁴⁵² Witness 69, T. 2699.

¹⁴⁵³ Witness 69, T. 2700-2702.

incident in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 (b) below.

351. Witness 69 last saw Ilija Petko and Milica Petko, on 5 August 1995 in Žagrović. Ilija Petko was unarmed. After he witnessed the HV soldier taking D Mitar behind the house, Witness 69, who was hiding in the woods, saw a group of people referred to as HV soldiers in the village. In this respect, the Trial Chamber recalls its findings in chapter 4.2.9 that these soldiers were HV soldiers. Around 10 p.m. on the same day and on 11 or 12 August 1995, Witness 69 saw in a yard in Žagrović Ilija Petko's dead body lying on its back in a puddle of blood. According to the forensic evidence, both Ilija Petko and Milica Petko died of gunshot wounds to the chest. The Trial Chamber has considered the HV soldiers' presence and behaviour in Žagrović on 5 August 1995, as well as Witness's 69 evidence that on that day "there was shooting all around" and the fact that, as in the case of D Mitar Rašuo, gunshot wounds to the chest caused the death of Ilija and Milica Petko. The Trial Chamber has further considered the fact that Ilija Petko was found dead on the day when D Mitar Rašuo was killed. On this basis, the Trial Chamber finds that one or more members of the HV present in Žagrović on 5 August 1995 shot and killed Ilija and Milica Petko. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 (b) below.

352. Đuro Rašuo's body was found and identified by a fellow villager on 13 August 1995 at the doorstep of Đorđe Rašuo's house. The body was about two metres from the body of D Mitar Rašuo. The Trial Chamber has received no evidence concerning the exact time of Đuro Rašuo's death, nor has it received evidence concerning his whereabouts on 5 August 1995. In addition, it cannot be established with sufficient certainty whether the forensic evidence pointed out in paragraph 674 of the Prosecution's final brief relates to Đuro Rašuo. The Trial Chamber has also received insufficient evidence to make any finding on the unidentified body in Schedule no. 3 of the Indictment. Under these circumstances, the Trial Chamber will not further consider these parts of this incident in relation to Counts 1, 6, and 7 of the Indictment.

Jovo Grubor and others (Schedule no. 4)

353. The Trial Chamber has heard evidence with regard to the alleged murder of Jovo Grubor, Miloš Grubor, Marija Grubor, Mika Grubor, and Đuro Karanović in Grubori on 25 August 1995, through numerous testimonies and documentary evidence. The witnesses testifying about these alleged murders include persons who resided in the Plavno Valley at the time, members of the Special Police or other Croatian officials, and international observers. Some of the evidence relating to events following the alleged murders is dealt with in chapter 6.2.6 below. According to the 1991 Population Census, the population of Plavno consisted of 1,708 Serbs out of a total of 1,720 persons in 1991.¹⁴⁵⁴

354. The Trial Chamber received evidence from the three locals Jovan Grubor, Milica Karanović, and Marija Đurić describing what they observed on 25 August 1995.

355. **Milica Karanović**, a Serb from the hamlet of Grubori in Plavno village in Knin municipality,¹⁴⁵⁵ stated that before 24 August 1995, Grubori was shelled and an unidentified number of houses were destroyed by the shells.¹⁴⁵⁶ On 24 August 1995, Sava Kurajica, a villager from a neighbouring hamlet, told the witness, and some other persons, that they should send a member of each household to the Plavno school building the following morning, to register with UNPROFOR for the purpose of going to Serbia.¹⁴⁵⁷ On 25 August 1995, the witness and seven other villagers left Grubori at 9 a.m., leaving five people behind in the hamlet, and arrived in the centre of Plavno around 10 a.m.¹⁴⁵⁸ The witness and 50 other people from the surrounding area met outside the Plavno school building located in the centre of town, waiting to register with UNPROFOR.¹⁴⁵⁹ At approximately 10 a.m., she noticed, right outside the Plavno school building, a group of soldiers wearing coloured uniforms leaving the centre of town on the main road to Perići in Knin municipality. Thirty minutes later, another group of soldiers departed in the same direction. At approximately 11 a.m., she saw some houses burning in Grubori. She could see this clearly, as the centre of Plavno was located in a

¹⁴⁵⁴ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

¹⁴⁵⁵ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 1-2; 12 July 2007 statement, p. 1.

¹⁴⁵⁶ P2510 (Milica Karanović, witness statements), 12 July 2007 statement, para. 2.

¹⁴⁵⁷ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, p. 2.

¹⁴⁵⁸ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, p. 3.

¹⁴⁵⁹ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 2-3.

valley, whereas its hamlets, including Grubori, were located in the surrounding hills.¹⁴⁶⁰ The witness together with the other villagers from Grubori, except Sava Grubor, immediately left the school and returned to their hamlet.¹⁴⁶¹ On her way to Grubori, the witness saw dead livestock in the meadows, some with bullet wounds.¹⁴⁶² As soon as the witness arrived in Grubori, she saw that several houses were still burning.¹⁴⁶³ She noticed that the fire was dying out in other houses and that the roofs of these houses had collapsed.¹⁴⁶⁴ The witness together with other villagers from Grubori found the body of her uncle, Miloš Grubor (born in 1915), lying dead in his bed.¹⁴⁶⁵ He was wearing pyjamas and was covered in blood.¹⁴⁶⁶ There was blood on the floor and around the bed.¹⁴⁶⁷ The witness together with other villagers from Grubori also found the dead bodies of Đuro Karanović, Jovo Grubor, and Milica Grubor in the surrounding meadows of her house.¹⁴⁶⁸ Jovo Grubor (born in 1930), the witness's brother, was lying on his stomach approximately ten to fifteen metres from the witness's house.¹⁴⁶⁹ There was blood all over him and on the ground. When the witness together with other villagers turned him over, she could see that his throat was slit. He was wearing black pants, jacket and shoes, and a white shirt. The witness and the other villagers brought his body to his house. The witness later heard from Jovo Grubor's wife Dušanka, that when she was changing his clothes she saw that he had stab wounds on his back and ribs.¹⁴⁷⁰ The witness stated that her son, Đuro Karanović (born in 1954), was lying on his stomach one and a half metres from Jovo Grubor's body.¹⁴⁷¹ The witness could not see any injuries on the body but noticed that the soil around Đuro Karanović's body was covered in blood. He was wearing a colourful shirt, blue jeans, and shoes. The witness covered him with a sheet and a blanket.¹⁴⁷² Milica Grubor (born in 1944) was lying on her back one metre from Đuro Karanović's body.¹⁴⁷³ The witness did not see any injuries on the body or blood on or around her. She was wearing a blue skirt and

¹⁴⁶⁰ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, p. 3.

¹⁴⁶¹ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 3-4.

¹⁴⁶² P2510 (Milica Karanović, witness statements), 1 April 1998 statement, p. 4; 12 July 2007 statement, para. 4.

¹⁴⁶³ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 2, 4.

¹⁴⁶⁴ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 4-5.

¹⁴⁶⁵ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 2, 4.

¹⁴⁶⁶ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, p. 4.

¹⁴⁶⁷ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 4-5.

¹⁴⁶⁸ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, p. 4.

¹⁴⁶⁹ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 4-5.

¹⁴⁷⁰ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, p. 5.

¹⁴⁷¹ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 4-5.

¹⁴⁷² P2510 (Milica Karanović, witness statements), 1 April 1998 statement, p. 5.

sweater, white shirt, traditional footwear, and stockings. The witness covered her with a sheet.¹⁴⁷⁴ The witness stated that at 5 p.m., when she entered her mother's burnt house, she noticed a bone in the hallway.¹⁴⁷⁵ The witness did not see or hear from her mother after that day.¹⁴⁷⁶ All but three homes in Grubori, which had approximately 20 houses, were burnt.¹⁴⁷⁷ The witness left Croatia for Serbia sometime in September 1995.¹⁴⁷⁸

356. On 12 July 2001, the Šibenik-Knin Police interviewed Marija Đurić, a Serb resident of Plavno, concerning the events in Grubori on 25 August 1995. Marija Đurić stated that on a day when the UNHCR, or another international organization, visited Plavno, she and other villagers from Grubori, Perići, and Đurići went to the school so that the UNHCR could make a list of people who wanted to go to the FRY. From the school, she saw a large column of vehicles at the point of entry into Plavno. She then saw a group of some 15 soldiers coming down an asphalted road to the school and going towards Perići and Đurići. Some 20-30 minutes later, another group of soldiers arrived from the same direction. After the soldiers had left, she saw smoke coming from the direction of Grubori.¹⁴⁷⁹

357. **Jovan Grubor**, a Serb from Grubori hamlet in Plavno village in Knin municipality,¹⁴⁸⁰ was informed on 25 August 1995 by a neighbour from Perići hamlet that they should register with the UN and civil Croatian authorities at the Plavno school and indicate whether they wanted to stay or leave for Serbia.¹⁴⁸¹ The witness and six others went to the school and waited there for a while, but no Croatian officials appeared.¹⁴⁸² He then saw three groups of soldiers in camouflage uniform walking on the asphalt road in the direction of Grubori.¹⁴⁸³ The first group was composed of about seven to eight soldiers wearing red or black bands on the shoulders, black, green, and red headgear, and checkerboard patterns. About 20-30 metres down the road, a second group composed of about 20 soldiers approached, followed by a third group of some ten to twelve soldiers. Around 10-11 a.m., the witness saw flames and smoke above

¹⁴⁷³ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 4-5.

¹⁴⁷⁴ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, p. 5.

¹⁴⁷⁵ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 5-6.

¹⁴⁷⁶ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, p. 6.

¹⁴⁷⁷ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, pp. 2, 6-7.

¹⁴⁷⁸ P2510 (Milica Karanović, witness statements), 1 April 1998 statement, p. 2; 12 July 2007 statement, para. 5.

¹⁴⁷⁹ P1084 (Official Note of interview with Marija Đurić, 13 July 2001), p. 1.

¹⁴⁸⁰ P633 (Jovan Grubor, witness statement, 12 May 1997), pp. 1-2.

¹⁴⁸¹ P633 (Jovan Grubor, witness statement, 12 May 1997), p. 2.

¹⁴⁸² P633 (Jovan Grubor, witness statement, 12 May 1997), pp. 2-3.

Grubori. The witness saw two vehicles approaching, and recognized Alun Roberts of the UN in one of the vehicles. A Ukrainian UN official named “Peter” told the witness that Grubori hamlet was reduced to ashes and drove with the witness to Grubori. There, the witness found many houses, with closed doors, burning inside. The witness tried to extinguish the fire in his son’s house, saw that his own hayloft had burnt down, and noticed a number of burnt cattle skeletons. He helped Dušanka Grubor collect her husband Jovo Grubor’s dead body from under some branches on a hillside. The witness stated that he saw that Jovo Grubor’s throat was slit and his body repeatedly stabbed. Next, the witness found Miloš Grubor’s corpse on the floor of his bedroom in a puddle of blood, with 14 empty bullet cases scattered around the floor.¹⁴⁸⁴ On 28 August 1995, the surviving villagers went to Knin where they stayed in a sports hall until 10 September 1995. The witness stated that the living conditions were appalling and that he heard men screaming at night. On 10 and 11 September 1995, Alun Roberts and other UN members took the witness to Grubori. During these two days, they found the corpses of Stevan Vidović and Anđelija Rusić.¹⁴⁸⁵ On 16 September 1995, the witness left for Belgrade to join his son.¹⁴⁸⁶

358. The Trial Chamber further received evidence from a number of international observers in relation to the Grubori incident on 25 August 1995.

359. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,¹⁴⁸⁷ testified that during an HRAT patrol on 23 or 24 August 1995, he heard from villagers who were most likely from Durići in Plavno Valley, Knin municipality, that persons in military uniform and with Croatian accents had intimidated people, killed two villagers, and set one building on fire.¹⁴⁸⁸ The villagers showed the UN the grave of a man they claimed Croatian soldiers

¹⁴⁸³ P633 (Jovan Grubor, witness statement, 12 May 1997), pp. 2-3.

¹⁴⁸⁴ P633 (Jovan Grubor, witness statement, 12 May 1997), p. 3.

¹⁴⁸⁵ P633 (Jovan Grubor, witness statement, 12 May 1997), p. 4.

¹⁴⁸⁶ P633 (Jovan Grubor, witness statement, 12 May 1997), p. 5.

¹⁴⁸⁷ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

¹⁴⁸⁸ P675 (Alun Roberts, witness statement, 27 August 1997), paras 15, 68; P677 (Alun Roberts, witness statement, 28 February 2007), p. 9; P679 (Alun Roberts, witness statement, 4 March 2008), paras 2-3, 9; Alun Roberts, T. 6859-6860, 6916; P690 (Sketch drawn by Alun Roberts of locations of villages and sites of events on 24 and 25 August 1995 in Plavno valley).

had shot.¹⁴⁸⁹ In the late afternoon, Roberts and UN personnel went to the police station in Knin and reported what had happened in Durići.¹⁴⁹⁰ The UN arranged a meeting between the villagers, the Croatian police, and the UN, to take place in the late morning of the next day in the village, to discuss, among others, security issues.¹⁴⁹¹ Roberts learnt after going to this meeting that the mayor of Knin, Pašić, as well as Romanić were also supposed to have been in attendance.¹⁴⁹² On the way to the meeting in Durići on 25 August 1995, Roberts and other UN employees saw a line of about eleven or twelve empty military or special unit jeeps, vans, and “combi-busses” parked on the right hand of the road in the Plavno Valley, about one or two kilometres before the turn to Durići.¹⁴⁹³ There were seven or eight blue jeeps of the same manufacture and three white vans.¹⁴⁹⁴ Some had a symbol on the door.¹⁴⁹⁵ They did not look like Croatian police vehicles, which were familiar to Roberts and the other UN personnel.¹⁴⁹⁶ Roberts took down the vehicle registration numbers on that day.¹⁴⁹⁷

360. No police arrived in Durići for the meeting with the UN and the villagers.¹⁴⁹⁸ Roberts and other UN personnel cut the meeting in Durići short, when at about 1 p.m. Roberts saw four separate plumes of smoke rising from a village across the valley, and they heard several gunshots from the same direction.¹⁴⁹⁹ Roberts added that he had a

¹⁴⁸⁹ P675 (Alun Roberts, witness statement, 27 August 1997), para. 68; P677 (Alun Roberts, witness statement, 28 February 2007), p. 9; Alun Roberts, T. 6916.

¹⁴⁹⁰ P675 (Alun Roberts, witness statement, 27 August 1997), para. 69; P677 (Alun Roberts, witness statement, 28 February 2007), p. 9; Alun Roberts, T. 6916-6917.

¹⁴⁹¹ P675 (Alun Roberts, witness statement, 27 August 1997), para. 69; P677 (Alun Roberts, witness statement, 28 February 2007), p. 9; P679 (Alun Roberts, witness statement, 4 March 2008), para. 3; Alun Roberts, T. 6860, 6916-6917; P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 6.

¹⁴⁹² Alun Roberts, T. 6916-6917; see also P46 (Fax from H. Al-Alfi to P. Corwin, 23 August 1995).

¹⁴⁹³ P675 (Alun Roberts, witness statement, 27 August 1997), paras 15, 70-71, 89; P677 (Alun Roberts, witness statement, 28 February 2007), p. 9; P679 (Alun Roberts, witness statement, 4 March 2008), paras 1, 3; Alun Roberts, T. 6860-6861, 6864-6865, 6917, 6965; P690 (Sketch drawn by Alun Roberts of locations of villages and sites of events on 24 and 25 August 1995 in Plavno valley); P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 5-6.

¹⁴⁹⁴ Alun Roberts, T. 6860; P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 5; P692 (List of registration plates taken by Alun Roberts).

¹⁴⁹⁵ P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 5.

¹⁴⁹⁶ P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 5.

¹⁴⁹⁷ P677 (Alun Roberts, witness statement, 28 February 2007), p. 10; P679 (Alun Roberts, witness statement, 4 March 2008), paras 1-3; Alun Roberts, T. 6864, 6945-6946, 7117; P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 5.

¹⁴⁹⁸ P677 (Alun Roberts, witness statement, 28 February 2007), p. 10; P679 (Alun Roberts, witness statement, 4 March 2008), para. 3; Alun Roberts, T. 6861, 6916; P690 (Sketch drawn by Alun Roberts of locations of villages and sites of events on 24 and 25 August 1995 in Plavno valley); P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 6.

¹⁴⁹⁹ P675 (Alun Roberts, witness statement, 27 August 1997), paras 15, 72, 84; P677 (Alun Roberts, witness statement, 28 February 2007), p. 10; P679 (Alun Roberts, witness statement, 4 March 2008), paras 2-4; P680 (Alun Roberts, witness statement, 1 July 2008), para. 32, nos 29-30; Alun Roberts, T. 6861, 6917-6918, 6921, 6926, 6937; P683 (Various photographs of destruction, looting and killing in

clear and uninterrupted view across the valley, even though there was light rain.¹⁵⁰⁰ Jovan, a participant of the meeting, pointed out that this village across the valley was his village, which was Grubori in Knin municipality.¹⁵⁰¹ Some UN employees immediately set off for Grubori and on the way met two very upset elderly women at the foot of the road leading to Grubori who were repeatedly crying “soldiers came” and “shooting”.¹⁵⁰² Later in the day the same women told the UN that these soldiers wore olive-green uniform with a coloured ribbon on the shoulder.¹⁵⁰³ On 27 August 1995, five women from Grubori told an HRAT team and the witness that on 25 August 1995 at about 10:30 a.m., on their way to the school hall in Basinac, they encountered two groups of soldiers in green uniform.¹⁵⁰⁴ The groups consisted of 10-20 soldiers each.¹⁵⁰⁵ According to the women, one group of soldiers was moving to Rusići village and the other one was moving up the gravel lane towards Grubori.¹⁵⁰⁶ According to the women, these soldiers were not Serb soldiers, adding that some had coloured ribbons on their shoulders.¹⁵⁰⁷ Another woman observed about ten soldiers in green uniform on the gravel path leading down from Grubori at the same time.¹⁵⁰⁸

361. Roberts testified that he and the other UN personnel reached Grubori at about 1:30 p.m. on 25 August 1995, finding most of the small buildings on fire along with a few elderly residents in a state of shock.¹⁵⁰⁹ Roberts testified that they did not see any

Knin and in villages taken between 10 August and mid-October 1995), pp. 59-62; P690 (Sketch drawn by Alun Roberts of locations of villages and sites of events on 24 and 25 August 1995 in Plavno valley); P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 6; P714 (Photograph of meeting UN and villagers in Durići or Zečevići on 25 August 1995).

¹⁵⁰⁰ P675 (Alun Roberts, witness statement, 27 August 1997), para. 84; Alun Roberts, T. 6917; P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 6.

¹⁵⁰¹ P675 (Alun Roberts, witness statement, 27 August 1997), para. 72; P679 (Alun Roberts, witness statement, 4 March 2008), para. 3; Alun Roberts, T. 6861, 6868, 6916, 6919; P690 (Sketch drawn by Alun Roberts of locations of villages and sites of events on 24 and 25 August 1995 in Plavno valley); P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 6, 16.

¹⁵⁰² P675 (Alun Roberts, witness statement, 27 August 1997), paras 15, 73; P677 (Alun Roberts, witness statement, 28 February 2007), p. 10; Alun Roberts, T. 6918-6920, 6923, 6926; P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 7.

¹⁵⁰³ P675 (Alun Roberts, witness statement, 27 August 1997), para. 81.

¹⁵⁰⁴ P675 (Alun Roberts, witness statement, 27 August 1997), paras 85-86; P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 3, 16-17.

¹⁵⁰⁵ P675 (Alun Roberts, witness statement, 27 August 1997), para. 86.

¹⁵⁰⁶ P675 (Alun Roberts, witness statement, 27 August 1997), para. 86; P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 3, 17.

¹⁵⁰⁷ P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 17.

¹⁵⁰⁸ P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 17.

¹⁵⁰⁹ P675 (Alun Roberts, witness statement, 27 August 1997), paras 15, 74-75; P677 (Alun Roberts, witness statement, 28 February 2007), p. 10; P678 (Alun Roberts, witness statement, 7 February 2008), para. 34, no. 3; P680 (Alun Roberts, witness statement, 1 July 2008), paras 3-4; Alun Roberts, T. 6867-6868, 6918-6920, 6923; P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 4, 8; P709

bodies on this first visit.¹⁵¹⁰ The villagers did however show the UN the burning house of Marija Grubor, 90 years of age, who they thought had been burnt inside.¹⁵¹¹ Roberts also saw three dead pigs that appeared to have been shot.¹⁵¹² According to Roberts, when they were in Grubori talking to the villagers, there was no sign of a conflict between the HV and possible renegade Serb soldiers.¹⁵¹³ The UN did not spend more than about 40 minutes in the village.¹⁵¹⁴ When leaving the valley, some vehicles of the line of parked vehicles were gone, and Roberts took note of the registration plates of the remaining vehicles that afternoon.¹⁵¹⁵ He recorded the numbers 010-353; ZG – 721 GJ; 010 – 027; ZG – 720 GJ; 010 – 319.¹⁵¹⁶ One white van did not have a plate.¹⁵¹⁷ UNTV also filmed the license plates.¹⁵¹⁸

362. Roberts along with other UN personnel returned to Grubori later in the day, arriving at around 6 p.m.¹⁵¹⁹ There they met six elderly villagers and saw that the houses were now burnt down.¹⁵²⁰ One of the villagers, Marija Grubor, showed the UN the body of Miloš Grubor (1915), in a house upstairs, lying by his bed in his pyjamas in a pool of blood.¹⁵²¹ Miloš Grubor had been shot twice through the head from behind.¹⁵²² Bullet

(Photographs destruction in Knin and countryside and displaced persons in UN compound), third row, left picture.

¹⁵¹⁰ P675 (Alun Roberts, witness statement, 27 August 1997), paras 15, 74-75; P677 (Alun Roberts, witness statement, 28 February 2007), p. 10; Alun Roberts, T. 6868, 6919-6920, 6923; P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 8. In his earlier statements, Roberts reported seeing bodies on his first visit to Grubori on 25 August 1995. Roberts retracted this in his testimony (T. 6920) and the Trial Chamber will rely on his in-court testimony in this respect which is also corroborated by Edward Flynn.

¹⁵¹¹ P677 (Alun Roberts, witness statement, 28 February 2007), p. 10; Alun Roberts, T. 6868, 6920.

¹⁵¹² P677 (Alun Roberts, witness statement, 28 February 2007), p. 10; P679 (Alun Roberts, witness statement, 4 March 2008), para. 5; Alun Roberts, T. 6868, P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 4, 8; P715 (Photograph of pigs shot dead in Grubori).

¹⁵¹³ P677 (Alun Roberts, witness statement, 28 February 2007), p. 11.

¹⁵¹⁴ Alun Roberts, T. 6868.

¹⁵¹⁵ P677 (Alun Roberts, witness statement, 28 February 2007), p. 11; P679 (Alun Roberts, witness statement, 4 March 2008), paras 6-9; Alun Roberts, T. 6864, 6866, 6945-6946, 7117; P692 (List of registration plates taken by Alun Roberts).

¹⁵¹⁶ P679 (Alun Roberts, witness statement, 4 March 2008), para. 7; Alun Roberts, T. 6946; P692 (List of registration plates taken by Alun Roberts).

¹⁵¹⁷ P679 (Alun Roberts, witness statement, 4 March 2008), para. 8; Alun Roberts, T. 6946; P692 (List of registration plates taken by Alun Roberts).

¹⁵¹⁸ Alun Roberts, T. 6970.

¹⁵¹⁹ P675 (Alun Roberts, witness statement, 27 August 1997), paras 77-78; P677 (Alun Roberts, witness statement, 28 February 2007), p. 11, Alun Roberts, T. 6867, 6869, 6929; P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 10.

¹⁵²⁰ P677 (Alun Roberts, witness statement, 28 February 2007), p. 11; Alun Roberts, T. 6869; P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 10.

¹⁵²¹ P675 (Alun Roberts, witness statement, 27 August 1997), paras 15, 78; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 8, 10; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 5; Alun Roberts, T. 6869, 6927-6928; P685 (CNN video Varivode, 3 October 1995), p. 2; P686 (The Independent, 4 September 1995), p. 1; P691 (Grubori village report by Alun Roberts, 29 August

cases were found in the same room.¹⁵²³ Jovan and Marija Grubor showed the UN the body of Jovo Grubor (1930), which was lying in a pool of blood on the floor in the hallway of his house.¹⁵²⁴ Roberts stated that Jovo was wearing civilian clothes and had had his throat cut and the lower part of his face mutilated.¹⁵²⁵ Roberts added that as far as he recalled, there was also a stab wound in Jovo Grubor's upper chest.¹⁵²⁶ The roof and upper floor of Jovo Grubor's house had burned down.¹⁵²⁷ Jovan told the UN that he had found the body in the afternoon of the same day under a hedge in a field next to shot cows and a shot dog, and had dragged it into the hallway with the help of others.¹⁵²⁸ Jovan showed the UN this spot in the field which was less than 250 metres away.¹⁵²⁹ On the photograph taken of this spot, no blood was visible.¹⁵³⁰ In another house Roberts testified to seeing the remains of a woman who had been burnt, lying in the ashes and rubble of a house.¹⁵³¹ Jovan and another villager told the UN that this was

1995), paras 2, 11, 15; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp 1, 15-16.

¹⁵²² P675 (Alun Roberts, witness statement, 27 August 1997), paras 15, 78; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 8, 10-11; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 5; Alun Roberts, T. 6869, 6927; P685 (CNN video Varivode, 3 October 1995), p. 2; P686 (The Independent, 4 September 1995), p. 1; P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 2, 11, 15; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp 1, 15-16.

¹⁵²³ Alun Roberts, T. 6869, 6927.

¹⁵²⁴ P675 (Alun Roberts, witness statement, 27 August 1997), para. 79; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 8, 11; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 5; P679 (Alun Roberts, witness statement, 4 March 2008), para. 12; P680 (Alun Roberts, witness statement, 1 July 2008), para.28; Alun Roberts, T. 6869, 6927-6929, 6953-6954, 6958; P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 12, 18; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 13-14.

¹⁵²⁵ P675 (Alun Roberts, witness statement, 27 August 1997), para. 79; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 8, 11; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 5; P679 (Alun Roberts, witness statement, 4 March 2008), para. 12; P680 (Alun Roberts, witness statement, 1 July 2008), paras 27-28; Alun Roberts, T. 6928, 6953, 6958-6961; P685 (CNN video Varivode, 3 October 1995), p. 2; P686 (The Independent, 4 September 1995), p. 1; P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 2, 12, 15, 18; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 13-14.

¹⁵²⁶ Alun Roberts, T. 6961.

¹⁵²⁷ Alun Roberts, T. 6953; P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 12.

¹⁵²⁸ P675 (Alun Roberts, witness statement, 27 August 1997), para. 79; P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P679 (Alun Roberts, witness statement, 4 March 2008), para. 12; P680 (Alun Roberts, witness statement, 1 July 2008), paras 27-28; Alun Roberts, T. 6867, 6928, 6953-6954, 6958, 6962; P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 12; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 13-14.

¹⁵²⁹ P675 (Alun Roberts, witness statement, 27 August 1997), para. 79; P677 (Alun Roberts, witness statement, 28 February 2007), p. 11; P679 (Alun Roberts, witness statement, 4 March 2008), para. 12; Alun Roberts, T. 6866-6867, 6869, 6948-6949, 6952-6955, 6957-6959; P693 (Photograph taken by Alun Roberts of Jovo Grubor showing hedge where he found body).

¹⁵³⁰ Alun Roberts, T. 6953, 6959.

¹⁵³¹ P675 (Alun Roberts, witness statement, 27 August 1997), para. 80; P680 (Alun Roberts, witness statement, 1 July 2008), para. 32, no. 26; Alun Roberts, T. 6869, 6928; P683 (Various photographs of destruction, looting and killing in Knin and in villages taken between 10 August and mid-October 1995),

Marija Grubor, aged around 90.¹⁵³² The UN had a discussion with a woman who said her husband, Jovan-Damjan Grubor, 73 years old and an invalid, went missing and was presumed to have died in a fire in his house.¹⁵³³ Other UN personnel told Roberts that they had seen the bodies of Đuro Karanović (1950), and Mika Grubor, 51 years old, in a nearby field, both shot in the head.¹⁵³⁴ Đuro Karanović lay in a hedge and had his head and face battered.¹⁵³⁵ Roberts reported that all of those killed in Grubori were civilians.¹⁵³⁶ The UN personnel counted around 12-15 burnt houses out of a total of approximately 25 houses, which were scattered all over the hamlet.¹⁵³⁷ The houses were located very close to each other, though Roberts testified that he had the impression that the houses were all deliberately set on fire rather than some catching fire from burning houses nearby.¹⁵³⁸

363. **Richard Lyntton**, a UNTV producer in August 1995,¹⁵³⁹ also testified about this incident, giving similar evidence to Alun Roberts.¹⁵⁴⁰ In addition to providing his observations on 25 August 1995 about the alleged murders, Lyntton testified that in the morning of 26 August 1995, he together with his UNTV team returned to Grubori.¹⁵⁴¹ He met and interviewed Dušanka Grubor and one other woman.¹⁵⁴² The women said

pp. 53-54; P686 (The Independent, 4 September 1995), p. 1; P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 2, 13, 15, 18.

¹⁵³² P675 (Alun Roberts, witness statement, 27 August 1997), para. 80; P680 (Alun Roberts, witness statement, 1 July 2008), para. 32, no. 26; Alun Roberts, T. 6928; P686 (The Independent, 4 September 1995), p. 1; P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 13, 15, 18.

¹⁵³³ Alun Roberts, T. 6928; P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 2, 15, 19.

¹⁵³⁴ P675 (Alun Roberts, witness statement, 27 August 1997), para. 80; P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 5; P680 (Alun Roberts, witness statement, 1 July 2008), paras 27-28; Alun Roberts, T. 6928; P686 (The Independent, 4 September 1995), p. 1; P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 2, 13, 15, 18; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 17-18.

¹⁵³⁵ P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 5; P680 (Alun Roberts, witness statement, 1 July 2008), paras 27-28; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 17-18.

¹⁵³⁶ P691 (Grubori village report by Alun Roberts, 29 August 1995), para. 15.

¹⁵³⁷ P675 (Alun Roberts, witness statement, 27 August 1997), para. 81; Alun Roberts, T. 7120-7121; P684 (Alun Roberts report to press on HV's human rights violations in Sector South, 12 October 1995), p. 1; P691 (Grubori village report by Alun Roberts, 29 August 1995), paras 4, 8; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 13-18.

¹⁵³⁸ Alun Roberts, T. 7120.

¹⁵³⁹ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 2; Richard Lyntton, T. 8806.

¹⁵⁴⁰ P870 (Richard Lyntton, witness statement, 3 October 2001), paras 4, 7-8, 10, 13-18, 21-24; Richard Lyntton, T. 8784, 8795-8799, 8822-8824, 8844-8846, 8850, 8852, 8854, 8858-8862, 8867-8869, 8881; P872 (Video of meeting in Plavno and with people in Grubori on 25 August 1995), at 9-10:27, 10:34-18:35; D784 (Video of vehicles close to Grubori, 25 August 1995).

¹⁵⁴¹ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 34; Richard Lyntton, T. 8824.

¹⁵⁴² P870 (Richard Lyntton, witness statement, 3 October 2001), para. 34; P874 (Video of interview with two women in Grubori, 26 August 1995).

that their husbands had been killed.¹⁵⁴³ Dušanka Grubor took the team to a house and showed them her husband who was sprawled on the floor next to the bed.¹⁵⁴⁴ The husband had been shot with a single shot in the head.¹⁵⁴⁵ The witness did not see any evidence of struggle.¹⁵⁴⁶ The second woman took the team to her house, 30 metres away.¹⁵⁴⁷ There, Lyntton observed a man lying on his front in the hallway, near the entry of the house.¹⁵⁴⁸ According to the witness, his throat had been slit.¹⁵⁴⁹ Around this time, UNCIVPOL arrived at the scene.¹⁵⁵⁰ The witness observed three dead cows in the immediate area but saw no weapons or signs of fire fights.¹⁵⁵¹ The witness did not report what he had observed in Grubori to the Croatian police.¹⁵⁵² The team returned to Knin where they interviewed Edward Flynn about what had happened during the last two days.¹⁵⁵³ They then packed all the videos they had shot and sent them to Zagreb by helicopter.¹⁵⁵⁴ The team left Knin around 5 p.m. on 26 August 1995 and drove towards Split.¹⁵⁵⁵

364. **Roland Dangerfield**, a British army sector liaison officer stationed in Knin in August 1995,¹⁵⁵⁶ also testified about this incident giving similar evidence to Alun Roberts and Richard Lyntton.¹⁵⁵⁷ In addition to providing evidence on the alleged

¹⁵⁴³ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 34; P874 (Video of interview with two women in Grubori, 26 August 1995).

¹⁵⁴⁴ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 35; P874 (Video of interview with two women in Grubori, 26 August 1995), at 1:30-5:31.

¹⁵⁴⁵ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 35; Richard Lyntton, T. 8874; P874 (Video of interview with two women in Grubori, 26 August 1995), at 1:30-5:31.

¹⁵⁴⁶ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 35; P874 (Video of interview with two women in Grubori, 26 August 1995), at 1:30-5:31.

¹⁵⁴⁷ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 36; P874 (Video of interview with two women in Grubori, 26 August 1995), at 7-11:03.

¹⁵⁴⁸ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 37; P874 (Video of interview with two women in Grubori, 26 August 1995), at 7-11:03.

¹⁵⁴⁹ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 37; Richard Lyntton, T. 8871-8873. See also P874 (Video of interview with two women in Grubori, 26 August 1995), at 7-11:03.

¹⁵⁵⁰ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 37.

¹⁵⁵¹ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 38.

¹⁵⁵² Richard Lyntton, T. 8874-8875.

¹⁵⁵³ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 40.

¹⁵⁵⁴ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 40; Richard Lyntton, T. 8803, 8870.

¹⁵⁵⁵ P870 (Richard Lyntton, witness statement, 3 October 2001), para. 41; Richard Lyntton, T. 8804, 8839.

¹⁵⁵⁶ P695 (Roland Dangerfield, witness statement, 21 December 1995), paras 1-2; Roland Dangerfield, T. 7132.

¹⁵⁵⁷ Roland Dangerfield, T. 7291-7296; P699 (The Fall of the Republic of Serb Krajina, authored by Roland Dangerfield, undated), p. 6.

murders, in Grubori Dangerfield also encountered a puppy and pigs which had been shot and sheep which had been burned alive in a barn.¹⁵⁵⁸

365. **Petro Romassev**, Monitor and Station Commander at UNCIVPOL Sector South in Knin municipality between January 1995 and December 1995,¹⁵⁵⁹ gave similar evidence to other international observers about this incident.¹⁵⁶⁰ In addition, Romassev stated that villagers who attended the meeting in Plavno reported seeing up to 50 soldiers or police wearing dark green uniforms with lightning badges on the sleeve similar to those observed by UNCIVPOL as being worn by members of the Croatian Special Police.¹⁵⁶¹ In Grubori, Romassev saw that nearly all the houses and sheds in the village were burning and that there were many bodies of domestic animals which had been killed.¹⁵⁶²

366. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,¹⁵⁶³ gave an account of the incident in Grubori that is similar to what other international observers reported.¹⁵⁶⁴ In addition, in Grubori, Flynn saw that approximately ten to twelve buildings, more than half of the hamlet, were freshly ablaze, though some roofs had already caved in.¹⁵⁶⁵ There were several shot pigs laying on the ground.¹⁵⁶⁶ **Maria Teresa Mauro**, a UN civil affairs officer and HRAT member

¹⁵⁵⁸ P699 (The Fall of the Republic of Serb Krajina, authored by Roland Dangerfield, undated), p. 6.

¹⁵⁵⁹ P2513 (Petro Romassev, two witness statements), pp. 2 (Petro Romassev, witness statement, 14 February 1996), 6-7 (Petro Romassev, witness statement, 8 June 1997).

¹⁵⁶⁰ P2513 (Petro Romassev, two witness statements), pp. 2-3 (Petro Romassev, witness statement, 14 February 1996), 11 (Petro Romassev, witness statement, 8 June 1997).

¹⁵⁶¹ P2513 (Petro Romassev, two witness statements), pp. 2 (Petro Romassev, witness statement, 14 February 1996), 11 (Petro Romassev, witness statement, 8 June 1997).

¹⁵⁶² P2513 (Petro Romassev, two witness statements), p. 2 (Petro Romassev, witness statement, 14 February 1996).

¹⁵⁶³ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

¹⁵⁶⁴ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 25-30; P21 (Edward Flynn, witness statement, 26-27 February 2008), paras 20, 22-23, 25; Edward Flynn, T. 1059-1061, 1064-1069, 1071-1073, 1076-1077, 1084, 1127, 1167-1168, 1170-1171, 1258, 1271-1275, 1278, 1280-1281; P22 (Photos taken in Grubori on 25 August 1995), p. 4; P27 (HRAT cumulative daily report, 24-27 August 1995), pp. 1-2; P28 (Video and transcript of UNTV footage regarding events in Grubori on 25 August 1995), p. 1; P46 (Fax from H. Al-Alfi to P. Corwin, 23 August 1995), paras 1-2.

¹⁵⁶⁵ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 25, 29; P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 25; Edward Flynn, T. 1064-1066, 1073, 1075-1076, 1127; P22 (Photos taken in Grubori on 25 August 1995), pp. 1, 3, 5-8; P27 (HRAT cumulative daily report, 24-27 August 1995), p. 1; P28 (Video and transcript of UNTV footage regarding events in Grubori on 25 August 1995), p. 1.

¹⁵⁶⁶ P20 (Edward Flynn, witness statement, 29 June 1997), p. 26; Edward Flynn, T. 1076; P22 (Photos taken in Grubori on 25 August 1995), p. 2; P27 (HRAT cumulative daily report, 24-27 August 1995), p. 1.

in the former Sector South based in Knin from March to December 1995,¹⁵⁶⁷ testified about this incident similarly to other international observers.¹⁵⁶⁸ **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,¹⁵⁶⁹ provided hearsay evidence about this incident corroborating the accounts of other international observers.¹⁵⁷⁰

367. The Trial Chamber further received evidence from several members of the Special Police and other Croatian officials about the events on 25 August 1995 in Grubori.

368. **Zdravko Janić**, the chief of the Anti-Terrorist Department of the Special Police Sector in 1995,¹⁵⁷¹ testified that one operation he co-ordinated involved a search of the Plavno area, which included the hamlet of Grubori in Plavno, Knin municipality.¹⁵⁷² According to the witness's written report of the operation, this search was conducted on the orders of Mladen Markač.¹⁵⁷³ Six units were involved in the operation, namely those from Lučko, Slavonski Brod-Posavina, Sisak-Moslavina, Zagreb, Osijek-Baranja, and Split-Dalmatia, with a total of 580 men.¹⁵⁷⁴ According to the witness, assistant commander Josip Čelić was in charge of the Lučko Anti-Terrorist Unit for the operation.¹⁵⁷⁵ The units received packages made up of maps and orders for the operation from the Special Police Sector on 24 August 1995, in which it was also emphasized in writing that the area had a number of elderly civilians living there.¹⁵⁷⁶ Janić specified that he also received a list of civilians living in Plavno from "Internal Control" on 24 August 1995.¹⁵⁷⁷ The witness testified that this was the first time that the Special Police

¹⁵⁶⁷ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

¹⁵⁶⁸ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 5; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), paras 36-37; Maria Teresa Mauro, T. 12053-12055.

¹⁵⁶⁹ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

¹⁵⁷⁰ P2 (Witness 136, witness statement, 4 July 1996), p. 11; Witness 136, T. 643-645, 790-791; P6 (Handwritten list of individuals buried at the Knin Cemetery, compiled by Witness 136).

¹⁵⁷¹ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 13; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 25; Zdravko Janić, T. 6099.

¹⁵⁷² P552 (Zdravko Janić, witness statement, 14 January 2004), para. 49.

¹⁵⁷³ P560 (Report from Zdravko Janić to Željko Sačić, 25 August 1995), p. 1.

¹⁵⁷⁴ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 49; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part III, pp. 6-7; Zdravko Janić, T. 6126-6128; P559 (Special Police map of the Grubori area); P560 (Report from Zdravko Janić to Željko Sačić, 25 August 1995), pp. 1-2.

¹⁵⁷⁵ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 52; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, p. 128.

¹⁵⁷⁶ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 50; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 69; part II, pp. 96, 110.

¹⁵⁷⁷ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part III, pp. 80-82.

was to search an area containing a large number of civilians and that he received specific orders about being mindful of the remaining civilians in the Plavno Valley.¹⁵⁷⁸ The witness believed that he also passed on the list of civilians that he had received from Internal Control to the unit commanders.¹⁵⁷⁹ The witness added that he warned those taking part in the operation that there were civilians in the area who were being visited every day by the UN, and that special care should be taken not to harm civilians.¹⁵⁸⁰ The witness testified that he had information that there were combat activities ongoing in the Strmica area between enemy forces and the 4th and 7th HV Brigades and that groups of enemy soldiers had been spotted in the area.¹⁵⁸¹

369. The operation began sometime between 7 and 9 a.m. on 25 August 1995.¹⁵⁸² The witness testified that the starting point for the operation extended from the Palanka-Čupkovići road, near the village of Jovičići in Knin municipality, to the village of Knežević, also in Knin municipality, and the finish point was to be the Strmica-Knin road.¹⁵⁸³ The width of the advance was in excess of two kilometres.¹⁵⁸⁴ The forward advance of the search was to be between three and four kilometres.¹⁵⁸⁵ During the operation, the witness stayed with the vehicles which dropped off the units, and then travelled with the vehicles to the finish point.¹⁵⁸⁶ Josip Čelić was also in the same car as the witness and was in communication with his group leaders Krajina, Balunović, and Žinić via Motorola radio.¹⁵⁸⁷ Similarly, the witness could also be contacted directly by the group leaders but the regular procedure was to go through the commander.¹⁵⁸⁸ Janić testified that he expected to be kept up-to-date about anything of note that occurred during a search.¹⁵⁸⁹ According to Janić, every member of the Special Police had to

¹⁵⁷⁸ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 50; Zdravko Janić, T. 6151-6152.

¹⁵⁷⁹ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part III, pp. 82-83.

¹⁵⁸⁰ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part III, p. 82.

¹⁵⁸¹ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, p. 103.

¹⁵⁸² P552 (Zdravko Janić, witness statement, 14 January 2004), para. 52; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 94, 127.

¹⁵⁸³ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 53; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 120, 130-131.

¹⁵⁸⁴ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 53; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, p. 145.

¹⁵⁸⁵ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 53.

¹⁵⁸⁶ P552 (Zdravko Janić, witness statement, 14 January 2004), paras 53-54; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part III, p. 24.

¹⁵⁸⁷ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 54; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, pp. 75-77, part II, pp. 132-133, 138-140, 143, part III, pp. 16-17, 19-20, 22-23.

¹⁵⁸⁸ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 53; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 136-142, part III, pp. 13-14, 16.

¹⁵⁸⁹ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, p. 135.

report to their group leader, who in turn reported to the unit commander who then reported to Janić.¹⁵⁹⁰ Janić further testified that this line of communication was never interrupted and during the operation he was at all times in touch with the unit commanders, and they were always in touch with the group leaders.¹⁵⁹¹ The units would normally report at the half-way point and then again shortly before they reached the finish point.¹⁵⁹² At the finish point, there would be a one-minute de-brief unless nothing unusual had happened during a search.¹⁵⁹³ The witness further testified that during this operation he received no reports of anything significant having occurred.¹⁵⁹⁴ **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,¹⁵⁹⁵ provided hearsay evidence about this incident corroborating as the accounts of other international observers.¹⁵⁹⁶

370. **Josip Čelić**, an assistant commander of the Lučko Anti-Terrorist Unit in 1995,¹⁵⁹⁷ testified that on 24 August 1995 the Lučko unit received an order as part of Operation Storm-Encirclement.¹⁵⁹⁸ Čelić was informed about this by the unit commander, Josip Turkalj, and also received a copy of the written order.¹⁵⁹⁹ The order was signed by Josip Turkalj on behalf of Željko Sačić.¹⁶⁰⁰ It stated that 65 members of the Lučko unit, under the direct command of Josip Čelić, should report to the command of the joint forces of the Special Police in Gračac at 7 a.m. on 25 August 1995 and that

¹⁵⁹⁰ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, p. 136.

¹⁵⁹¹ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part III, pp. 11, 13-14.

¹⁵⁹² P552 (Zdravko Janić, witness statement, 14 January 2004), para. 53.

¹⁵⁹³ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 53.

¹⁵⁹⁴ P552 (Zdravko Janić, witness statement, 14 January 2004), paras 54-55.

¹⁵⁹⁵ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

¹⁵⁹⁶ P2 (Witness 136, witness statement, 4 July 1996), p. 11; Witness 136, T. 643-645, 790-791; P6 (Handwritten list of individuals buried at the Knin Cemetery, compiled by Witness 136).

¹⁵⁹⁷ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, pp. 5, 58; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 9, 16-17, 135, 161, Part III, pp. 6, 181-182; Josip Čelić, T. 7928.

¹⁵⁹⁸ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, p. 56, Part II, p. 3; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 133-134; Josip Čelić, T. 7935; P558 (Order to the commander of the Lučko Unit from Željko Sačić, 24 August 1995); P606 (Wartime record of the Lučko unit, 16 February 1998), p. 11.

¹⁵⁹⁹ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 4; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 133-134, 138, 141, 179-180, 184-185; Josip Čelić, T. 7935; P558 (Order to the commander of the Lučko Unit from Željko Sačić, 24 August 1995); P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 1.

¹⁶⁰⁰ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 4; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 141, 181-183; P558 (Order to the commander of the Lučko Unit from Željko Sačić, 24 August 1995); P606 (Wartime record of the Lučko unit, 16 February 1998), p. 11.

their engagement would last approximately seven days.¹⁶⁰¹ Approximately 46 members of the unit left Zagreb in the night of 24 August or early in the morning on 25 August 1995.¹⁶⁰² When they arrived in Gračac at 7 a.m. on 25 August 1995, Zdravko Janić gave Čelić and the unit oral orders about which part of the terrain they were to search.¹⁶⁰³ Janić informed them that there was a possibility that a “terrorist group” had stayed behind in the area.¹⁶⁰⁴ Janić also cautioned the unit that there were civilians in the area and emphasized that these civilians should be treated according to international law and if encountered taken to a safe area.¹⁶⁰⁵ Čelić stated that they knew how to treat prisoners and that they were cautioned about the Geneva Conventions.¹⁶⁰⁶ Čelić further stated that the unit had no lists of names of wanted persons or known terrorists.¹⁶⁰⁷ The witness testified that there was no instruction not to take prisoners, nor a shoot-to-kill policy, on that day.¹⁶⁰⁸

371. Čelić testified that he was commander at the unit level for this operation and that he had never before been in charge of any search operation.¹⁶⁰⁹ His superior was Zdravko Janić.¹⁶¹⁰ The unit was divided into four groups, with eight to twelve men each.¹⁶¹¹ The leaders of the four groups were Branko Balunović, Stjepan Žinić, Božo Krajina, and Frano Drljo.¹⁶¹² Čelić emphasized that the four groups consisted

¹⁶⁰¹ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, p. 15, Part II, pp. 4, 6; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 94, 157, 190-192, Part III, pp. 15-16; P558 (Order to the commander of the Lučko Unit from Željko Sačić, 24 August 1995).

¹⁶⁰² P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 5-6, 29; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 143-146, 185, Part III, p. 165-166; P606 (Wartime record of the Lučko unit, 16 February 1998), pp. 11-12; P625 (List of Lučko Unit personnel who took part in Operation Storm-Encirclement on 25 August 1995), pp. 1-9.

¹⁶⁰³ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 8, 10; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 142-143, 146-149, 186-187; Josip Čelić, T. 8072-8073, 8095; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 1.

¹⁶⁰⁴ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 17, 20; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 149-151, 154, 171, 192; Josip Čelić, T. 7987, 8070-8071; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 2.

¹⁶⁰⁵ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 9-10; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 149, 151, 153, 155, 171-174, 193-194.

¹⁶⁰⁶ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 17.

¹⁶⁰⁷ P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 153-155.

¹⁶⁰⁸ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 35.

¹⁶⁰⁹ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, p. 58, Part II, pp. 19, 22; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 10, 135-136; Josip Čelić, T. 7935, 8073, 8090, 8112.

¹⁶¹⁰ Josip Čelić, T. 7935, 8073.

¹⁶¹¹ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 19, 28-29; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 156-157, 159-160, 172-173.

¹⁶¹² P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 19; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 160-164, 176-177; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 1.

exclusively of members of the Lučko unit.¹⁶¹³ The unit was armed with pistols and rifles.¹⁶¹⁴ The unit did not have any weapons for launching grenades or any anti-tank armoury with them.¹⁶¹⁵ Further, the unit did not have any artillery support.¹⁶¹⁶ The means of communication between the groups was Motorola radios.¹⁶¹⁷

372. The Lučko unit, as well as Janić, went to the area where the search was to take place.¹⁶¹⁸ They left their vehicles on the road when commencing to search the terrain.¹⁶¹⁹ The approximately ten vehicles were in different colours: blue, with MUP markings, white, and green.¹⁶²⁰ Soon after the operation started, the drivers took the vehicles to the end point of the search.¹⁶²¹ The search started around 9:30 a.m.¹⁶²² Before Čelić let the groups go he repeated the order and emphasized that there were civilians in the area and that they were supposed to be treated well, identified, and taken to a safe area.¹⁶²³ He also reminded the men how to treat prisoners.¹⁶²⁴

373. Soon after setting out, the unit encountered a few civilians.¹⁶²⁵ The witness believed it was one man and two elderly women.¹⁶²⁶ The witness contacted some men at the vehicles and asked them to come and get the civilians, and even fired a shot in the

¹⁶¹³ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 29-30; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, p. 6.

¹⁶¹⁴ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 31; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, p. 27; Josip Čelić, T. 7985-7986; P625 (List of Lučko Unit personnel who took part in Operation Storm-Encirclement on 25 August 1995), pp. 1-9.

¹⁶¹⁵ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 31; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, pp. 14-15; P625 (List of Lučko Unit personnel who took part in Operation Storm-Encirclement on 25 August 1995), pp. 1-9.

¹⁶¹⁶ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 31.

¹⁶¹⁷ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 16; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, p. 16; Josip Čelić, T. 8091; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 2.

¹⁶¹⁸ P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 147-148, 156, 186.

¹⁶¹⁹ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 12.

¹⁶²⁰ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 12-14.

¹⁶²¹ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 14; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, pp. 5, 22.

¹⁶²² P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 15; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, p. 8; Josip Čelić, T. 8095; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 2.

¹⁶²³ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 21-22; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 155, 172, 174, 177-178, Part II, p. 12, Part III, p. 47; Josip Čelić, T. 7960, 7976, 8096; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 2.

¹⁶²⁴ P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, pp. 11-12.

¹⁶²⁵ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 22, 25; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, p. 13; Josip Čelić, T. 7980, 8011; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 2.

¹⁶²⁶ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 22; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, p. 13; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 2.

air for orientation, but when they did not arrive, the witness himself took the civilians back to the vehicles.¹⁶²⁷ When he came back he met with Zdravko Janić who told him that the civilians could be left on the road and that there was no need to identify them.¹⁶²⁸ Čelić stayed for a moment and then he left for the end point of the search with Janić, although in two different vehicles.¹⁶²⁹ The unit was supposed to contact him if they encountered any armed resistance.¹⁶³⁰ They made no such contact and, as far as the witness heard, made no contact with each other either.¹⁶³¹ While Čelić was at the starting point and while he was driving towards the end point, he heard individual, sporadic fire from all directions.¹⁶³² The units arrived at the end point at 4 or 5 p.m.¹⁶³³ The commanders of the four units individually reported to Čelić orally that there had been no incidents, no usage of weapons, and that they had not encountered any civilians.¹⁶³⁴ The groups had no prisoners with them.¹⁶³⁵ Also, as far as the witness could see, the soldiers did not have any extra weaponry with them.¹⁶³⁶ The whole unit then returned to Gračac.¹⁶³⁷ There was no debriefing of the unit.¹⁶³⁸ Čelić wrote a report by hand on the same day, on the basis of what the group leaders had told him, and addressed it to the operational headquarters for Operation Storm-Encirclement in

¹⁶²⁷ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 22-23, 27, Part III, pp. 38-39; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, pp. 14, 24, 26, 38-40, 58-59, Part III, p. 158; Josip Čelić, T. 7980, 8011, 8091, 8095-8096; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 2.

¹⁶²⁸ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 23-24, 40; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, pp. 14, 22, 38, 51, 59-60.

¹⁶²⁹ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 23, 26, Part III, p. 32; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, pp. 14, 22, 37, 59-60; Josip Čelić, T. 7980, 8098; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 3.

¹⁶³⁰ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 27; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, pp. 18-20, 55, 58; Josip Čelić, T. 7955, 8002, 8092.

¹⁶³¹ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part III, pp. 31-34; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, pp. 19-21, 33-34, 45-46, 49-50, 55, 57-58, Part III, p. 105; Josip Čelić, T. 7955, 8104-8105.

¹⁶³² P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 37; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, pp. 35, 58, 61-62; Josip Čelić, T. 7980-7981; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 3.

¹⁶³³ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 36; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, p. 29; Josip Čelić, T. 8111.

¹⁶³⁴ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 36-38, Part III, pp. 3, 14, 30, 42-43; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, pp. 34, 42-44, 55, 58, 64, Part III, p. 73, 79, 172; Josip Čelić, T. 7942, 7955, 7958, 7969, 7971, 7978-7979, 8002, 8094, 8102-8103; P773 (Josip Čelić, MUP official note of interview with Josip Čelić, 27 April 2004), p. 1.

¹⁶³⁵ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part III, pp. 37-38; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part III, pp. 94-95, 177, 179; Josip Čelić, T. 7956, 8110, 8119; P773 (Josip Čelić, MUP official note of interview with Josip Čelić, 27 April 2004), pp. 1-2.

¹⁶³⁶ P762 (Josip Čelić, witness interview of 13-14 January 2005), Part III, pp. 125-126; Josip Čelić, T. 8110.

¹⁶³⁷ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 38, 40; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, p. 62; Josip Čelić, T. 8106.

Gračac.¹⁶³⁹ He submitted it to Janić.¹⁶⁴⁰ Čelić did not mention the civilians found at the beginning of the operation.¹⁶⁴¹ Čelić has not been able to find a copy of the report that he submitted on 25 August 1995.¹⁶⁴² He testified that the report submitted by Zdravko Janić to Željko Sačić on 25 August 1995 is consistent with the report he submitted.¹⁶⁴³

374. **Stjepan Žinić**, a specialist training instructor in the Lučko Anti-Terrorist Unit of the Special Police,¹⁶⁴⁴ testified that, on 25 August 1995, the Lučko Unit took part in mopping-up operations to provide security for the Freedom Train in the area of Knin and Plavno in Knin municipality, for which Josip Čelić was their direct commander.¹⁶⁴⁵ The witness testified that the unit was divided into four groups, led by Branko Balunović, Božo Krajina, Frano Drljo, and himself.¹⁶⁴⁶ In the morning, Čelić gave the groups their tasks, assigned each group a certain axis of movement, and distributed maps.¹⁶⁴⁷ The witness confirmed that the groups moved parallel to one another with Žinić's group positioned to the far left, Balunović's group to its right, then Drljo's and Krajina's groups respectively, with Drljo's group passing through Grubori.¹⁶⁴⁸

375. The witness testified that, during the operation, radio contact was sporadic and difficult to establish, and he could not contact the operation leader.¹⁶⁴⁹ Throughout the day, there were several occasions on which the witness heard gunfire coming from different directions.¹⁶⁵⁰ Žinić testified that he did not see or enter any village, but he did see some houses during the operation.¹⁶⁵¹ During the first hour of the operation, which had started sometime between 9 and 10 a.m., the witness heard shooting, coming from

¹⁶³⁸ P762 (Josip Čelić, witness interview of 13-14 January 2005), Part III, pp. 170-171.

¹⁶³⁹ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, pp. 38-40, Part III, p. 43; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, pp. 63-71, 88, 93, Part III, p. 189; Josip Čelić, T. 7958, 7969, 8073; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 3.

¹⁶⁴⁰ P762 (Josip Čelić, witness interview of 13-14 January 2005), Part II, p. 67; Josip Čelić, T. 8073; P772 (Josip Čelić, MUP official note of interview with Josip Čelić, 5 December 2001), p. 3.

¹⁶⁴¹ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part II, p. 40.

¹⁶⁴² Josip Čelić, T. 7942-7943.

¹⁶⁴³ Josip Čelić, T. 7943.

¹⁶⁴⁴ Stjepan Žinić, T. 28057-28058; P2717 (Decision on Appointment of Stjepan Žinić, 9 November 1995), p. 1.

¹⁶⁴⁵ Stjepan Žinić, T. 28058, 28141.

¹⁶⁴⁶ Stjepan Žinić, T. 28058-28059, 28075, 28101.

¹⁶⁴⁷ Stjepan Žinić, T. 28066, 28100.

¹⁶⁴⁸ Stjepan Žinić, T. 28066-28067, 28101; P2718 (Map showing Special Police Search Axis on 25 August 1995, 25 August 1995).

¹⁶⁴⁹ Stjepan Žinić, T. 28064-28065.

¹⁶⁵⁰ Stjepan Žinić, T. 28059-28060, 28102.

¹⁶⁵¹ Stjepan Žinić, T. 28066, 28108.

his right, after which he saw smoke rising.¹⁶⁵² Žinić was told that there were “Chetniks” fleeing into the woods, whereupon he went after them.¹⁶⁵³ The witness did not see any “Chetniks” then, or at any point later during the day.¹⁶⁵⁴ Žinić testified that he turned to his right, the direction the shooting came from, and then reached a meadow where he saw smoke and another group, including Drljo, Beneta, and Delimar, coming from the direction of the smoke.¹⁶⁵⁵ Žinić testified that he later heard that Beneta and Delimar were responsible for the events in Grubori.¹⁶⁵⁶ Žinić also testified that the groups merged for the first time at Orlovac peak after passing Grubori.¹⁶⁵⁷

376. Žinić testified that the unit reached the end point of the operation on a hilltop by a hamlet around dusk where all the groups assembled.¹⁶⁵⁸ There were no prisoners on the hilltop.¹⁶⁵⁹ Žinić also testified that he orally reported to Čelić that nothing had happened on his search axis.¹⁶⁶⁰ According to the witness, group leaders were duty-bound to report about the events along their respective axes, and he testified that it was normal to report orally at the end of an operation if nothing happened that required a written report.¹⁶⁶¹

377. **Witness CW-4**, a member of the Lučko Anti-Terrorist Unit of the Special Police on 25 and 26 August 1995,¹⁶⁶² gave similar evidence as other Special Police members about this incident.¹⁶⁶³ In addition, Witness CW-4 testified that the unit was not instructed that day on procedures to follow if they encountered civilians or how to deal with prisoners of war.¹⁶⁶⁴ He also testified that during the operation the whole unit moved together.¹⁶⁶⁵ Witness CW-4 also testified that he did not hear gunfire during the operation and that he did not see anything burning, or any smoke.¹⁶⁶⁶ Witness CW-4 did not see Čelić at the end of the operation.¹⁶⁶⁷

¹⁶⁵² Stjepan Žinić, T. 28062-28063, 28102.

¹⁶⁵³ Stjepan Žinić, T. 28090, 28092, 28107, 28112, 28115, 28140-28141.

¹⁶⁵⁴ Stjepan Žinić, T. 28113, 28141

¹⁶⁵⁵ Stjepan Žinić, T.28107-28109, 28115, 28140.

¹⁶⁵⁶ Stjepan Žinić, T. 28114-28115.

¹⁶⁵⁷ Stjepan Žinić, T. 28102.

¹⁶⁵⁸ Stjepan Žinić, T. 28060-28062.

¹⁶⁵⁹ Stjepan Žinić, T. 28062, 28114.

¹⁶⁶⁰ Stjepan Žinić, T. 28067-28068, 28091, 28139, 28163.

¹⁶⁶¹ Stjepan Žinić, T. 28069, 28139.

¹⁶⁶² Witness CW-4, T. 28190, 28193, 28196-28197, 28319-28320.

¹⁶⁶³ Witness CW-4, T. 28191, 28203-28210, 28223-28225, 28290, 28319, 28336-28337.

¹⁶⁶⁴ Witness CW-4, T. 28267-28268.

¹⁶⁶⁵ Witness CW-4, T. 28205, 28209.

¹⁶⁶⁶ Witness CW-4, T. 28211, 28213, 28215, 28220, 28256, 28288.

¹⁶⁶⁷ Witness CW-4, T. 28223.

378. **Branko Balunović**, specialist training instructor in the Lučko Anti-Terrorist Unit of the Special Police,¹⁶⁶⁸ gave similar evidence as other Special Police members about this incident.¹⁶⁶⁹ In addition, Balunović testified that, soon after his group's departure, they encountered two elderly civilians in a hamlet of several homes.¹⁶⁷⁰ Ante Jurendić, a member of Balunović's group, found the civilians and informed Čelić over the radio.¹⁶⁷¹ Čelić responded that the civilians should remain where they were and that someone would come to collect them, at which point Balunović continued along his axis of movement while Čelić made sure the civilians were picked up safely.¹⁶⁷² The witness believed the retrieval of civilians was a planned procedure, but agreed that Čelić might also have been worried that some members of the unit would harm the civilians if they were to remain with them.¹⁶⁷³ After this, there was no further radio contact with Čelić.¹⁶⁷⁴ The witness testified that he heard sporadic gunshots and explosions throughout the morning.¹⁶⁷⁵ Balunović explained that it was normal for people taking part in such an operation to open fire when approaching an area that seemed suspicious, in order to provoke a reaction.¹⁶⁷⁶

379. Balunović halted his group by the village of Grubori when someone said over the radio that there were some problems there.¹⁶⁷⁷ Balunović's group was on the left side of the village, at a distance of around 50-100 metres, and remained there for around 15 minutes.¹⁶⁷⁸ Balunović saw members of the Lučko Unit, wearing dark green or camouflage Special Police issue raincoats, moving around in the village.¹⁶⁷⁹ The witness testified that Grubori was on the line of search of Drljo's group.¹⁶⁸⁰ At one point, Balunović waited for some members of his group on a plateau above Grubori, but he did not recall seeing any members of the other groups.¹⁶⁸¹ On this plateau, Garić, one of his

¹⁶⁶⁸ Branko Balunović, T. 28345, 28404; P2724 (Decision on Appointment of Branko Balunović, 17 May 1995), p. 1.

¹⁶⁶⁹ Branko Balunović, T. 28345-28347, 28351-28353, 28355-28356, 28396, 28411, 28416, 28443, 28448, 28451-28452.

¹⁶⁷⁰ Branko Balunović, T. 28347, 28355, 28434.

¹⁶⁷¹ Branko Balunović, T. 28347, 28411.

¹⁶⁷² Branko Balunović, T. 28348, 28396, 28412, 28432-28433.

¹⁶⁷³ Branko Balunović, T. 28412.

¹⁶⁷⁴ Branko Balunović, T. 28349-28350.

¹⁶⁷⁵ Branko Balunović, T. 28349, 28351, 28412, 28418, 28443.

¹⁶⁷⁶ Branko Balunović, T. 28349, 28357.

¹⁶⁷⁷ Branko Balunović, T. 28348, 28350-28351, 28412.

¹⁶⁷⁸ Branko Balunović, T. 28350-28352, 28414.

¹⁶⁷⁹ Branko Balunović, T. 28414, 28418

¹⁶⁸⁰ Branko Balunović, T. 28348.

¹⁶⁸¹ Branko Balunović, T. 28352

group members, fired a few rounds in the direction of a wooden cabin, causing no further damage than bullet holes, until the witness told him to stop.¹⁶⁸²

380. Balunović testified that sometime in 2002 or 2003, Marijan Sosa, who was in one of the four groups during the operation in Grubori, but not in Balunović's group, told the witness that during the operation, he saw Frano Drljo and Igor Beneta kill a person.¹⁶⁸³ Sosa further told Balunović that Drljo had threatened him, as well as Balunović, and said that he would kill him if he said anything about the Grubori case.¹⁶⁸⁴

381. **Božo Krajina**, a specialist training instructor in the Lučko Anti-Terrorist Unit,¹⁶⁸⁵ gave similar evidence as other Special Police members about this incident.¹⁶⁸⁶

382. On 4 December 2001, the Zagreb police compiled an Official Note of an interview with Branko Balunović regarding the Grubori incident.¹⁶⁸⁷ In that interview, Balunović is recorded as having stated that some 500-1,000 metres from Grubori he heard individual shots and bursts which could have indicated combat activity.¹⁶⁸⁸ Through radio, he heard that one of the groups had a problem and that Žinić's and his group were ordered to secure a side of the village.¹⁶⁸⁹ Balunović's group then took up positions near the first houses along the left edge of Grubori for about 10-15 minutes until someone said over the radio that the situation had been resolved.¹⁶⁹⁰ Balunović is recorded as having said that he was sure that no one from his or Žinić's group had entered Grubori.¹⁶⁹¹ He did not see any houses on fire nor did he hear any explosions from the village.¹⁶⁹²

383. On 4 December 2001, the Zagreb police compiled an Official Note of an interview with Stjepan Žinić regarding the Grubori incident.¹⁶⁹³ In that interview, Žinić is recorded as having stated that some 20 minutes after the start of the operation, he

¹⁶⁸² Branko Balunović, T. 28357.

¹⁶⁸³ Branko Balunović, T. 28401-28403, 28448.

¹⁶⁸⁴ Branko Balunović, T. 28400-28402.

¹⁶⁸⁵ Božo Krajina, T. 28541-28542, 28579.

¹⁶⁸⁶ Božo Krajina, T. 28542-28545.

¹⁶⁸⁷ P1085 (Official Note of an interview with Branko Balunović, 4 December 2001), p. 1.

¹⁶⁸⁸ P1085 (Official Note of an interview with Branko Balunović, 4 December 2001), p. 3.

¹⁶⁸⁹ P1085 (Official Note of an interview with Branko Balunović, 4 December 2001), p. 3.

¹⁶⁹⁰ P1085 (Official Note of an interview with Branko Balunović, 4 December 2001), pp. 3-4.

¹⁶⁹¹ P1085 (Official Note of an interview with Branko Balunović, 4 December 2001), p. 4.

¹⁶⁹² P1085 (Official Note of an interview with Branko Balunović, 4 December 2001), p. 4.

¹⁶⁹³ P1086 (Official Note of an interview with Stjepan Žinić, 4 December 2001), p. 1.

heard three single shots and then short bursts of fire and some shooting characteristic of a skirmish.¹⁶⁹⁴ Later, Žinić heard shooting characteristic of testing the terrain.¹⁶⁹⁵

384. On 6 December 2001, the Zagreb police compiled an Official Note of an interview with Božo Krajina regarding the Grubori incident.¹⁶⁹⁶ In that interview, Krajina is recorded as having stated that the unit had been told nothing about how to treat civilians or civilian property because each of them knew very well how to behave.¹⁶⁹⁷ He further stated that there had been no mention of any remaining terrorist groups but that something like this could always be expected in such operations.¹⁶⁹⁸ During the operation, Krajina heard sporadic fire.¹⁶⁹⁹

385. Official Notes compiled in 2001 and 2004 with Special Police members give a similar account of the events on 25 August 1995 as described by the above-mentioned Special Police witnesses.¹⁷⁰⁰

386. During interviews given to the Crime Police Department of the Šibenik-Knin Police Administration, 22 members of the Lučko unit stated that there was no strict division of the Lučko unit into groups during the Plavno search operation and that they moved in randomly set-up smaller groups or pairs.¹⁷⁰¹ In addition, all of them, except for Slavko Turudić, stated that they had already moved away from Grubori at the time of the Grubori incident.¹⁷⁰² Turudić stated that 20-25 members of the Lučko unit went for a mopping-up operation and arrived in the Plavno Valley in the morning hours. Turudić stated that he walked in a small group of three to four men and that when they arrived in Grubori, they checked several houses but did not see any people or dead bodies. While checking the houses, Turudić heard several single shots fired. Turudić

¹⁶⁹⁴ P1086 (Official Note of an interview with Stjepan Žinić, 4 December 2001), p. 2.

¹⁶⁹⁵ P1086 (Official Note of an interview with Stjepan Žinić, 4 December 2001), p. 3.

¹⁶⁹⁶ P1087 (Official Note of an interview with Božo Krajina, 6 December 2001), p. 1.

¹⁶⁹⁷ P1087 (Official Note of an interview with Božo Krajina, 6 December 2001), p. 2.

¹⁶⁹⁸ P1087 (Official Note of an interview with Božo Krajina, 6 December 2001), p. 2.

¹⁶⁹⁹ P1087 (Official Note of an interview with Božo Krajina, 6 December 2001), p. 2.

¹⁷⁰⁰ P1055 (Official Note of interview with Ivica Matanić, 4 December 2001), pp. 1-2; P1058 (Official Note of interview with Jure Nunčević, 12 December 2001), p. 2; P2388 (MUP official note of interview with Petar Novaković, 5 December 1995), pp. 1-2; P2389 (MUP official note of interview with Igor Radočaj, 14 May 2004), pp. 1-2; P2390 (MUP official note of interview with Drago Palijan, 14 May 2004), pp. 1-2; P2391 (MUP official note of interview with Neven Jurčić, 3 May 2004), pp. 1-2; P2392 (MUP official note of interview with Zdravko Lončar, 14 May 2004), pp. 1-2.

¹⁷⁰¹ D1200 (Letter from Šibenik-Knin Police Administration to Šibenik County Prosecutor on interviews with members of the Lučko unit, 9 June 2004), p. 1.

¹⁷⁰² D1200 (Letter from Šibenik-Knin Police Administration to Šibenik County Prosecutor on interviews with members of the Lučko unit, 9 June 2004), p. 1.

also saw one or two houses burning in the village.¹⁷⁰³ According to Čelić, the Lučko unit did not have a record showing which member carried which gun or what type of gun on 25 August 1995.¹⁷⁰⁴

387. The Trial Chamber further received forensic evidence in relation to the bodies of Jovo Grubor, Miloš Grubor, Mika Grubor, Marija Grubor, and Đuro Karanović.

388. Four bodies in civilian clothing (KN01/241B, numbered 539; KN01/242B, numbered 540; KN01/244B, numbered 541; and KN01/245B, numbered 537) and one burnt body (KN01/243B, numbered 538) were found in Grubori hamlet in Plavno village, Knin municipality, on 27 August 1995, identified by fellow villagers as, respectively, Jovo Grubor born on 15 January 1930 in Plavno, Mika Grubor born in 1941, Đuro Karanović born in 1952, Miloš Grubor born on 3 March 1915 in Plavno, and Marija Grubor born in 1905, and all buried at a town cemetery in Knin.¹⁷⁰⁵ On 14 June 2001, five bodies (body KN01/241B, with a metal tag marked “539”; body KN01/242B, with a metal tag marked “540”; burnt body KN01/243B, with a metal tag marked “538”; body KN01/244B, with a metal tag marked “541”; body KN01/245B, with a lead tag marked “537”) in civilian clothing (or, in the case of KN01/243B, charring) matching these descriptions were exhumed from a cemetery in Knin and found by forensic pathologists to have died from gunshot injuries.¹⁷⁰⁶ On 26 April 2002, the following bodies were identified by classical method: KN01/241B as Jovo Grubor born on 15 January 1930, KN01/242B as Mika Grubor born in 1941, KN01/243B as Marija Grubor born in 1905, body KN01/244B as Đuro Karanović born in 1954, and

¹⁷⁰³ P1226 (MUP official note of interview with Slavko Turudić, 28 April 2004).

¹⁷⁰⁴ D1204 (Letter from Josip Čelić to Zdravko Janić regarding weapons used by members of the Lučko unit on 25 August 1995, 13 April 2004).

¹⁷⁰⁵ P1305 (Information on identified body KN01/245B, ID No. 537, with photograph); P1306 (Information on identified body KN01/243B, ID No. 538, with photograph); P1307 (Information on identified body KN01/242B, ID No. 540, with photograph); P1308 (Information on identified body KN01/244B, ID No. 541, with photograph); D1245 (Information on identified body KN01/241B, ID No. 539, with photograph).

¹⁷⁰⁶ P1523 (Autopsy report of KN01/245B, 4 July 2001), pp. 1-5, 7-8, 10-12, 15, 18; P1524 (Autopsy report of KN01/243B, 11 July 2001), pp. 1-5, 7-9, 11-12, 15; P1525 (Autopsy report of KN01/242B, 11 July 2001), pp. 1-8, 10-13, 16; P1526 (Autopsy report of KN01/244B, 3 July 2001), pp. 1-11, 13-14, 17; P1718 (Photograph of clothes, KN01/245B); P1719 (Photograph of clothes, KN01/245B); P1720 (Photograph of clothes, KN01/241B); P1721 (Photograph of clothes, KN01/241B); P1722 (Photograph of bones, KN01/243B); P1723 (Photograph of bones, KN01/243B); P1724 (Photograph of shreds of textile, KN01/243B); P1725 (Photograph of remains, KN01/242B); P1726 (Photograph of remains, KN01/242B); P1727 (Photograph of clothes, KN01/242B); P1728 (Photograph of clothes, KN01/242B); P1729 (Photograph of bullet fragments, KN01/242B); P1730 (Photograph of clothes, KN01/244B); P1731 (Photograph of bullet fragments, KN01/244B); P1732 (Photograph of bullet fragments, KN01/244B); P1733 (Photograph of bullet fragments, KN01/244B); P1734 (Photograph of clothes, KN01/244B);

KN01/245B as Miloš Grubor born on 3 March 1915.¹⁷⁰⁷ According to reports of the Zagreb Institute of Forensic Medicine, dated 26 April 2002 and based on details provided mostly by relatives, the following persons died from gunshot injuries in Grubori, on 25 August 1995: Jovo Grubor, a Serb born 15 January 1930; Mika Grubor, a Yugoslav Serb born in 1941; Đuro Karanović, a Yugoslav Serb born on 6 May 1954; and Miloš Grubor, a Yugoslav Serb born in 1915.¹⁷⁰⁸ According to a similar report, Marija Grubor, a Yugoslav Serb born in 1905, died from multiple injuries in the same hamlet and on the same date.¹⁷⁰⁹

389. Based on the evidence received, the Trial Chamber finds that the Serbs Miloš Grubor (aged 80), Jovo Grubor (aged 65), Marija Grubor (aged 89-90), Mika Grubor (aged 53-54), and Đuro Karanović (aged 41-44) died in Grubori hamlet in Plavno, Knin municipality, on 25 August 1995. According to Milica Karanović and the forensic evidence, all victims were in civilian clothes. The Trial Chamber further finds that the majority of houses in the hamlet, as well as some livestock, were destroyed on that day. All five victims were forensically examined and were found to have died from gunshot injuries. The Trial Chamber considered in this respect that witnesses who observed the bodies on 25 and/or 26 August 1995, only described gunshot wounds for Miloš Grubor, Mika Grubor, and Đuro Karanović, whereas Marija Grubor was described as having burnt and Jovo Grubor was described as having had his throat cut. The Trial Chamber also considered that Miloš Grubor was discovered in his pyjamas on his bedroom floor on the second floor of his house and appeared to have been shot from behind. The Trial Chamber further considered that witnesses testified that both Jovo Grubor and Đuro Karanović had their faces mutilated. In relation to destruction in Grubori on 25 August 1995, the Trial Chamber specifically considered Jovan Grubor's evidence that he saw many houses with closed doors burning. The Trial Chamber also considered evidence that livestock in Grubori appeared shot or burnt. Based on all of this, the Trial Chamber finds that the five victims mentioned above were shot and killed, that a significant number of houses were burnt, and that animals were shot or burnt on 25 August 1995.

D1243 (Autopsy report of KN01/241B, 11 July 2001), pp. 1-9, 11-13, 16; D1244 (Exhumation and mortuary evidence sheet for KN01/241B).

¹⁷⁰⁷ P659 (List of identified persons exhumed from a cemetery in Knin), pp. 1-2; P2002 (List of identified persons exhumed in Knin).

¹⁷⁰⁸ P2012 (Report on facts of death of Miloš Grubor, 26 April 2002); P2013 (Report on facts of death of Jovo Grubor, 26 April 2002); P2015 (Report on facts of death of Mika Grubor, 26 April 2006); P2016 (Report on facts of death of Đuro Karanović, 26 April 2002).

¹⁷⁰⁹ P2014 (Report on facts of death of Marija Grubor, 26 April 2006).

390. According to the evidence received, groups of persons clad in camouflage and described as soldiers with lightning badges on their sleeves, moved through Plavno in the morning of 25 August 1995 in the direction of Grubori. Shortly thereafter, gunfire could be heard and smoke rose above Grubori. The Trial Chamber has further received evidence which shows that the Lučko unit of the Special Police moved through Grubori on 25 August 1995. Some evidence suggests that the Lučko unit encountered what was referred to as a Serb terrorist group during their operation on 25 August 1995. The Trial Chamber is mindful of the fact that some of the direct evidence received about this incident stems from individuals who were members of the Special Police at the time and kept in mind that some of these persons may have had ulterior motives for making certain statements or acting in a certain way. In this respect, the Trial Chamber also considered the fact that the Lučko unit's group leaders did not indicate, neither during nor after the search, that anything noteworthy, such as a terrorist encounter, had happened during the search operation. Considering all of the above, the Trial Chamber finds that members of the Lučko unit of the Special Police killed the five victims mentioned above, burnt houses, and shot or burnt animals in Grubori on 25 August 1995. Considering the ethnic composition of Plavno in 1991, Jovan Grubor's evidence on the amount of Serb families in Plavno (see chapter 4.2.9), and the accounts of Grubori villagers, the Trial Chamber finds that the vast majority, if not all, of the houses and animals destroyed were owned (or inhabited) by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1, 5, 6, and 7 of the Indictment in chapters 5.3.2, 5.5.2, and 5.8.2 below.

Jovica Plavša (Further Clarification no. 126)

391. The Trial Chamber has received relevant evidence with regard to the alleged murder of Jovica Plavša through the testimony of Nikola Plavša and forensic documentation.

392. **Nikola Plavša**, a Serb from Golubić in Knin municipality,¹⁷¹⁰ testified that in the evening of 4 August 1995 his son, also named Nikola Plavša, and his son's wife left the village.¹⁷¹¹ According to the witness, they left because everybody was leaving.¹⁷¹² The

¹⁷¹⁰ P2503 (Nikola Plavša, witness statement, 9 September 2003), pp. 1, 10, paras 1-2; D1455 (Nikola Plavša reimbursement claim documents), pp. 2-3.

¹⁷¹¹ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 2.

witness stayed in Golubić with his wife and other son, Jovica.¹⁷¹³ According to the witness, Jovica had been a village guard in the SVK until 1994, when he left the army for health reasons.¹⁷¹⁴ In a 2005 letter relating to a reimbursement claim, Nikola Plavša wrote that Jovica had not been relieved of guard duties and still had a rifle and a uniform.¹⁷¹⁵ On 5 August 1995, around 9 or 10 a.m., two young men entered Nikola's front yard, while a third appeared on a nearby balcony.¹⁷¹⁶ The men wore camouflage uniforms, with HVO insignia, and red berets.¹⁷¹⁷ They carried automatic rifles.¹⁷¹⁸ The men also had grenades, and one of them had a holstered pistol.¹⁷¹⁹ Jovica Plavša, born on 3 January 1968, was in the front yard preparing coffee.¹⁷²⁰ Jovica Plavša was wearing black jeans and a striped shirt.¹⁷²¹ The witness was standing some two to three metres from Jovica.¹⁷²² The men asked Jovica if he had any weapons, and Jovica replied that he did not.¹⁷²³ The men then handcuffed Jovica's arms in front of his body, took him out of the yard, and left in the direction of Džepine hamlet.¹⁷²⁴ The witness tried to follow them, but the men told him not to do so.¹⁷²⁵ According to an official note compiled on 2 June 2005 by the Croatian crime police, the witness stated that one of the men suggested they kill the witness, to which another replied that they should leave the old man.¹⁷²⁶ Approximately ten minutes later, the witness heard a shot nearby, from the direction where the men had gone.¹⁷²⁷ Soon after, he headed in that direction.¹⁷²⁸ After

¹⁷¹² P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 2; D1455 (Nikola Plavša reimbursement claim documents), pp. 3, 5.

¹⁷¹³ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 2; D1455 (Nikola Plavša reimbursement claim documents), pp. 3, 5, 12.

¹⁷¹⁴ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 14; D1455 (Nikola Plavša reimbursement claim documents), p. 5.

¹⁷¹⁵ D1455 (Nikola Plavša reimbursement claim documents), p. 5.

¹⁷¹⁶ P2503 (Nikola Plavša, witness statement, 9 September 2003), paras 3-4; D1455 (Nikola Plavša reimbursement claim documents), pp. 1-3, 5.

¹⁷¹⁷ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 4; D1455 (Nikola Plavša reimbursement claim documents), pp. 1-3, 5.

¹⁷¹⁸ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 4; D1455 (Nikola Plavša reimbursement claim documents), p. 3.

¹⁷¹⁹ D1455 (Nikola Plavša reimbursement claim documents), p. 3.

¹⁷²⁰ P2503 (Nikola Plavša, witness statement, 9 September 2003), paras 1, 3; D1455 (Nikola Plavša reimbursement claim documents), pp. 1-3, 5, 12.

¹⁷²¹ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 5; D1455 (Nikola Plavša reimbursement claim documents), p. 6.

¹⁷²² P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 4.

¹⁷²³ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 4.

¹⁷²⁴ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 4; D1455 (Nikola Plavša reimbursement claim documents), pp. 1-3, 5; D1457 (Maps of Golubić), pp. 1-2.

¹⁷²⁵ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 4; D1455 (Nikola Plavša reimbursement claim documents), pp. 3, 5.

¹⁷²⁶ D1455 (Nikola Plavša reimbursement claim documents), pp. 2-3.

¹⁷²⁷ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 6; D1455 (Nikola Plavša reimbursement claim documents), pp. 3, 5.

100 metres or more, he found Jovica's dead body.¹⁷²⁹ According to the official note compiled in June 2005, Nikola Plavša stated that he noticed that the body had been shot in the head and that the handcuffs were gone.¹⁷³⁰ On 27 November 2008, the Prosecution accepted that the forensic documentation established that the victim was wearing a military uniform at the time of death, and was willing to stipulate that the victim was a member of an armed group at that time.¹⁷³¹ The witness ran home immediately.¹⁷³² An hour later, he returned and covered the body with a blanket.¹⁷³³

393. Plavša testified that a few days later, he went to Marko Đepina's house in Golubić, where according to the witness, the "Croatian army" was stationed.¹⁷³⁴ The men in the house wore the same camouflage uniforms and HVO insignia as the men who had taken Jovica.¹⁷³⁵ When the witness said that their army had killed Jovica, the men asked if it was not his army too.¹⁷³⁶ In a 2005 letter relating to a reimbursement claim, Nikola Plavša wrote that the army commander accompanied him to Jovica's body.¹⁷³⁷ The witness asked the men to help him bury Jovica's body.¹⁷³⁸ They responded that they could not bury the body, but offered to burn it instead, which the witness declined.¹⁷³⁹ Around 8 or 9 August 1995, soldiers took the witness and the other villagers to Knin.¹⁷⁴⁰ The soldiers told the witness that this was for his safety; otherwise, he might be killed by other soldiers, and the "Croatian army" would be blamed.¹⁷⁴¹ The witness saw that the soldiers transporting him to Knin had vehicles with 4th Guards Brigade written on them.¹⁷⁴² The witness stayed in a school in Knin for six days.¹⁷⁴³

¹⁷²⁸ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 6; D1455 (Nikola Plavša reimbursement claim documents), pp. 3, 5.

¹⁷²⁹ P2503 (Nikola Plavša, witness statement, 9 September 2003), paras 1, 6; D1455 (Nikola Plavša reimbursement claim documents), pp. 1-3, 5; D1457 (Maps of Golubić), pp. 1-2.

¹⁷³⁰ D1455 (Nikola Plavša reimbursement claim documents), p. 3.

¹⁷³¹ Prosecution's Fourth Motion for Admission of Evidence Pursuant to Rule 92 *Quater*, 27 November 2008, para. 10.

¹⁷³² P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 6.

¹⁷³³ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 7.

¹⁷³⁴ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 8; D1455 (Nikola Plavša reimbursement claim documents), pp. 3-5.

¹⁷³⁵ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 8; D1455 (Nikola Plavša reimbursement claim documents), p. 4.

¹⁷³⁶ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 8.

¹⁷³⁷ D1455 (Nikola Plavša reimbursement claim documents), p. 5.

¹⁷³⁸ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 8; D1455 (Nikola Plavša reimbursement claim documents), pp. 3-5.

¹⁷³⁹ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 8; D1455 (Nikola Plavša Reimbursement Claim Documents), pp. 4-5.

¹⁷⁴⁰ P2503 (Nikola Plavša, witness statement, 9 September 2003), paras 3, 6, 8-9.

¹⁷⁴¹ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 9.

¹⁷⁴² P2503 (Nikola Plavša, witness statement, 9 September 2003), paras 8-9.

¹⁷⁴³ P2503 (Nikola Plavša, witness statement, 9 September 2003), paras 9-10.

There were more than 300 people there.¹⁷⁴⁴ Around 14 or 15 August 1995, the “Croatian army” returned the witness to Golubić.¹⁷⁴⁵ Towards the end of August 1995, the witness saw persons bagging Jovica’s body and taking it away in a red truck marked “communal company Knin”.¹⁷⁴⁶ The body was given the identification number 459.¹⁷⁴⁷ Later, the witness heard that Jovica was buried in the New Knin Cemetery and visited the grave.¹⁷⁴⁸ The grave was marked with a cross, which had Jovica Plavša’s name and the number “49” on it.¹⁷⁴⁹ In 2001, Jovica’s body was exhumed from the Town Cemetery in Knin, from a site marked as 01/329B, and taken to the Institute of Forensic Medicine in Zagreb.¹⁷⁵⁰ In 2002, the witness’s other son, Nikola Plavša, went to Zagreb and identified the body as Jovica Plavša’s by his personal belongings.¹⁷⁵¹ In August 2002, Jovica Plavša was buried at the Golubić cemetery.¹⁷⁵²

394. The Trial Chamber has received forensic documentation in relation to the alleged murder. According to this, decomposing body KN01/329B, numbered 459, approximately 1.80 metres long, was found on 22 September 1995, with camouflage trousers, a camouflage shirt, and military shoes, in Džepine hamlet in Golubić, Knin municipality, identified by Jovan Plavša as Jovica Plavša born on 3 January 1968, and buried at Knin town cemetery.¹⁷⁵³ Body KN01/329B, exhumed with all bones present on 15 June 2001 from a cemetery in Knin with a metal tag marked “459”, wearing a green camouflage shirt, green camouflage pants and a black shoe, was an approximately 1.72-1.87-metre-tall male, between 30 and 45 years old, with a gunshot injury to the head and one to the chest, which were found by the forensic pathologist to be the cause of death.¹⁷⁵⁴ The person recovering the body found a right radial bone between the legs of the victim, which was looped in a set of handcuffs.¹⁷⁵⁵ On 5 June 2002, body KN01/329B was identified by classical method as Jovica Plavša, born 3 January

¹⁷⁴⁴ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 9.

¹⁷⁴⁵ P2503 (Nikola Plavša, witness statement, 9 September 2003), paras 1-3, 6, 9-10.

¹⁷⁴⁶ P2503 (Nikola Plavša, witness statement, 9 September 2003), paras 3, 6, 9-11; D1455 (Nikola Plavša reimbursement claim documents), pp. 2, 4-5.

¹⁷⁴⁷ D1455 (Nikola Plavša reimbursement claim documents), p. 2.

¹⁷⁴⁸ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 11.

¹⁷⁴⁹ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 11.

¹⁷⁵⁰ D1455 (Nikola Plavša reimbursement claim documents), pp. 1-2, 4.

¹⁷⁵¹ P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 12; D1455 (Nikola Plavša reimbursement claim documents), pp. 1-2, 4.

¹⁷⁵² P2503 (Nikola Plavša, witness statement, 9 September 2003), para. 13; D1455 (Nikola Plavša reimbursement claim documents), p. 4.

¹⁷⁵³ P1397 (Information on identified body KN01/329B, ID No. 459, with photograph).

¹⁷⁵⁴ P1597 (Autopsy report of KN01/329B, 29 June 2001), pp. 1-2, 4-5, 7-8, 11-16, 18.

¹⁷⁵⁵ P1597 (Autopsy report of KN01/329B, 29 June 2001), pp. 1-2, 5, 7, 11, 18.

1968.¹⁷⁵⁶ According to a report of the Zagreb Institute of Forensic Medicine, dated 5 June 2002 and based on details provided by his brother Nine Plavša, Jovica Plavša, a Serb born on 1 January 1968, died from gunshot injuries to the head and torso in Golubić, on 6 August 1995.¹⁷⁵⁷

395. According to an Operational Logbook of the 3rd Infantry Battalion (4th Guards Brigade), at 10 a.m. on 5 August 1995, the battalion received a signal to start Operation Storm at the axis of Plješivica-Vrpolje and to emerge at Golubić in Knin municipality with the task of blocking the road “Knin-Srb”.¹⁷⁵⁸ At 6 p.m. the task had been completed.¹⁷⁵⁹ In a daily report addressed to Major General Ivan Tolj sent at 1 p.m. on 5 August 1995, Colonel Ivan Zelić, Coordinator of the Political Administration at the MoD for Political Affairs, stated that the 4th Guards Brigade had taken control of Golubić, Vrpolje, and Kninsko Polje in Knin municipality and had emerged at Debelo Brdo in Knin municipality, securing from that position the left flank of the 7th Guards Brigade, which was deployed in the Biskupija area in Orlić municipality.¹⁷⁶⁰

396. The Trial Chamber has considered the evidence of Nikola Plavša in light of other evidence before it, and in particular the forensic evidence. Although there are certain inconsistencies, these are not of a nature to make the evidence generally unreliable and the Trial Chamber therefore relies on Nikola Plavša’s evidence when making this finding.¹⁷⁶¹ The Trial Chamber finds that on 5 August 1995 in Golubić, two or three armed men in camouflage uniforms with HVO insignia and red berets handcuffed Jovica Plavša, a Serb, and took him with them in the direction of Džepine hamlet. Approximately ten minutes later, Nikola Plavša heard a shot from the direction the men had taken Jovica. Shortly thereafter and about 100 metres further on, the witness found Jovica’s dead body. The body had gunshot injuries to the head and chest which were later found to be the cause of death. The Trial Chamber has received evidence that a few days after the incident, soldiers wearing the same uniforms with HVO insignia as the men who had taken Jovica Plavša were stationed in a house in Golubić. According to

¹⁷⁵⁶ P659 (List of identified persons exhumed from a cemetery in Knin), p. 3.

¹⁷⁵⁷ P2071 (Report on circumstances of death of Jovica Plavša, 5 June 2002), p. 149.

¹⁷⁵⁸ D180 (Documentation of Croatian authorities’ investigation of murders of Ilija and Milka Petko, and Dmtar and Đuro Rašuo), pp. 6-7.

¹⁷⁵⁹ D180 (Documentation of Croatian authorities’ investigation of murders of Ilija and Milka Petko, and Dmtar and Đuro Rašuo), p. 7.

¹⁷⁶⁰ D180 (Documentation of Croatian authorities’ investigation of murders of Ilija and Milka Petko, and Dmtar and Đuro Rašuo), pp. 14-15.

¹⁷⁶¹ See also Decision on the Admission of a Witness Statement Pursuant to Rule 92 *quater*, 5 March 2009, paras 8-15.

exhibit D178, the HV 4th Guards Brigade was present in the Golubić area on 5 August 1995 engaged in combat with Serbian soldiers and conducting search operations. The Trial Chamber notes that Nikola Plavša identified HVO soldiers as perpetrators in his written statement, which is consistent with the official note from the Croatian State Attorney's Office. Because the documentary evidence showing a presence of HV and Serbian soldiers does not exclude for the presence of HVO soldiers, the Trial Chamber relies on Nikola Plavša's identification of HVO soldiers in the area. Accordingly, the Trial Chamber finds that on 5 August 1995, shortly after taking him with them, two or three HVO soldiers shot and killed Jovica Plavša in Golubić. The Trial Chamber further notes with regard to the inconsistencies in the evidence regarding Jovica Plavša's clothes and membership in an armed group, that the Prosecution has agreed to stipulate that he was a member of an armed group and that he was wearing military clothes on 5 August 1995. The Trial Chamber finds that Jovica Plavša was wearing military clothes and belonged to an armed group at the time of his death. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 (b) below.

Jovan and Stevo Dmitrović and two unknown males (Further Clarification nos 129-132)

397. The Trial Chamber has received evidence with regard to the alleged murder of Jovan and Stevo Dmitrović and two unknown males in Žagrović, primarily through the testimonies of Ilija Mirković, Witness 136, Maria Teresa Mauro, Alun Roberts, John Hill, and through forensic documentation.

398. **Ilija Mirković**, a Serb from Kninsko Polje in Knin municipality,¹⁷⁶² stated that when the shelling of Knin started early in the morning of 4 August 1995, he was alone in his house in Knin.¹⁷⁶³ The family of the witness had already gone to Serbia, but he stayed because he did not want to leave his house unattended.¹⁷⁶⁴ Approximately ten shells fell in the vicinity of his house, located 700-800 metres from the Northern barracks, although, according to the witness, there were no military targets in his residential area.¹⁷⁶⁵ The witness remained in his house until 6 a.m. on 5 August 1995,

¹⁷⁶² P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, p. 1, para. 1.

¹⁷⁶³ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 2.

¹⁷⁶⁴ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 2.

¹⁷⁶⁵ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 2.

and then he walked to the hamlet of Dmitrovići which he believed was not shelled.¹⁷⁶⁶ The witness met his friend Vojko Dmitrović in the village and together they stayed in Vojko's house talking.¹⁷⁶⁷ The witness stated that around noon, Croatian soldiers entered the village, although he acknowledged that he did not see this as he did not dare to look outside.¹⁷⁶⁸ The witness heard extensive shooting for about half an hour.¹⁷⁶⁹ When the shooting stopped and the witness did not hear any voices, he and Vojko Dmitrović went outside.¹⁷⁷⁰ At Jovan Dmitrović's house, some 50-60 metres from Vojko's house, the witness found Jovan's dead body lying at the doorstep.¹⁷⁷¹ The body had several bullet wounds and there were many bullet holes in the door.¹⁷⁷² Jovan Dmitrović, who was at the time about 60 years old, was dressed in civilian clothes and the witness did not see any weapons near his body.¹⁷⁷³ Jovan Dmitrović had lived alone in his house and he had no children.¹⁷⁷⁴ At that moment, a person called Mile Zelembaba arrived and together they covered Jovan's body with blankets.¹⁷⁷⁵ When the witness heard some noise, he realized that the soldiers were coming back and he fled with Mile into the forest.¹⁷⁷⁶ The next morning they decided to return because Mile heard a message on the radio he had brought that civilians should return to their homes.¹⁷⁷⁷ On their way to Dmitrovići, they encountered a man called Zupčić at whose suggestion the witness, Vojko Dmitrović, Mile Zelembaba, and Zupčić went to Knin to register.¹⁷⁷⁸ Following the instructions of two or three soldiers at a check-point at the entrance to Knin, they registered at the Northern barracks after which the witness went home.¹⁷⁷⁹

399. A number of observers from international organizations subsequently visited the village and reported on the alleged murder. **Maria Teresa Mauro**, a UN civil affairs

¹⁷⁶⁶ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, paras 2-3, 9 September 2003 witness statement, para. 3.

¹⁷⁶⁷ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, paras 3-5.

¹⁷⁶⁸ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, paras 3-5.

¹⁷⁶⁹ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 5.

¹⁷⁷⁰ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 5.

¹⁷⁷¹ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, paras 4, 6.

¹⁷⁷² P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 6.

¹⁷⁷³ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 6, 9 September 2003 witness statement, para. 4.

¹⁷⁷⁴ P636 (Ilija Mirković, witness statements), 9 September 2003 witness statement, para. 4.

¹⁷⁷⁵ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 7.

¹⁷⁷⁶ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 7.

¹⁷⁷⁷ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 7, 9 September 2003 witness statement, para. 5.

¹⁷⁷⁸ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 8.

officer and HRAT member in the former Sector South based in Knin from March to December 1995,¹⁷⁸⁰ confirmed that on 16 August 1995 she saw four bodies of dead men in the village of Žagrović, Knin municipality, as described in an HRAT report of 16 August 1995.¹⁷⁸¹ She further confirmed that on 17 August 1995, she re-visited the site of the four dead bodies, as described in an HRAT report of 17 August 1995.¹⁷⁸² On 22 August 1995, Mauro met with Romanić and Jukić and confirmed that they discussed the four dead bodies in Žagrović, which until then had not been removed as described in an HRAT report of 23 August.¹⁷⁸³ HRAT reported that when it again visited Žagrović on 23 August 1995, the bodies still lay there, even though Civil Defence at Knin cemetery previously informed HRAT, including Mauro, that they had collected the bodies.¹⁷⁸⁴

400. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,¹⁷⁸⁵ testified that on 16 August 1995, in Gornji Žagrović in Knin municipality, at the exit from Knin around 200 metres before a turning to Zelembabe hamlet, she and an UNCRO team came across two male bodies, about 55 or 60 years old, lying beside the road.¹⁷⁸⁶ Both bodies had only underwear on and lay face down about three metres apart from each other.¹⁷⁸⁷ They were decomposed beyond recognition.¹⁷⁸⁸ One of the bodies had slippers on and was bald with a fringe of white hair on the sides of his head.¹⁷⁸⁹ Witness 136 was

¹⁷⁷⁹ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 8, 9 September 2003 witness statement, para. 6.

¹⁷⁸⁰ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

¹⁷⁸¹ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 4.

¹⁷⁸² P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 4.

¹⁷⁸³ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 4; Maria Teresa Mauro, T. 12068, 12103.

¹⁷⁸⁴ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 4-5; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 34; Maria Teresa Mauro, T. 12068, 12103; P47 (HRAT report, 23 August 1995), p. 2.

¹⁷⁸⁵ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

¹⁷⁸⁶ P2 (Witness 136, witness statement, 4 July 1996), pp. 7-8; P3 (Witness 136, witness statement, 11 June 2007), para. 23; Witness 136, T. 722, 773; P9 (UNCIVPOL incident report, S2-95-449, 16 August 1995); D3 (HRAT daily report, 17 August 1995), p. 2. See also P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 16.

¹⁷⁸⁷ P2 (Witness 136, witness statement, 4 July 1996), pp. 7-8; P3 (Witness 136, witness statement, 11 June 2007), para. 23; P9 (UNCIVPOL incident report, S2-95-449, 16 August 1995); D3 (HRAT daily report, 17 August 1995), p. 2. See also P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 16.

¹⁷⁸⁸ P2 (Witness 136, witness statement, 4 July 1996), pp. 7-8; P3 (Witness 136, witness statement, 11 June 2007), para. 23; P9 (UNCIVPOL incident report, S2-95-449, 16 August 1995).

¹⁷⁸⁹ P2 (Witness 136, witness statement, 4 July 1996), p. 8; P3 (Witness 136, witness statement, 11 June 2007), para. 23; D3 (HRAT daily report, 17 August 1995), p. 2. See also P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 16.

told that the two men were killed by gunshots to the back of their heads.¹⁷⁹⁰ Witness 136 noticed a track of blood leading from one side of the road to the other.¹⁷⁹¹ A UNCIVPOL report of the incident, dated 16 August 1995, recorded that the two men appeared to be elderly and that they had most likely been killed in the middle of the road. The report also recorded that the bodies were found near a tractor trailer which had some blankets, clothes, and a few household goods scattered near it. Finally, the report recorded that Miloš Mihić had been informed about the bodies on 16 August 1995.¹⁷⁹² An HRAT report, dated 17 August 1995, recorded that the two bodies had bullet holes in their heads, and that several fingers on one of the body's right hand had been cut off.¹⁷⁹³ The witness testified that they made at least ten reports asking the police station in Knin to remove the bodies as they had been there for at least 20 days, though it took at least another ten days before the bodies were removed.¹⁷⁹⁴

401. Witness 136 further testified that on the same day, she saw two bodies dressed in civilian clothes in Zelembabe hamlet. They were identified as Jovo (which the Trial Chamber notes is a shortform for Jovan) Dmitrović and Stevo Dmitrović. One of the individuals was about 50 years old, and the other was described by the witness as "younger". The witness testified that one of these bodies was found outside a house, and had a gunshot wound in the back of his head. At the exit of Zelembabe hamlet, the witness came across the other body which was, according to the witness, in such an advanced state of decomposition that it was unclear to her what had caused his death.¹⁷⁹⁵ Witness 136 added that she saw the graves of Jovo Dmitrović and Stevo Dmitrović in the Knin cemetery on 30 August 1995.¹⁷⁹⁶

402. On 16 August 1995, UNCIVPOL observed two dead bodies in Zagrović in Knin municipality.¹⁷⁹⁷ Later the same day, a team consisting of Alun Roberts, Edward Flynn,

¹⁷⁹⁰ P2 (Witness 136, witness statement, 4 July 1996), p. 8; P3 (Witness 136, witness statement, 11 June 2007), para. 23.

¹⁷⁹¹ P2 (Witness 136, witness statement, 4 July 1996), pp. 7-8; P3 (Witness 136, witness statement, 11 June 2007), para. 23; P9 (UNCIVPOL incident report, S2-95-449, 16 August 1995); D3 (HRAT daily report, 17 August 1995), p. 2. See also P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 16.

¹⁷⁹² P9 (UNCIVPOL incident report, S2-95-449, 16 August 1995).

¹⁷⁹³ D3 (HRAT daily report, 17 August 1995), p. 2. See also P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 16.

¹⁷⁹⁴ P2 (Witness 136, witness statement, 4 July 1996), p. 8; Witness 136, T. 770-773.

¹⁷⁹⁵ P2 (Witness 136, witness statement, 4 July 1996), p. 8; D3 (HRAT daily report, 17 August 1995), p. 2. See also P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 16.

¹⁷⁹⁶ P2 (Witness 136, witness statement, 4 July 1996), p. 8; Witness 136, T. 643-645; P6 (Handwritten list of individuals buried at the Knin Cemetery, compiled by Witness 136).

¹⁷⁹⁷ P226 (UNCIVPOL incident report, 16 August 1995), p. 1.

and one interpreter observed the same two bodies.¹⁷⁹⁸ Croatian police were brought to the bodies on 17 August 1995.¹⁷⁹⁹

403. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,¹⁸⁰⁰ testified that on 16 August 1995, he saw two bodies in a ditch on the Knin-Kistanje main road about three kilometres from Knin.¹⁸⁰¹ Roberts observed what appeared to be blood drag-marks across the road.¹⁸⁰² The bodies were dressed in summer clothing and beach sandals.¹⁸⁰³ On the same day, Roberts saw the body of Stevo Dmitrović (40 years) lying in a field in Dmitrović hamlet in Žagrović, Knin municipality with bullet wounds to the lower chest and blood stains on the grass near the back of the head.¹⁸⁰⁴ According to the witness, the body had been laying there for two weeks in the sun.¹⁸⁰⁵ In the same hamlet, the witness also saw the body of Jovo Dmitrović (55-60 years) outside a doorway, with bullet wounds to his head.¹⁸⁰⁶ Roberts and other UN personnel reported these four mentioned bodies to the Knin police station.¹⁸⁰⁷

404. On 16 August 1995, in Zagrović, in Knin municipality, an HRAT observed the dead bodies of three men of about 50 years old, all with bullet holes in their heads, and a fourth badly decomposed body.¹⁸⁰⁸

405. **John Hill**, Commanding Officer of the International Military Police in Sector South from early June 1995 to 8 December 1995,¹⁸⁰⁹ testified that on either 10 or 13

¹⁷⁹⁸ P226 (UNCIVPOL incident report, 16 August 1995), p. 1.

¹⁷⁹⁹ P226 (UNCIVPOL incident report, 16 August 1995), p. 2.

¹⁸⁰⁰ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

¹⁸⁰¹ P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 3; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 7-8.

¹⁸⁰² P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 3; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 8.

¹⁸⁰³ P700 (UNCRO photographs of bodies and crime sites in Sector South), p. 7.

¹⁸⁰⁴ P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 3; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 10.

¹⁸⁰⁵ P677 (Alun Roberts, witness statement, 28 February 2007), p. 9; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 10.

¹⁸⁰⁶ P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 3; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 9.

¹⁸⁰⁷ P678 (Alun Roberts, witness statement, 7 February 2008), paras 16 (no. 3), 27.

¹⁸⁰⁸ P1172 (HRAT daily report, 17 August 1995), pp. 1-2.

August 1995, he, with others, found the bodies of two men, in their 40s, dressed in civilian clothes on top of a hill outside of Knin.¹⁸¹⁰ Hill testified that the men had been shot in the head on the road as there were blood marks on the road, and then thrown down the side of the road where they lay.¹⁸¹¹ Hill saw large wounds in both heads.¹⁸¹² Hill further testified that the bodies were starting to decompose and could be smelled from the road.¹⁸¹³ He also testified that he saw similar blood stains on a tour through Sector South around this time.¹⁸¹⁴ Hill excluded for the possibility that the blood stains could have come from dead animals as all but one animal he saw dead in the area were lying in the fields.¹⁸¹⁵ Hill testified that on the road close to the two bodies there was a tractor or a trailer with ransacked belongings.¹⁸¹⁶ Hill assumed that the tractor belonged to the men and that they had been fleeing in it.¹⁸¹⁷ Hill took photographs of the blood stain and the bodies.¹⁸¹⁸

406. According to the Operative logbook of the 4th Guards Brigade, at 2:40 p.m. on 5 August 1995, the 1st Infantry Battalion was in the positions F15 (the cross-roads towards Drniš), F61 (Dmitrovići, in Knin municipality), and F63 (Dukići).¹⁸¹⁹

407. In a daily report to the HV Main Staff sent at 6 a.m. on 5 August 1995, Ante Gotovina indicated that the 4th Guards Brigade had reached the front line listing the trig points as follows: Bolandže, Golo Brdo in Gračac municipality, Slatina, Crni Vrh, Gospina Greda, Prljaj in Knin municipality, Dmitrovići in Knin municipality, Bradaši in Knin municipality, and Knin.¹⁸²⁰

408. Finally, the Trial Chamber has received some forensic documentation in relation to the alleged murder incidents. According to this, on 26 August 1995, decomposing body KN01/247B, numbered 535, approximately 1.80 metres long, was found with

¹⁸⁰⁹ P291 (John Hill, witness statement, 23 August 1996), p. 2; P292 (John Hill, witness statement, 21 January 1998), pp. 3, 93; P293 (John Hill, witness statement, 2 November 1999), p. 3.

¹⁸¹⁰ P292 (John Hill, witness statement, 21 January 1998), pp. 54-55, 80-81; John Hill, T. 3770; D274 (John Hill's diary, entries from 5-13 August 1995), p. 8.

¹⁸¹¹ P292 (John Hill, witness statement, 21 January 1998), pp. 55, 80; John Hill, T. 3770; D274 (John Hill's diary, entries from 5-13 August 1995), p. 8.

¹⁸¹² P292 (John Hill, witness statement, 21 January 1998), p. 81.

¹⁸¹³ P292 (John Hill, witness statement, 21 January 1998), p. 81.

¹⁸¹⁴ P292 (John Hill, witness statement, 21 January 1998), p. 55.

¹⁸¹⁵ P292 (John Hill, witness statement, 21 January 1998), p. 55.

¹⁸¹⁶ P292 (John Hill, witness statement, 21 January 1998), p. 81; John Hill, T. 3770.

¹⁸¹⁷ P292 (John Hill, witness statement, 21 January 1998), p. 81.

¹⁸¹⁸ John Hill, T. 3770-3771; P303 (Photographs of a blood stain on a road and two bodies).

¹⁸¹⁹ P2343 (Operations logbook of the 4th Guards Brigade, July and August 1995), p. 37.

¹⁸²⁰ D180 (Documentation of Croatian authorities' investigation of murders of Ilija and Milka Petko, and D Mitar and Đuro Rašuo), pp. 8-9, 13.

black trousers, a white long-sleeved shirt, and black shoes in Dmitrović hamlet in Žagrović, Knin municipality, identified as Jovo Dmitrović, and buried at a city cemetery in Knin.¹⁸²¹ Body KN01/247B, exhumed on 14 June 2001 from a cemetery in Knin, with a metal tag marked “535”, wearing dark grey or black trousers and a long-sleeved white or light-coloured shirt with perforations on the left sleeve of which two matched wounds on the left arm, was an approximately 1.64-1.79-metre-tall male between 35 and 50 years old, with gunshot wounds to the left upper arm and to the head of which the latter was found by the forensic pathologist to be the cause of death.¹⁸²² According to a report of the Zagreb Institute for Forensic Medicine, dated 26 April 2002 and based on details provided by Jovo’s sister-in-law, Jovo Dmitrović, a Serb from Žagrović, died from a gunshot injury to the body in Žagrović, on 6 August 1995.¹⁸²³ On 26 April 2002, body KN01/247B was identified by classical method as Jovo Dmitrović.¹⁸²⁴

409. Body KN01/248B, numbered 509, approximately 1.75 metres long, was found on 26 August 1995, with olive-drab trousers in Dmitrović hamlet in Žagrović, Knin municipality, identified as Stevo Dmitrović, and buried at a Knin town cemetery.¹⁸²⁵ The well-preserved remains of body KN01/248B, exhumed on 14 June 2001 from a cemetery in Knin, with a metal tag marked “509” and clothing consisting of pale green trousers, pale blue shorts, and white socks, was an approximately 1.62-1.88-metre-tall male between 30 and 50 years old, with a gunshot injury to the chest and the face of which the former was found by John Clark to be the cause of death.¹⁸²⁶ According to a report of the Zagreb Institute of Forensic Medicine, dated 26 April 2002 and based on details provided by Stevo’s brother, Stevo Dmitrović, a Serb born in 1944, died from a gunshot injury to the torso in Dmitrović in Žagrović, on 11 August 1995.¹⁸²⁷ On 26 April 2002, body KN01/248B was identified by classical method as Stevo Dmitrović, born in 1944.¹⁸²⁸

¹⁸²¹ P1400 (Information on identified body KN01/247B, ID No. 535, with photograph).

¹⁸²² P1600 (Autopsy report of KN01/247B, 12 July 2001), pp. 1-7, 9, 11-14, 17; P1869 (Photograph of arm, KN01/247B); P1870 (Photograph of skull, KN01/247B).

¹⁸²³ P2074 (Report on facts of death of Jovo Dmitrović, 26 April 2002).

¹⁸²⁴ P659 (List of identified persons exhumed from a cemetery in Knin), p. 1; P2002 (List of identified persons exhumed in Knin).

¹⁸²⁵ P1401 (Information on identified body KN01/248B, ID No. 509, with photograph).

¹⁸²⁶ P1601 (Autopsy report of KN01/248B, 5 July 2001), pp. 1-8, 11-14, 17; P1871 (Photograph of remains, KN01/248B); P1872 (Photograph of skull, KN01/248B).

¹⁸²⁷ P2075 (Report on circumstances of death of Stevo Dmitrović, 26 April 2002), pp. 29-30.

¹⁸²⁸ P659 (List of identified persons exhumed from a cemetery in Knin), p. 1; P2002 (List of identified persons exhumed in Knin).

410. The evidence indicates that Jovan Dmitrović was killed by gunshots on 5 August 1995, in Dmitrovići hamlet in Žagrović, Knin municipality, following extensive shooting in the hamlet that lasted for about half an hour. The evidence further indicates that Stevo Dmitrović, who was about 50 years old at the time, and two unidentified men, aged between 55 and 60, were killed by gunshots in Žagrović some time before 16 August 1995. Based on their relatives' identifications, the Trial Chamber finds that Stevo Dmitrović and Jovan Dmitrović were both of Serb ethnicity. However, the Trial Chamber has received insufficient reliable evidence regarding the circumstances under which the four men were killed, especially in light of the extensive shooting in the hamlet on 5 August 1995. Although Ilija Mirković stated that Croatian soldiers entered the village on 5 August 1995, he also acknowledged that he did not see this. The Trial Chamber will therefore not rely on the witness's testimony in this respect. According to a report issued at 6 a.m. on 5 August 1995 by General Gotovina, the 4th Guards Brigade had reached an area near or in Dmitrović. The Operations Log of the 4th Guards Brigade corroborates this aspect of Gotovina's report, indicating troop presence in or near Dmitrović on 5 August 1995. However, despite this HV presence, in the absence of further evidence in relation to the circumstances under which Jovan Dmitrović was killed, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

Ika and Vera Dondur (Further Clarification nos 136-137)

411. The Trial Chamber has received relevant evidence with regard to the alleged murder of Ika and Vera Dondur primarily through an HRAT report and forensic documentation. HRAT reported on 21 November 1995 that when it was on patrol in Knin municipality someone reported that on 5 August 1995 Ika Dondur and Vera Dondur, two women 70 and approximately 50 years old respectively, were killed by Croatian militaries in their hamlet, Bradas, in Knin municipality.¹⁸²⁹ One person said that the women had refused to leave their house as instructed by the HV, after which the soldiers opened fire, killing both of them.¹⁸³⁰

¹⁸²⁹ P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 56; P1109 (HRAT daily report, 21 November 1995), p. 2.

¹⁸³⁰ P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 56; P1109 (HRAT daily report, 21 November 1995), p. 2.

412. According to the forensic documentation, on 23 August 1995, decomposing body KN01/306B, 1.60 metres long and numbered 503, was retrieved with blue/grey trousers, a red and white chequered shirt, and black leather sandals near house no. 173 in Žagrović, Knin municipality, identified by Predrag Dondur from Žagrović as Ilinka Dondur from Žagrović, born 6 July 1930, and buried at a Knin city cemetery.¹⁸³¹ Body KN01/306B, exhumed on 15 June 2001 from a cemetery in Knin, with a metal tag marked “503” and clothing including grey trousers, a red and white chequered shirt, and sandals or black shoes, was an approximately 1.47-1.63-metre-tall female between 45-100 years old, with a gunshot injury diagonally through the thorax from the back, which was found by the forensic pathologist to be the cause of death.¹⁸³² According to a report of the Zagreb Institute of Forensic Medicine, dated 5 June 2002 and based on details provided by her nephew, Ika Dondur, a Serb born in 1930, died from a gunshot injury to the torso in Žagrović, on 5 August 1995.¹⁸³³ On 5 June 2002, body KN01/306B was identified by classical method as Ika Dondur, born in 1930.¹⁸³⁴

413. On 23 August 1995, an approximately 1.75-metre-long decomposing body numbered 502, wearing a red and black shirt, a pair of olive-grey trousers, a white scarf, and white sneakers, was retrieved near the house numbered 173 in Donduri hamlet, Žagrović village, Knin municipality, identified by Predrag Dondur from Žagrović as Vera Dondur from Žagrović, born on 12 September 1939, and was later buried in a city cemetery in Knin.¹⁸³⁵

414. The Trial Chamber notes at the outset that the Gotovina Defence alleges in footnote 1670 of its final brief that the 21 November 1995 HRAT report is not in evidence. The report is in evidence as exhibit P1109. It contains hearsay evidence regarding the alleged murder of Ika and Vera Dondur and is unclearly sourced. Moreover, it is vague as to the exact circumstances of the alleged murder. The forensic evidence received indicates that a gunshot injury caused Ika Dondur’s death. The Trial Chamber has received no forensic evidence with regard to the death of Vera Dondur. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

¹⁸³¹ P1402 (Information on identified body KN01/306B, ID No. 503, with photograph).

¹⁸³² P1602 (Autopsy report of KN01/306B, 3 July 2001), pp. 1-2, 4-6, 8, 11-13, 16.

¹⁸³³ P2076 (Report on facts of death of Ika Dondur, 5 June 2002), pp. 33-34.

¹⁸³⁴ P659 (List of identified persons exhumed from a cemetery in Knin), p. 1; P2002 (List of identified persons exhumed in Knin).

¹⁸³⁵ P1403 (Croatian protocol with regard to the body of a civilian).

Stevo Večerina and others (Further Clarification nos 150-154)

415. The Trial Chamber has received evidence with regard to the alleged unlawful detention of Stevo Večerina, Stevan Baljak, Đuro Mačak, Momčilo Tišma, and Mile Gnjatović and others, and the alleged murder of the named persons primarily through the testimonies of Marija Večerina, Zdravko Bunčić, and Dušan Torbica, as well as forensic documentation.

416. **Marija Večerina**, a Serb from Muškovci in Obrovac municipality,¹⁸³⁶ testified that on 5 August 1995, when she was in the mountains in Lokvina grazing cattle, her son Stevo Večerina came and told her that although the Croatian military operation had not reached Zaton in Jasenice municipality, he had heard on Radio Knin that Knin and possibly Gračac had fallen.¹⁸³⁷ He told the witness that people were fleeing, and that they should be doing this as well.¹⁸³⁸ The witness and a group consisting of the witness's two daughters (Mira and Branka Večerina), Stevo Večerina, as well as Sava and Dragana Večerina, immediately left their village although with the expectation to return.¹⁸³⁹ In Krupa in Nadvoda municipality the group met Stevan Baljak.¹⁸⁴⁰ The witness believed that both her son and Stevan Baljak had rifles with them.¹⁸⁴¹ According to the witness, both of them were wearing military trousers and Stevo Večerina had been a member of the SVK since 1993.¹⁸⁴² In Zegar in Nadvoda municipality the group met Mile Gnjatović, who also joined them.¹⁸⁴³ Mile Gnjatović was wearing a military uniform.¹⁸⁴⁴ On Velebit the witness had found a leaflet advising them to go to Srb in

¹⁸³⁶ P652 (Marija Večerina, witness statement, 16 October 2003), paras 1-2; P653 (Marija Večerina, witness statement, 11 July 2007), para. 2.

¹⁸³⁷ P652 (Marija Večerina, witness statement, 16 October 2003), paras 6-7; P653 (Marija Večerina, witness statement, 11 July 2007), paras 2-3; Marija Večerina, T. 6725-6726.

¹⁸³⁸ P652 (Marija Večerina, witness statement, 16 October 2003), para. 7; Marija Večerina, T. 6726.

¹⁸³⁹ P652 (Marija Večerina, witness statement, 16 October 2003), paras 7-8; P653 (Marija Večerina, witness statement, 11 July 2007), para. 3; Marija Večerina, T. 6726-6727.

¹⁸⁴⁰ P652 (Marija Večerina, witness statement, 16 October 2003), para. 9; Marija Večerina, T. 6721, 6730.

¹⁸⁴¹ P652 (Marija Večerina, witness statement, 16 October 2003), para. 9; Marija Večerina, T. 6741.

¹⁸⁴² P652 (Marija Večerina, witness statement, 16 October 2003), paras 5-6, 9; Marija Večerina, T. 6725; P657 (Protocol on recovery of KN01/374B); P659 (List of names of persons whose remains were exhumed and identified in Grbolje and Knin in 2002); P667 (Protocol on recovery of KN01/417B); P669 (List of identified persons exhumed in Knin and Gračac from the Croatian Government Office for Co-operation with ICTY and ICC, 2 October 2003).

¹⁸⁴³ P652 (Marija Večerina, witness statement, 16 October 2003), para. 10; Marija Večerina, T. 6721, 6727, 6730.

¹⁸⁴⁴ P652 (Marija Večerina, witness statement, 16 October 2003), para. 10; P659 (List of names of persons whose remains were exhumed and identified in Grbolje and Knin in 2002); P664 (Protocol on recovery of KN01/416B).

Donji Lapac municipality.¹⁸⁴⁵ In Nadvoda, Stevo Večerina and Mile Gnjatović found a red Lada which the group, with Stevo driving, used for transportation.¹⁸⁴⁶ At approximately 9 p.m. they reached Očestovo in Knin municipality, after having lost their way.¹⁸⁴⁷ It was dark and the lights of the car were not working.¹⁸⁴⁸ Suddenly the car was shot at by individuals the witness could not see and as a result Stevo Večerina's left leg was injured, Branka Večerina suffered a wound to the hand, and Dragana Večerina was wounded in the head.¹⁸⁴⁹ The witness believed that Stevan Baljak was injured in the toe.¹⁸⁵⁰ After the shooting, Stevo Večerina stopped the car and a large number of HV soldiers, in green camouflage uniforms and painted faces immediately surrounded it.¹⁸⁵¹ The witness was not able to see any insignia on their uniforms.¹⁸⁵² The persons in the car were ordered to get out of the car and to lie down on the road facing the ground.¹⁸⁵³ Some soldiers searched them and took all their belongings.¹⁸⁵⁴ The soldiers were cursing their Serb mothers.¹⁸⁵⁵ The group was then taken to the basement of a house close by where about twelve people were already detained in an area of 16 square metres.¹⁸⁵⁶ The people spent the night there while two soldiers stood guard by the door of the basement.¹⁸⁵⁷ The soldiers promised to send a doctor for the witness's son but nobody arrived.¹⁸⁵⁸

417. Marija Večerina testified that on 6 August 1995, at 9 a.m., two Croatian soldiers, armed and dressed in military uniforms, entered the basement of the house in Očestovo

¹⁸⁴⁵ P652 (Marija Večerina, witness statement, 16 October 2003), para. 10; P653 (Marija Večerina, witness statement, 11 July 2007), para. 5; Marija Večerina, T. 6748.

¹⁸⁴⁶ P652 (Marija Večerina, witness statement, 16 October 2003), para. 10; Marija Večerina, T. 6718, 6721, 6727.

¹⁸⁴⁷ P652 (Marija Večerina, witness statement, 16 October 2003), para. 11; Marija Večerina, T. 6728, 6740.

¹⁸⁴⁸ P652 (Marija Večerina, witness statement, 16 October 2003), para. 11; Marija Večerina, T. 6721, 6740.

¹⁸⁴⁹ P652 (Marija Večerina, witness statement, 16 October 2003), paras 11-12; Marija Večerina, T. 6721, 6728-6730.

¹⁸⁵⁰ P652 (Marija Večerina, witness statement, 16 October 2003), para. 11; P653 (Marija Večerina, witness statement, 11 July 2007), para. 6.

¹⁸⁵¹ P652 (Marija Večerina, witness statement, 16 October 2003), para. 12; Marija Večerina, T. 6721, 6728-6730.

¹⁸⁵² P652 (Marija Večerina, witness statement, 16 October 2003), para. 12; Marija Večerina, T. 6730.

¹⁸⁵³ P652 (Marija Večerina, witness statement, 16 October 2003), para. 12; Marija Večerina, T. 6721, 6729.

¹⁸⁵⁴ P652 (Marija Večerina, witness statement, 16 October 2003), para. 12; Marija Večerina, T. 6721, 6729.

¹⁸⁵⁵ P652 (Marija Večerina, witness statement, 16 October 2003), para. 12; Marija Večerina, T. 6721.

¹⁸⁵⁶ P652 (Marija Večerina, witness statement, 16 October 2003), para. 13; P653 (Marija Večerina, witness statement, 11 July 2007), para. 7; Marija Večerina, T. 6722, 6730-6731.

¹⁸⁵⁷ P652 (Marija Večerina, witness statement, 16 October 2003), paras 13, 15.

¹⁸⁵⁸ P652 (Marija Večerina, witness statement, 16 October 2003), para. 13; Marija Večerina, T. 6734.

where the witness and approximately 20 others were detained.¹⁸⁵⁹ The soldiers selected five young male detainees: the witness's son Stevo Večerina, Mile Gnjatović, Stevan Baljak, Đuro Mačak (from Benkovac municipality), and Momčilo Tišma (from Knin).¹⁸⁶⁰ Besides these men, there were only elderly men and women detained in the basement.¹⁸⁶¹ Stevo Večerina, born in 1974, had been mobilized as a private in the SVK in 1993, and was on sick leave for a few days at that time as a result of tooth ache.¹⁸⁶² The Croatian soldiers said that the military police had arrived and that the soldiers would go to military prison while the wounded would be taken to hospital.¹⁸⁶³ The witness wanted to go with the five men and followed them out of the house.¹⁸⁶⁴ The witness saw some Croatian soldiers escorting the five men at gunpoint.¹⁸⁶⁵ The five men were not handcuffed and their hands were not tied.¹⁸⁶⁶ Stevo Večerina had trouble walking because of the gunshot injuries he had sustained when he and the witness had been arrested.¹⁸⁶⁷ One of the soldiers ordered her to return to the basement or she would be shot.¹⁸⁶⁸

418. Shortly after Marija Večerina's son and four other men had been taken out of the basement, the detainees heard a burst of gunfire.¹⁸⁶⁹ The Croatian soldiers then brought two women and one man, all in their 50s, and the witness learned from these people that soldiers had shot at their vehicle, killing the driver.¹⁸⁷⁰ The three were wearing civilian clothes.¹⁸⁷¹ On the same day, around 10.30 a.m., the detainees were ordered out of the

¹⁸⁵⁹ P652 (Marija Večerina, witness statement, 16 October 2003), paras 11-14; Marija Večerina, T. 6722, 6730-6731.

¹⁸⁶⁰ P652 (Marija Večerina, witness statement, 16 October 2003), para. 14; Marija Večerina, T. 6721, 6731, 6733; D694 (Questionnaire regarding Stevo Večerina filled in by Marija Večerina, 18 July 2001).

¹⁸⁶¹ P653 (Marija Večerina, witness statement, 11 July 2007), para. 8; Marija Večerina, T. 6722.

¹⁸⁶² P652 (Marija Večerina, witness statement, 16 October 2003), paras 1, 5-6; P653 (Marija Večerina, witness statement, 11 July 2007), para. 2; Marija Večerina, T. 6725; D694 (Questionnaire regarding Stevo Večerina filled in by Marija Večerina, 18 July 2001).

¹⁸⁶³ P652 (Marija Večerina, witness statement, 16 October 2003), para. 14; P653 (Marija Večerina, witness statement, 11 July 2007), para. 9; Marija Večerina, T. 6722, 6731-6733.

¹⁸⁶⁴ P652 (Marija Večerina, witness statement, 16 October 2003), para. 15; Marija Večerina, T. 6722, 6731, 6734.

¹⁸⁶⁵ P652 (Marija Večerina, witness statement, 16 October 2003), para. 15.

¹⁸⁶⁶ P652 (Marija Večerina, witness statement, 16 October 2003), para. 15.

¹⁸⁶⁷ P652 (Marija Večerina, witness statement, 16 October 2003), paras 11, 15; Marija Večerina, T. 6734.

¹⁸⁶⁸ P652 (Marija Večerina, witness statement, 16 October 2003), para. 15; Marija Večerina, T. 6722, 6731, 6734.

¹⁸⁶⁹ P652 (Marija Večerina, witness statement, 16 October 2003), paras 14, 16; Marija Večerina, T. 6721-6722, 6731, 6735.

¹⁸⁷⁰ P652 (Marija Večerina, witness statement, 16 October 2003), para. 16; P653 (Marija Večerina, witness statement, 11 July 2007), para. 10; Marija Večerina, T. 6722, 6731, 6735-6736.

¹⁸⁷¹ P653 (Marija Večerina, witness statement, 11 July 2007), para. 10.

basement.¹⁸⁷² In the yard outside the soldiers ordered them to go to the UNHCR headquarters in Knin.¹⁸⁷³ The people, including the witness and her two daughters, as well as Sava Večerina and Dragana Večerina, got in two vehicles and left, without escort.¹⁸⁷⁴ They were stopped by policemen at a check-point at the entrance of Knin.¹⁸⁷⁵ The policemen lined them up and started cursing at them and threatening to shoot them all.¹⁸⁷⁶ The policemen told them that the UNHCR had left and that they should go to Knin Secondary School.¹⁸⁷⁷ Although there were not many people in the gym of the school when they arrived, more were constantly being brought in.¹⁸⁷⁸ According to a report by the Zadar-Knin Police Administration of 7 August 1995, 90 named persons, including the witness and the four other women, were detained at the “Knin Collection Centre”.¹⁸⁷⁹ The witness and the four women she had arrived with stayed there between 6 and 9 August 1995.¹⁸⁸⁰ The witness’s daughters were forced to clean the rooms and windows in the police building.¹⁸⁸¹ Branka Večerina was brought somewhere where her hand was treated.¹⁸⁸² The school building was guarded by armed policemen in uniform and the witness testified that she was not allowed to leave.¹⁸⁸³ The witness did not remember anyone being beaten at the school.¹⁸⁸⁴

419. On 9 August 1995, the detainees were told that those from Obrovac and Benkovac would be transported to Zadar and approximately 40 people, including the witness and her two daughters as well as Sava and Dragana Večerina, were driven there by bus.¹⁸⁸⁵ At the time there were about 60 detainees at the school.¹⁸⁸⁶ In Zadar they

¹⁸⁷² P652 (Marija Večerina, witness statement, 16 October 2003), para. 17; Marija Večerina, T. 6736-6737.

¹⁸⁷³ P652 (Marija Večerina, witness statement, 16 October 2003), para. 17; Marija Večerina, T. 6744.

¹⁸⁷⁴ P652 (Marija Večerina, witness statement, 16 October 2003), para. 17; Marija Večerina, T. 6718, 6736-6737, 6741.

¹⁸⁷⁵ P652 (Marija Večerina, witness statement, 16 October 2003), para. 17; Marija Večerina, T. 6736-6737, 6741.

¹⁸⁷⁶ P652 (Marija Večerina, witness statement, 16 October 2003), para. 17; Marija Večerina, T. 6737, 6741.

¹⁸⁷⁷ P652 (Marija Večerina, witness statement, 16 October 2003), para. 17; Marija Večerina, T. 6741.

¹⁸⁷⁸ P652 (Marija Večerina, witness statement, 16 October 2003), para. 17.

¹⁸⁷⁹ P654 (Report by Zadar-Knin Police Administration with list of people at the Knin Collection Centre, 7 August 1995).

¹⁸⁸⁰ P652 (Marija Večerina, witness statement, 16 October 2003), para. 17; Marija Večerina, T. 6718; P654 (Report by Zadar-Knin Police Administration with list of people at the Knin Collection Centre, 7 August 1995).

¹⁸⁸¹ P652 (Marija Večerina, witness statement, 16 October 2003), para. 17.

¹⁸⁸² P652 (Marija Večerina, witness statement, 16 October 2003), para. 17.

¹⁸⁸³ P652 (Marija Večerina, witness statement, 16 October 2003), para. 17; P653 (Marija Večerina, witness statement, 11 July 2007), para. 11; Marija Večerina, T. 6718-6719.

¹⁸⁸⁴ P653 (Marija Večerina, witness statement, 11 July 2007), para. 11.

¹⁸⁸⁵ P652 (Marija Večerina, witness statement, 16 October 2003), para. 18; P653 (Marija Večerina, witness statement, 11 July 2007), para. 12; Marija Večerina, T. 6718, 6745.

stayed in a very small centre for two days.¹⁸⁸⁷ They were then brought to a sports hall where, the witness believed, they spent about 20-30 days.¹⁸⁸⁸ They were then taken to a larger sports hall where they stayed for another week.¹⁸⁸⁹ These three places were guarded by policemen and the witness testified that she was not allowed to leave.¹⁸⁹⁰ She also testified that the persons who had relatives in Zadar were allowed to leave with them.¹⁸⁹¹ The witness herself was not allowed to leave because she had no relatives to go with.¹⁸⁹² According to the witness, some policemen gave the detainees a choice to stay in Croatia or go to Serbia.¹⁸⁹³ On 16 September 1995, the witness joined an “organized” convoy from Knin to Serbia, out of concern for her daughters who wanted to leave.¹⁸⁹⁴ The witness did not remember signing anything or being told to sign anything before she left.¹⁸⁹⁵

420. **Zdravko Bunčić**, a Serb from Ivoševci in Kistanje municipality,¹⁸⁹⁶ stated that during July and early August 1995 rumours led him to assume that the HV would come and that the Serb leadership had already left.¹⁸⁹⁷ The witness was concerned for his family, and they decided that several family members should leave.¹⁸⁹⁸ On the morning of 5 August 1995, the witness saw his family packing and getting ready to leave.¹⁸⁹⁹ He heard from his colleague Stevan Nikolić that his family was doing the same thing.¹⁹⁰⁰ The witness testified that after unsuccessfully trying to seek shelter at the UNPROFOR

¹⁸⁸⁶ P653 (Marija Večerina, witness statement, 11 July 2007), para. 12.

¹⁸⁸⁷ P652 (Marija Večerina, witness statement, 16 October 2003), para. 18; P653 (Marija Večerina, witness statement, 11 July 2007), para. 12; P656 (List of persons at detention centres in Zadar, sent from the Zadar Office for Expelled Persons, Refugees, and Displaced Persons to Ivan Čermak, 12 September 1995).

¹⁸⁸⁸ P652 (Marija Večerina, witness statement, 16 October 2003), para. 18; P653 (Marija Večerina, witness statement, 11 July 2007), para. 12; P655 (List of persons transferred from the Š.K. Benja Elementary to the Š. Kašić Elementary School, 13 August 1995); P656 (List of persons at detention centres in Zadar, sent from the Zadar Office for Expelled Persons, Refugees, and Displaced Persons to Ivan Čermak, 12 September 1995).

¹⁸⁸⁹ P653 (Marija Večerina, witness statement, 11 July 2007), para. 12; P656 (List of persons at detention centres in Zadar, sent from the Zadar Office for Expelled Persons, Refugees, and Displaced Persons to Ivan Čermak, 12 September 1995).

¹⁸⁹⁰ P653 (Marija Večerina, witness statement, 11 July 2007), para. 12; Marija Večerina, T. 6718-6719, 6742.

¹⁸⁹¹ Marija Večerina, T. 6719, 6741-6742, 6747.

¹⁸⁹² Marija Večerina, T. 6741-6742.

¹⁸⁹³ P653 (Marija Večerina, witness statement, 11 July 2007), para. 13; Marija Večerina, T. 6745.

¹⁸⁹⁴ P652 (Marija Večerina, witness statement, 16 October 2003), paras 19, 21; Marija Večerina, T. 6720, 6745-6746.

¹⁸⁹⁵ P653 (Marija Večerina, witness statement, 11 July 2007), para. 13.

¹⁸⁹⁶ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), p. 1, para. 1.

¹⁸⁹⁷ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 2.

¹⁸⁹⁸ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 3.

¹⁸⁹⁹ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), paras 4-5.

¹⁹⁰⁰ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 5.

base in Burum in Knin municipality, while on their way to Knin on 5 August 1995, he, Momčilo Tišma, and Stevan Nikolić were captured by a group of soldiers with checkerboard insignia on their uniforms, approximately one kilometre from Očestovo in Knin municipality.¹⁹⁰¹ While driving towards Knin, the witness saw a red car with the body of a man hanging out of the car and another man lying nearby.¹⁹⁰² The witness heard one of the soldiers say something like, “This is how we deal with Chetniks and it might happen to you too”.¹⁹⁰³

421. In the early evening hours of 5 August 1995, the soldiers forced the witness and about 24 others at gun point to go into the basement of a house near Očestovo in Knin municipality.¹⁹⁰⁴ According to the witness, the detainees were all civilians except a man called Đuro Mačak who wore an old olive grey JNA uniform, and three men in camouflage uniform: one was called Stevo Večerina, the second man’s last name was Večerina, and the third man was called Stanko.¹⁹⁰⁵ Other detainees in the basement included Rajko Mutić from Bribir, Jovo and Milka Berić, Dušan and Dara Torbica, Lazo Kovačević from Ervenik, Ilija Perić from Kistanje, a woman from Benkovac, and three young women who the witness believed were called Branka, Mira, and Dragana Večerina.¹⁹⁰⁶ While in the basement, the witness heard the soldiers say things like, “How shall we kill them, shall we throw explosives in or a hand grenade”?¹⁹⁰⁷

422. The witness testified that around 9 or 10 a.m. on 6 August 1995, the Croatian soldiers called for the five younger men to come out, one of them being Stevo Večerina, saying that police had arrived to take them away.¹⁹⁰⁸ After about ten minutes, the witness heard the sound of machine gun fire, whereupon he heard one of the soldiers say something like, “Give them another one and let them fertilize Croatian soil”. Right after this, the witness heard five single shots. He testified that he has not seen or heard of those five men ever since.¹⁹⁰⁹ Later that morning, the witness saw soldiers searching a uniformed man, who said he was from Benkovac. The soldiers found a picture of the

¹⁹⁰¹ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), paras 4-6.

¹⁹⁰² P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 7.

¹⁹⁰³ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 7.

¹⁹⁰⁴ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), paras 8-10.

¹⁹⁰⁵ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 8.

¹⁹⁰⁶ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), paras 9-10. The named persons also appear on lists with people at the Knin reception centre where they are described as Serb. See D52 (List of persons at the Knin collection centre, 6 August 1995) and P654 (Report by Zadar-Knin Police Administration with list of people at the Knin Collection Centre, 7 August 1995).

¹⁹⁰⁷ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 11.

¹⁹⁰⁸ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), paras 8, 12.

man in uniform and the witness heard one soldier ask, “Did you have the picture to show Milošević how you kill Ustašas”? Then the witness heard a soldier say, “Take him there and cut his balls off”, and they took the man away.¹⁹¹⁰ A little later, someone called Dragana Večerina out of the basement to do some washing. The witness saw through the open door of the basement how one of the soldiers who had captured him the day before, took Dragana into another house just a few metres away. About 15 or 20 minutes later, the witness saw Dragana come out of the house with messed-up hair and wearing different clothing. Dragana returned to the basement and the soldier who took her away said, “Was I good for you”?¹⁹¹¹ Later that morning, the witness left the basement and saw several soldiers dragging the man from Benkovac in the direction of Kistanje. After about 100 metres, they turned off the road, and then the witness heard two or three machine gun bursts and saw the soldiers returning without the man from Benkovac.¹⁹¹² The soldiers lined up the witness and 19 others against a wall and insulted them. They then told them to travel to the southern camp in Knin. One soldier said that they knew that there were 20 people and threatened to kill everyone if any were missing upon arrival in Knin. The same soldier told the witness and the others to say upon arrival in Knin that they were sent by the 4th Split battalion, 1st brigade.¹⁹¹³ The witness stated that on their way to Knin, at Bula’s bridge, they were stopped by a soldier wearing camouflage uniform, a black cowboy hat, and a black scarf, who had caught up with them in a small red car. The soldier, who was carrying an automatic rifle, lined up everyone against a wall and shouted something like, “Who let these bastards go, they should all be killed”. A group of civilian police was standing about 50 metres away and several of them came over and talked to the soldier, after which he drove off.¹⁹¹⁴ The civilian policemen, who were from Škabrnja, escorted the witness and the others to a high school gym in Knin. The witness stayed in that gym for six weeks and stated that other people were arriving every day. The witness stated that young girls were often taken out by Croatian soldiers and returned late in the evening.¹⁹¹⁵ Some time in September 1995, the witness left the gym in a convoy of about 27 buses, taking him to Vojvodina, Serbia. The witness testified that some of his family members

¹⁹⁰⁹ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 12.

¹⁹¹⁰ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 14.

¹⁹¹¹ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 15.

¹⁹¹² P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 16.

¹⁹¹³ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 17.

¹⁹¹⁴ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 18.

¹⁹¹⁵ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 19.

returned home in 1998, whereupon they discovered that the house of the witness's son had been completely looted and the witness's house had been burned. He stated that he only returned to his home on 16 March 1999.¹⁹¹⁶

423. **Dušan Torbica**, a Croatian Serb from Torbica hamlet in Kistanje village who was 60 years old in 1995,¹⁹¹⁷ stated that most of the young people, including the witness's children, had left the village eight to ten days prior to 4 August 1995.¹⁹¹⁸ The shelling of the village began around 1 or 2 p.m. on that day and continued into 5 August 1995.¹⁹¹⁹ The shells fell in the inhabited areas, though to the witness's knowledge no one was killed in Torbica.¹⁹²⁰ The witness testified that the shells were coming from the direction of the Promina mountains next to Drniš.¹⁹²¹ On 5 August 1995, the witness and his wife went on foot to Ervenik in order to escape the shells falling on Torbica.¹⁹²² Many other people were also leaving either by car or tractor.¹⁹²³ The witness and his wife were eventually given a lift on the back of a tractor trailer until they reached the Očestovo-Knin cross-roads in Knin municipality, where they were stopped by some Croatian soldiers with painted faces.¹⁹²⁴ The Croatian soldiers ordered them off the tractor and one of them said he was from the 4th Split Brigade.¹⁹²⁵ After being asked if they had any weapons, the tractor driver handed over two rifles.¹⁹²⁶ At the cross-roads there were about 30 civilians who appeared to be leaving their villages.¹⁹²⁷ One soldier ordered Dušan Torbica, his wife, and the tractor driver to line up next to a wall, after which another soldier told them to go to a house next to the road where they and the other 30 or so civilians at the cross-roads spent the night in the wine cellar.¹⁹²⁸ The detainees included Zdravko Bunčić from Ivoševci in Kistanje municipality, Dušan and Ljubica Stopalo from Obrovac, one Radović from Đevrske in Kistanje municipality, and Lazo Drača from Ervenik.¹⁹²⁹ The following day those in the cellar were transferred by horse carriage to the "Velika Vlahovića" elementary school in Knin where they were

¹⁹¹⁶ P2507 (Zdravko Bunčić, witness statement, 8 September 2003), para. 20.

¹⁹¹⁷ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 1.

¹⁹¹⁸ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 2.

¹⁹¹⁹ P630 (Dušan Torbica, witness statement, 9 September 2003), paras 2-3.

¹⁹²⁰ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 3.

¹⁹²¹ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 4.

¹⁹²² P630 (Dušan Torbica, witness statement, 9 September 2003), para. 4.

¹⁹²³ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 4.

¹⁹²⁴ P630 (Dušan Torbica, witness statement, 9 September 2003), paras 6-7.

¹⁹²⁵ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 7.

¹⁹²⁶ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 8.

¹⁹²⁷ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 7.

¹⁹²⁸ P630 (Dušan Torbica, witness statement, 9 September 2003), paras 8-9.

¹⁹²⁹ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 11.

detained for 40 days with about 2,000 other people.¹⁹³⁰ During this time they were guarded by armed Croatian police officers and initially given one meal per day which after the first 15 days became one cooked and two dry meals per day.¹⁹³¹ Dušan Torbica stated that he saw a Red Cross official visit two or three times.¹⁹³² The witness did not see anyone being physically mistreated, though the guards did verbally abuse the detainees; cursing their mothers and saying that it was not the Krajina, but Croatia.¹⁹³³ After 40 days the witness was transported along with his wife and around 1,800 others by buses to Serbia by the Red Cross.¹⁹³⁴ They were taken by Croatian trucks to Sremska Mitrovica in Serbia, from where they were taken in Serbian trucks to different refugee centres.¹⁹³⁵ Dušan Torbica and his wife returned to Torbica in 1998.¹⁹³⁶

424. The Trial Chamber has received forensic evidence with regard to all five alleged murders. According to this, on 14 August 1995, male bodies KN01/374B (numbered 420), KN01/412B (numbered 421), KN01/415B (numbered 423), KN01/416B (numbered 418), and KN01/417B (numbered 424) were found in Stara Straža in Knin municipality and buried at a local cemetery in Knin.¹⁹³⁷

425. Body KN01/374B (numbered 420) was wearing a white short-sleeved T-shirt, grey military trousers, and black shoes.¹⁹³⁸ Body KN01/374B, exhumed on 28 June 2001 or 3 July 2001 from a cemetery in Knin with a metal tag marked “420” and a driver’s licence, wearing clothing including olive green trousers with a leather belt and boots, was an approximately 1.67-1.82-metre-tall male between 30 and 40 years old, with three gunshot injuries, including one passing diagonally through the head from the front to the left temporal region and which was found by the forensic pathologist to be the likely cause of death.¹⁹³⁹ On 16 April 2002, body KN01/374B was DNA-identified

¹⁹³⁰ P630 (Dušan Torbica, witness statement, 9 September 2003), paras 9-10; P654 (Report by Zadar-Knin Police Administration with list of people at the Knin collection centre, 7 August 1995).

¹⁹³¹ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 9.

¹⁹³² P630 (Dušan Torbica, witness statement, 9 September 2003), para. 9.

¹⁹³³ P630 (Dušan Torbica, witness statement, 9 September 2003), paras 10-11.

¹⁹³⁴ P630 (Dušan Torbica, witness statement, 9 September 2003), paras 9-10.

¹⁹³⁵ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 10.

¹⁹³⁶ P630 (Dušan Torbica, witness statement, 9 September 2003), para. 10.

¹⁹³⁷ P652 (Marija Večerina, witness statement, 16 October 2003), para. 22; P657 (Information on body KN01/374B, ID No. 420, with photograph); P661 (Information on body KN01/412B, ID No. 421, with photograph); P664 (Information on body KN01/416B, ID No. 418, with photograph); P667 (Information on body KN01/417B, ID No. 424, with photograph); P672 (Information on body KN01/415B, ID No. 423, with photograph).

¹⁹³⁸ P657 (Information on body KN01/374B, ID No. 420, with photograph).

¹⁹³⁹ P658 (Autopsy report of KN01/374B, 26 July 2001), pp. 1-5, 7-11, 13-15, 18-19; P1887 (Photograph of skull, KN01/374B).

as Stevan Baljak, born in 1966.¹⁹⁴⁰ According to a report of the Zagreb Institute for Forensic Medicine, dated 16 April 2002 and based on details provided by his father, Stevan Baljak, a Serb with Yugoslav citizenship born on 9 January 1966, died from a gunshot injury to the head in Knin, on 5 August 1995.¹⁹⁴¹ Marija Večerina testified that Stevan Baljak had been wearing a military uniform.¹⁹⁴²

426. KN01/412B (numbered 421) was wearing a dark shirt with epaulettes, dark trousers, and black boots.¹⁹⁴³ Body KN01/412B, exhumed on 27 June or 2 July 2001 from a cemetery in Knin with a metal tag marked "421", wearing clothing including a long-sleeved grey shirt, green trousers with a leather belt and boots, was an approximately 1.77-1.92-metre-tall male between 30 and 45 years old, with two or three gunshot injuries, including one to the neck which was found by the forensic pathologist to be the likely cause of death.¹⁹⁴⁴ On 20 June 2002, body KN01/412B was identified by classical method as Đuro Mačak, born on 2 May 1955.¹⁹⁴⁵ According to a report of the Zagreb Institute for Forensic Medicine, dated 20 June 2002 and based on details provided by his wife, Đuro Mačak, a Serb with Croatian citizenship born on 2 May 1955, died from a gunshot injury to the neck in Očestol on 5 August 1995.¹⁹⁴⁶

427. KN01/415B (numbered 423) was wearing a blue T-shirt, denim trousers, and brown shoes.¹⁹⁴⁷ Body KN01/415B, exhumed on 27 June or 2 July 2001 from a cemetery in Knin with a metal tag marked "423", wearing clothing including faded blue denim jeans and black leather shoes, was an approximately 1.73-1.89-metre-tall male between 25 and 45 years old, with at least two gunshot injuries, including one passing through the head from the front to the back and downwards which was found by the forensic pathologist to be the cause of death.¹⁹⁴⁸ On 12 July 2006, body KN01/415B was identified as Momčilo Tišma, born on 28 November 1967.¹⁹⁴⁹ According to a report of the Zagreb Department of Forensic Medicine, based on information provided by his

¹⁹⁴⁰ P659 (List of identified persons exhumed from a cemetery in Knin), p. 1; P2002 (List of identified persons exhumed in Knin).

¹⁹⁴¹ P660 (Report on facts of death of Stevan Baljak, 16 April 2002).

¹⁹⁴² P652 (Marija Večerina, witness statement, 16 October 2003), para. 9.

¹⁹⁴³ P661 (Information on body KN01/412B, ID No. 421, with photograph).

¹⁹⁴⁴ P662 (Autopsy report of KN01/412B, 17 July 2001), pp. 1-5, 7-13, 16; P1888 (Photograph of bone, KN01/412B).

¹⁹⁴⁵ P659 (List of identified persons exhumed from a cemetery in Knin), p. 2; P2002 (List of identified persons exhumed in Knin).

¹⁹⁴⁶ P663 (Report on facts of death of Đuro Mačak, 20 June 2002).

¹⁹⁴⁷ P672 (Information on body KN01/415B, ID No. 423, with photograph).

¹⁹⁴⁸ P671 (Autopsy report of KN01/415B, 27 July 2001), pp. 1-5, 7, 11-16.

¹⁹⁴⁹ P673 (List of identified bodies exhumed in Knin and Gračac, 12 July 2006).

wife, Momčilo Tišma, a Serb with Croatian citizenship born on 28 November 1967, died from gunshot injuries to the head in Knin on 6 August 1995.¹⁹⁵⁰

428. KN01/416B (numbered 418) was wearing a camouflage uniform and black shoes.¹⁹⁵¹ Body KN01/416B, exhumed on 27 June or 2 July 2001 from a cemetery in Knin with a metal tag marked “418”, wearing camouflage clothes and heavy black boots, was an approximately 1.62-1.78-metre-tall male between 35 and 45 years old, with multiple gunshot injuries, including multiple shots to the head that were found by John Clark to be the cause of death.¹⁹⁵² On 20 June 2002, body KN01/416B was identified by classical method as Mile Gnjatović, born 20 August 1952.¹⁹⁵³ According to a report of the Zagreb Institute for Forensic Medicine, dated 20 June 2002 and based on details provided by his brother, Mile Gnjatović, a Serb with Croatian citizenship born on 20 August 1952, died from a gunshot injury to the head in Stara Straža on 6 August 1995.¹⁹⁵⁴

429. KN01/417B (numbered 424) was wearing a grey short-sleeved shirt and camouflage trousers.¹⁹⁵⁵ Body KN01/417B, exhumed on 27 June or 2 July 2001 from a cemetery in Knin with a metal tag marked “424”, wearing camouflage trousers, was an approximately 1.71-1.87-metre-tall male between 17 and 25 years old, with multiple gunshot injuries, including one to the left leg, and one to the head which was found by John Clark to be the cause of death.¹⁹⁵⁶ Body KN01/417B was identified as Stevo Večerina, born in 1974.¹⁹⁵⁷ According to a report of the Zagreb Forensic Institute, dated 29 September 2003 and based on details provided by his mother Marija Večerina, Stevo Večerina, a Serb with Croatian citizenship born on 19 August 1974, died from a gunshot injury to the head in Očestovo, in Knin municipality, on 6 August 1995.¹⁹⁵⁸ Marija Večerina testified that her son had been wearing military trousers and a white T-shirt,

¹⁹⁵⁰ P674 (Registration of death of Momčilo Tišma, 12 July 2002?), pp. 1-3.

¹⁹⁵¹ P664 (Information on body KN01/416B, ID No. 418, with photograph).

¹⁹⁵² P665 (Autopsy report of KN01/416B, 17 July 2001), pp. 1-5, 7-14, 17; P1889 (Photograph of skull, KN01/416B); P1890 (Photograph of skull, KN01/416B).

¹⁹⁵³ P659 (List of identified persons exhumed from a cemetery in Knin), p. 1; P2002 (List of identified persons exhumed in Knin).

¹⁹⁵⁴ P666 (Report on facts of death of Mile Gnjatović, 20 June 2002).

¹⁹⁵⁵ P667 (Information on body KN01/417B, ID No. 424, with photograph).

¹⁹⁵⁶ P668 (Autopsy report of KN01/417B, 26 July 2001), pp. 1-5, 7-14, 17; P1891 (Photograph of skull, KN01/417B). See also P652 (Marija Večerina, witness statement, 16 October 2003), para. 22.

¹⁹⁵⁷ P669 (List of identified persons exhumed in Knin and Gračac from the Croatian Government Office for Co-operation with ICTY and ICC, 2 October 2003).

¹⁹⁵⁸ P670 (Report on facts of death of Stevo Večerina, 29 September 2003), pp. 1-2.

and that doctors told her that he had died from multiple gunshot wounds to the head, and had also sustained a gunshot wound to the leg.¹⁹⁵⁹

430. The Trial Chamber finds that on 5 August 1995, a group of persons referred to as soldiers with checkerboard insignia on their uniforms brought Zdravko Bunčić, Momčilo Tišma, and Stevan Nikolić to the basement of a house in or near Očestovo in Knin municipality. The Trial Chamber also finds that on the same day a large number of persons referred to as HV soldiers stopped Marija, Mira, Branka, Stevo, Sava, and Dragana Večerina, as well as Stevan Baljak and Mile Gnjatović by shooting at them and brought them to the same basement. There were about ten more persons kept in the basement, in an area of 16 squaremetres. These people spent the night there while two persons referred to as soldiers stood guard by the door. At around 10:30 a.m. on 6 August 1995, persons referred to as soldiers ordered the detainees, including Marija Večerina, Zdravko Bunčić and Dušan Torbica, out of the basement and told them to go to the UNHCR headquarters in Knin. After being told by persons referred to as policemen that the UNHCR had left, they went to Knin Secondary School and on 9 August 1995, Marija Večerina and others were transported from Knin to Zadar where they stayed at various locations after which they were transported to Serbia. In this respect, the Trial Chamber recalls its findings with regard to reception and collection centres in chapter 4.5.5.

431. The Trial Chamber further finds that on 6 August 1995, around 9 a.m., a number of persons referred to as Croatian soldiers took five young men, namely Stevo Večerina, Mile Gnjatović, Stevan Baljak, Đuro Mačak, and Momčilo Tišma, from the basement. Four of the five young men wore some form of military apparel. Stevo Večerina had sustained a gunshot injury to the leg the previous day. Marija Večerina saw the persons referred to as soldiers escort the five men at gunpoint. One of these persons ordered Marija Večerina to return to the basement or she would be shot. Marija Večerina heard gunfire shortly after the men were taken.

432. The Trial Chamber considers that some of the gunfire heard after the five men were taken from the basement may have been directed at the vehicle of three other persons whose car was shot at and who were taken to the basement after the five men had been taken away. The Gotovina Defence disputes the reliability of Zdravko

¹⁹⁵⁹ P652 (Marija Večerina, witness statement, 16 October 2003), para. 9; P653 (Marija Večerina, witness statement, 11 July 2007), para. 14.

Bunčić's Rule 92 *bis* statement, arguing that Marija Večerina did not identify Bunčić as having been present in the basement, and that the bodies were found in Stara Straža, allegedly 3.5 kilometres from Očestovo.¹⁹⁶⁰ The Trial Chamber considers that Zdravko Bunčić's Rule 92 *bis* statement is generally consistent with Marija Večerina's testimony and that, although Marija Večerina did not identify Bunčić as having been present in the basement, she did not specifically identify all the persons held in the basement. The Trial Chamber further considers that Bunčić's statement that shortly after the men were taken, he heard machine gunfire, the comment "give them another one and let them fertilize Croatian soil", followed by five single shots, appears consistent with the multiple gunshot injuries and at least one gunshot injury to the head or neck found on each body. On the previous day, Bunčić had heard one of the persons referred to as soldiers say "How shall we kill them, shall we throw explosives in or a hand grenade?". The Trial Chamber finally considers that the five bodies were found together at an unspecified location in Stara Straža, which is between one and three kilometres from Očestovo and concludes that this is not inconsistent with Bunčić's testimony.¹⁹⁶¹ For these reasons, the Trial Chamber finds that on 6 August 1995, in or near Očestovo, shortly after taking them from the basement, the persons referred to as soldiers shot the five men referred to above and thereby killed them.

433. The persons who took the five men from the basement were armed and wore uniforms and stated that the military police had arrived and that the "soldiers" would go to military prison. The Trial Chamber considers that the persons who took the men from the basement were either the same persons who had stopped four of the five men on 5 August 1995 and held the five men at the house in or near Očestovo, or cooperated closely with those persons. The persons who had stopped Momčilo Tišma and others on 5 August 1995 wore uniforms with checkerboard insignia and used the term "Chetniks". The large number of persons referred to as HV soldiers who stopped Stevo Večerina, Mile Gnjatović, Stevan Baljak and others and took them to the house in or near Očestovo wore green camouflage uniforms, had painted faces, and cursed the men's Serb mothers. The person who told Zdravko Bunčić and around 20 others to travel from the house in or near Očestovo to Knin on 6 August 1995 identified his unit as the 4th Split battalion, 1st Brigade. Considering the aforementioned, the Trial Chamber finds

¹⁹⁶⁰ Gotovina Defence Final Trial Brief, paras 1016-1020.

¹⁹⁶¹ P2432 (Map of Knin and surrounding area), WJ 9079, WJ 9380.

that the persons who detained the approximately 20 persons in the basement and killed the five men were members of the HV.

434. Stevo Večerina had been a member of the SVK. Based on the information provided in the Zagreb Forensic Institute reports, the Trial Chamber finds that Stevo Večerina, Stevan Baljak, Mile Gnjatović, Đuro Mačak, and Momčilo Tišma were of Serb ethnicity. Furthermore, based on the evidence of Marija Večerina, Zdravko Bunčić and Dušan Torbica, as well as P654 and D52, the Trial Chamber finds that the following persons also were of Serb ethnicity: Marija Večerina, Zdravko Bunčić, Mira and Branka Večerina, Rajko Mutić, Jovo and Milka Berić, Dušan and Dara Torbica, Lazo Kovačević, and Ilija Perić were of Serb ethnicity. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 below.

435. The evidence indicates that on the morning of 6 August 1995, at the same house where the five men mentioned above were held, in or near Očestovo, a number of persons referred to as soldiers searched an unidentified, uniformed man from Benkovac, after which one of the men said “take him there and cut his balls off”. Later that morning, persons referred to as soldiers dragged the man from Benkovac about 100 metres down the road, after which Zdravko Bunčić heard machine gunfire and the soldiers returned without the man from Benkovac. The evidence with regard to the unidentified man and the similarity with the circumstances of the five men mentioned above strongly indicate that the unidentified man has been killed. However, the Trial Chamber is unable to verify this because there is no evidence on his body being found and, as the man remains unidentified, no testimony from his relatives. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

Sava Šolaja (Further Clarification no. 155)

436. The Trial Chamber has received relevant evidence with regard to the alleged murder of Sava Šolaja primarily through the testimony of Maria Teresa Mauro and an HRAT report. In addition, the Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Očestovo in Knin municipality primarily through the testimony of Peter Marti and ECMM reports. According to the 1991 Population

Census, the population of Očestovo consisted of 348 Serbs out of a total of 351 persons in 1991.¹⁹⁶²

437. HRAT reported that between 29 September and 1 October 1995 it visited a village in Knin municipality where residents reported that around 15 August 1995 an HV soldier threw an invalid man in a wheelchair into his burning house, who died in the flames, and that a few weeks before HRAT arrived his daughter had come to pick up the remaining bones.¹⁹⁶³ **Maria Teresa Mauro**, a UN civil affairs officer and HRAT member in Sector South based in Knin from March to December 1995,¹⁹⁶⁴ was part of the HRAT visit and recalled being told of this specific incident by the residents of the village.¹⁹⁶⁵ On 2 September 1995, the burnt body of Sava Šolaja, born on 25 August 1924 and given identification number 588, was found in a family house in the village of Očestovo, Knin municipality, identified by Zlata Hodak from Očestovo, and buried in a Knin city cemetery.¹⁹⁶⁶

438. The Trial Chamber has further considered evidence of Peter Marti (reviewed in chapter 4.2.9), Željko Žganjer (reviewed in chapter 6.2.5) and Ivan Galović (reviewed in chapter 6.2.5) with regard to this incident.

439. On 24 August 1995 at 11:40 a.m. in Očestovo, ECMM observed 15 uniformed HV soldiers leaving a stable after having set it on fire.¹⁹⁶⁷ They then left the scene in a tractor with a trailer and a white Mercedes pickup.¹⁹⁶⁸ Other houses were also on fire.¹⁹⁶⁹ One soldier wore a blue and red “1. HT” patch and in their report the ECMM

¹⁹⁶² C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

¹⁹⁶³ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 7; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 52; P1105 (HRAT report, 29 September – 1 October 1995), p. 2.

¹⁹⁶⁴ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

¹⁹⁶⁵ P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 52.

¹⁹⁶⁶ P1412 (Croatian protocol of information on identified body, with photo), p. 1.

¹⁹⁶⁷ P800 (Søren Liborius, witness statement, 11 November 1997), p. 6; P848 (Video of villages in Sector South with commentary by Liborius, 17, 19-21 May 1997), pp. 2-3; P813 (ECMM Knin daily report, 24 August 1995), pp. 1-2; P815 (ECMM report by Liborius, 26 August 1995), p. 10; D743 (Notebook of Liborius, part I), p. 51.

¹⁹⁶⁸ P800 (Søren Liborius, witness statement, 11 November 1997), p. 6; Søren Liborius, T. 8295; P848 (Video of villages in Sector South with commentary by Liborius, 17, 19-21 May 1997), pp. 2-3; P813 (ECMM Knin daily report, 24 August 1995), pp. 1-2; P815 (ECMM report by Liborius, 26 August 1995), p. 10; D743 (Notebook of Liborius, part I), p. 51.

¹⁹⁶⁹ P800 (Søren Liborius, witness statement, 11 November 1997), p. 6; P848 (Video of villages in Sector South with commentary by Liborius, 17, 19-21 May 1997), pp. 2-3; D743 (Notebook of Liborius, part I), p. 51.

made a note that the unit to which the soldiers belonged be identified from the HV insignia book.¹⁹⁷⁰

440. According to the 6th Home Guard Regiment War Journal, the 6th Regiment's command post was being set up in Golubić on 12 August 1995; on 14 August 1995 the commanding officer of the 6th Regiment's 2nd Battalion deployed with 80 men in the area of Golubić.¹⁹⁷¹ According to the Split MD's Operational Diary, on 15 August 1995 a warehouse in Golubić was assigned to the 73rd VP Battalion.¹⁹⁷² On 29 August 1995, the Golubić warehouse was guarded and used by the 300th Logistic Base.¹⁹⁷³

441. Based on P1076, the Trial Chamber finds that on 20 August 1995, Nikola Rašić and Zvonimir Lasan-Zorobabel entered a house in Očestovo at which point a hand grenade exploded injuring both. The Trial Chamber further finds that Rašić helped Lasan-Zorobabel to leave and then threw a grenade into the house and fired at Šolaja who had appeared at a window, killing him. The Trial Chamber notes in this regard that the County Court in Zadar acquitted Rašić of the charges relating to the alleged murder of Sava Šolaja on the basis of self defence, and acquitted Lasan-Zorobabel and one other person based on their lack of involvement in the killing. The Trial Chamber also notes that this judgement in respect to the incident became final under Croatian law as the Croatian Supreme Court affirmed the County Court's acquittals and denied the prosecutor's appeal. On the basis of P1076, the Trial Chamber finds Rašić was as a member of the HV 15th Home Guard Regiment on the day Šolaja was killed and that Sava Šolaja was of Serb ethnicity. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 (b) below.

442. The Trial Chamber further finds that on 24 August 1995, at 11:40 a.m. 15 persons wearing uniforms and referred to as HV soldiers set on fire a stable and an unspecified number of houses in Očestovo. The evidence further indicates that on 26 August 1995 in Očestovo there were seven burnt and 20 partly burnt houses. The Trial Chamber has considered that the uniformed persons left the scene on 24 August 1995 in civilian vehicles. The Trial Chamber has further considered that the ECMM patrol which reported the burning houses on 24 August 1995 noted that one of the 15

¹⁹⁷⁰ Søren Liborius, T. 8296; P813 (ECMM Knin daily report, 24 August 1995), p. 2; P815 (ECMM report by Liborius, 26 August 1995), p. 10; D743 (Notebook of Liborius, part I), p. 51.

¹⁹⁷¹ P2586 (Regiment Command War Journal Extract, 6th Home Guard Regiment), pp. 5, 7.

¹⁹⁷² P71 (Split MD operational diary for 25 July – 14 September 1995), pp. 108-109.

uniformed persons wore a red and blue “1. HT” patch. Finally, the Trial Chamber has considered that from at least 12 to 29 August 1995 there was a significant presence of HV soldiers and VP in the Golubić area, including the command post of the HV 6th Home Guard Regiment. Očestovo is located approximately nine kilometres from Golubić. Based on the number of uniformed persons seen acting together in Očestovo on 24 August 1995, on the fact that at least one of them wore a patch seemingly identifying a military unit, and on the consolidated presence of the HV and VP in the Golubić area, the Trial Chamber finds that the 15 uniformed men were members of the HV. Considering the ethnic composition of Očestovo and the fact that the HV members burnt more than one house, the Trial Chamber finds that the vast majority if not all of the property burnt on 24 August 1995 was owned or inhabited by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

443. With regard to the 56 houses described as looted by Peter Marti on 26 August 1995, the evidence does not establish whether, when, or by whom items were taken from these houses. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

Ilinka Crnogorac (Further Clarification no. 156)

444. The Trial Chamber has received relevant evidence with regard to the alleged murder of Ilinka Crnogorac through the testimony of Witness 136, an ECMM report, and documentation related to the Croatian police investigation into the matter.

445. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,¹⁹⁷⁴ testified that on 31 August 1995, UNCRO was restricted in its movement towards both Mala Polača and Strmica, two different ways out of Knin.¹⁹⁷⁵ The reason provided by the HV for these restrictions was that they would be undertaking mopping-up operations in these areas over the following two days.¹⁹⁷⁶ On 3 September 1995, Witness 136 accompanied a patrol to Crnogorci hamlet, located in Mala Polača village, Knin

¹⁹⁷³ D990 (HV Main Staff report on military facilities in the area of responsibility of the Split MD, 29 August 1995), pp. 1, 3.

¹⁹⁷⁴ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

¹⁹⁷⁵ P2 (Witness 136, witness statement, 4 July 1996), p. 12.

¹⁹⁷⁶ P2 (Witness 136, witness statement, 4 July 1996), p. 12.

municipality, where she was told by one of the five women remaining in the hamlet, Durdija Crnogorac born in 1926, about the killing of the Serb Mika Crnogorac (67 years old) the previous day.¹⁹⁷⁷ According to a UNCIVPOL report of 3 September 1995, Durdija Crnogorac told UNCIVPOL that Mika died on 29 August 1995.¹⁹⁷⁸ Durdija Crnogorac told Witness 136 that Mika Crnogorac was at her neighbour's when three uniformed Croatian soldiers arrived, ordered her out of the house and accompanied her to her own home. According to what the witness was told, the neighbours heard the soldiers say they would burn her house, to which Mika Crnogorac replied "don't-children, please". Durdija Crnogorac told Witness 136 that a few hours later she found Mika Crnogorac dead in a pool of blood with a flower pot next to her head. The remaining women told the witness that she had been "slit". The villagers did not hear any shots. Although the body had already been moved by the time she visited the hamlet, Witness 136 testified that she saw the pool of blood in the room where Mika Crnogorac allegedly had been found.¹⁹⁷⁹ Witness 136 added that the Croatian police were informed about this incident.¹⁹⁸⁰

446. According to an ECMM report, on 4 September 1995, an ECMM team was told by four old ladies in Polača in Knin municipality that after the ECMM's previous visit to the location an old lady was killed by HV soldiers.¹⁹⁸¹ The ECMM report stated that according to the Croatian police, the old woman had died because of low blood pressure.¹⁹⁸² The ECMM team found a lot of blood and one bullet shell in the house of the deceased.¹⁹⁸³

447. According to the daily log of incidents in the Police Administration of the Knin District, on 30 August 1995, at 11:25 a.m., an unspecified individual from Patrol 208 informed the Knin Police Administration that the body of a woman called Ilinka Crnogorac, born in 1928, had been found in the Crnogorci hamlet, Polača village, in

¹⁹⁷⁷ P2 (Witness 136, witness statement, 4 July 1996), p. 13; P3 (Witness 136, witness statement, 11 June 2007), para. 28; Witness 136, T. 742-745; P14 (UNCIVPOL incident report, 3 September 1995).

¹⁹⁷⁸ P14 (UNCIVPOL incident report, 3 September 1995).

¹⁹⁷⁹ P2 (Witness 136, witness statement, 4 July 1996), p. 13; P3 (Witness 136, witness statement, 11 June 2007), para. 28; Witness 136, T. 744; P14 (UNCIVPOL incident report, 3 September 1995).

¹⁹⁸⁰ P2 (Witness 136, witness statement, 4 July 1996), p. 13; P3 (Witness 136, witness statement, 11 June 2007), para. 28.

¹⁹⁸¹ P2157 (ECMM daily report, 4 September 1995), pp. 1-2.

¹⁹⁸² P2157 (ECMM daily report, 4 September 1995), p. 2.

¹⁹⁸³ P2157 (ECMM daily report, 4 September 1995), p. 2.

Knin municipality.¹⁹⁸⁴ The log stated that she died on either 29 or 30 August 1995 of natural causes. Dr Vicković from the Knin hospital was informed and he sent Dr Šimunda Dobrić to the scene accompanied by crime police officers. Dr Dobrić established that Ilinka Crnogorac died of natural causes, after which the police patrol submitted a report on the incident.¹⁹⁸⁵

448. The Trial Chamber has further received forensic evidence with regard to the alleged murder. According to this, body KN01/276B, numbered 594, approximately 1.75 metres in length and with grey streaked, straight hair, was found with a blue jumper, a black skirt, and black shoes in Crnogorci hamlet in Mala Polača, Knin municipality on 2 September 1995, identified by Anica Crnogorac as Ilinka Crnogorac from Polača, Knin municipality, born on 25 July 1928, and buried at a city cemetery in Knin.¹⁹⁸⁶ Body KN01/276B, exhumed on 14 June 2001 from a cemetery in Knin with a metal tag marked “594” and clothing that included a black skirt, a blue pullover, and black shoes, was an approximately 1.54-1.69-metre-tall female between 45 and 65 years old, with grey hair and gunshot injuries to the chest (back to front) and head (close range, and diagonally upwards from behind) which were found by the forensic pathologist to be the cause of death.¹⁹⁸⁷ On 6 December 2002, body KN01/276B was DNA-identified as Ilinka Crnogorac, born on 25 July 1928.¹⁹⁸⁸ According to a report of the Zagreb Institute for Forensic Medicine, dated 6 December 2002, Ilinka Crnogorac, a Serb born 1928, died from a gunshot injury to the head in Polača on 28 August 1995.¹⁹⁸⁹

449. Based on a number of similarities between the descriptions of the forensic evidence of “Ilinka” Crnogorac and Durdija Crnogorac’s descriptions of “Mika” Crnogorac, the Trial Chamber is satisfied that Mika and Ilinka Crnogorac were the same person.

450. The evidence indicates that Ilinka Crnogorac, a Serb, died in the Crnogorci hamlet in Polača, Knin municipality. The Trial Chamber considered evidence from a report of the Zagreb Institute for Forensic Medicine dated 6 December 2002 which

¹⁹⁸⁴ D57 (Daily log of incidents in the Police Administration of the Knin District, Book 1, 6 August 1995-7 October 1995), pp. 1, 74.

¹⁹⁸⁵ D57 (Daily log of incidents in the Police Administration of the Knin District, Book 1, 6 August 1995-7 October 1995), p. 74.

¹⁹⁸⁶ P1413 (Information on identified body KN01/276B, ID No. 594, with photograph).

¹⁹⁸⁷ P1611 (Autopsy report of KN01/276B, 2 July 2001), pp. 1-9, 12-13, 16, 19-20; P1892 (Photograph of skull, KN01/276B).

¹⁹⁸⁸ P2000 (List of identified bodies exhumed at the new cemetery in Knin); P2002 (List of identified persons exhumed in Knin).

places the date of 28 August 1995, as the date of death. As it does not indicate any sources for the determination of this date and considering that it was issued more than seven years after the incident, the Trial Chamber will not rely on it in this respect. Witness 136's July 1996 statement identified 2 September 1995 as the date of death, whereas the contemporaneous UNCIVPOL report, dated 3 September 1995, identifies the date of death as 29 August 1995. The UNCIVPOL report is partially supported by the Daily Log of Incidents of the Police Administration of Knin report dated 30 August 1995 which identifies the date of death as 29 or 30 August 1995. Considering the sources of the different dates of death, the Trial Chamber relies on the most contemporaneous documents stating that Ilinka Crnogorac died on 29 August 1995.

451. The evidence indicates that on 29 August 1995, three persons referred to as soldiers went to the house of Ilinka Crnogorac's neighbours, where Ilinka Crnogorac was visiting, and ordered her to leave the house. The evidence further indicates that Ilinka Crnogorac's neighbours overheard these persons threatening to burn down Ilinka Crnogorac's house. A few hours later, Durdija Crnogorac found Ilinka Crnogorac dead in a pool of blood. The Trial Chamber notes the submission of the Gotovina Defence that Ilinka Crnogorac was found dead at least one day after the persons referred to as soldiers were seen entering her home.¹⁹⁹⁰ The evidence from the Knin Daily Log of Incidents suggests that Ilinka Crnogorac's body was reported as having been found either the day of or a day after her death, but does not explicitly contradict Durdija Crnogorac's account. Having considered these different accounts, the Trial Chamber will rely on the evidence of the UNCIVPOL report and is satisfied that Ilinka Crnogorac's body was discovered within a couple of hours of her death.

452. The Trial Chamber considered the evidence from the Knin Daily Log of Incidents suggesting that Ilinka Crnogorac died from natural causes. Although Ilinka Crnogorac's neighbours did not hear gunshots at the time of the alleged shooting, given the extensive examination of the body undertaken to prepare the autopsy report, the Trial Chamber is satisfied that Ilinka Crnogorac died of gunshot injuries. Considering that Ilinka Crnogorac was last seen in the custody of persons referred to as soldiers within hours of her body being found, combined with their threatening behaviour

¹⁹⁸⁹ P2085 (Death certificate of Ilinka Crnogorac, 6 December 2002), p. 10.

¹⁹⁹⁰ Gotovina Defence Final Brief, 16 July 2010, Appendix L, p. 2.

towards her, the Trial Chamber is satisfied that the persons referred to as soldiers killed Ilinka Crnogorac.

453. Based on the description of the persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. The ECMM report of four women telling an ECMM team that HV soldiers had killed a woman in Polača appears to relate to the same incident, but does not provide details as to the factual basis for the women's qualifications of the perpetrators as HV. Consequently, the Trial Chamber cannot assess whether these qualifications were made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Polača at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

Ilija Šarac (Further Clarification no. 159)

454. The Trial Chamber has received relevant evidence with regard to the alleged unlawful detention of the Šarac family and others and the alleged murder of Ilija Šarac through the testimony of Ružica Šarac and forensic documentation. **Ružica Šarac**, a Serb from Civljane,¹⁹⁹¹ stated that on 4 August 1995 she was living with her family in Civljane, which had previously been shelled.¹⁹⁹² Her husband, Ilija Šarac, was a soldier with the military. According to Šarac, her husband was stationed in Vrlika at the outset of the military conflict that started on 4 August 1995. On that morning, Ružica Šarac awoke to the sound of explosions coming from the direction of the Dinara mountains. These explosions continued throughout the day.¹⁹⁹³ Soon after her husband returned home in the afternoon, she and her family received urgent word from others that Simo Šarac, a man from Vrlika, was advising people in their village that the HV was close-by and that they should leave Civljane and take up refuge in Knin. The witness stated that according to the "evacuation plan", it was Simo Šarac's task to inform everybody about

¹⁹⁹¹ P2504 (Ružica Šarac, witness statements), pp. 5-6 (witness statement, 1 April 1998), para. 2 (witness statement, 22 February 2008).

¹⁹⁹² P2504 (Ružica Šarac, witness statements), p. 6 (witness statement, 1 April 1998), para. 2 (witness statement, 22 February 2008).

¹⁹⁹³ P2504 (Ružica Šarac, witness statements), p. 6 (witness statement, 1 April 1998).

the need to evacuate.¹⁹⁹⁴ Ružica Šarac could see columns of people driving along the road towards Knin.¹⁹⁹⁵ She and her family, including her husband, departed from Civljane in the late afternoon, and travelled to her sister's house in Kotaraši, a suburb in the village of Kovačić in Knin municipality.¹⁹⁹⁶ According to the witness, there had been about 400 people, all Serbs, living in Civljane as of 4 August 1995. She stated that other villagers left too, and she later learned that after that day only two elderly individuals remained. On 5 August 1995, in the early morning hours, Ružica Šarac heard sporadic and waning shelling, and stated that one shell hit close to the house where they were staying. At daylight, she saw tanks and trucks on the main road. One military truck arrived, on which there were approximately ten to fifteen persons in uniforms, who the witness guessed were SVK soldiers, as well as Dragan Novoselac and Miloš Djaković from Vrlika. The witness stated that her first thought was that the persons on the truck would now take them to safety.¹⁹⁹⁷ Šarac then saw that the truck was approached by a group of soldiers, shouting to everyone to put their hands up.¹⁹⁹⁸ One of them said, "Come Miloš, we will not hurt you".¹⁹⁹⁹ One of the soldiers then drove the truck away, while the others walked the uniformed men towards Vedro Polje, in Knin municipality.²⁰⁰⁰ Around 3 p.m., soldiers, who the witness referred to as HV troops, called on Šarac and her family to come out of the house, and proceeded to check them for weapons. The soldiers asked them to get into a truck. While riding in the truck, which lasted one minute, she saw two men in civilian clothing lying dead on the bridge over the Orašnica river. The witness and the others in the truck were warned by one of the soldiers not to do anything or they could be killed like those two men on the bridge. The soldiers, who according to the witness were polite, said they were from Varaždin, and warned the witness about the troops from Imotski and Sinj.²⁰⁰¹ The soldiers took them to a house that Šarac believed to be in the same village.²⁰⁰² Upon their arrival, the witness, her and Ilija Šarac's children, and her mother-in-law were brought to a room

¹⁹⁹⁴ P2504 (Ružica Šarac, witness statements), p. 6 (witness statement, 1 April 1998), para. 2 (witness statement, 22 February 2008).

¹⁹⁹⁵ P2504 (Ružica Šarac, witness statements), p. 6 (witness statement, 1 April 1998).

¹⁹⁹⁶ P2504 (Ružica Šarac, witness statements), pp. 6, 11 (witness statement, 1 April 1998), para. 2 (witness statement, 22 February 2008).

¹⁹⁹⁷ P2504 (Ružica Šarac, witness statements), p. 6 (witness statement, 1 April 1998).

¹⁹⁹⁸ P2504 (Ružica Šarac, witness statements), pp. 6, 11 (witness statement, 1 April 1998).

¹⁹⁹⁹ P2504 (Ružica Šarac, witness statements), p. 6 (witness statement, 1 April 1998).

²⁰⁰⁰ P2504 (Ružica Šarac, witness statements), pp. 7, 11 (witness statement, 1 April 1998).

²⁰⁰¹ P2504 (Ružica Šarac, witness statements), p. 7 (witness statement, 1 April 1998).

²⁰⁰² P2504 (Ružica Šarac, witness statements), pp. 7, 10 (witness statement, 1 April 1998).

with about ten other people, whom Šarac described as “civilians”.²⁰⁰³ Among these persons were Anica Novoselac, born in 1913, from Civljane, and two elderly women and one man from Cetina, in Civljane municipality.²⁰⁰⁴ Meanwhile, her husband was taken upstairs.²⁰⁰⁵ Šarac was told to wait and was informed that everyone would be released once the questioning was over.²⁰⁰⁶ She stated that another group of men dressed in civilian clothing were brought upstairs as well, including an approximately 35-year-old man with dark eyes and dark hair whom she overheard protesting that he was a Croat.²⁰⁰⁷ Sometime afterwards, the witness said she saw a group of men wearing different uniforms, with black scarves or headbands. About an hour later, they were taken out of the room. Šarac chose to remain with the rest of her family and wait until her husband was released. She testified that sometime afterward her husband was brought out, along with two other men.²⁰⁰⁸ Šarac saw that her husband, who had worn his military uniform the day before, was now dressed in a black leather jacket and brown pants, and assumed that the soldiers had given him these clothes.²⁰⁰⁹ She was too afraid to say anything to him. She saw that her husband did not appear to have been mistreated.²⁰¹⁰ Immediately after they left the house, her husband and the two other men were taken behind the house, while the witness was escorted towards the gate.²⁰¹¹ This was the last time she ever saw her husband.²⁰¹²

455. Then the same group of soldiers who had previously transported Šarac to the unidentified house transported her and her family, except her husband, to the UN compound in Knin. After getting to the camp, Šarac encountered the young man she had seen earlier, the one who insisted that he was a Croat. Šarac asked him if he knew anything about the status of her husband, but he informed her that he did not. The witness later reported the disappearance of her husband to UN authorities. Šarac remained in the camp for 40 days. On 16 September 1995, persons not identified by the witness transported her, along with other refugees, from Croatia to Serbia. She stated that on the same day the man who had insisted he was a Croat was taken in by Croatian

²⁰⁰³ P2504 (Ružica Šarac, witness statements), pp. 6-7, 10 (witness statement, 1 April 1998).

²⁰⁰⁴ P2504 (Ružica Šarac, witness statements), p. 7 (witness statement, 1 April 1998).

²⁰⁰⁵ P2504 (Ružica Šarac, witness statements), pp. 7, 10 (witness statement, 1 April 1998).

²⁰⁰⁶ P2504 (Ružica Šarac, witness statements), p. 7 (witness statement, 1 April 1998).

²⁰⁰⁷ P2504 (Ružica Šarac, witness statements), pp. 7, 10 (witness statement, 1 April 1998).

²⁰⁰⁸ P2504 (Ružica Šarac, witness statements), p. 7 (witness statement, 1 April 1998).

²⁰⁰⁹ P2504 (Ružica Šarac, witness statements), pp. 6-7 (witness statement, 1 April 1998).

²⁰¹⁰ P2504 (Ružica Šarac, witness statements), p. 7 (witness statement, 1 April 1998).

²⁰¹¹ P2504 (Ružica Šarac, witness statements), pp. 7, 10 (witness statement, 1 April 1998).

²⁰¹² P2504 (Ružica Šarac, witness statements), pp. 6-7 (witness statement, 1 April 1998).

authorities on suspicion of war crimes.²⁰¹³ At least as of 1 April 1998, the witness is living in Serbia together with her children and mother-in-law.²⁰¹⁴

456. The Trial Chamber has received forensic documentation related to this alleged murder. According to this, male body KN01/397B, numbered 250, was retrieved with a white shirt, blue trousers, and black military boots from Knin cemetery on 11 August 1995, and buried at a local cemetery in Knin.²⁰¹⁵ Body KN01/397B, exhumed on 28 June 2001 from a cemetery in Knin with a metal tag marked “250”, wearing grey trousers with a black belt and black military boots, was an approximately 1.75-1.91-metre-tall male between 40 and 70 years old, with multiple back-to-front gunshot injuries to head and body found by the forensic pathologist to be the cause of death.²⁰¹⁶ On 22 February 2006, body KN01/397B was identified as Ilija Šarac, born on 3 October 1952.²⁰¹⁷ According to a report of the Zagreb Forensic Institute, dated 22 February 2005 and based on details provided by his brother Špiro Šarac, Ilija Šarac, a Serb born on 3 October 1952, died from gunshot injuries to the head and the body on 11 August 1995 at a cemetery in Knin.²⁰¹⁸

457. The Trial Chamber finds that on 5 August 1995, persons referred to as HV troops took Ružica, her husband Ilija Šarac, their children and her mother-in-law to a house in or near Kovačić in Knin municipality, where at least ten other people were being held in one room. After her husband was taken upstairs, Ružica Šarac was told to wait in the room and was informed by someone that everyone would be released once the questioning was over. More than an hour later, the persons in the room were taken out. Ružica Šarac chose to remain with the rest of her family and wait until her husband was released. On 11 August 1995, a body was retrieved from the Knin cemetery, which was identified on 22 February 2006 as Ilija Šarac. The body contained multiple back-to-front gunshot injuries to head and body, which were found to be the cause of death. The Trial Chamber notes that the report on circumstances of death of Ilija Šarac suggests that he died at the Knin cemetery on 11 August 1995. However, the sources of this report for the place and date of death are unclear. Based on Ružica Šarac’s statements and the

²⁰¹³ P2504 (Ružica Šarac, witness statements), p. 7 (witness statement, 1 April 1998).

²⁰¹⁴ P2504 (Ružica Šarac, witness statements), p. 6 (witness statement, 1 April 1998).

²⁰¹⁵ P1416 (Information on body KN01/397B, ID No. 250, with photograph).

²⁰¹⁶ P1614 (Autopsy report of KN01/397B, 24 July 2001), pp. 1-5, 7-14, 17.

²⁰¹⁷ P1999 (List of identified bodies exhumed at the New Cemetery in Knin and Gračac).

²⁰¹⁸ P2088 (Report on circumstances of death of Ilija Šarac, 22 February 2005).

forensic evidence, the Trial Chamber finds that Ilija Šarac was killed between 5 and 11 August 1995.

458. Considering that Ilija Šarac was last seen by Ružica Šarac on 5 August 1995 in the custody of persons referred to as HV troops, and that his body was found on 11 August 1995 in the Knin cemetery, the Trial Chamber finds that Ilija Šarac was killed by the persons who held him in their custody. The Trial Chamber excludes as a reasonable interpretation of the evidence any alternative scenarios, including that Ilija Šarac was released after he was taken behind the house and subsequently was shot and killed by unknown persons. Based on Ružica Šarac's description of the men as HV troops, the Trial Chamber finds that they wore military-type uniforms. Considering that the persons who took Ilija Šarac stated they were from Varaždin and that these persons held Ilija Šarac in a house, where persons wearing uniforms with black scarves or headbands were present and at least ten persons were being held, the Trial Chamber finds that these persons were members of Croatian military forces or Special Police. In this respect, the Trial Chamber has further considered the evidence underlying its findings with regard to Scheduled Killing number 1.

459. The Trial Chamber further finds that Ružica Šarac, her children, her mother-in-law, and about ten others, were kept in a room of a house in or near Kovačić by persons that the Trial Chamber has found were members of Croatian military forces or Special Police. Based on the report on the circumstances of death, dated 22 February 2005, and Ružica Šarac's testimony, the Trial Chamber finds that Ilija Šarac, Ružica Šarac, and their children were of Serb ethnicity. The evidence is insufficient to establish the ethnicity of the other persons kept in the room. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment, in chapters 5.3.2 and 5.8.2 below.

Mile and Ilija Milivojević (Further Clarification nos 162-163)

460. The Trial Chamber has received evidence with regard to the alleged murder of Mile and Ilija Milivojević primarily through the testimonies of Witness 136, Alexander Tchernetsky, Edward Flynn, Alun Roberts, and through forensic documentation.

461. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,²⁰¹⁹ testified that on 11 August 1995, she went to a house in Knin to find accommodation for some UNMOs, and met a woman called Anelka who told the witness that a blind man called Mile Milivojević (90 years old) had been killed about five days before and his body lay in a house at Cara Lazara 6 (former Sinjska Cesta).²⁰²⁰ According to what Anelka told the witness, the day after the arrival of the Croat troops she saw Ilija Milivojević being forced by three soldiers into helping load furniture from his house onto a truck. Anelka told the witness that Ilija Milivojević asked her to look after his blind father, Mile Milivojević, while he went to the police station to report the theft. The woman told Witness 136 that later on when she went to look for Mile Milivojević she found him dead in his kitchen.²⁰²¹ According to Witness 136, when the UNCIVPOL team she was with inspected the house they found the bodies of Mile and Ilija Milivojević.²⁰²² Witness 136 testified that while she herself never saw the bodies, she heard from UN personnel who did that both the men had gunshot wounds to the head.²⁰²³

462. The Trial Chamber heard evidence from a number of international observers who saw the bodies on 12 August 1995. **Alexander Tchernetsky**, an UNMO in Croatia from 20 June 1995 until December 1995,²⁰²⁴ arrived at a house on Cara Lazara-Sinjska Cesta, in Knin, around 12:55 p.m. on 12 August 1995 and found the dead bodies of two civilian.²⁰²⁵ He observed that one of the two men had been shot in the head while the other had been shot in the back.²⁰²⁶ Tchernetsky then went out of the house and reported the finding of the bodies to his superiors, who ordered to turn over the incident to the UNCIVPOL, which arrived to the house followed by the Croatian civil police, and then the bodies were removed.²⁰²⁷ The witness stated that the two men were misidentified in

²⁰¹⁹ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

²⁰²⁰ P2 (Witness 136, witness statement, 4 July 1996), pp. 6-7; Witness 136, T. 735-736.

²⁰²¹ P2 (Witness 136, witness statement, 4 July 1996), p. 7.

²⁰²² P2 (Witness 136, witness statement, 4 July 1996), p. 7; Witness 136, T. 741-742.

²⁰²³ P2 (Witness 136, witness statement, 4 July 1996), p. 7; Witness 136, T. 736, 738, 741-742.

²⁰²⁴ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), pp. 1-2; Alexander Tchernetsky, T. 3204, 3221.

²⁰²⁵ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 4; Alexander Tchernetsky, T. 3188-3189, 3324; D65 (UNCIVPOL incident report, S2-95-438, 12 August 1995); D67 (UNMO Team Podkonje report, 27 August 1995), para. 5; P117 (UNMO Sector South daily situation report, 7 p.m., 12 August 1995), p. 4; P120 (UNMO Sector South daily situation report, 7 p.m., 15 August 1995), p. 6.

²⁰²⁶ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 4; Alexander Tchernetsky, T. 3188; P117 (UNMO Sector South daily situation report, 7 p.m., 12 August 1995), p. 4.

²⁰²⁷ Alexander Tchernetsky, T. 3188; P117 (UNMO Sector South daily situation report, 7 p.m., 12 August 1995), p. 4.

a report as Mile Milivotević and Ilija Milivotević, and that he knew through a personal connection with a relative that their correct last name was Milivojević.²⁰²⁸

463. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,²⁰²⁹ testified that he, Roberts and others, including UNCIVPOL staff, visited, upon a tip by a woman living next door, a house in Knin on 12 August 1995, in which they found the decomposed bodies of two elderly men in civilian clothes, of whom one was seated and appeared to Flynn to have a gunshot wound to his head.²⁰³⁰ The neighbour told them that around 6 August 1995 Croatian soldiers had told the residents of the house that they had to register in the centre of Knin, and then carried belongings, including a TV, out of the house.²⁰³¹ Flynn and the others gave notification of the bodies to the Croatian police, who arranged for their removal.²⁰³² **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,²⁰³³ testified that on 12 August 1995, he saw the bodies of the father Mile Milivotević (1905) on a sofa and of the son Ilija Milivotević (1938) on the floor in a house in Knin.²⁰³⁴ According to the witness, both had apparently been shot in the head.²⁰³⁵ Ilija had not been seen since 6 August 1995, when three Croatian soldiers told him to report to the Knin police station.²⁰³⁶ According to Roberts, a villager found both bodies in the morning of 7 August 1995.²⁰³⁷

²⁰²⁸ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 4; D65 (UNCIVPOL incident report, S2-95-438, 12 August 1995).

²⁰²⁹ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

²⁰³⁰ P20 (Edward Flynn, witness statement, 29 June 1997), p. 20; Edward Flynn, T. 1328-1331, 1350-1351; P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 10; P32 (HRAT daily report, 12 August 1995), p. 1; P52 (Photos of bodies of Mile and Ilija Milivotević, 12 August 1995).

²⁰³¹ P20 (Edward Flynn, witness statement, 29 June 1997), p. 20; P32 (HRAT daily report, 12 August 1995), p. 1; P52 (Photos of bodies of Mile and Ilija Milivotević, 12 August 1995), p. 2.

²⁰³² P20 (Edward Flynn, witness statement, 29 June 1997), p. 20; P32 (HRAT daily report, 12 August 1995), p. 1.

²⁰³³ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

²⁰³⁴ P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 2; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 5-6.

²⁰³⁵ P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 5-6.

²⁰³⁶ P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 6.

²⁰³⁷ P700 (UNCRO photographs of bodies and crime sites in Sector South), p. 1.

464. The Trial Chamber has received forensic evidence with regard to both bodies. On 12 August 1995, male body KN01/420B, numbered 407, was found with a grey long-sleeved shirt, grey trousers, and black shoes in Knin, and buried at a local cemetery in Knin.²⁰³⁸ The remains of body KN01/420B, exhumed on 28 June 2001 from a cemetery in Knin, with a metal tag marked “407” and clothing including grey trousers with a leather belt and tattered remnants of a pair of suede shoes, was an approximately 1.60-1.76-metre-tall male between 45 and 65 years old whose cause of death the forensic pathologist could not ascertain.²⁰³⁹ According to a report of the Zagreb Institute for Forensic Medicine, dated 28 April 2004 and based on data provided by Ilija’s son Jovan Milivojević, Ilija Milivojević, a Croatian Serb born on 1 October 1933 whose father’s name was Milan, died from unknown causes in Knin, on 6 August 1995.²⁰⁴⁰ On 26 April 2002, body KN01/420B was identified by classical method as Stefan Vidović, born in 1939.²⁰⁴¹ On 28 April 2004, the Zagreb Institute for Forensic Medicine and Criminology identified body KN01/420B as Ilija Milivojević, born in 1933.²⁰⁴²

465. On 12 August 1995, male body KN01/421B, numbered 406, was found with a blue long-sleeved shirt, black-and-white striped trousers, and black shoes in Knin, and buried at a local cemetery in Knin.²⁰⁴³ Body KN01/421B, exhumed on 28 June 2001 from a cemetery in Knin, with a metal tag marked “406” and pieces of a walking stick, wearing a light grey long-sleeved shirt, shreds of dark trousers with a belt, black shoes, and a pink and brown blanket, was an approximately 1.65-1.80-metre-tall male between 50 and 85 years old, with severe degenerative joint and bone disease, whose cause of death could not be ascertained by the forensic pathologist.²⁰⁴⁴ According to a report of the Zagreb Institute for Forensic Medicine, dated 28 April 2004 and based on data provided by Milan’s grandson Jovan Milivojević, Milan Milivojević, a Croatian Serb born 1911, died from unknown causes in Knin, on 5 or 6 August 1995.²⁰⁴⁵ On 28 April

²⁰³⁸ P1419 (Information on body KN01/420B, ID No. 407, with photograph).

²⁰³⁹ P1617 (Autopsy report of KN01/420B, 17 July 2001), pp. 1-2, 4-6, 8, 11-12, 15; P1898 (Photograph of bone, KN01/420B).

²⁰⁴⁰ P2091 (Report on circumstances of death of Ilija Milivojević, 28 April 2004), pp. 54-56.

²⁰⁴¹ P659 (List of identified persons exhumed from a cemetery in Knin), p. 3.

²⁰⁴² P2006 (List of identified persons exhumed at the new cemetery in Knin and Gračac); D6 (List of bodies identified by the Zagreb Institute of Forensic Medicine and Criminology, 30 April 2004).

²⁰⁴³ P1420 (Information on body KN01/421B, ID No. 406, with photograph).

²⁰⁴⁴ P1618 (Autopsy report of KN01/421B, 23 July 2001), pp. 1-9, 11-15, 18.

²⁰⁴⁵ P2092 (Report on circumstances of death of Milan Milivojević, 28 April 2004), pp. 58-60.

2004, the Zagreb Institute for Forensic Medicine and Criminology identified body KN01/421B as Milan Milivojević, born in 1911.²⁰⁴⁶

466. The evidence indicates that Mile and Ilija Milivojević, died in Knin on 6 August 1995. The testimonial evidence indicates that both men were shot in the head and/or back, and the forensic examinations conducted nine years later, while they could not verify the causes of death, did not necessarily contradict this evidence. The evidence therefore indicates that both Mile and Ilija Milivojević died as a result of gunshot wounds. While there appears to have been two bodies exhumed with the identification number KN01/420B, based on its proximity in both the numbering system, the numbers on the metal tags, and time of exhumation to the body of Mile Milivojević, the evidence strongly indicates that the body exhumed on 28 June 2001 numbered KN01/420B belonged to Ilija Milivojević. The evidence further indicates that on 6 August 1995, three persons referred to as Croatian soldiers forced Ilija Milivojević to load furniture from his house onto a truck. However, the Trial Chamber has not received any evidence indicating that these persons killed Mile and Ilija Milivojević. Further, there is insufficient evidence as to the circumstances under which and by whom the victims were killed. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

Jovanka and Stevan Mizdrak (Further Clarification nos 180-181)

467. The Trial Chamber has received relevant evidence with regard to the alleged murders of Jovanka and Stevan Mizdrak through the testimonies of Manda Rodić and Alun Roberts, and through UNCIVPOL reports. **Manda Rodić**, a Serb from the hamlet of Mizdrakovac in the village of Strmica, in Knin municipality who was 73 years old in 1995,²⁰⁴⁷ stated that in August 1995, an HV convoy, which she identified by the letter “H” on the vehicles, came from Knin and stopped in her hamlet.²⁰⁴⁸ The witness stood at the front door of her house with Jovanka Mizdrak and Juja Momić when she saw two HV soldiers of average height, dressed in camouflage uniforms, and wearing dark helmets leaving the convoy and walking towards her home. The soldiers asked, “Are

²⁰⁴⁶ P2006 (List of identified persons exhumed at the new cemetery in Knin and Gračac); D6 (List of bodies identified by the Zagreb Institute of Forensic Medicine and Criminology, 30 April 2004).

²⁰⁴⁷ P637 (Manda Rodić, witness statement, 22 April 1998), p. 1, para. 1.

²⁰⁴⁸ P637 (Manda Rodić, witness statement, 22 April 1998), paras 3-5.

there any Chetniks or weapons in the house?”, to which the witness replied that there were no Chetniks and that she did not know if there were any weapons in the house. The soldiers then told the witness, Jovanka Mizdrak, and Juja Momić to get out of the house. Whilst she stood outside the house, the witness heard the two soldiers telling Juja Momić to sit down and stand up several times on the concrete path outside the house.²⁰⁴⁹ One soldier then pointed his gun at the witness’s house and proceeded to shoot at and break all the windows of the house. Rodić then witnessed the same soldier grab one of them by the arm and tell the woman that they must go with him as they were now under civilian protection.²⁰⁵⁰ The witness stated that the second soldier pointed at Jovanka Mizdrak and said to the first soldier that she did not want to leave. The first soldier then told the second soldier to “kill her immediately” and Rodić saw the second soldier lift his rifle and shoot Jovanka Mizdrak. The witness heard one shot and saw Jovanka fall on top of some firewood.²⁰⁵¹ The two soldiers directed Juja Momić and the witness to the side of the convoy, where they watched the soldiers rejoin the convoy, which then started moving again until it was out of sight.²⁰⁵²

468. According to a UNCIVPOL incident report dated 20 August 1995, two Serb women from Mizdrakovac hamlet in Strmica village in Knin municipality, Duka Momić, age 60, and Mawda Rodić (which the Trial Chamber understands to be a reference to Manda Rodić), age 73, told UNCIVPOL that on 8 August 1995 two HV soldiers had approached them and Jovanka Mizdrak, age 50, when they were sitting near their house.²⁰⁵³ The soldiers asked them to surrender but Jovanka Mizdrak panicked and tried to run into the house whereupon one of the soldiers shot and killed her.²⁰⁵⁴ A Serb man in the village, Nikola Bijelic, showed UNCIVPOL the spot where Jovanka Mizdrak was buried.²⁰⁵⁵ Bijelic also told UNCIVPOL that Jovanka Mizdrak’s husband, Stevan Mizdrak, was last seen walking in the fields but that he was later found shot dead.²⁰⁵⁶ **Alun Roberts**, Press and Information Officer for UN Sector South in

²⁰⁴⁹ P637 (Manda Rodić, witness statement, 22 April 1998), para. 6.

²⁰⁵⁰ P637 (Manda Rodić, witness statement, 22 April 1998), para. 7.

²⁰⁵¹ P637 (Manda Rodić, witness statement, 22 April 1998), para. 8.

²⁰⁵² P637 (Manda Rodić, witness statement, 22 April 1998), paras 9-10.

²⁰⁵³ P229 (UNCIVPOL incident report, 20 August 1995); P241 (UNCIVPOL weekly report 27 August-3 September 1995, 3 September 1995), p. 5.

²⁰⁵⁴ P229 (UNCIVPOL incident report, 20 August 1995); P241 (UNCIVPOL weekly report 27 August-3 September 1995, 3 September 1995), p. 5.

²⁰⁵⁵ P229 (UNCIVPOL incident report, 20 August 1995).

²⁰⁵⁶ P229 (UNCIVPOL incident report, 20 August 1995); P241 (UNCIVPOL weekly report 27 August-3 September 1995, 3 September 1995), p. 5.

Knin from mid-September 1993 until about mid-October 1995,²⁰⁵⁷ visited Mizdrakovac together with UNCIVPOL and one UNMO and confirmed the content of this report.²⁰⁵⁸

469. The Trial Chamber has received forensic evidence with regard to Stevan Mizdrak but not with regard to Jovanka Mizdrak. According to the evidence, male body KN04/058B, numbered 231, was found with a white, long-sleeved shirt, blue trousers, and brown sandals in Strmica in Knin municipality on 10 August 1995, and buried at a local cemetery in Knin.²⁰⁵⁹ The remains of body KN04/058B, exhumed from a cemetery in Knin on 16 May 2001, with a metal tag marked “231”, remnants of clothing and a black belt, was an approximately 1.61-1.76-metre-tall male between 45 and 55 years old, with a diagonally downwards oriented gunshot injury to the head which was found by John Clark to be the cause of death.²⁰⁶⁰ According to a report of the Zagreb Forensic Institute, dated 16 April 2003 and based on details provided by Đuro Mizdrak, Stevan Mizdrak, a Serb born 1910, died from a gunshot injury to the head in Knin on 5 August 1995.²⁰⁶¹

470. Based on the evidence received, the Trial Chamber finds that on 8 August 1995, in the hamlet of Mizdrakovac in Strmica village, Knin municipality, one man shot and killed Jovanka Mizdrak, age 50, who was standing outside the house of Manda Rodić. In this respect, the Trial Chamber notes a slight inconsistency between the evidence provided by Manda Rodić and the evidence provided through the UNCIVPOL report, with regard to the behaviour of Jovanka Mizdrak when the two persons arrived at the house. However, the Trial Chamber does not consider this inconsistency to be of importance for consideration of the finding. Considering that the shooter, as well as the person accompanying him, wore a camouflage uniform and a dark helmet, used the term “Chetniks”, and arrived in the hamlet from Knin in a convoy with vehicles marked by the letter “H”, the Trial Chamber finds that the person who killed Jovanka Mizdrak was an HV soldier. Considering that Jovanka Mizdrak’s husband was a Serb and that

²⁰⁵⁷ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

²⁰⁵⁸ P678 (Alun Roberts, witness statement, 7 February 2008), para. 20; P229 (UNCIVPOL incident report, 20 August 1995).

²⁰⁵⁹ P1421 (Information on body KN04/058B, ID No. 231, with photograph).

²⁰⁶⁰ P1619 (Autopsy report of KN04/058B, 15 June 2001), pp. 1-2, 4-5, 7, 11-13, 16; P1899 (Photograph of skull, KN04/058B); P1900 (Photograph of skull, KN04/058B); P1901 (Photograph of jaw, KN04/058B).

²⁰⁶¹ P2093 (Report on circumstances of death of Stevan Mizdrak, 16 April 2003), pp. 1-2.

according to the 1991 Population Census there were 1,298 Serbs out of a total population of 1,334 in Strmica, the Trial Chamber finds that Jovanka Mizdrak was Serb. The Trial Chamber will further consider this incident, with regard to Jovanka Mizdrak, in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 (b) below.

471. The evidence indicates that Stevan Mizdrak, a Serb, was killed by a gunshot to his head on or about 5 August 1995. However, the Trial Chamber has received insufficient evidence regarding the circumstances under which or by whom Stevan Mizdrak was killed. Under these circumstances, the Trial Chamber will not further consider this incident, with regard to Stevan Mizdrak, in relation to Counts 1, 6, and 7 of the Indictment.

Živko Stojakov (Further Clarification no. 184)

472. The Trial Chamber has received evidence with regard to the alleged murder of Živko Stojakov primarily through human rights reports and forensic documentation. According to an undated UN human rights report, a Serb woman from Drniš, who refused to give her name, reported to the UN on 10 August 1995 that she and her husband travelled towards the bridge near the UN compound where she saw a group of HV soldiers. The husband, who was wearing a UN uniform borrowed from a Canadian, cried out “Don’t shoot! UNCRO!” The HV soldiers opened fire and killed the husband with many shots. One of the HV soldiers wanted to kill her too, but another soldier told him they were not supposed to shoot women.²⁰⁶² The soldier who wanted to shoot her then made her strip to her underwear, and the HV then told her to go to the collection centre in Knin.²⁰⁶³ On the way, another HV soldier gave her some clothes to wear. HV soldiers at the collection centre sent her back to the UN compound and on the way she saw many bodies, mostly civilians, who had been shot. Some of them lay close to each other as if they had been standing in a line when shot, though according to the woman they could also have been moved there after they were shot. She also passed the body of her husband again and stated that the Canadian patch had been removed.²⁰⁶⁴

473. According to an IHF report dated 25 August 1995, detailing an IHF mission of 17 August 1995 to 19 August 1995, the IHF mission spoke to a displaced Serb woman,

²⁰⁶² D709 (UN human rights reports, 6-17 August 1995), pp. 10-11.

²⁰⁶³ D709 (UN human rights reports, 6-17 August 1995), pp. 11-12.

²⁰⁶⁴ D709 (UN human rights reports, 6-17 August 1995), p. 12.

at the UN compound in Knin, who told them that HV soldiers stopped a trailer she had been riding on near Vrbnik, Orlić municipality, on 5 August 1995 and asked her and her boyfriend, Živko Stojakov, to get down.²⁰⁶⁵ Stojakov was wearing a Canadian army uniform, but was unarmed and had documents verifying that he was not in any military service.²⁰⁶⁶ As soon as they stepped off the trailer, a soldier opened fire on Stojakov with his AK-47 rifle, killing him immediately.²⁰⁶⁷ The soldiers then attempted to rape the witness but another group of HV soldiers arrived and stopped them.²⁰⁶⁸ Several hours later the woman was dropped off at the UN compound.²⁰⁶⁹

474. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,²⁰⁷⁰ testified that on 5 August 1995 a woman arrived at the UN compound in Knin and described how Croatian soldiers had made her walk naked through the town after having killed her husband at the Atlagić bridge near to the UN compound.²⁰⁷¹ Witness 136 testified that although she saw the woman around the compound, she never spoke to her personally but had heard about the incident from another interpreter.²⁰⁷²

475. According to the forensic evidence, the well-preserved remains of body KN03/098B, exhumed on 30 April 2001 from a cemetery in Knin, wearing in particular military camouflage overalls, a white shirt with blue stripes, and two black boots, was an approximately 1.65-1.81-metre-tall male between 35 and 55 years old, with gunshot injuries to the chest which were found by the forensic pathologist to be the cause of death.²⁰⁷³ According to a report of the Zagreb Institute for Forensic Medicine, dated 8 November 2005 and based on details provided by Živko's sister, Živko Stojakov, a Serb from Serbia born on 29 April 1961, died from a gunshot injury to the chest in Knin, on 5 August 1995.²⁰⁷⁴ On 8 November 2005, body KN03/098B was identified as Živko Stojakov, born on 29 April 1961.²⁰⁷⁵

²⁰⁶⁵ P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), p. 2, para. 2.1.5.

²⁰⁶⁶ P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 2.1.5.

²⁰⁶⁷ P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 2.1.5.

²⁰⁶⁸ P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 2.1.5.

²⁰⁶⁹ P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 2.1.5.

²⁰⁷⁰ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

²⁰⁷¹ P2 (Witness 136, witness statement, 4 July 1996), pp. 4-5, Witness 136, T. 724.

²⁰⁷² Witness 136, T. 725-726.

²⁰⁷³ P1620 (Autopsy report of KN03/098B, 21 June 2001), pp. 1-2, 4-6, 8, 11-13, 16; P1902 (Photograph of remains, KN03/098B); P1903 (Photograph of remains, KN03/098B).

²⁰⁷⁴ P2094 (Report on circumstances of death of Živko Stojakov, 8 November 2005), pp. 1-3.

²⁰⁷⁵ P2007 (List of identified persons exhumed at the New Cemetery in Knin and in Gračac, 8 November 2005).

476. Based on the many similarities of the accounts in the UN human rights report, the IHF report, and Witness 136's testimony, the Trial Chamber is satisfied that the three pieces of evidence refer to the same incident. The Trial Chamber notes that the source for the evidence is the woman accompanying the victim, and that the accounts of the events are consistent. The Trial Chamber finds that on or shortly after 5 August 1995, near a bridge close to the UN compound in Knin, Živko Stojakov, of Serb ethnicity, was shot and killed by one or more persons referred to as HV soldiers. The Trial Chamber also finds that the victim was wearing a borrowed Canadian UN uniform but was unarmed and carrying documentation confirming his civilian status. The Trial Chamber further finds that he was shouting, "Don't shoot! UNCRO!" before he was killed. Finally, the Trial Chamber finds that the same persons forced the Serb woman to undress and threatened her. Based on the description of the perpetrators as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. However, the documentary evidence does not provide further details as to the factual basis for the qualification of the perpetrators as HV soldiers. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. However, in this respect the Trial Chamber recalls the evidence underlying its findings in chapter 4.2.9 with regard to alleged destruction and plunder in Knin town. Based on the foregoing, the Trial Chamber finds that the persons were members of HV or VP. The Trial Chamber will further consider this incident in relation to Counts 1, 6, 7, 8, and 9 of the Indictment in chapters 5.3.2, 5.7.2, and 5.8.2 below.

Đurđija Mirković

477. The Trial Chamber has received evidence with regard to the alleged murder of Đurđija Mirković through the testimonies of Sava Mirković, Smiljana Mirković, and Jovan Mirković.

478. **Sava Mirković**, a Serb from Mirkovići hamlet in Polača village in Knin municipality, who was at times mobilized in the SVK,²⁰⁷⁶ testified that when he left Mirkovići with his family on 4 August 1995, his mother Đurđija Mirković née Ivekić

²⁰⁷⁶ P723 (Sava Mirković, witness statement, 9 March 2007), p. 1, para. 1; D720 (Sava Mirković, Prosecution supplemental information sheet, 25 August 2008), p. 1; Sava Mirković, T. 7409, 7413-7415, 7434-7436, 7438-7440, 7480-7481, 7484-7485.

(born 1925) refused to leave with them.²⁰⁷⁷ Upon arrival in Serbia, the witness reported to the ICRC and the Yugoslavian Red Cross that his mother had stayed behind.²⁰⁷⁸ On 14 or 15 August 1995, the witness spoke on the telephone to his friend Dušan Mirković in Split, who said that he had been back to the witness's house and found Đurđija's remains.²⁰⁷⁹ Dušan said that something had been poured over her and that she had been set on fire, and that he had told Jovan Mirković and Mijo Lažić to bury the remains upon their release from prison.²⁰⁸⁰ On 24 August 1995, the witness was informed by his friend that Mijo, Jovan, and Jovan's son Dušan had buried Đurđija's remains about 50 metres from the house.²⁰⁸¹ Sometime in 1995, the witness got in touch with Jovan and Smiljana Mirković in Bosansko Novo Selo.²⁰⁸² Jovan said that when he came out of prison on about 21 August 1995, he went with his son Dušan and Mijo Lažić to the house, put the remaining bones in blankets, and buried them in the yard by the well.²⁰⁸³ Smiljana told the witness that on 12 August 1995, she was together with Đurđija in the courtyard of the witness's house when two soldiers in HV uniforms approached them across the fields, climbing over fences. One of the soldiers started shooting from a distance of about ten metres. Đurđija fell immediately, Smiljana fainted and when she regained consciousness she saw that Đurđija was dead.²⁰⁸⁴ The witness reported the death of his mother to the ICRC and the Yugoslavian Red Cross.²⁰⁸⁵

479. **Smiljana Mirković**, a Serb from Polača in Knin municipality,²⁰⁸⁶ testified that her village was shelled from 5 a.m. on 4 August 1995 and that most villagers left on that day.²⁰⁸⁷ Three or four days after the initial shelling, Croatian soldiers came to the village and set the house of a neighbour, Ilinka Mirković, on fire.²⁰⁸⁸ Other houses were also set on fire and the witness saw smoke over parts of the village.²⁰⁸⁹ On 12 August 1995,

²⁰⁷⁷ P723 (Sava Mirković, witness statement, 9 March 2007), paras 1, 6-8; D720 (Sava Mirković, Prosecution supplemental information sheet, 25 August 2008), p. 1; Sava Mirković, T. 7409, 7422.

²⁰⁷⁸ P723 (Sava Mirković, witness statement, 9 March 2007), para. 10; D720 (Sava Mirković, Prosecution supplemental information sheet, 25 August 2008), p. 2; Sava Mirković, T. 7476.

²⁰⁷⁹ P723 (Sava Mirković, witness statement, 9 March 2007), para. 10; Sava Mirković, T. 7416-7417, 7422.

²⁰⁸⁰ P723 (Sava Mirković, witness statement, 9 March 2007), para. 10; Sava Mirković, T. 7422.

²⁰⁸¹ P723 (Sava Mirković, witness statement, 9 March 2007), para. 10.

²⁰⁸² Sava Mirković, T. 7422, 7424.

²⁰⁸³ Sava Mirković, T. 7424.

²⁰⁸⁴ D720 (Sava Mirković, Prosecution supplemental information sheet, 25 August 2008), p. 1; Sava Mirković, T. 7422-7423.

²⁰⁸⁵ Sava Mirković, T. 7476.

²⁰⁸⁶ P629 (Smiljana Mirković, witness statement, 9 March 2007), p. 1, para. 1.

²⁰⁸⁷ P629 (Smiljana Mirković, witness statement, 9 March 2007), para. 1.

²⁰⁸⁸ P629 (Smiljana Mirković, witness statement, 9 March 2007), paras 1, 3.

²⁰⁸⁹ P629 (Smiljana Mirković, witness statement, 9 March 2007), para. 3.

Croatian soldiers came to her house and told her not to be afraid and that they were “cleaning the area” from soldiers. On the same day, three soldiers came to the house of Đurđija Mirković (born 1925) while she and the witness stood outside at the gate. While cursing the two women’s Serb mothers, one soldier shot Đurđija Mirković. Although not hit, the witness fell down and lost consciousness.²⁰⁹⁰ After she woke up and realized that Đurđija Mirković was dead, she fled the village and after about eleven days came to the UNPROFOR headquarters in Knin, together with her husband Jovan Mirković.²⁰⁹¹ After some weeks, the witness travelled to Sremska Mitrovica in Serbia in a convoy.²⁰⁹²

480. **Jovan Mirković**, a Serb from Polača in Knin municipality who was 67 years old in 1995,²⁰⁹³ testified that Polača was shelled on 4 August 1995 after which a lot of people fled the village. After 5 August 1995 very few people remained in the village and only the witness, his wife, and three others, including Đurđija Mirković, remained in the hamlet Mirkovići.²⁰⁹⁴ Two to three days after the shelling, the witness encountered five armed men wearing camouflage uniforms, travelling in a car.²⁰⁹⁵ They told him that they were going to “burn everything”. The men forced the witness to come with them by walking in front of the car.²⁰⁹⁶ Eventually, the witness was taken to a large military building in the village of Vrlike in Split municipality by four other men in camouflage uniform. Before the witness entered the building he was beaten by a man called Božo Slavić, who was also wearing a camouflage uniform. Slavić hit the witness on the head with a rifle butt and in the stomach with a baton as well as in the back. He cursed the witness’s Serb mother and told him that although Tuđman might give the witness the right to live in Croatia, he would not. The witness was then interrogated and pushed in the ribs with a club.²⁰⁹⁷ After about an hour and a half the witness was taken to Sinj in Split municipality where he was detained with twelve or thirteen other people.²⁰⁹⁸ The witness’s son later came to Sinj at which point the witness managed to leave with him. The witness eventually ended up in the “UNPROFOR headquarters”, together with his wife, Smiljana Mirković, and then joined a convoy for Sremska

²⁰⁹⁰ P629 (Smiljana Mirković, witness statement, 9 March 2007), para. 4.

²⁰⁹¹ P629 (Smiljana Mirković, witness statement, 9 March 2007), paras 4-6.

²⁰⁹² P629 (Smiljana Mirković, witness statement, 9 March 2007), para. 6.

²⁰⁹³ P628 (Jovan Mirković, witness statement, 9 March 2007), p. 1.

²⁰⁹⁴ P628 (Jovan Mirković, witness statement, 9 March 2007), para. 1.

²⁰⁹⁵ P628 (Jovan Mirković, witness statement, 9 March 2007), paras 1-2.

²⁰⁹⁶ P628 (Jovan Mirković, witness statement, 9 March 2007), para. 2.

²⁰⁹⁷ P628 (Jovan Mirković, witness statement, 9 March 2007), para. 4.

²⁰⁹⁸ P628 (Jovan Mirković, witness statement, 9 March 2007), para. 5.

Mitrovica in Serbia.²⁰⁹⁹ The witness later learned from his wife that Đurđija Mirković had been killed. The witness found her burned body and testified that her house had been burned.²¹⁰⁰ When the witness returned to his house in Polača in 2006 the house was completely destroyed.²¹⁰¹

481. Based on the evidence received, the Trial Chamber finds that on 12 August 1995, in Mirkovići hamlet, Polača village in Knin municipality, two or three persons referred to as soldiers approached Smiljana and Đurđija Mirković, born 1925 and, while cursing the two women's Serb mothers, one of them shot Đurđija from about ten metres distance and killed her. Considering that Smiljana Mirković referred to the persons as soldiers in her testimony, that according to Sava Mirković, Smiljana had told him that the persons wore HV uniforms, and the persons' insults concerning the Serb ethnicity of Đurđija's and Smiljana's mothers, the Trial Chamber finds that the person who shot Đurđija Mirković was a member of the HV. Considering Sava Mirković's testimony that all inhabitants of Mirkovići hamlet were Serbs (see chapter 4.5.3), the Trial Chamber finds that Đurđija Mirković was of Serb ethnicity. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 (b) below.

Miso Matković and Žarko Vukmirović

482. The Trial Chamber has primarily received information about the alleged murder of Miso Matković and Žarko Vukmirović through UNCIVPOL reports. According to a UNCIVPOL incident report dated 7 August 1995, two women reported to UNCIVPOL that their Serb husbands, Miso Matković and Žarko Vukmirović, were among a group of people walking to the UN compound in Knin at around 1 p.m. on 5 August 1995.²¹⁰² Between the Knin hospital and the ECMM building the men were taken by ten Croatian

²⁰⁹⁹ P628 (Jovan Mirković, witness statement, 9 March 2007), para. 6.

²¹⁰⁰ P628 (Jovan Mirković, witness statement, 9 March 2007), para. 7.

²¹⁰¹ P628 (Jovan Mirković, witness statement, 9 March 2007), para. 8.

²¹⁰² P3 (Witness 136, witness statement, 11 June 2007), para. 22; D75 (UNCIVPOL report on possible human rights violations, 8 August 1995), p. 4 (UNCIVPOL incident report, S2-95-436 429, 7 August 1995).

soldiers.²¹⁰³ The reporting parties, their wives, did not know where they had been taken.²¹⁰⁴

483. Beyond the information contained in the UNCIVPOL incident report, the Trial Chamber has received no further evidence about the fate of Miso Matković and Žarko Vukmirović, including whether they remained missing after 7 August 1995, and if, and under what circumstances, they died. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

4.1.10 Lišane Ostrovičke municipality

484. The Trial Chamber has received no, or insufficient, relevant evidence with regard to alleged murders in Lišane Ostrovičke municipality.

4.1.11 Lisičić municipality

485. The Trial Chamber has received no, or insufficient, relevant evidence with regard to alleged murders in Lisičić municipality.

4.1.12 Nadvoda municipality

486. The Trial Chamber has received no, or insufficient, relevant evidence with regard to alleged murders in Nadvoda municipality.

4.1.13 Obrovac municipality

487. The Trial Chamber has received no, or insufficient, relevant evidence with regard to alleged murders in Obrovac municipality.

²¹⁰³ P3 (Witness 136, witness statement, 11 June 2007), para. 22; D75 (UNCIVPOL report on possible human rights violations, 8 August 1995), p. 4 (UNCIVPOL incident report, S2-95-436 429, 7 August 1995).

²¹⁰⁴ P3 (Witness 136, witness statement, 11 June 2007), para. 22; D75 (UNCIVPOL report on possible human rights violations, 8 August 1995), p. 4 (UNCIVPOL incident report, S2-95-436 429, 7 August 1995).

4.1.14 Oklaj municipality

488. The Trial Chamber has received no, or insufficient, relevant evidence with regard to alleged murders in Oklaj municipality.

4.1.15 Orlić municipality

Stevo Berić and others (Schedule no. 7)

489. The Trial Chamber has received evidence with regard to the alleged murder of Stevo Berić and others, and alleged destruction in Uzdolje in Orlić municipality primarily through the testimonies of Witness 3, Dragutin Junjga, and Witness 67. According to the 1991 Population Census, the population of Uzdolje consisted of 766 Serbs out of a total of 767 persons in 1991.²¹⁰⁵

490. **Witness 3**, a Serb from the Serb village Uzdolje in Orlić municipality,²¹⁰⁶ testified that around 5 a.m. on 4 August 1995 she was woken up by strong detonations.²¹⁰⁷ The witness heard detonations, and then saw smoke rising from Promina hill.²¹⁰⁸ According to the witness a lot of the shells seemed to be landing near the radio-communications tower that was located on Promina.²¹⁰⁹ The shelling was intense until 7 a.m., after which the witness only heard occasional shells.²¹¹⁰ Witness 3 testified that at approximately 6:30 p.m. on 5 August 1995 she fled her village with four other persons along the road in the direction of Knin via Vrbnik in Orlić municipality.²¹¹¹ The others were Stevo Berić (born in 1933), his wife Janja (born in 1931), Đura Berić (born in 1920), and Bosiljka Berić (born in 1965).²¹¹² The witness had not heard about any evacuation plan for the village.²¹¹³ When they came close to the hamlet of Amanovići in Vrbnik around 8 p.m., the witness saw the entire hamlet burn and heard shouting and automatic weapons fire.²¹¹⁴ The witness thought it was the HV,

²¹⁰⁵ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

²¹⁰⁶ P81 (Witness 3, witness statement, 13 October 2003), paras 1, 3, 5; Witness 3, T. 1872-1873, 1906.

²¹⁰⁷ P81 (Witness 3, witness statement, 13 October 2003), para. 5; Witness 3, T. 1906.

²¹⁰⁸ P81 (Witness 3, witness statement, 13 October 2003), para. 5; P82 (Witness 3, witness statement, 10 July 2007), para. 2; Witness 3, T. 1906.

²¹⁰⁹ P82 (Witness 3, witness statement, 10 July 2007), para. 2; Witness 3, T. 1906.

²¹¹⁰ P81 (Witness 3, witness statement, 13 October 2003), para. 6.

²¹¹¹ P81 (Witness 3, witness statement, 13 October 2003), paras 5, 7-8.

²¹¹² P81 (Witness 3, witness statement, 13 October 2003), paras 5, 8.

²¹¹³ Witness 3, T. 1907.

²¹¹⁴ P81 (Witness 3, witness statement, 13 October 2003), para. 8; P82 (Witness 3, witness statement, 10 July 2007), para. 3; Witness 3, T. 1900-1903.

because the SVK had already fled together with the population.²¹¹⁵ The witness could also see fire from neighbouring hamlets, which were too far to see the extent of the burning there.²¹¹⁶ The five returned to Uzdolje.²¹¹⁷

491. The witness testified that around 7 a.m. on 6 August 1995 she and the four others left their village again, in the direction of the main road from Knin to Drniš.²¹¹⁸ When they arrived in Šare hamlet, in Orlić municipality, around 8 a.m., they met Krste Šare (born in 1930), Bosa Šare (born in 1940), Jandrija Šare (born in 1932), and Milica Šare (born in 1922) who had no intention to flee.²¹¹⁹ Everyone wore civilian clothes.²¹²⁰ While they were standing next to the dirt road leading from the main road to the houses (which the witness called the “Progon”), three men approached them in a white civilian Renault car and started shooting towards the witness and her companions from a distance of around 30 metres.²¹²¹ The three men cursed the “Chetnik” mothers of the witness and her companions, and asked for money and gold.²¹²² They asked Stevo Berić for documents.²¹²³ While Stevo Berić was showing his documents to the men, one of them pushed him, and he fell to the ground.²¹²⁴ When Stevo Berić tried to collect his documents one of the men said: “You won’t need them anymore”.²¹²⁵ One of the three men had blood-shot eyes, long black hair, was wearing a black t-shirt, with a black ribbon that read “for the fatherland – ready”, camouflage pants, and a black handkerchief around his neck.²¹²⁶ The other two men wore camouflage uniforms.²¹²⁷ All three were armed with automatic weapons.²¹²⁸ They wore insignia but the witness could not remember which kind, except that they were not of the 7th Varaždin Brigade.²¹²⁹ One of the men in camouflage uniform pointed an automatic rifle at the back of Bosiljka

²¹¹⁵ Witness 3, T. 1902-1904.

²¹¹⁶ P82 (Witness 3, witness statement, 10 July 2007), para. 3.

²¹¹⁷ P81 (Witness 3, witness statement, 13 October 2003), para. 8; P82 (Witness 3, witness statement, 10 July 2007), para. 3.

²¹¹⁸ P81 (Witness 3, witness statement, 13 October 2003), paras 8-9; Witness 3, T. 1874.

²¹¹⁹ P81 (Witness 3, witness statement, 13 October 2003), para. 10; Witness 3, T. 1908.

²¹²⁰ P81 (Witness 3, witness statement, 13 October 2003), para. 17; P82 (Witness 3, witness statement, 10 July 2007), para. 4.

²¹²¹ P81 (Witness 3, witness statement, 13 October 2003), paras 10-11; Witness 3, T. 1877, 1897, 1908.

²¹²² P81 (Witness 3, witness statement, 13 October 2003), paras 11-12; Witness 3, T. 1897.

²¹²³ P81 (Witness 3, witness statement, 13 October 2003), para. 12.

²¹²⁴ P81 (Witness 3, witness statement, 13 October 2003), para. 12.

²¹²⁵ P81 (Witness 3, witness statement, 13 October 2003), para. 12.

²¹²⁶ P81 (Witness 3, witness statement, 13 October 2003), para. 11; Witness 3, T. 1916.

²¹²⁷ P81 (Witness 3, witness statement, 13 October 2003), para. 11.

²¹²⁸ P81 (Witness 3, witness statement, 13 October 2003), para. 11; Witness 3, T. 1897.

²¹²⁹ P81 (Witness 3, witness statement, 13 October 2003), para. 11; Witness 3, T. 1878-1879, 1910.

Berić and walked around with her, checking the surrounding houses.²¹³⁰ Then he ordered the witness and her companions to move along the “Progon” towards the main road.²¹³¹ One of the men said: “Let’s finish them off, our lamb will get cold”.²¹³² The men stopped them 25-30 metres from the main road next to a hedge, and another man arrived who ordered them to sit down.²¹³³ The witness and her companions could not be seen from the main road where the HV was passing in the direction of Knin.²¹³⁴ The men stopped a van on the main road that was coming from the direction of Knin, and one of them told someone in the van to pick up the witness on the way back.²¹³⁵ One of the two man asked whether the witness knew who a person named Tomson was, and upon the witness’s negative answer, the man stated that Tomson was the brother of the man with long black hair, sang Ustasha songs, and had he been there, the witness would not have said a single word.²¹³⁶ When the van came back after 15 minutes the man in the black T-shirt ordered the witness to get in the van.²¹³⁷ The driver of the van wore a uniform with the insignia of the 7th Varaždin Brigade and stripes.²¹³⁸ One of the men in camouflage uniform and Bosiljka Berić were in an official vehicle of the “Knin-gips” factory, a blue Lada.²¹³⁹

492. Around 9:30 a.m. both vehicles drove away in the direction of Knin, which was the last time the witness saw her companions alive.²¹⁴⁰ On the way, the witness saw bodies of dead animals, destroyed vehicles, and haystacks on fire along the road to Knin through Vrbničko Polje in Knin municipality.²¹⁴¹ The witness estimated that at least half of the houses on the side of the road were in flames.²¹⁴² At Konj in Knin municipality, the witness saw 20-30 Croatian soldiers acting wildly.²¹⁴³ The driver of the van told the witness that he was a Croatian officer.²¹⁴⁴ He drove the witness to a two-storey building

²¹³⁰ P81 (Witness 3, witness statement, 13 October 2003), para. 13; Witness 3, T. 1886, 1916-1917.

²¹³¹ P81 (Witness 3, witness statement, 13 October 2003), para. 13.

²¹³² P81 (Witness 3, witness statement, 13 October 2003), para. 14.

²¹³³ P81 (Witness 3, witness statement, 13 October 2003), para. 14; Witness 3, T. 1886.

²¹³⁴ P81 (Witness 3, witness statement, 13 October 2003), para. 14; Witness 3, T. 1898-1899.

²¹³⁵ P81 (Witness 3, witness statement, 13 October 2003), para. 14; P82 (Witness 3, witness statement, 10 July 2007), para. 5; Witness 3, T. 1887.

²¹³⁶ P81 (Witness 3, witness statement, 13 October 2003), para. 14.

²¹³⁷ P81 (Witness 3, witness statement, 13 October 2003), paras 14-15; Witness 3, T. 1917.

²¹³⁸ P81 (Witness 3, witness statement, 13 October 2003), para. 14.

²¹³⁹ P81 (Witness 3, witness statement, 13 October 2003), para. 15; Witness 3, T. 1917.

²¹⁴⁰ P81 (Witness 3, witness statement, 13 October 2003), para. 15; Witness 3, T. 1887, 1917.

²¹⁴¹ P81 (Witness 3, witness statement, 13 October 2003), paras 9, 16; P82 (Witness 3, witness statement, 10 July 2007), para. 6.

²¹⁴² P82 (Witness 3, witness statement, 10 July 2007), para. 6.

²¹⁴³ P81 (Witness 3, witness statement, 13 October 2003), para. 16.

²¹⁴⁴ P81 (Witness 3, witness statement, 13 October 2003), para. 16.

in Knin which, according to the driver, was their headquarters.²¹⁴⁵ It was across the road from a UN compound.²¹⁴⁶ The witness overheard the driver tell some troops that once Bosiljka Berić had arrived they would be handed over to the UN.²¹⁴⁷ Around noon Bosiljka Berić had not arrived yet and the driver took the witness to look for her.²¹⁴⁸ When they arrived at the spot where the others had stayed, the armed men were gone.²¹⁴⁹ From a distance of approximately ten metres the witness saw the dead bodies of Stevo Berić, Janja Berić, and Đura Berić.²¹⁵⁰ Stevo had a gunshot wound in the chest.²¹⁵¹ The bodies were 25-30 metres away from the main road along the “Progon”, near a tree on the grassy patch between the road and the hedge.²¹⁵² Krste Šare was approximately five metres away from them, kneeling on the road.²¹⁵³ He was wounded, but still alive.²¹⁵⁴ The driver immediately drove back to Knin and handed the witness over at the UN compound, where she met Bosiljka Berić.²¹⁵⁵ Ten days later the witness learned at the compound that Krste Šare, Jandrija Šare, Milica Šare, and Miloš Ćosić had been killed as well.²¹⁵⁶

493. **Dragutin Junjga**, a Serb from Uzdolje in Orlić municipality,²¹⁵⁷ stated that on 5 August 1995, approximately 150 members of the HV entered the village from the direction of Drniš. The witness stated that they were shooting in the air, appeared to be very happy, and that from his house, located 400 metres from the main road, he could see two houses – those belonging to Jovo Injac and to Milan Šare – immediately beginning to burn. The witness stated that on a Sunday morning, which in light of the other available evidence the Trial Chamber understands to be 6 August 1995, Stevan Berić, Janja Berić, Đuka Berić, and Bosiljka Šare came to the witness’s house with their bags and informed him that they were ready to leave the village for Serbia. They asked the witness to join them. The witness told them that he did not want to leave. The witness then walked with them for approximately 300 metres. The witness saw that a

²¹⁴⁵ P81 (Witness 3, witness statement, 13 October 2003), para. 16; Witness 3, T. 1900.

²¹⁴⁶ P81 (Witness 3, witness statement, 13 October 2003), para. 16; Witness 3, T. 1900.

²¹⁴⁷ P81 (Witness 3, witness statement, 13 October 2003), para. 16; Witness 3, T. 1900.

²¹⁴⁸ P81 (Witness 3, witness statement, 13 October 2003), paras 16-17.

²¹⁴⁹ P81 (Witness 3, witness statement, 13 October 2003), paras 16-17; P82 (Witness 3, witness statement, 10 July 2007), para. 7; Witness 3, T. 1875.

²¹⁵⁰ P81 (Witness 3, witness statement, 13 October 2003), para. 17.

²¹⁵¹ P81 (Witness 3, witness statement, 13 October 2003), para. 17.

²¹⁵² Witness 3, T. 1875-1877.

²¹⁵³ P81 (Witness 3, witness statement, 13 October 2003), para. 17; Witness 3, T. 1876-1877.

²¹⁵⁴ P81 (Witness 3, witness statement, 13 October 2003), para. 17; Witness 3, T. 1876.

²¹⁵⁵ P81 (Witness 3, witness statement, 13 October 2003), para. 18.

²¹⁵⁶ P81 (Witness 3, witness statement, 13 October 2003), para. 18.

²¹⁵⁷ P2518 (Dragutin Junjga, witness statement, 22 April 1998), pp. 1-2.

white car – either a Lada, a Fiat, or a Renault – stopped not far from them. Two soldiers stepped out of the car and began shooting in the air and shouting at them to stop.²¹⁵⁸ The witness described the soldiers as being young and wearing military uniforms.²¹⁵⁹ The witness managed to hide in a stable.²¹⁶⁰ Later he heard the soldiers and Miloš Ćosić calling his name.²¹⁶¹ The witness escaped through a small window of the stable and ran towards the woods.²¹⁶² In the woods, the witness found Rade Šare and the two stayed together from this moment on.²¹⁶³ The witness saw that the soldiers took the group towards the road leading to the factory. A bit later, the witness saw the soldiers bring the group to a new house, located 800 metres from where the witness was hiding. The witness heard automatic rifle shots; both rounds of shots and single shots. The witness was very scared.²¹⁶⁴

494. Around 1 p.m., Bosiljka Šare found the witness and Rade Šare in the forest. The witness noticed that she was wounded in the thigh, ear, and head. According to the witness, she appeared to be in shock. Around 3 p.m., they arrived at the witness's house, where Bosiljka Šare changed her clothes. They stayed in the witness's basement for three days. On a Tuesday, which the Trial Chamber understands to be 8 August 1995, the witness stated that he “decided to take a look at the place where everything had happened”. The witness observed seven bodies near a heap of sand, and was able to identify the bodies as those of Stevan Berić, Janja Berić, Đuka Berić, Krste Šare, Jandria Šare, Milica Šare, and Miloš Ćosić. The witness observed that the weather had been warm and that the bodies were covered in dry blood and were blackened and decomposed, making it difficult to see the bullet holes. The witness further stated that, on Thursday, which the Trial Chamber understands to be 10 August 1995, unidentified persons removed the bodies. The witness stated that the Croatian police never questioned him about this event.²¹⁶⁵ The witness further stated that he sometimes hid in the forest with his mother and sometimes stayed at home. On a Thursday, by which time only five people remained in the village according to the witness – himself, his mother, Rade Šare, Jovan Petrović (born 1910), and Đuka Petko (born 1912) – as he was

²¹⁵⁸ P2518 (Dragutin Junjga, witness statement, 22 April 1998), p. 2.

²¹⁵⁹ P2518 (Dragutin Junjga, witness statement, 22 April 1998), p. 3.

²¹⁶⁰ P2518 (Dragutin Junjga, witness statement, 22 April 1998), pp. 2-3.

²¹⁶¹ P2518 (Dragutin Junjga, witness statement, 22 April 1998), p. 3.

²¹⁶² P2518 (Dragutin Junjga, witness statement, 22 April 1998), p. 3.

²¹⁶³ P2518 (Dragutin Junjga, witness statement, 22 April 1998), pp. 2-3.

²¹⁶⁴ P2518 (Dragutin Junjga, witness statement, 22 April 1998), p. 3.

²¹⁶⁵ P2518 (Dragutin Junjga, witness statement, 22 April 1998), p. 3.

approaching his house from the mountain where he had been hiding, he saw almost all of the approximately 200 houses in the village burning. Only three houses, including the witness's, were not burning.²¹⁶⁶

495. **Witness 67**, a Serb from the village of Uzdolje in Orlić municipality,²¹⁶⁷ stated that in the morning of 4 August 1995 shelling hit the SVK position on the Promina mountain and the village of Ožegovići. Around 3 p.m. Valentina Šare came to Uzdolje and told the witness that people were fleeing from Knin towards Srb, in Donji Lapac municipality. At approximately 9 p.m. that day, an SVK unit from Baljak and Drniš passed Uzdolje, and upon their suggestion people started leaving the village. According to the witness, approximately 35 out of the 360 inhabitants of Uzdolje remained in the village after the military offensive, which the Trial Chamber understands to mean 4 or 5 August 1995. Prior to the offensive, the inhabitants of Uzdolje had been registered by the military once every two to three months. According to the witness, this was done to prepare for a situation where the inhabitants had to be evacuated. However, when the offensive started, no evacuation was initiated.²¹⁶⁸

496. Around 6 p.m. on 5 August 1995, the witness heard increasingly loud and frequent gunfire from the direction of Šibenik.²¹⁶⁹ The witness stated that as a result of this shooting, two houses near the road caught fire. After 9 p.m., the witness heard singing and celebrating troops pass by her village, without entering it, and continue towards Knin. On 6 August 1995, Jandrija Šare told the witness that the house of Miloš Šare had caught fire when HV troops were advancing towards Knin. Later that day, the witness saw that only the walls and the roof tiles remained of the house. When the witness came to Krsta Šare's house she saw in the yard three armed young soldiers with short dark hair, in olive green camouflage uniform trousers, sky blue shirts, and dark-blue caps, similar to the ones used by railroad employees, with checkerboard emblems. Milica Šare, Stevo Berić, Janja Berić, Bosiljka Berić, Đuka Berić, and Krsta Šare, and another villager were in the yard. Upon spotting the witness, one of the soldiers ran after her, hit her on the arm with his rifle butt, asked whether there was anyone else in the house and then asked her to join the others. One soldier entered the house of Sava Šare

²¹⁶⁶ P2518 (Dragutin Junjga, witness statement, 22 April 1998), p. 2.

²¹⁶⁷ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 2.

²¹⁶⁸ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 2.

²¹⁶⁹ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 2.

and returned, saying that “there was nothing, only an immobile woman”.²¹⁷⁰ Then the soldiers asked the group, including the witness, to walk from the house towards a factory.²¹⁷¹ After having walked approximately 20 metres, the soldiers told them to stop, upon which one of them tore up Stevo Berić’s identification documents, saying “you don’t need this anymore”. Another soldier took a sack from Janja Berić and threw it away. The soldier asked Janja Berić where her sons were, and she answered that one was in Belgrade and the other in Russia.²¹⁷² While walking again, the soldiers asked who they had seen fleeing when they entered the village, somebody in the group answered that it could have been Dragan Junjga, and the group stopped one more time when one of the soldiers took Bosiljka Berić to search for Dragan Junjga in his house. Once the group had arrived at the Knin-Drniš asphalt road, one soldier left and went towards Drniš together with the other villager mentioned by the witness. Another soldier went to a factory with Bosiljka Berić, outside of which the witness saw many parked civilian vehicles and approximately ten to fifteen uniformed HV soldiers. From the language used by the soldiers, she inferred that the factory was used as a kind of police station.²¹⁷³ The soldier who had hit the witness earlier stayed with the group.²¹⁷⁴ He had a conversation with an armed soldier wearing camouflage uniform who was heading towards Drniš, to whom he told that he was going to kill the group, upon which the latter soldier responded that he should not do so. Upon the soldier’s orders, the group started walking back from the main road to the village, the Progon road, as the soldier told the witness, “Fuck your mother for what you did to Vukovar”. The soldier added that, “It is not Tuđman who is killing you, it is an Ustasha”. He asked the group whether anyone knew someone from the village of Žitnić. When Krsta Šare responded that he did, and named a person, the soldier turned to him and stated that there was no God on earth that could save him.²¹⁷⁵ Approximately halfway down the Progon road, nearby the house of Bosko Petko, the soldier ordered them to sit again and spotted Miloš Ćosić, whom the soldier ordered to look for Dragan Junjga and then to join the group.²¹⁷⁶ The soldier drew a “U” in the dust and stated that it was the golden letter,

²¹⁷⁰ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 3.

²¹⁷¹ P2505 (Witness 67, witness statements), 31 March 1998 statement, pp. 3, 8-9.

²¹⁷² P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 3.

²¹⁷³ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 4.

²¹⁷⁴ P2505 (Witness 67, witness statements), 31 March 1998 statement, pp. 3-4.

²¹⁷⁵ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 4.

²¹⁷⁶ P2505 (Witness 67, witness statements), 31 March 1998 statement, pp. 4, 8-9.

after which he sprayed bullets at the group with an automatic rifle gun.²¹⁷⁷ At this point the group consisted of Witness 67, Milica Šare, Stevo Berić, Janja Berić, Đuka Berić, Krsta Šare, Miloš Čosić, and Jandrija Šare.²¹⁷⁸ Immediately after this, the soldier walked towards the factory.²¹⁷⁹ The witness, who was wounded, saw that part of the skull of Milica Šare was gone and also saw blood on the back of Stevo Berić, who was gasping for air.²¹⁸⁰ Krsta Šare was sitting up, bleeding from his legs and the right side of the torso, and told the witness to escape.²¹⁸¹ The witness later found out that he had been buried in the new Knin cemetery with no name, under number 233.²¹⁸² She ran up the hills for about 200 metres where she hid in the woods and fell unconscious.²¹⁸³ She woke up at night and in the moonlight she saw, approximately 25 metres away, two camouflaged soldiers with a German shepherd dog, and heard one of them say “he said that she could not be any further than this, because she needs water”.²¹⁸⁴

497. Two villagers found the witness the same day the murder incident took place, and brought her to another villager’s house on Tuesday 8 August 1995.²¹⁸⁵ From this house, the witness observed three Croatian soldiers entering Nikola Berić’s house, taking a tractor and a trailer from his garage, along with a calf that they killed, shortly after which the house started burning.²¹⁸⁶ The same soldiers subsequently entered the houses of Jova Berić and Sveto Bogdanović, which also started burning soon after the soldiers left the houses.²¹⁸⁷ The witness left the village that evening, together with other two villagers heading for the village of Mašići, in Orlić municipality, because she had heard that there were people there.²¹⁸⁸ They arrived at dawn, but the people there told them that they could not stay, so the witness moved further to Barići, and later the same day to Berići village, when someone told the witness that the HV was searching houses in Barići.²¹⁸⁹ On 16 August 1995, the witness was told that Sava Šare had been in her house as it burned down.²¹⁹⁰ The witness stayed in Berići until 17 August 1995 when

²¹⁷⁷ P2505 (Witness 67, witness statements), 31 March 1998 statement, pp. 4, 8.

²¹⁷⁸ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 8.

²¹⁷⁹ P2505 (Witness 67, witness statements), 31 March 1998 statement, pp. 5, 8.

²¹⁸⁰ P2505 (Witness 67, witness statements), 31 March 1998 statement, pp. 4-5.

²¹⁸¹ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 5.

²¹⁸² P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 5.

²¹⁸³ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 5, 3 April 2007, para. 2.

²¹⁸⁴ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 5.

²¹⁸⁵ P2505 (Witness 67, witness statements), 31 March 1998 statement, pp. 4-5, 3 April 2007, para. 2.

²¹⁸⁶ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 5.

²¹⁸⁷ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 5.

²¹⁸⁸ P2505 (Witness 67, witness statements), 3 April 2007 statement, para. 3.

²¹⁸⁹ P2505 (Witness 67, witness statements), 3 April 2007 statement, paras 3-4.

²¹⁹⁰ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 5.

she returned to Uzdolje.²¹⁹¹ The witness saw that all the houses in Uzdolje were burnt. She saw the scattered shoes of the killed villagers where they had died. On 18 August 1995, Croatian soldiers took the witness and other two villagers to Knin, where the witness was admitted into hospital. After spending five days at the hospital, the witness was taken to the sports centre in Knin, and eventually arrived in Serbia on 16 September 1995.²¹⁹² In March 1998, she was still living in Serbia.²¹⁹³

498. **Kari Anttila**, an UNMO in Sector South from 14 August 1995 until 27 November 1995,²¹⁹⁴ testified that on 1 November 1995, together with a UNCIVPOL officer, he went to the village of Uzdolje, Orlić municipality, in order to continue an investigation, that had been initiated on 11 August 1995, into the killing of seven residents of the village, which allegedly took place on 7 August 1995.²¹⁹⁵ He was not present at the initial investigation.²¹⁹⁶ Anttila met and spoke to a number of residents who were potential witnesses to the killings.²¹⁹⁷ These were Joran Petrović (born 1910), Đuka Petko (born 1912 or 1913), Ljubica Petko (born 1931), Milica Dragotin (born 1918), and Junga Dragotin (born 1945).²¹⁹⁸ Anttila testified that he heard Junga Dragotin refer to a “carabine” when describing the type of rifle with which the deceased individuals were being threatened, although, according to Anttila, the situation report in which this incident was recorded refers to “Galashnikovs”.²¹⁹⁹ Anttila specifically asked the witnesses whether the perpetrators were soldiers, and although they could not remember any insignia on their uniforms, they were sure that they were soldiers.²²⁰⁰

499. HRAT reported that on 1 November 1995 HRAT went to a village near Ridane, in Orlić municipality, and were informed that on 7 August 1995 around 9 a.m. seven

²¹⁹¹ P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 5, 3 April 2007, para. 4.

²¹⁹² P2505 (Witness 67, witness statements), 31 March 1998 statement, p. 5.

²¹⁹³ P2505 (Witness 67, witness statements), 31 March 1998 statement, pp. 1-2.

²¹⁹⁴ P171 (Kari Anttila, witness statement, 8 January 1996), p. 1; P172 (Kari Anttila, witness statement, 16 October 1997), pp. 1-2; P173 (Kari Anttila, witness statement, 12 December 2007), p. 1, para. 2; Kari Anttila, T. 2508.

²¹⁹⁵ P172 (Kari Anttila, witness statement, 16 October 1997), p. 3; P173 (Kari Anttila, witness statement, 12 December 2007), paras 17, 19; Kari Anttila, T. 2634.

²¹⁹⁶ P172 (Kari Anttila, witness statement, 16 October 1997), p. 3; P173 (Kari Anttila, witness statement, 12 December 2007), paras 17, 19.

²¹⁹⁷ P172 (Kari Anttila, witness statement, 16 October 1997), p. 3.

²¹⁹⁸ P172 (Kari Anttila, witness statement, 16 October 1997), p. 3. Based on the information provided, the Trial Chamber understands Junga Dragotin to be the same person as Dragutin Junjga.

²¹⁹⁹ P172 (Kari Anttila, witness statement, 16 October 1997), p. 3; P173 (Kari Anttila, witness statement, 12 December 2007), para. 17; Kari Anttila, T. 2634.

²²⁰⁰ P172 (Kari Anttila, witness statement, 16 October 1997), p. 3.

civilians were executed there by three HV soldiers.²²⁰¹ HRAT reported that only a few persons remained in the village and there was a persistent smell of death in the village, with cows and sheep lying dead on the ground.²²⁰² On the site of the alleged massacre HRAT found civilian clothes bearing blood stains.²²⁰³

500. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,²²⁰⁴ testified that she translated the statements of Bosiljka Berić and another villager who arrived at the UN compound in Knin on 6 August 1995, and relayed that they were walking along the Knin to Drniš road near Uzdolje in Orlić municipality with a group of five elderly people, consisting of four women and a man, when Croatian soldiers passed by and drove them away in separate cars.²²⁰⁵ The villager who was with Bosiljka Berić, who was taken to a Croatian military headquarters, was returned by a soldier to the spot where she and Bosiljka Berić had been picked up.²²⁰⁶ After being dropped off, the villager saw that the women she had been with earlier had been killed, while the man was still alive, as he managed to raise his head.²²⁰⁷ The villager added that she was not allowed to approach him.²²⁰⁸

501. According to the Operational diary of the Split MD, during the period from 3:30 p.m. to 3:37 p.m. on 5 August 1995, the 142nd Home Guard Regiment occupied Oklaj village and S. Siverić village, reached the line S. Oklaj-S. Siverić, and occupied Velika Promina.²²⁰⁹ On 11 August 1995, Captain Matko Kurtović reported to the Commander of the OG Šibenik that on 5 August 1995, the 124th [sic] Home Guard Regiment liberated the area of Oklaj, Velika Promina in Oklaj municipality, Drniš and Žitnić in Drniš municipality, Kosovo in Orlić municipality, and Vrbnik in Knin municipality.²²¹⁰

502. The bodies of seven persons in civilian clothes (male body KN04/059B numbered 235, male body KN04/060B numbered 239, male body KN04/061B

²²⁰¹ P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 55; P1108 (HRAT report, 31 October – 1 November 1995), p. 2.

²²⁰² P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 55; P1108 (HRAT report, 31 October – 1 November 1995), p. 2.

²²⁰³ P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 55; P1108 (HRAT report, 31 October – 1 November 1995), p. 2.

²²⁰⁴ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

²²⁰⁵ P2 (Witness 136, witness statement, 4 July 1996), p. 5; Witness 136, T. 806-807.

²²⁰⁶ P2 (Witness 136, witness statement, 4 July 1996), p. 5; Witness 136, T. 806-807.

²²⁰⁷ P2 (Witness 136, witness statement, 4 July 1996), p. 5; Witness 136, T. 806-807.

²²⁰⁸ Witness 136, T. 806-807.

²²⁰⁹ P1183 (Operational diary of the Split MD, undated), pp. 8-9.

²²¹⁰ P2349 (Report on security in OG Šibenik, 11 August 1995), pp. 1-2, 6.

numbered 236, female body KN04/062B numbered 237, female body KN04/063B numbered 234, female body KN04/065B numbered 238, male body KN04/066B numbered 232) were found on 10 August 1995 in Kosovo in Orlić municipality, and buried at Knin community cemetery.²²¹¹ Seven bodies in civilian clothing (40-60 years old male body KN04/059B with a metal tag marked “235”, 45-65 years old male body KN04/060B with a tag marked “239”, 40-55 years old male body KN04/061B with a tag marked “236”, 40-60 years old female body KN04/062B with a metal tag marked “237”, 40-60 years old female body KN04/063B with a metal tag marked “234”, 40-60 years old female body KN04/065B with a tag marked “238”, and 40-60 years old male body KN04/066B with a metal tag marked “232”) were exhumed from a cemetery in Knin on 16 and 17 May 2001 and found by forensic pathologists to have died from gunshot injuries.²²¹² On 26 September 2002, the seven bodies were identified by classical method as follows: body KN04/059B as Krstan Šare born on 18 October 1931, body KN04/060B as Jandrija Šare born on 1 January 1932, body KN04/061B as Stevo Berić born on 24 June 1933, body KN04/062B as Janja Berić born on 11 April 1932, body KN04/063B as Milica Šare born on 26 April 1922, body KN04/065B as Đurđija Berić born on 1 January 1916, and body KN04/066B as Miloš Čosić born on 1 January 1923.²²¹³ According to reports of the Zagreb Forensic Institute, dated 26 September 2002 and based on details provided by relatives, seven Serbs (Milica Šare born on 22 January 1922, Stevo Berić born on 24 June 1933, Janja Berić born on 11 April 1932, Miloš Čosić born 1 March 1923, Jandrija Šare born on 30 July 1932, Đurđija Berić, and

²²¹¹ P1310 (Information on body KN04/063B, ID No. 234, with photograph); P1311 (Information on body KN04/061B, ID No. 236, with photograph); P1312 (Information on body KN04/062B, ID No. 237, with photograph); P1313 (Information on body KN04/066B, ID No. 232, with photograph); P1314 (Information on body KN04/060B, ID No. 239); P1315 (Information on body KN04/065B, ID No. 238, with photograph); P1316 (Information on body KN04/059B, ID No. 235, with photograph).

²²¹² P1528 (Autopsy report of KN04/063B, 15 June 2001), pp. 1-9, 11-14, 17; P1529 (Autopsy report of KN04/061B, 18 June 2001), pp. 1-8, 11-12, 14, 17, 20; P1530 (Autopsy report of KN04/062B, 15 June 2001), pp. 1-5, 7-13, 16; P1531 (Autopsy report of KN04/066B, 18 June 2001), pp. 1-5, 7-11, 13-14, 17; P1532 (Autopsy report of KN04/060B, 19 June 2001), pp. 1-5, 7-15, 18; P1533 (Autopsy report of KN04/065B, 21 June 2001), pp. 1-5, 7-9, 11-12, 15, 18; P1534 (Autopsy report of KN04/059B, 18 June 2001), pp. 1-5, 7-14, 17; P1736 (Photograph of skull, KN04/063B); P1737 (Photograph of bones, KN04/063B); P1738 (Photograph of bones, KN04/063B); P1741 (Photograph of clothes, KN04/063B); P1742 (Photograph of bones, KN04/061B); P1743 (Photograph of bones, KN04/062B); P1744 (Photograph of bone, KN04/062B); P1745 (Photograph, KN04/062B); P1746 (Photograph of clothes, KN04/062B); P1747 (Photograph of bone, KN04/066B); P1748 (Photograph of clothes, KN04/066B); P1749 (Photograph, KN04/060B); P1750 (Photograph of bone, KN04/060B); P1751 (Photograph, KN04/060B); P1752 (Photograph of clothes, KN04/060B); P1753 (Photograph of skull, KN04/065B); P1754 (Photograph of clothes, KN04/065B); P1755 (Photograph of skull, KN04/059B); P1756 (Photograph of bones, KN04/059B); P1757 (Photograph of bone, KN04/059B); P1758 (Photograph of bones, KN04/059B); P1759 (Photograph of bones, KN04/059B).

Krstan Šare born on 15 October 1931), died in Uzdolje (no place of death specified for Đurđija Berić), Knin municipality, on 6 August 1995, all of them from gunshot injuries (no cause of death specified for Krstan Šare other than “war”).

503. With regard to the alleged destruction in Uzdolje, the Trial Chamber has considered two more pieces of evidence. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,²²¹⁴ visited Uzdolje in Orlić municipality on 31 August 1995, which he found badly burnt.²²¹⁵ On 6 September 1995 at 2:55 p.m., ECMM saw a house across from the “gipsfactory” in Uzdolje in Orlić municipality on fire and two soldiers in a yellow Volkswagen Golf with civilian license plates driving away from the scene.²²¹⁶

504. With regard to the alleged destruction, the Trial Chamber finds that Dragutin Junjga and Witness 67 refer to the same incident, and that they both saw the houses of Jovo Injac and Milan or Milos Šare on fire. Based on Junjga’s description of the 150 persons who entered Uzdolje on the 5 August 1995 as members of the HV, the Trial Chamber finds that these persons wore military-type uniforms. However, Junjga does not provide any further details as to the factual basis for this qualification as HV. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. However, the Trial Chamber has received evidence that on 5 August 1995, the 142nd Home Guard Regiment had taken control of the villages of Oklaj, Drniš, and Žitnić in Drniš municipality, Kosovo in Orlić municipality, and Vrbnik in Knin municipality, and was therefore in the vicinity of Uzdolje on 5 August 1995. Considering this evidence, and the fact that 150 persons dressed in military-type uniforms entered or passed by Uzdolje on 5 August 1995, and further that according to Witness 3, by 5 August 1995 the SVK had already fled the area together with the population, the Trial Chamber finds that these persons were members of the Croatian military forces. Further, given the presence of these soldiers on the date and at the time when the two houses caught fire, and also in the light of their behaviour and general

²²¹³ P2000 (List of identified bodies exhumed at the new cemetery in Knin); P2002 (List of identified persons exhumed in Knin).

²²¹⁴ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

²²¹⁵ P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P684 (Alun Roberts’s report to the press on HV’s human rights violations in Sector South, 12 October 1995), p. 1.

²²¹⁶ P945 (ECMM daily report, 6 September 1995), p. 2.

disposition as described by Junjga, the Trial Chamber finds that one or more of these soldiers set the two said houses alight. The Trial Chamber has received no direct evidence as to the ethnicity of the owners of the two houses. However, according to the 1991 Population Census, the population of Uzdolje was almost entirely Serb in 1991. Considering the overwhelming Serb majority in Uzdolje and the lack of any evidence to the contrary, the Trial Chamber finds that Jovo Injac and Milan or Milos Šare, who owned or inhabited the two houses, were Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below. The Trial Chamber further finds, based on the testimony of Witness 67, that on 8 August 1995 three persons referred to as soldiers took a tractor and a trailer from Nikola Berić's house and set fire to the houses of Nikola Berić, Jova Berić, and Sveto Bogdanović. The Trial Chamber recalls its findings above about the ethnic composition of Uzdolje and in chapter 4.2.15 (Knin-Drniš road) and above about the presence of Croatian military forces in the area. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 below.

505. With regard to the alleged murder of Stevo Berić and others and based on the evidence received, the Trial Chamber finds that on the morning of 6 August 1995, three men armed with automatic rifles arrived in a white civilian car at the hamlet of Šare, village of Uzdolje, in Orlić municipality. They all had black hair; two of them wore camouflage uniforms, while a third one had a black handkerchief around his neck, and wore camouflage pants and a black t-shirt with a black ribbon which said "for the fatherland – ready". The three men all wore dark blue caps with checkerboard emblems. There, they encountered Krste Šare in front of his house with Jandrija Šare, Stevo Berić, Janja Berić, Milica Šare, Đurđija Berić, Bosiljka Berić, and another person, all dressed in civilian clothes. One of the three armed men spotted Witness 67, and after hitting her arm with a rifle butt, he ordered her to join the others. The armed men ordered the group to walk towards the Knin-Drniš asphalt road, and at one point one of the three armed men pushed Stevo Berić to the ground and tore apart his identification documents, telling him he would not need them anymore. Shortly after, one of the armed men said "let's finish them off, or our lamb will get cold". Then the group stopped about 30 metres from the road, out of sight from the vehicles transiting there. At that point, two of the armed men walked away with two villagers, who were then transported to Knin in

separate vehicles. The third armed man, who had previously hit Witness 67's arm, stayed with the remaining captives and made them walk back from the main road towards the hamlet, insulting their mothers for what they had done in Vukovar and intimidating them. After a while, the group came across Miloš Ćosić, whom the armed man ordered to join the group. Eventually, the armed man fired upon the group with an automatic rifle, thus killing Milica Šare, Stevo Berić, Janja Berić, Đurđija Berić, Krste Šare, Miloš Ćosić, and Jandrija Šare, while Witness 67, who was wounded but survived, managed to escape into the woods. In this regard, the Trial Chamber finds that Krste Šare, who was a male, is the same person as the one referred to in the Indictment as Krsta Šare. Autopsies conducted on the victims' remains concluded the causes of death to be gunshot injuries.

506. The three armed men interacted with and operated in close proximity to uniformed persons present in the area. For instance, one of the three armed men stopped an officer bearing insignia of the 7th Varaždin Brigade of the HV and had him transport a person to Knin. Another of the three armed men walked another person of the group of captives to a factory where vehicles and ten to fifteen uniformed persons were present. This factory, according to Witness 67, was being used as a kind of police station. In addition, with regard to troop presence in Uzdolje, the Trial Chamber recalls the evidence underlying its finding above about the destruction of the houses of Jovo Injac and Milan or Milos Šare on 5 August 1995. Based on this evidence, the Trial Chamber finds that the uniformed persons present in the area were members of the Croatian military forces. The three armed men carried automatic weapons, wore uniforms and had checkerboard emblems on their caps. In this regard the Trial Chamber, Judge Ćininis dissenting, has considered that the descriptions given by Witnesses 3 and 67 contained some differences, but has found them to be of minor nature and not such to render the descriptions incompatible with one another. In addition, the three men interacted with members of the Croatian military forces present in the area both before and after the killing of the group. Aside from the request to the officer of the 7th Varaždin Brigade recalled above, one of the three men announced his intention to kill the group to a Croatian soldier in the area, and after having done so, he walked back to the factory where ten to fifteen other members of the Croatian military forces were present. Based on this evidence, the majority of the Trial Chamber, Judge Ćininis dissenting, finds that the three armed men, including the perpetrator, were also

members of the Croatian military forces. Based on the fact that the perpetrator cursed some of the victims' "Chetnik" mothers, and on the basis of the information provided by the victims' relatives and included in the forensic reports, the Trial Chamber finds that all of the victims were of Serb ethnicity. Under these circumstances, the majority of the Trial Chamber, Judge Ćinini dissenting, will further consider this incident, with regard to the killing of Milica Šare, Stevo Berić, Janja Berić, Miloš Ćosić, Jandrija Šare, Đuka Berić, and Krste Šare in relation to Counts 1, 6, and 7 of the Indictment, and with regard to Witness 67, in relation to Counts 1, 8, and 9, in chapters 5.3.2, 5.7.2, and 5.8.2 below.

507. The Trial Chamber has received evidence that on a Thursday, save for three, all of the approximately 200 houses in Uzdolje were burning, that by 17 August 1995, all the houses in Uzdolje were burnt and that by 31 August 1995, Uzdolje was badly burnt. However, the evidence does not establish when or the circumstances under which, these houses were set alight, nor who the alleged perpetrators were. Therefore, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

508. The Trial Chamber has received further evidence that at 2:55 p.m. on 6 September 1995, ECMM saw a house in Uzdolje on fire and two persons referred to as soldiers in a yellow Volkswagen Golf with civilian license plates driving away from the scene. Based on ECMM's description of these persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. However, the Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to. In this respect, the Trial Chamber also considered that they travelled in a civilian car. Further, the Trial Chamber has not received sufficient evidence regarding which armed forces, if any, were present in or in the vicinity of Uzdolje at that time. Therefore, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

Lazo Damjanić (Further Clarification no. 258)

509. The Trial Chamber has received evidence with regard to the alleged murder of Lazo Damjanić through the testimony of Vesela Damjanić as well as forensic and other documentation.

510. **Vesela Damjanić**, a Serb from Vrbnik in Orlić municipality,²²¹⁷ stated that on 4 August 1995 she saw people in cars, tractors, and horse carriages passing by her house in the direction of Knin, who told her that they were fleeing from Croatian soldiers. On the morning of 6 August 1995, the witness was sitting in her yard with her husband Lazo Damjanić, her son Rajko, and her sister-in-law Anđelija. Her husband went into the basement of the house. At about 8:30 a.m., two soldiers armed with rifles, dressed in dark camouflage uniforms, with their hair in ponytails, black ribbons around their heads and wearing badges, although the witness did not recall which kind, came into the yard. The soldiers asked the witness if there was anybody hiding in the house, she answered no, and they fired three rounds at the house. The witness saw her husband come out of the basement. The soldiers took him away from the house onto the street. Lazo Damjanić was suffering from epilepsy, and as a result of previous attacks his head shook uncontrollably. Vesela Damjanić heard one of the soldiers tell her husband that he would not be shaking his head for very much longer. The witness begged the soldiers to release her husband whereupon the soldiers threatened to kill her if she did not go away.²²¹⁸ The witness hid behind a tree until the soldiers had left with her husband.²²¹⁹ She then went onto the road and observed them walking away until she could not see them anymore.²²²⁰ The witness went back to the tree and hid behind it for about 15-20 minutes.²²²¹ She heard shooting all around her, and then a burst of gunfire coming from the direction where her husband had been taken. Lazo Damjanić did not return home. On that same day, Vesela Damjanić saw more soldiers passing by her house on the road and asked several of them about her husband, but they did not know anything. Also on that day, in the afternoon, one female and one male soldier came into the witness's yard

²²¹⁷ P632 (Vesela Damjanić, witness statements), pp. 1-2 (witness statement of 8 July 1999), 7 (witness statement of 13 October 2004).

²²¹⁸ P632 (Vesela Damjanić, witness statements), p. 2 (witness statement of 8 July 1999).

²²¹⁹ P632 (Vesela Damjanić, witness statements), pp. 2-3 (witness statement of 8 July 1999).

²²²⁰ P632 (Vesela Damjanić, witness statements), p. 3 (witness statement of 8 July 1999).

²²²¹ P632 (Vesela Damjanić, witness statements), pp. 2-3 (witness statement of 8 July 1999).

and went through the house looking for money and ammunition. The name of the male soldier was Stipe and he was from Sinj.²²²²

511. The witness was standing beside the road near her house at approximately 4 p.m. on 8 August 1995, when the two soldiers who had taken her husband away, wearing the same uniforms and headbands, passed by her house in a medium-sized white car, and told her that she would not see her husband alive again. Her son and sister-in-law left the house to search for the body and informed the witness when they returned that they had found it near the house of Simo Vukmirović, which was on the road to Knin. Later that day, Vesela Damjanić, accompanied by her sister-in-law, returned to this location. Lazo Damjanić's body was about 15 metres from the road and about 500 metres from the witness's home. The witness observed that her husband's body was decomposing, his skull was broken, and that it looked like he had been shot in his stomach many times. It appeared to the witness that his arms and legs were broken, and his jaw was not in its place.²²²³

512. **Murray Dawes**, a former civilian UN accommodation officer stationed in Knin municipality from May 1994 to October 1995,²²²⁴ testified that on 6 August 1995, he and Andries Dreyer succeeded in leaving the UN compound in their UN mini-van through the main gate.²²²⁵ Dawes and Dreyer first tried to drive into downtown Knin, but had to turn back at the bridge where a VP check-point had been erected.²²²⁶ Next they headed up the hill to Vrbnik in Orlić municipality.²²²⁷ Right at the entrance to Vrbnik, at an intersection on the top of the hill, Dawes saw a big pile of unsealed body bags containing what he estimated were eight to ten dead bodies.²²²⁸ Although he did not stop to examine the unsealed body bags, Dawes could see some of the dead bodies, and observed that they were in very bad shape and showed signs of bloating.²²²⁹ They turned right, whereupon Dawes saw a few HV soldiers carrying TV sets, video-recorders, and similar items, removed from the houses along that road in Vrbnik.²²³⁰

²²²² P632 (Vesela Damjanić, witness statements), p. 3 (witness statement of 8 July 1999).

²²²³ P632 (Vesela Damjanić, witness statements), p. 3 (witness statement of 8 July 1999).

²²²⁴ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 1-2.

²²²⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10413-10414, 10536, 10541, 10544-10546.

²²²⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8.

²²²⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10414; P983 (Map marked by Murray Dawes of route taken on 6 August 1995).

²²²⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10400, 10531.

²²²⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10532.

²²³⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10400, 10557.

Dawes knew that these soldiers were from the HV because, unlike SVK soldiers, they were properly attired in full camouflage regalia with beret, flack vest and uniforms, and carried their weapons properly.²²³¹ The witness could not identify the unit to which they belonged.²²³² The soldiers did not place the items into separate piles.²²³³ According to the witness, the scene in Vrbnik was disorganized and chaotic.²²³⁴ The witness spoke to one of the HV soldiers, who seemed to be quite proud of what the soldiers were doing to the town.²²³⁵ While in Vrbnik, the witness did not notice any living civilians.²²³⁶ Most of the approximately 50 houses in the village of Vrbnik had been blown up, and their contents had been moved to the side of the road or placed in the backs of vehicles.²²³⁷ Because there were no visible traces of impact inside the houses or on the asphalt road, the witness concluded that the houses had been exploded from the inside, rather than by artillery fire.²²³⁸

513. According to the duty log of the Joint VP Company in Knin, on 25 August 1995, at 6:50 p.m., a member of the “113th” reported to the Knin VP Duty Service that a body of a male was found in Vrbnik in Orlić municipality.²²³⁹ It was recorded in the log that a duty officer and “Mosor 2” were informed and that an officer and a patrol were dispatched.²²⁴⁰ Vesela Damjanić stated that on 26 August 1995, military personnel collected the body of Lazo Damjanić in the presence of the witness and Croatian soldiers in camouflage uniforms.²²⁴¹ A man in uniform, carrying a register book and recording the number of her husband’s body (498), pushed the witness and she fell down.²²⁴² They put the body of her husband in a bag and loaded it onto a truck. When the witness asked the soldiers whether Lazo Damjanić could be buried in the village cemetery, the man who pushed her refused, calling her a “Serbian whore”. Lazo

²²³¹ Murray Dawes, T. 10400, 10534.

²²³² Murray Dawes, T. 10400, 10532.

²²³³ Murray Dawes, T. 10405, 10557.

²²³⁴ Murray Dawes, T. 10557.

²²³⁵ P981 (Murray Dawes, witness statement, 2 April 2008), para. 30.

²²³⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8.

²²³⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10400.

²²³⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8.

²²³⁹ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 25 August 1995.

²²⁴⁰ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 25 August 1995.

²²⁴¹ P632 (Vesela Damjanić, witness statements), p. 4 (witness statement of 8 July 1999), para. 3 (witness statement of 13 October 2004).

²²⁴² P632 (Vesela Damjanić, witness statements), p. 4 (witness statement of 8 July 1999), para. 4 (witness statement of 13 October 2004).

Damjanić was buried in the new cemetery in Knin.²²⁴³ In 2002, his body was reburied in the village cemetery in Vrbnik.²²⁴⁴

514. According to the forensic evidence, on 22 August 1995, decomposing body KN01/253B, numbered 498, approximately 1.75 metres long, was retrieved with grey trousers, a dark blue shirt, and black sandals from house No. 95 in Vrbnik, Orlić municipality, identified by his wife Vesela Damjanić as Lazo Damjanić born 17 June 1933 in Vrbnik, and buried at a city cemetery in Knin.²²⁴⁵ Body KN01/253B, exhumed on 14 June 2001 from a cemetery in Knin with a tag marked “498” and clothing that included black trousers, a grey-green T-shirt, and a dark blue jacket, was an approximately 1.64-1.80-metre-tall male between 45 and 60 years old, with a back-to-front and upwards gunshot injury to the torso, found by a forensic pathologist to be the cause of death, and additional gunshot injuries to the pelvis and limbs.²²⁴⁶ According to a report of the Zagreb Institute of Forensic Medicine, dated 29 May 2002, and based on details provided by Lazo’s daughter Rada Medić, Lazo Damjanić, a Serb born in 1934, died from a gunshot injury to the torso in Vrbnik, on 6 August 1995.²²⁴⁷ On 29 May 2002, body KN01/253B was identified by classical method as Lazo Damjanić, born in 1934.²²⁴⁸

515. The Trial Chamber finds that on 6 August 1995 at around 8:30 a.m. in Vrbnik in Orlić municipality, two armed persons, referred to as soldiers dressed in dark camouflage uniforms, with their hair in ponytails, black ribbons around their heads and wearing badges, came into Lazo and Vesela Damjanić’s yard, fired three rounds at their house, and took Lazo Damjanić, born in 1933-1934, away from the house and onto the street. Lazo Damjanić’s head was shaking as a consequence of his epilepsy, and one of the two uniformed persons told him that his head would not be shaking for much longer. Lazo Damjanić’s wife, Vesela, asked the two uniformed persons to release her husband, but they threatened to kill her if she would not go away. The two uniformed persons then walked away with Lazo Damjanić, and between 15 and 20 minutes later his wife heard a burst of gunfire coming from the direction where the soldiers had taken him. On

²²⁴³ P632 (Vesela Damjanić, witness statements), p. 4 (witness statement of 8 July 1999).

²²⁴⁴ P632 (Vesela Damjanić, witness statements), para. 5 (witness statement of 13 October 2004).

²²⁴⁵ P1467 (Information on identified body KN01/253B, ID No. 498, with photograph).

²²⁴⁶ P1666 (Autopsy report of KN01/253B, 4 July 2001), pp. 1-5, 7-9, 11, 13-14, 17; P1948 (Photograph of KN01/253B); P1949 (Photograph of thigh bone, KN01/253B).

²²⁴⁷ P2121 (Report on circumstances of death of Lazo Damjanić, 29 May 2002), p. 21.

²²⁴⁸ P659 (List of identified persons exhumed from a cemetery in Knin), p. 1; P2002 (List of identified persons exhumed in Knin).

8 August 1995, Vesela Damjanić saw the same two uniformed persons who had taken away her husband driving in what appeared to be a civilian car, and they told her she would not see her husband alive again. Lazo Damjanić's body was found later that day about 500 metres away from his house. According to the autopsy report, it was found in civilian clothes and the cause of death was a gunshot injury to the torso. Based on this evidence, the Trial Chamber finds that the two uniformed men shot and killed Lazo Damjanić. According to documentary evidence received by the Trial Chamber, HV soldiers were in the Vrbnik area on 5 August 1995 (see finding on alleged murder of Stevo Berić above; see also exhibit P2559). In addition, on 6 August 1995, Dawes saw soldiers in Vrbnik that he recognized to be HV soldiers as they wore full camouflage regalia with beret, flack vest, and uniforms, and carried their weapons properly. Furthermore, later on 6 August 1995 more uniformed persons passed by the victim's house, and that afternoon two uniformed persons entered the house in search of money and ammunition, one was called Stipe and he was from Sinj. Based on this evidence, the Trial Chamber finds that the two men in uniforms who shot Lazo Damjanić were members of the HV. Further, based on the report on the circumstances of death, dated 29 May 2002, the Trial Chamber finds that the victim was a Serb. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 (b) below.

Milan Balić in Riđane (Further Clarification no. 266)

516. The Trial Chamber has received relevant evidence with regard to the alleged murder of Milan Balić primarily through the testimonies of Murray Dawes and Alun Robers, as well as through forensic documentation.

517. **Murray Dawes**, a former civilian UN accommodation officer stationed in Knin municipality from May 1994 to October 1995,²²⁴⁹ along with Andries Dreyer and two British liaison officers, heard a radio message to UNCIVPOL that a dead body had been found in a hamlet near Prijiči in Orlić municipality, about five kilometres southeast of Knin, and all four decided to go there.²²⁵⁰ According to the witness, the hamlet where the dead body was found was a Croatian hamlet that had been protected by the UN prior

²²⁴⁹ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 1-2.

to Operation Storm.²²⁵¹ When Dawes, Dreyer, and the two British liaison officers arrived, they met two old women who showed them the body of a Croatian man named Milan Babić, lying face down and covered with a carpet.²²⁵² They turned the body over and saw a bullet hole to the heart area.²²⁵³ One metre from where the body was, they also found a nine millimetre shell casing.²²⁵⁴ The two old women told Dawes and the others that a group of HV soldiers showed up and demanded two pigs from Babić; when Babić refused, one of the soldiers killed him.²²⁵⁵ The two women described the perpetrator as a man wearing an HV uniform with a lightning bolt on his shoulder badge.²²⁵⁶

518. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,²²⁵⁷ testified that on 19 September 1995, in the hamlet of Riđane in Orlić municipality, he saw the body of Milan Balić (1919) lying face down outside a house.²²⁵⁸ The body lay in a pool of blood, with a bullet wound in the chest and with an empty nine millimetre cartridge shell lying nearby.²²⁵⁹

519. According to the daily log of incidents in the Police Administration of the Knin District, on 19 September 1995, UNCRO officers found a body and pistol shell casing in front of a house in Riđane, in Orlić municipality.²²⁶⁰ Two Croatian police officers were immediately dispatched to the scene and on their return they reported finding the

²²⁵⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 11; P981 (Murray Dawes, witness statement, 2 April 2008), para. 35; P983 (Map marked by Murray Dawes of route taken on 6 August 1995).

²²⁵¹ Murray Dawes, T. 10382, 10529.

²²⁵² P980 (Murray Dawes, witness statement, 22 August 1996), p. 11; Murray Dawes, T. 10381-10382, 10529.

²²⁵³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 11.

²²⁵⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 11.

²²⁵⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 11; Murray Dawes, T. 10529-10530.

²²⁵⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 11; Murray Dawes, T. 10529.

²²⁵⁷ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

²²⁵⁸ P677 (Alun Roberts, witness statement, 28 February 2007), p. 9; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 11; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 2, 29-30.

²²⁵⁹ P677 (Alun Roberts, witness statement, 28 February 2007), p. 9; P678 (Alun Roberts, witness statement, 7 February 2008), para. 16, no. 11; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 2, 29-30.

²²⁶⁰ D57 (Daily log of incidents in the Police Administration of the Knin District, Book 1, 6 August 1995-7 October 1995), pp. 1, 165.

body of Milan Babić, born in 1919, which according to the log had been dead for approximately five to seven days, in the hamlet of Rašeljka, in Riđane.²²⁶¹

520. According to the forensic evidence, male body KN01/324B, numbered 512, was retrieved with a black jacket, green military jumper, black and white trousers and slippers from the hamlet of Balić in Riđane, Orlić municipality, on 21 September 1995, and buried at a local cemetery in Knin.²²⁶² Body KN01/324B, exhumed on 15 June 2001 from a cemetery in Knin, with a metal tag marked “512” and clothing including black and white striped trousers, brown and cream pullover, a black jacket and brown sandals, was an approximately 1.67-1.83-metre-tall male between 45 and 65 years old, with one or more gunshot injury/ies to the torso, which the forensic pathologist found to be the cause of death.²²⁶³ Body KN01/324B was identified on 28 April 2004, as Milan Balić.²²⁶⁴ According to a report of the Zagreb Institute for Forensic Medicine, dated 28 April 2004 and based on data provided by his son, Milan Balić, a Serb of Yugoslav nationality born in 1919, died from a gunshot injury to the torso in Riđane, on 18 August 1995.²²⁶⁵

521. Murray Dawes saw a dead body with a gunshot wound to the chest on an unknown date in 1995 at a location he referred to as near Prijići, in Orlić municipality. Two old women told Dawes that the body belonged to Milan Babić, a Croat. Dawes’s account, including the presence of a nine millimetre casing next to the body, corresponds with the entry in the Knin District Police Administration daily incident log for 19 September 1995. Although the victim’s reported ethnicity differs, the victim’s name, age, location, and injury/ies are similar to those of Milan Balić. This indicates that Dawes’s testimony, Roberts’s testimony, and the entry in the Knin police incident log relate to the same victim as the other evidence cited above.

522. The evidence indicates that Milan Balić, a Serb born in 1919, was killed by one or more gunshot injury/ies to the torso in Riđane, in Orlić municipality, in early to mid-September 1995. The report on circumstances of death suggests that Milan Balić died on 18 August 1995. However, the report is based at least in part on information

²²⁶¹ D57 (Daily log of incidents in the Police Administration of the Knin District, Book 1, 6 August 1995-7 October 1995), pp. 1, 165.

²²⁶² P1473 (Information on body KN01/324B, ID No. 512, with photograph).

²²⁶³ P1672 (Autopsy report of KN01/324B, 5 July 2001), pp. 1-2, 4-6, 8, 11-12, 15; P1952 (Photograph of bones, KN01/324B).

²²⁶⁴ P2006 (List of identified persons exhumed at the new cemetery in Knin and Gračac).

²²⁶⁵ P2126 (Report on circumstances of death of Milan Balić, 28 April 2004), pp. 1-3.

provided by a relative, whose source of knowledge in respect of the date of death is unclear.

523. Two old women told Dawes that a person in HV uniform with a lightning bolt on his shoulder had killed Milan Balić. Although the level of detail provided by the two women could be interpreted to indicate that they directly observed the events, the evidence does not sufficiently establish the women's source of knowledge in respect of these events or the perpetrator. The Trial Chamber further notes, in this respect, that Dawes did not remember the date or location of this incident and that his testimony regarding the name and ethnicity of the victim appears inconsistent with other evidence. The Trial Chamber further considers that the hearsay evidence regarding the perpetrator is uncorroborated and that, as the date of the incident is not specified, this hearsay evidence cannot be corroborated by evidence of troop presence in or near Riđane at any specific time. For the above reasons, the Trial Chamber considers that there is insufficient reliable evidence relating to by whom Milan Balić was killed. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 6, and 7 of the Indictment.

Predrag Simić (Further Clarification no. 271)

524. The Trial Chamber has received evidence with regard to the alleged murder of Predrag Simić through the testimony of **Stevan Zarić**. This witness, a Serb, born in 1922, from Zarići hamlet in Orlić village,²²⁶⁶ stated that a few days before the war in August 1995 he heard a speech by President Tuđman on the radio in which Tuđman told all Serbs who had committed no crimes to stay in their homes and that they and their families would be safe. According to the witness, people in the village were saying that their lives would change when the Croats arrived, and talked about events during the Second World War when "Ustashi" killed many Serbs. Also according to the witness, many people were fearful and decided to leave, and they suggested to the witness that he and his family members leave as well. The witness told his two sons, his daughter-in-law, and his grandchildren that they must leave.²²⁶⁷ On 4 August 1995, the witness stated that he and others heard shelling around Knin.²²⁶⁸ During the evening of the same

²²⁶⁶ P2516 (Stevan Zarić, witness statement, 10 September 2003), p. 1, para. 1.

²²⁶⁷ P2516 (Stevan Zarić, witness statement, 10 September 2003), para. 3.

²²⁶⁸ P2516 (Stevan Zarić, witness statement, 10 September 2003), para. 5.

day, the witness's two sons, daughter-in-law, and grandchildren left for Serbia, and during the day of 4 August 1995 and up to the early afternoon of 5 August 1995 people were leaving, until, according to the witness, there was only the witness, his wife, and the witness's 97-year-old mother left in the hamlet of Zarići.²²⁶⁹ The witness believed that only about 80 people remained behind in Orlić, mainly elderly, out of an estimated previous population of 450-500, almost all Serbs.²²⁷⁰ The witness stated that all of the houses had been intact.²²⁷¹

525. On the morning of 6 August 1995, Predrag Simić came to the witness's house and said that he would come back that evening. According to the witness, Predrag was about 28 years old, had always avoided military service, had been arrested and imprisoned for about three months because he refused to join the army, always carried proof of his prison sentence to show that he had never served in the military, and was dressed in civilian clothing.²²⁷² During the morning of 6 August 1995, the witness was in a field on the opposite side of the road from his own house tending to the cattle and livestock of some of the people who had left. Around 2 p.m., as the witness was standing about 40 metres from the main road, and about 15-20 metres from a road that leads from the main Knin road to Glavica, on the other side of which was Predrag's house, he heard a tank coming from the direction of Knin. The witness immediately hid behind a hedge. As he did so, he saw the tank and some soldiers close by the tank. The soldiers were in camouflage uniform and the witness stated that he assumed that they were Croatian soldiers because there were no other soldiers in the region at the time.²²⁷³ As the witness was making his way along a ditch behind the hedge, he heard a burst of machine gun fire and some shouting after the shots.²²⁷⁴ He then quickly crossed the road and made his way back to his own house. When he was back at his own house, the witness saw the tank turn around by Predrag's house and begin to drive back towards the direction of Knin. The soldiers were also heading in the direction of Knin. That evening, Predrag did not come to the witness's house as he had said he would. Early the following morning, as he went towards Predrag's house and as he got to the junction of the Knin and Glavica roads, the witness saw a body some 15-20 metres down the

²²⁶⁹ P2516 (Stevan Zarić, witness statement, 10 September 2003), paras 2-3.

²²⁷⁰ P2516 (Stevan Zarić, witness statement, 10 September 2003), paras 3-4.

²²⁷¹ P2516 (Stevan Zarić, witness statement, 10 September 2003), para. 4.

²²⁷² P2516 (Stevan Zarić, witness statement, 10 September 2003), para. 6.

²²⁷³ P2516 (Stevan Zarić, witness statement, 10 September 2003), para. 7.

²²⁷⁴ P2516 (Stevan Zarić, witness statement, 10 September 2003), paras 7-8.

Glavica road. As he got closer, the witness recognized the body as that of Predrag's, who, according to the witness, had been shot a number of times in his head and chest. The witness stated that Predrag was wearing civilian clothing and had no weapon that the witness could see. The witness further stated that it was at this junction of the road that he had seen the tank turn around and where he had heard the machine gun fire.²²⁷⁵ On 9 or 10 August 1995, the witness, together with Simo Dujaković, Nikola Matijaš, Sava Urukalo, and Milan Bjelan, collected Predrag's body, took it to the back of Predrag's house, covered it with canvas and buried it there.²²⁷⁶ Sometime in 2001, according to the witness, people from a commission in Knin came and exhumed Predrag's bones.²²⁷⁷

526. The Trial Chamber finds that on 6 August 1995, around 2 p.m., in Zarići hamlet in Orlić village, persons referred to as soldiers, who were wearing camouflage uniforms and were accompanied by a tank, shot and killed Predrag Simić. The victim was wearing civilian clothes and was unarmed at the time of the killing. Stevan Zarić stated that the population of Orlić village at that time consisted almost entirely of Serbs. The Trial Chamber therefore finds that the victim was of Serb ethnicity. Based on the witness's description of the perpetrators as wearing camouflage uniforms and being accompanied by a tank, as well as in light of the date and location of the incident, the Trial Chamber finds that the perpetrators were members of Croatian military forces. The Trial Chamber will further consider this incident in relation to Counts 1, 6, and 7 of the Indictment in chapters 5.3.2 and 5.8.2 (b) below.

²²⁷⁵ P2516 (Stevan Zarić, witness statement, 10 September 2003), para. 8.

²²⁷⁶ P2516 (Stevan Zarić, witness statement, 10 September 2003), paras 6, 9.

²²⁷⁷ P2516 (Stevan Zarić, witness statement, 10 September 2003), para. 10.

4.2 Destruction of Serb property and plunder of public or private Serb property

4.2.1 Overview of the charges

527. The Indictment charges the Accused with plunder of public and private property as a violation of the laws or customs of war, from at least July 1995 to about 30 September 1995, in the following municipalities: Benkovac, Donji Lapac, Drniš, Ervenik, Gračac, Kistanje, Knin, Lišane Ostrovičke, Nadvoda, Obrovac, Oklaj, and Orlić. The Indictment also charges the Accused with plunder and looting of public and private Serb property as an underlying act of the crime against humanity of persecution, during the same time period, in the above-mentioned and the municipalities of Civljane and Lisičić.

528. The Indictment further charges the Accused with wanton destruction as a violation of the laws or customs of war and destruction and burning of Serb homes and businesses as an underlying act of the crime against humanity of persecution, from at least July 1995 to about 30 September 1995, in the Indictment municipalities.

529. The Trial Chamber has received and considered evidence on a very large number of specific incidents of alleged plunder and wanton destruction. As discussed in chapter Chapter 2, it will, however, here only address those incidents for which the evidence is sufficiently detailed to consider whether a crime occurred and, if so, whether the affiliation of the principal perpetrator can be identified.²²⁷⁸ Incidents which will not be specifically dealt with in this chapter include numerous accounts of burning or burnt houses by international observers, as described in testimonies or reports. For example, the Trial Chamber received evidence about extensive destruction in Otrić in Gračac municipality. That evidence mainly described the result of the destruction and therefore did not provide the Trial Chamber with sufficient information to consider the affiliation of the perpetrator.

530. Besides the incidents addressed in this chapter, the Trial Chamber has dealt with a number of incidents of alleged destruction and plunder in other chapters, as the evidence on those incidents was entwined with evidence predominantly dealing with other alleged crimes.²²⁷⁹

²²⁷⁸ See chapter 2, paragraphs under heading “*findings*”.

²²⁷⁹ Chapter 4.1.9 (Jovo Grubor and others - Schedule no. 4) and (Sava Šolaja - Further Clarification no. 155); 4.1.15 (Stevo Berić and others - Schedule no. 7); 4.3.9 (Unidentified man in Knin); 4.3.15 (Đurdija Amanović in Vrbnik).

531. Some of the evidence relevant to the alleged destruction and plunder consists of observations by witnesses who during the Indictment period travelled from one village to the other and from one municipality to the other, making numerous observations relevant to many different incidents. The Trial Chamber has opted to deal with such evidence in the context of each incident of alleged destruction or plunder, without reviewing the totality of the witness's account. For the purpose of illustration, the Trial Chamber will, however, review the evidence of one such witness.

532. **Philip Berikoff**, UN Military Information Officer for UN Sector South who was based in Knin between 21 July and 5 September 1995,²²⁸⁰ stated that on 21 July 1995, as he was flying into Knin, he observed that lots of places were destroyed in Serb-held areas.²²⁸¹ Berikoff stated that as of 22 July 1995, Captain Dangerfield, Sergeant Green and he travelled through a lot of villages, which allowed them to tell which villages had been destroyed or damaged before Operation Storm.²²⁸² He testified that some villages were completely destroyed, others partially destroyed, and that the destruction clearly had taken place some time ago.²²⁸³ He stated that the houses (save a few), fields and livestock along the road between Drniš and Knin were intact.²²⁸⁴ He also stated that Drniš had sustained extensive damage in 1991.²²⁸⁵ Berikoff's understanding of a "destroyed" building was that it was rendered unusable for its intended purpose.²²⁸⁶

533. Berikoff stated that on 7 August 1995, Captain Jeff Hill, Corporal Tremblay and he tried to get into downtown Knin but were stopped by VP at 7 a.m. at a major check-point leading into the town.²²⁸⁷ A civil policeman arrived and escorted them to the civilian police headquarters in Knin where they waited for a while and then met Ivan Jurić, who presented himself as a major in the military police and in charge of the

²²⁸⁰ P739 (Philip Berikoff, witness statement, 24 August 1996), pp. 1-2; P740 (Philip Berikoff, witness statement, 21 May 1997), p. 1, paras 1-2; P741 (Philip Berikoff, witness statement, 11 December 2007), p. 1; D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 1-2, 45; Philip Berikoff, T. 7589, 7655-7656, 7734-7735, 7759-7760, 7768, 7776, 7813, 7823; P748 (Berikoff's daily journal, 17 July – 6 September 1995), pp. 2, 16.

²²⁸¹ Philip Berikoff, T. 7656; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 2.

²²⁸² D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 18, 62; Philip Berikoff, T. 7656-7657; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 2; P749 (Photos), pp. 2, 32-33.

²²⁸³ Philip Berikoff, T. 7657-7658; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 2.

²²⁸⁴ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 18-20.

²²⁸⁵ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 46; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (c).

²²⁸⁶ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 19; Philip Berikoff, T. 7882, 7904-7905.

²²⁸⁷ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 2; P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (n); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 19; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 8.

military police in the Knin region, which Berikoff understood to mean UN Sector South.²²⁸⁸ Jurić wore a “military police standard uniform” with the rank of Major on it.²²⁸⁹ Based on how soldiers spoke with him, Berikoff gained the impression that he had more authority than one would expect from a Major.²²⁹⁰ In particular, Berikoff saw Jurić give an order to a lieutenant-colonel.²²⁹¹ Berikoff wrote that he finally obtained access to Knin, where he witnessed the looting of houses by many HV soldiers, who also stole civilian cars.²²⁹² Berikoff witnessed Croatian soldiers breaking into the Serb owned vehicles parked outside the UN compound, removing their contents, and sometimes ripping off the licence plates and driving away in the cars.²²⁹³

534. Berikoff stated that on 8 August 1995, Captain Jeff Hill, Corporal Tremblay and he travelled to Drniš and Pakovo Selo in Drniš municipality.²²⁹⁴ He stated that most of the houses along the route were destroyed and that many dead animals lay rotting along the road.²²⁹⁵ Outside buildings he saw a line of trucks which Croatian soldiers were loading with livestock and items from houses, going from house to house, while civil police directed traffic around and checked something off on clipboards.²²⁹⁶ Berikoff testified that they skipped over houses with Croatian markings on them.²²⁹⁷ Berikoff stated that the “next time you would come by”, the looted houses would be burnt and

²²⁸⁸ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 2; P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (n); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 19, 21, 30, 52-53; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7596, 7758-7759, 7860; P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 5; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 8.

²²⁸⁹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (n); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 29; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 8.

²²⁹⁰ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (n); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 8.

²²⁹¹ Philip Berikoff, T. 7860.

²²⁹² P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (c); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 8.

²²⁹³ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 55; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (c).

²²⁹⁴ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (o); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 19, 55; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (d); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 9.

²²⁹⁵ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (o); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 19-20, 46, 55; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (d); P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (d); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 9.

²²⁹⁶ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (o); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 19-20, 55-56; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7592-7595; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), paras 2 (c), 2 (d); P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (d); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 9.

²²⁹⁷ Philip Berikoff, T. 7593.

missing their roof.²²⁹⁸ Berikoff stated that when he had made the same trip a few days earlier he had seen nothing unusual.²²⁹⁹ On the way back to Knin, they were stopped and detained at a check-point, where they showed Čermak's letter, upon which someone at the check-point made a phone call.²³⁰⁰ Two officers arrived and argued about whether Čermak was a person of authority. Berikoff and his companions finally mentioned the name of Major Ivan Jurić, and very shortly thereafter they were allowed to proceed.²³⁰¹ They returned to Knin, went again to Drniš, and returned again to Knin.²³⁰² In the afternoon, they managed to enter Knin where Berikoff noticed numerous destroyed or damaged buildings.²³⁰³ According to Berikoff, Croatian soldiers and persons in grey cover-all uniforms were looting.²³⁰⁴ They went to Forand's residence, which was vandalized and where all items of value were missing.²³⁰⁵ Berikoff stated that Forand's residence was intact before Operation Storm and that when he returned to it a couple days later, he found a Croatian military unit headquartered there.²³⁰⁶ They also inspected the residence of the Deputy Commander, a Czech Colonel, and found that it was trashed too.²³⁰⁷ Berikoff stated that, following Operation Storm, virtually every house in Knin was looted and damaged, and numerous buildings were burned.²³⁰⁸

535. Berikoff stated that on 9 August 1995, Captain Jeff Hill, Captain Dangerfield, Sergeant Green, Corporal Tremblay and he were stopped by "war lord" or paramilitary type soldiers without insignia at a check-point at Bribirske Mostine, in Skradin municipality, which was also manned by regular HV forces.²³⁰⁹ One drunk soldier

²²⁹⁸ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 20.

²²⁹⁹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (o).

²³⁰⁰ Philip Berikoff, T. 7901-7902.

²³⁰¹ Philip Berikoff, T. 7902.

²³⁰² P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 9.

²³⁰³ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (o); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 21; Philip Berikoff, T. 7620-7621; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (e); P751 (Photos of destruction in Knin), pp. 1-5, 7-9.

²³⁰⁴ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (o); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 21; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590, 7621, 7835, 7838; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (e).

²³⁰⁵ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (o); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 21-22, 56, 61; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (e); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 9; P749 (Photos), pp. 1, 8.

²³⁰⁶ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 22, 56.

²³⁰⁷ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 21, 56.

²³⁰⁸ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 46; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (a).

²³⁰⁹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (p); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 22, 56; Philip Berikoff, T. 7897-7898; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 9.

recognized the SVK weapons carried by Hill and Tremblay, shouted and forced together with other “war lord” type soldiers everyone out of the car at gunpoint, but an English-speaking HV Liaison Officer arrived, entered into a heated conversation with the drunk soldier, eventually defused the situation and let them leave.²³¹⁰ On the road to Knin, they went through a number of villages, and saw dead animals in various states of decay and that most buildings were damaged or destroyed, and sometimes still burning.²³¹¹ In the area of Macure, in Kistanje municipality, they encountered Ivan Jurić, who asked them what they were doing in a restricted area, gave them food and then told them to return to the UN compound.²³¹² They answered that they were looking at what was happening in Sector South, and that they had noticed that buildings were burning or had been destroyed after Operation Storm.²³¹³ Major Jurić replied “that’s war”.²³¹⁴ Berikoff testified that Jurić said that the purpose of the operation was to ensure that “Chetniks”, by which Berikoff thought that he meant any Serbs whether civilian or military, would not return and reoccupy areas in the Krajina.²³¹⁵ Jurić spoke enough English for them to be able to converse.²³¹⁶ Jurić was wearing a grey cover-all uniform and driving a black SUV.²³¹⁷ Berikoff and his companions saw numerous houses and fields on fire, as well as dead animals, throughout the valley between Drniš and Knin.²³¹⁸ Berikoff stated that 80-85 per cent of the houses on the main highway between Drniš and Knin were damaged or destroyed, while the occasional village remained intact.²³¹⁹ Many houses were also destroyed on the road between Knin and Kistanje.²³²⁰ When they drove through the devastated town of Kistanje, they had to close the windows of the car

²³¹⁰ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (p); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 22, 26, 29-30; Philip Berikoff, T. 7864-7865, 7867, 7897-7899; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 9.

²³¹¹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (p); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 22, 56, 62; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (f); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 9; P752 (Photos of Destruction outside Knin), p. 6.

²³¹² P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (p); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 22-23; Philip Berikoff, T. 7603, 7653, 7866-7867; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 9.

²³¹³ Philip Berikoff, T. 7653-7654.

²³¹⁴ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 28, 60.

²³¹⁵ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 4; Philip Berikoff, T. 7653-7654, 7757, 7907-7908.

²³¹⁶ Philip Berikoff, T. 7758.

²³¹⁷ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 29; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590, 7603, 7835, 7838.

²³¹⁸ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (p); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 23; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 9.

²³¹⁹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 23.

because of the heat emanating from the numerous burning buildings.²³²¹ Berikoff saw approximately 25-30 HV soldiers wearing camouflage moving from house to house or directing traffic around the parked vehicles, each house going up in flames a few minutes after they left it.²³²² There were no civilians.²³²³ Berikoff testified that he had seen “war lord” type soldiers around the Macure area.²³²⁴ Berikoff stated that on the road between Kistanje and Macure, most houses were looted and destroyed.²³²⁵

536. Berikoff stated that on 10 August 1995, Master Corporal Ellis and he inspected eight vacated Kenyan UNCRO observation posts, in four of which they found HV troops.²³²⁶ They entered one of the posts and demanded that the Croatian soldiers return some UN equipment.²³²⁷ They managed to retrieve much of it until some armed Croatian soldiers approached them and suggested that Berikoff and Ellis leave, which they did, taking the collected equipment with them.²³²⁸ They passed through a number of villages, some of which were not badly damaged.²³²⁹ The town of Oklaj, where Berikoff had seen SVK soldiers and/or vehicles on several occasions prior to Operation Storm, was 95 per cent destroyed.²³³⁰ In Oklaj, he witnessed HV/HVO soldiers going in

²³²⁰ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 47; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (e).

²³²¹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (p); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 24, 26-27, 56; P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 6; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (f); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 9.

²³²² P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (p); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 24-26, 29, 56; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590-7591, 7593-7594, 7835-7836.

²³²³ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 25.

²³²⁴ Philip Berikoff, T. 7895-7896.

²³²⁵ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 47, 62-63; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (f); P749 (Photos), pp. 2, 29-30.

²³²⁶ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (q); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 32; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 4; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), pp. 9-10.

²³²⁷ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (q); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 32; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 4; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

²³²⁸ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (q); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 32; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 4; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

²³²⁹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (q); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 32; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

²³³⁰ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (q); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 32, 47, 57; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (h); Philip Berikoff, T. 7603-7604, 7685-7686, 7709; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (g); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

and out of buildings, taking stuff and placing it on vehicles.²³³¹ He also testified that he had seen “war lord” type soldiers in Oklaj.²³³² Berikoff also went to Razvođe, Oklaj municipality, where there were a number of burning or destroyed houses, HV/HVO soldiers taking stuff from buildings and placing it on vehicles, but also, more than elsewhere, intact houses with markings indicating that they were Croatian.²³³³ Berikoff testified that he had seen “war lord” type soldiers around Razvođe.²³³⁴ On the route between Knin and Drniš, Berikoff noticed approximately 45-47 destroyed or burning houses which he had seen intact earlier that day.²³³⁵ Berikoff stated that when the 7th Guards Brigade (“Puma”) left Knin to go south in the late afternoon or early evening, one could hear explosions and see flames in the area around the road between Knin and Drniš.²³³⁶ Berikoff stated that groups of Croatian soldiers loaded trucks with livestock and valuables from one home after another while civil police watched or directed traffic and checked something off on clipboards as they went from house to house.²³³⁷ According to Berikoff, they passed over houses that had painted markings indicating that it was a Croatian household.²³³⁸ He stated that there were no civilians.²³³⁹ According to Berikoff, “we were told on various occasions” that they were taking this property to a central location from which it would later be distributed back to the owners.²³⁴⁰ Berikoff wrote that he had seen dead animals that day.²³⁴¹ Berikoff wrote that on that day they also went to Strmica, in Knin municipality, where the observation post had received a few shells and sustained quite a lot of damage.²³⁴²

²³³¹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 57; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (g).

²³³² Philip Berikoff, T. 7896.

²³³³ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 47, 57; Philip Berikoff, T. 7604; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (i); P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (g); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

²³³⁴ Philip Berikoff, T. 7895-7896.

²³³⁵ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (q); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 20-21, 23; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

²³³⁶ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (q); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 20, 23; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

²³³⁷ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (q); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 32-35, 57; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7595, 7839-3840; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (c); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

²³³⁸ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 34.

²³³⁹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 33.

²³⁴⁰ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 34.

²³⁴¹ P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (g).

²³⁴² P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

537. On 11 August 1995, Captain Dangerfield, Sergeant Green and Berikoff went in the morning to a UN observation post at Civljane, which they found had been taken over by HV troops, who refused to let them enter and told them to return to the UN compound in Knin.²³⁴³ On the way to Civljane, Berikoff saw HV troops and persons wearing grey cover-all uniforms going from house to house, removing items and loading them onto vehicles.²³⁴⁴ Berikoff wrote that houses along the way were destroyed.²³⁴⁵ He also wrote that they tried to get to Maljkovo, in Hrvace municipality, and managed to pass one check-point manned by military and civil police, but were forced to turn around at a second check-point manned by civil police only.²³⁴⁶ They returned to the UN compound in Knin.²³⁴⁷ In the afternoon, Berikoff and his companions retraced what they believed had been the escape route of fleeing SVK and Serb refugees – from Knin through Donji Lapac and into Bosnia – and during two hours they saw numerous civilian and SVK vehicles on both sides of the road, many of which were riddled with bullet holes or run over by tanks, and/or had pools of blood on the ground beneath and beside them.²³⁴⁸ Berikoff wrote that there were bodies inside some of the vehicles, and that the stench of death was everywhere.²³⁴⁹ There were also scattered belongings, many burning or destroyed houses and dead livestock along the entire route.²³⁵⁰ Berikoff wrote that “looting” was taking place in many towns, and that he encountered both HV troops and persons wearing grey cover-all uniforms many

²³⁴³ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (r); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 35; Philip Berikoff, T. 7621; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (h); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

²³⁴⁴ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 57; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590, 7621, 7835, 7838, 7849; P363 (UNCRO Sector South daily situation report, 8:30 p.m., 11 August 1995), p. 7; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (h).

²³⁴⁵ P363 (UNCRO Sector South daily situation report, 8:30 p.m., 11 August 1995), p. 7; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (h).

²³⁴⁶ P363 (UNCRO Sector South daily situation report, 8:30 p.m., 11 August 1995), p. 7; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

²³⁴⁷ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 35; P363 (UNCRO Sector South daily situation report, 8:30 p.m., 11 August 1995), p. 7.

²³⁴⁸ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (r); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 35, 57, 63-64; Philip Berikoff, T. 7851; P363 (UNCRO Sector South daily situation report, 8:30 p.m., 11 August 1995), p. 7; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (k); P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (i); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10; P749 (Photos), pp. 2, 42-45.

²³⁴⁹ P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

²³⁵⁰ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (r); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 35, 47-48, 57; P363 (UNCRO Sector South daily situation report, 8:30 p.m., 11 August 1995), p. 7; P742 (Report by Berikoff on Destruction in Sector South, 22 November

times during the trip.²³⁵¹ They passed several check-points, where they were stopped and threatened, with attempts to take some of their equipment.²³⁵² They negotiated their way past a check-point manned by “bandits” and reached Donji Lapac, where they heard small-arms gunfire and saw many houses recently destroyed or freshly ablaze, as well as many HV/HVO soldiers and persons wearing grey cover-all uniforms.²³⁵³ They would go from house to house, which would start burning after they exited it and before they entered the next one.²³⁵⁴ Berikoff wrote that on their way back to Knin, they passed a dead horse covered with tank tracks, which they had not seen there earlier in the day.²³⁵⁵

538. On 12 August 1995, in the morning, Berikoff, Forand and others went to Donji Lapac, passing after a wait the same “rag-tag” check-point as the day before, and found the town empty and smouldering.²³⁵⁶ They returned to Knin.²³⁵⁷ Later that day, Captain Dangerfield, Sergeant Andy Green, Warrant Officer Laurier Thibeault and Berikoff went to Civljane.²³⁵⁸ After being turned back at a couple of check-points (one of which was manned by persons in grey cover-all uniforms), they went cross-country, in the afternoon, to the village of Cetina, in Civljane municipality, where at least 50-60 per cent of the buildings were burning or recently burned.²³⁵⁹ They drove into the village, where Berikoff saw Croatian soldiers, including rag-tag soldiers whom Berikoff thought

1995), para. 2 (k); P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (i); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 10.

²³⁵¹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 35, 57; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590, 7835, 7838, 7849; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (i).

²³⁵² D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 35; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 11.

²³⁵³ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (r); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 35, 57-59; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590, 7604-7605, 7835, 7838, 7849, 7875; P363 (UNCRO Sector South daily situation report, 8:30 p.m., 11 August 1995), p. 7; P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 7; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (j); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), pp. 10-11.

²³⁵⁴ Philip Berikoff, T. 7605; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (j).

²³⁵⁵ P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 11.

²³⁵⁶ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 59; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 11.

²³⁵⁷ P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 11.

²³⁵⁸ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (s); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 36, 58; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 11.

²³⁵⁹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (s); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 36, 38-39, 48, 58; Philip Berikoff, T. 7897; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (n); P747 (Report by Berikoff on HV/HVO

could have been under a war lord, and persons wearing grey cover-all uniforms, with guns and machetes, moving from house to house, and within minutes of them leaving a house, it would go up in flames.²³⁶⁰ He also heard gunfire.²³⁶¹ There were no civilians.²³⁶² A group of rugged, unshaven uniformed Croatian men with ripped-off sleeves, headbands and no markings surrounded the vehicle, told them angrily and at gunpoint that they were in a restricted area, and one of them brought Berikoff and his companions to the police station in Vrlika.²³⁶³ They were detained at the police station for approximately two hours.²³⁶⁴ Then Berikoff showed them General Čermak's letter, which a civil policeman took, left for a while, then returned and let them out of jail, telling them that they were conducting operations in the area looking for Serbs, and that Berikoff and his companions had to leave Sector South and report to the Croatian police in Split.²³⁶⁵ Then two civilian police cars escorted them from the Vrlika police station out of Sector South.²³⁶⁶ Berikoff and his companions returned to Knin through Drniš, and between these two towns he saw fields on fire in every direction.²³⁶⁷ Once, Croatian military at a check-point told Berikoff that this was to clear the fields for mines, which an engineer at the UN headquarters confirmed to Berikoff was one way for them to find

activities 4-20 August 1995), para. 1 (k); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 11; P753 (Photos of Cetina valley), pp. 1-2.

²³⁶⁰ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (s); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 36-39, 48, 58; D735 (Philip Berikoff, witness statement, 30 August 2008), pp. 2-3; Philip Berikoff, T. 7590, 7606, 7835, 7838, 7849, 7893, 7895-7897; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (n); P743 (Report by Berikoff on his activities 4-12 August 1995), para. 5; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (k); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 11.

²³⁶¹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (s); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 36.

²³⁶² D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 36, 38.

²³⁶³ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (s); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 36-39, 58; Philip Berikoff, T. 7893, 7896-7897; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 5; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (k); P748 (Berikoff's daily journal, 17 July – 6 September 1995), pp. 11-12.

²³⁶⁴ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (s); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 36-37, 58; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 5; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (k); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 12.

²³⁶⁵ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 28-29, 37, 39-40, 58; Philip Berikoff, T. 7901; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 12.

²³⁶⁶ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (s); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 37; Philip Berikoff, T. 7901; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 5; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 12.

²³⁶⁷ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (s); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 37, 63; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 5; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (k); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 12; P749 (Photos), pp. 2, 35; P752 (Photos of Destruction outside Knin), pp. 3-4.

mines.²³⁶⁸ Berikoff stated that about 90 per cent of the houses along the road between Knin and Drniš were destroyed.²³⁶⁹ At the entrance of Drniš, they were stopped at a large check-point by Croatian military police, who made a phone call. Berikoff and his companions showed them the letter from Čermak, which did not seem to make an impression on them. Then they said that Major Ivan Jurić had also given them permission to travel, upon which a military policeman made another phone call and allowed them to proceed.²³⁷⁰

539. Berikoff wrote that on 13 August 1995 he and others went to Rašević, in Polača municipality, and that things were still burning everywhere.²³⁷¹ On 14 August 1995, in the morning, Captain Dangerfield, Sergeant Green and Berikoff travelled to Strmica where HV soldiers, Croatian civil police and persons in grey cover-all uniforms refused them entry into Strmica due to ongoing fighting in the area.²³⁷² In the afternoon, they managed to enter Strmica and reach the UN observation post, which was occupied by approximately 20-25 heavily armed HV soldiers.²³⁷³ Berikoff stated that at least ten houses were destroyed on the road between Knin and Strmica, and further houses were damaged or destroyed in Strmica, although he did not reach the centre of the village.²³⁷⁴ He testified that this destruction was recent, after the beginning of Operation Storm, and could have been caused by shelling, although he never witnessed any shelling into the Strmica area.²³⁷⁵ Berikoff wrote that there were a lot of soldiers and persons in grey cover-all uniforms in Strmica.²³⁷⁶ He also wrote that, while accompanying General

²³⁶⁸ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 37, 40.

²³⁶⁹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 46; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (c).

²³⁷⁰ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 40.

²³⁷¹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 63; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 12; P749 (Photos), pp. 2, 36-38.

²³⁷² P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (t); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 41; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590, 7699, 7835, 7838; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 12.

²³⁷³ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (t); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 41; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 12.

²³⁷⁴ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 46; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (b).

²³⁷⁵ Philip Berikoff, T. 7673; P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 7.

²³⁷⁶ D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590, 7835, 7838; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 12.

Forand on 15 August 1995, he witnessed many burning buildings and fields in the area of responsibility of the Kenyan UNCRO Battalion.²³⁷⁷

540. On 20 August 1995, Berikoff and others travelled up through the Donji Lapac area and noticed that there was still a lot of military activity around the town of Donji Lapac.²³⁷⁸ They saw Croatian military and police loading trucks with valuables from houses.²³⁷⁹ They also saw many dead animals, some on the road with cables around their necks and others hanging from trees.²³⁸⁰ Berikoff wrote that they also saw “Croats” dragging a pig by a cable behind their truck, then stopping and throwing it over an embankment, and in another incident shooting a pig and then running over it.²³⁸¹ Berikoff stated that many houses had been destroyed along the route between Knin and Otrić, in Gračac municipality, and that some hamlets had been totally destroyed.²³⁸² At Otrić, they were stopped at a check-point by civil police, who told them that they could not go to Donji Lapac because there were still operations there, and forced them to turn around.²³⁸³ Berikoff and his companions took another road through Gračac to Donji Lapac.²³⁸⁴ Berikoff stated that a number of houses were destroyed along the route between Otrić and Gračac.²³⁸⁵

541. Berikoff wrote that, on 21 August 1995, he travelled to Gračac, Udbina, Karlovac and Zagreb.²³⁸⁶ The witness wrote that, on 26 August 1995, he and Roland Dangerfield went to a burning village where they found two dead elderly males, with gunshot wounds in the back of their heads and their throats and stomachs slashed

²³⁷⁷ P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (l); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), pp. 12-13.

²³⁷⁸ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (u); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 41, 59; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (m); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 13.

²³⁷⁹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (u); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 41-42; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 13.

²³⁸⁰ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (u); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 41, 63; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (m); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 13; P749 (Photos), pp. 2, 39.

²³⁸¹ P748 (Berikoff’s daily journal, 17 July – 6 September 1995), pp. 13-14.

²³⁸² D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 47; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (j).

²³⁸³ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 41.

²³⁸⁴ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 41, 59.

²³⁸⁵ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 48; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (m).

²³⁸⁶ P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 14.

open.²³⁸⁷ On 28 August 1995, persons wearing grey cover-all uniforms stopped Captain Dangerfield, Sergeant Green and Berikoff about five kilometres south of Uništa, and ordered them to turn around and not come back because there were still “evil Chetniks” in the area.²³⁸⁸ On 29 and 30 August 1995, Berikoff and Parlee drove Journalist Garth Pritchard around in the areas of Knin, Kistanje, Razvođe in Oklaj municipality, Drniš, Vrbnik in Orlić municipality, Gračac and Donji Lapac, where he saw persons in civilian clothes or uniform, dead animals, destroyed houses and vehicles, as well as an intact water tower in Kistanje.²³⁸⁹ In Kistanje around 95 per cent of the buildings were destroyed.²³⁹⁰ On 1 September 1995, Parlee and Berikoff travelled to Obrovac and several other villages in the north western area of Sector South.²³⁹¹ There was ongoing looting and burning of houses.²³⁹² Berikoff stated that on the road between Macure and Obrovac, there were at least some destroyed houses in almost every village or hamlet, and that some hamlets were completely destroyed.²³⁹³ Berikoff once saw a civilian man carrying a jerrycan enter a house, then leave the house empty-handed a few minutes later, and as he was walking away the house erupted into flames.²³⁹⁴ He saw no civil police or military in Obrovac that day.²³⁹⁵ Berikoff wrote that, on 2 September 1995, persons in grey cover-all uniforms stopped him and others on the road towards Cetina and Uništa, forced them to turn around, and escorted them back to the main highway.²³⁹⁶ There were numerous houses on fire. Berikoff wrote that, on 3 September

²³⁸⁷ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (c); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 15.

²³⁸⁸ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (v); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 43-44; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590, 7835, 7838; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 15.

²³⁸⁹ P741 (Philip Berikoff, witness statement, 11 December 2007), paras 7-8; D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 59; Philip Berikoff, T. 7628, 7631; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 15; P749 (Photos), pp. 2, 32-33; P754 (Video taken by Garth Pritchard on 29 or 30 August 1995); P757 (Video taken by Garth Pritchard on 29 or 30 August 1995).

²³⁹⁰ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 26, 47; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (e).

²³⁹¹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (x); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 44; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 16.

²³⁹² P739 (Philip Berikoff, witness statement, 24 August 1996), p. 4; P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (x); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 44; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 3; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 16.

²³⁹³ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 47; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (g).

²³⁹⁴ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (x); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 44-45, 60; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 16.

²³⁹⁵ D735 (Philip Berikoff, witness statement, 30 August 2008), p. 3.

²³⁹⁶ D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590, 7835, 7838; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 16.

1995, he drove a Canadian journalist and a photographer to Knin and a number of villages, that houses were still burning and that there were dead animals everywhere.²³⁹⁷

On 4 September 1995, he drove Garth Pritchard to Donji Lapac.²³⁹⁸ Berikoff stated that the town was approximately 90 per cent destroyed.²³⁹⁹ It was deserted with the exception of one Jordanian and a few HV soldiers.²⁴⁰⁰

542. Following the start of Operation Storm, Croatian check-points appeared at major intersections leading in and out of Sector South, including at Varivode in Kistanje municipality, Oklaj, Macure, Razvođe in Oklaj municipality, Drniš and Knin, which were first manned by Croatian soldiers and military or civil police (civil police replacing military police in late August).²⁴⁰¹ Berikoff stated that, on numerous occasions as he travelled through Sector South, he witnessed military and civilian trucks, loaded with valuables being waved through check-points, sometimes after a superficial check, while he himself would be stopped and detained.²⁴⁰²

543. Berikoff stated that, from the first time he was allowed out of the UN compound in Knin until 5 September when he left, he witnessed, throughout Sector South and on numerous occasions, Croatian soldiers and persons wearing grey cover-all uniforms going from house to house, loading livestock and valuables from houses onto trucks, while persons wearing grey cover-all uniforms were directing traffic around them.²⁴⁰³ Berikoff stated that he became familiar with some Croatian soldiers at check-points who told him that one of the causes of buildings burning was that soldiers would enter a house, turn up the gas, light a candle, and leave.²⁴⁰⁴ They explained that this was to ensure that there were no “evil Chetniks” around.²⁴⁰⁵ Berikoff identified buildings

²³⁹⁷ P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 16.

²³⁹⁸ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 59; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), pp. 15-16.

²³⁹⁹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 48; P742 (Report by Berikoff on Destruction in Sector South, 22 November 1995), para. 2 (1).

²⁴⁰⁰ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 59.

²⁴⁰¹ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 4; D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 30, 33, 54.

²⁴⁰² D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 54.

²⁴⁰³ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 43, 60; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590, 7835, 7838.

²⁴⁰⁴ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 25, 60; Philip Berikoff, T. 7912-7913.

²⁴⁰⁵ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 25, 27.

destroyed after Operation Storm by the fact that only the roofs were gone, while the remainder of the building was intact with no shrapnel marks or artillery holes.²⁴⁰⁶

544. Berikoff stated that there was graffiti indicating military units on houses in the Krajina, and that it was an accurate portrayal of the units that were in the area.²⁴⁰⁷ Berikoff testified that throughout Sector South he regularly saw markings on houses indicating that they were Croatian.²⁴⁰⁸ He testified that he also saw such markings being put on houses, sometimes by civilians (in particular around the Obrovac-Velebit area), sometimes by police, wearing either camouflage uniforms, grey cover-all uniforms or civilian bluish-grey pants and shirt uniform, sometimes by partially or fully uniformed soldiers who had the weapons typical of ordinary soldiers, and sometimes by all of these groups together.²⁴⁰⁹ He also testified that he always saw at least some intact houses without such markings.²⁴¹⁰

545. Between 7 and 9 August 1995, Berikoff saw only persons in police or military uniform, no Serb or Croat civilians.²⁴¹¹ He stated that during the first week after Operation Storm he saw few civilians, and they were very elderly.²⁴¹² Berikoff stated that civilians only began entering the area a couple of weeks after the offensive, and that Croats and German tourists were among the first to come.²⁴¹³ Berikoff stated that by the time the civilians entered the area, most of the destruction was already done.²⁴¹⁴ Berikoff testified that looting was also done by people whom he referred to as war lords, paramilitaries or gangs, who wore camouflage uniform, or were with persons in such uniform, and whom Berikoff distinguished by their uniforms, attitude and demeanour.²⁴¹⁵ They would sometimes have more and better – more modern and Western – weapons than the regular Croatian soldiers.²⁴¹⁶ The heaviest weaponry that

²⁴⁰⁶ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 63; P749 (Photos), pp. 2, 34; P752 (Photos of Destruction outside Knin), pp. 1-2, 5.

²⁴⁰⁷ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 45.

²⁴⁰⁸ Philip Berikoff, T. 7604, 7913-7914.

²⁴⁰⁹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 34; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7590, 7835, 7838, 7913-7916.

²⁴¹⁰ Philip Berikoff, T. 7913-7914.

²⁴¹¹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 21.

²⁴¹² D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 31-32.

²⁴¹³ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 48-49; Philip Berikoff, T. 7753.

²⁴¹⁴ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 4; D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 49.

²⁴¹⁵ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 27-28, 49-50; Philip Berikoff, T. 7753-7754, 7756-7757, 7802, 7892-7900.

²⁴¹⁶ Philip Berikoff, T. 7900.

Berikoff saw them use was Western-type hand-held rocket launchers and “50-calibre” machine guns, as well as approximately “80-calibre” Yugoslav-type mortars.²⁴¹⁷

546. The Trial Chamber will consider Berikoff’s evidence, as reviewed above, when discussing incidents of alleged destruction and plunder in the Indictment municipalities below.

4.2.2 Benkovac municipality

Benkovac town

547. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Benkovac town through the testimonies of Alun Roberts, Jacques Morneau, and Konstantin Drča, as well as various reports and other documentation of the HV. According to the 1991 Population Census, the population of Benkovac consisted of 2780 Serbs out of a total of 3776 persons in 1991.²⁴¹⁸

548. In a report to, among others, the Split MD dated 23 August 1995, Commander Colonel Josip Čerina of the 134th Home Guard Regiment stated that on 5 August 1995, Brigadier Jure Šundov sent the 1st Infantry Battalion to Benkovac without consulting Čerina.²⁴¹⁹ According to the report, the battalion deployed around the fire station in Benkovac.²⁴²⁰ Čerina reported that over the next couple of hours the situation in Benkovac worsened, due to the interference of the Zadar OG units. On 6 August 1995, having learnt that part of the unit was in Benkovac, Čerina ordered a withdrawal of the 1st Infantry Battalion and at 10 a.m. the battalion left Benkovac town.²⁴²¹ Čerina further reported that on 16 August 1995, they were ordered to deploy part of the unit to the area of Benkovačko Selo, and that they had been denied a request to transfer to the “Benkovac” Barracks.²⁴²²

549. In a daily report to the General Staff of the Croatian Army sent at 6 a.m. on 5 August 1995, Ante Gotovina stated that the 7th Home Guard Regiment and the 134th

²⁴¹⁷ Philip Berikoff, T. 7916.

²⁴¹⁸ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 46.

²⁴¹⁹ P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), p. 2.

²⁴²⁰ P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), pp. 2-3.

²⁴²¹ P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), p. 3.

²⁴²² P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), pp. 1, 5.

Home Guard Regiment, part of OG Zadar, had reached the front line in Benkovac.²⁴²³ In a report addressed to Major General Ivan Tolj sent at 1 p.m. on 5 August 1995, Colonel Ivan Zelić, Coordinator of the Political Administration at the Ministry of Defence for Political Affairs, stated that, having taken control of Žitnić, forces surrounded Benkovac as well.²⁴²⁴

550. On 8 August 1995, Captain Grancarić of the 72nd Battalion of the VP, 3rd Company Zadar reported that the situation in Benkovac immediately after it was liberated was getting out of control and had, at one point, developed into a state of anarchy.²⁴²⁵ Captain Grancarić reported that he had informed the Commander of the Zadar OG Colonel Mladen Fuzul, that this situation occurred because this unit had many members from the area, most of whom stayed in town drinking the entire night. Law and order was violated and various crimes were committed, after which the Zadar OG Commander issued an order forbidding all HV members from entering the town of Benkovac. Captain Grancarić established four main points of entry into the town, and used barricades to prevent other entry into the town. That same night Captain Grancarić formed four groups led by commanders of squads and platoons, and combed the entire town. He reportedly found many men aimlessly wandering around the town and visiting buildings.²⁴²⁶

551. On 10 August 1995, Captain Grancarić of the 72nd Battalion of the VP, 3rd Company Zadar, reported that on 5 August 1995, at 3:30 p.m., four VP members together with members of other units entered Benkovac town.²⁴²⁷ That evening, only one building was on fire, which happened before the VP entered the town. The VP called the fire brigade, but they did not react since the electric power was not shut down. The company Forward Command Post was then stationed in Benkovac, and the VP began patrolling and securing vital building and facilities. Upon the arrival of three MUP members at 9:15 p.m. on 5 August 1995, Captain Grancarić contacted Commander Marko Balić to discuss taking over the security of civilian buildings and carrying out mixed patrols, consisting of three VP members and three MUP members.

²⁴²³ D180 (Documentation of Croatian authorities of investigation of murders of Ilija and Milka Petko, and Dmitar and Đuro Rašuo), pp. 8, 11, 13.

²⁴²⁴ D180 (Documentation of Croatian authorities of investigation of murders of Ilija and Milka Petko, and Dmitar and Đuro Rašuo), pp. 14-15.

²⁴²⁵ P1211 (Report of Captain Grancarić, 72nd Battalion of the VP, 8 August 1995), pp. 1-2.

²⁴²⁶ P1211 (Report of Captain Grancarić, 72nd Battalion of the VP, 8 August 1995), p. 1.

²⁴²⁷ D737 (Report by Commander Major Budimir, 13 August 1995), p. 6; D1749 (Report of Captain Grancarić, 72nd Battalion of the VP, 10 August 1995), pp. 1, 3.

According to the report, there had been a large number of civilians in Benkovac town and three military policemen provided security for the collection centres for prisoners of war.²⁴²⁸ On the days leading up to 10 August 1995, VP patrols and HV members brought 55 persons of Serbian nationality and one Croat to the VP premises in Benkovac.²⁴²⁹ Based on seized military records and questioning of these persons, the VP established that twelve of those in custody had actively taken part in the armed rebellions against Croatia and escorted them to the Criminal VP in Zadar. The VP handed the other 43 persons to the Infantry Regiment in Benkovac, which transferred them to the Mocire collection centre in Zadar.²⁴³⁰ On 6 August 1995, after a curfew was imposed by Colonel Mladen Fuzul, the VP established two additional check-points, and blocked a couple of side roads into Benkovac, as there were frequent thefts and looting in the town.²⁴³¹ There was only one further disturbance after the declaration of the curfew, and the perpetrators were detained for some hours.²⁴³² Between 5 and 10 August 1995, during VP patrols and at check-points, the VP seized a large number of electrical and mechanical appliances, including household appliances, TVs and radios, and stored them at the VP Benkovac warehouse, along with war equipment, including weapons, ammunition, shells and mines.²⁴³³ On 13 August 1995, Major Budimir of the 72nd Unit of the Military Police relayed the information reported by Grancarić to the Chief of the VP administration in Zagreb.²⁴³⁴

552. Following a request for information from the Zadar-Knin Police Administration, on 2 September 1995, the 6th Benkovac police station reported that there were still reports in their area of the burning of Serb houses and reports, albeit fewer, of demolition and the taking away of property.²⁴³⁵ According to the report, between 22 and

²⁴²⁸ D737 (Report by Commander Major Budimir, 13 August 1995), p. 7; D1749 (Report of Captain Grancarić, 72nd Battalion of the VP, 10 August 1995), p. 3.

²⁴²⁹ D737 (Report by Commander Major Budimir, 13 August 1995), p. 8; D1749 (Report of Captain Grancarić, 72nd Battalion of the VP, 10 August 1995), p. 5.

²⁴³⁰ D737 (Report by Commander Major Budimir, 13 August 1995), p. 9; D1749 (Report of Captain Grancarić, 72nd Battalion of the VP, 10 August 1995), p. 5.

²⁴³¹ D737 (Report by Commander Major Budimir, 13 August 1995), p. 7; D1749 (Report of Captain Grancarić, 72nd Battalion of the VP, 10 August 1995), p. 4.

²⁴³² D737 (Report by Commander Major Budimir, 13 August 1995), pp. 7-8; D1749 (Report of Captain Grancarić, 72nd Battalion of the VP, 10 August 1995), p. 4.

²⁴³³ D737 (Report by Commander Major Budimir, 13 August 1995), p. 9; D1749 (Report of Captain Grancarić, 72nd Battalion of the VP, 10 August 1995), p. 5.

²⁴³⁴ D737 (Report by Commander Major Budimir, 13 August 1995), pp. 1, 4-9; D1749 (Report of Captain Grancarić, 72nd Battalion of the VP, 10 August 1995).

²⁴³⁵ D1750 (Letter to police stations in the Zadar-Knin Police Administration, 1 September 1995), pp. 1-3.

31 August 1995, the 6th Benkovac police station had carried out five on-site investigations of arson and two of serious larceny.²⁴³⁶

553. On or before 13 August 1995, the Commander of the 4th VP Company, Šibenik, reported that VP deployed at check-points in and around Drniš, Kistanje and Skradin aimed to prevent theft by individuals and military conscripts of property from the newly liberated areas.²⁴³⁷ He further reported that part of the war booty, which included motor vehicles, technical goods, refrigerators, washing machines, office material, machineguns and a ship, would remain with the 4th VP Company and be used for its purposes.²⁴³⁸

554. At 4:05 p.m. on 8 August 1995, at a check-point near Benkovac, UNMO observed VP inspecting many civilian cars with soldiers in them, and obliging the soldiers to hand over items that they deemed to be stolen, such as TVs, generators and refrigerators.²⁴³⁹ The team observed only police and soldiers in Benkovac.²⁴⁴⁰ On 15 August 1995, UNMO observed two houses on fire in Benkovac that they had not seen burning when they passed by that morning.²⁴⁴¹

555. According to a UNCIVPOL weekly report, dated 20 August 1995, there was widespread arson of deserted houses in the vicinities of Benkovac, Kistanje, Gračac, and Knin. This destruction was accompanied by looting of the property. According to the report, Croatian military personnel had been spotted at the crime scenes and the extent of the activity indicated to the drafters of the report that it was an officially condoned campaign.²⁴⁴² As for Benkovac town, it was ransacked although the number of burned houses was low.²⁴⁴³

556. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,²⁴⁴⁴ testified that he believed that there was a SVK company headquarters outside of Benkovac, though based on his many

²⁴³⁶ D1750 (Letter to police stations in the Zadar-Knin Police Administration, 1 September 1995), p. 3.

²⁴³⁷ D737 (Report by Commander Major Budimir, 13 August 1995), pp. 1, 4, 9-10.

²⁴³⁸ D737 (Report by Commander Major Budimir, 13 August 1995), p. 10.

²⁴³⁹ P112 (UNMO Sector South daily situation report, 8 p.m., 8 August 1995), p. 3.

²⁴⁴⁰ P112 (UNMO Sector South daily situation report, 8 p.m., 8 August 1995), p. 4.

²⁴⁴¹ P120 (UNMO Sector South daily situation report, 7 p.m., 15 August 1995), pp. 1, 3.

²⁴⁴² P223 (UNCIVPOL weekly report 14-20 August 1995, 20 August 1995), p. 4.

²⁴⁴³ P224 (UNCIVPOL incident report, 15 August 1995), p. 1.

²⁴⁴⁴ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

visits, he did not believe that there was SVK military equipment or personnel stationed in the town itself.²⁴⁴⁵

557. On 21 August 1995, UNMO observed two houses on fire in Benkovac.²⁴⁴⁶ At 8:30 p.m. on 1 September 1995, UNMO observed three burning houses in Benkovac.²⁴⁴⁷

558. According to a report from Ante Gotovina to the Chief of the HV Main Staff, General Zvonimir Červenko, on 1 September 1995 the 134th Home Guard Regiment was deployed in the area of Benkovačko selo, in Benkovac municipality.²⁴⁴⁸

559. **Jacques Morneau**, the Battalion Commander of Canbat 1 from April to September 1995,²⁴⁴⁹ testified that, immediately following the Croatian offensive in August 1995, throughout Canbat 1's area of responsibility, he observed Croatian soldiers in military uniforms and Croatian police looting livestock, cars, tractors, and furniture from houses, and then burning the houses.²⁴⁵⁰ Canbat 1's headquarters was at Raštević, in Polača municipality, and its area of responsibility included Rodaljice, in Lisičić municipality, Pristeg, in Stankovci municipality, Kakma, in Polača municipality, Benkovac, and stretched north up to Obrovac.²⁴⁵¹ About a week later, the witness saw an increased number of civilians involved in the looting and burning.²⁴⁵² The looting and burning took place day after day for three to four weeks.²⁴⁵³ The witness observed people looting in groups of between two and eight persons.²⁴⁵⁴ Some houses and some villages were completely looted and burned down, sometimes set on fire more than

²⁴⁴⁵ P677 (Alun Roberts, witness statement, 28 February 2007), p. 12.

²⁴⁴⁶ D93 (UNMO Sector South daily situation report, 7 p.m., 21 August 1995), pp. 2-3.

²⁴⁴⁷ P137 (UNMO Sector South update situation report, 11:59 p.m., 1 September 1995), p. 2.

²⁴⁴⁸ P2566 (Report from Ante Gotovina to General Zvonimir Červenko, 1 September 1995), pp. 1-2, 4.

²⁴⁴⁹ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 2.

²⁴⁵⁰ P308 (Jacques Morneau, witness statement, 27 August 1996), pp. 3-4; P310 (Jacques Morneau, witness statement, 25 February 2008), para. 9; Jacques Morneau, T. 3939-3941, 3946-3947; P312 (Canbat military intelligence section report, August 1995), p. 6; P313 (Canbat C-company report on HV attack from 4 to 6 August 1995), p. 9; P314 (Canbat report on Events from 4 to 7 August, 31 August 1995), p. 7; P318 (Canbat report on human rights abuses, August 1995), p. 3; P319 (Canbat video of area of responsibility and road towards Knin, following Operation Storm) at 00:24-00:49, 2:50-2:54, 4-4:12; P320 (Annexes to Canbat report on human rights abuses, August 1995), pp. 15, 27-28.

²⁴⁵¹ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 2; P309 (Jacques Morneau, witness statement, 25 November 2003), para. 3; P310 (Jacques Morneau, witness statement, 25 February 2008), paras 4, 22; Jacques Morneau, T. 3924, 4010; P316 (Sketched maps of Canbat 1 area of responsibility), pp.1-3.

²⁴⁵² P308 (Jacques Morneau, witness statement, 27 August 1996), pp. 3-4; P310 (Jacques Morneau, witness statement, 25 February 2008), para. 9; Jacques Morneau, T. 3939-3940, 3952.

²⁴⁵³ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 4; Jacques Morneau, T. 3940-3942.

²⁴⁵⁴ Jacques Morneau, T. 3946-3947.

once, while others were preserved.²⁴⁵⁵ For instance, two Croat enclaves in Bruška and Rodaljice, both in Lisičić municipality, which Canbat 1 had protected prior to Operation Storm, were left untouched after Operation Storm, while Serbian villages nearby were looted and burned completely.²⁴⁵⁶ Hundreds of farm animals were killed, and their carcasses were found throughout Canbat's area of responsibility.²⁴⁵⁷ From 4 August 1995, the VP set up check-points on roads around towns and villages in the Krajina area.²⁴⁵⁸ According to the witness, there were about 30 to 50 Croatian check-points in Canbat's area of responsibility.²⁴⁵⁹ The check-points were manned by VP initially, and later by civilian police.²⁴⁶⁰ Canbat vehicles were refused access at the check-points.²⁴⁶¹ Croatians informed the witness that his access into towns like Benkovac was restricted while they cleared the area of pockets of Serb resistance.²⁴⁶² The witness managed to avoid the check-points by using smaller roads and driving off-road in military vehicles, in order to visit Canbat troops and resupply camps.²⁴⁶³ After the offensive, the witness saw hundreds of vehicles, most of which were civilian vehicles with a mixture of military and civilian drivers, transporting looted property out of the Krajina area, travelling primarily along the main roads, towards Croatia.²⁴⁶⁴ The witness also saw vehicles with looted goods coming out of restricted areas like Benkovac, where Croatians had constructed check-points on all roads leading into town.²⁴⁶⁵ According to

²⁴⁵⁵ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 4; Jacques Morneau, T. 3940-3942; P319 (Canbat video of area of responsibility and road towards Knin, following Operation Storm) at 00:24-00:49, 2:50-2:54, 4-4:12.

²⁴⁵⁶ P310 (Jacques Morneau, witness statement, 25 February 2008), para. 11; Jacques Morneau, T. 3924.

²⁴⁵⁷ P318 (Canbat report on human rights abuses, August 1995), p. 3; P319 (Canbat video of area of responsibility and road towards Knin, following operation storm) at 3:44-3:47; P320 (Annexes to Canbat report on human rights abuses, August 1995), p. 30.

²⁴⁵⁸ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 4; Jacques Morneau, T. 3937-3938, 3941, 3943, 3970, 4000; P312 (Canbat military intelligence section report, August 1995), p. 6; P318 (Canbat report on human rights abuses, August 1995), p. 3; D292 (Croatian defence report on Operation Storm, signed by Mate Laušić, 15 August 1995), pp. 5-6, 13.

²⁴⁵⁹ Jacques Morneau, T. 3970.

²⁴⁶⁰ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 4; T. 3937-3939, 3956-3957, 4000.

²⁴⁶¹ P308 (Jacques Morneau, witness statement, 27 August 1996), pp. 3-4; Jacques Morneau, T. 3927, 3937; P312 (Canbat military intelligence section report, August 1995), p. 6; D289 (Jacques Morneau comment in Ottawa Sun, 6 December 1998), p. 2.

²⁴⁶² P308 (Jacques Morneau, witness statement, 27 August 1996), p. 4; P310 (Jacques Morneau, witness statement, 25 February 2008), para. 9.

²⁴⁶³ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 3; Jacques Morneau, T. 3927, 3965; D289 (Jacques Morneau comment in Ottawa Sun, 6 December 1998), p. 2.

²⁴⁶⁴ P308 (Jacques Morneau, witness statement, 27 August 1996), pp. 3-4; P310 (Jacques Morneau, witness statement, 25 February 2008), para. 9; Jacques Morneau, T. 3942, 3952, 3965, 3969, 3973; P318 (Canbat report on human rights abuses, August 1995), p. 3.

²⁴⁶⁵ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 4; P309 (Jacques Morneau, witness statement, 25 November 2003), para. 3; P310 (Jacques Morneau, witness statement, 25 February 2008), para. 9; Jacques Morneau, T. 3941-3942, 3945-3946, 3968, 4003, 4000; P320 (Annexes to Canbat report on human rights abuses, August 1995), p. 1.

the witness, only a few houses were burned in Benkovac but there was extensive looting in the town.²⁴⁶⁶ The witness observed the vehicles with looted goods travel freely through Croatian check-points.²⁴⁶⁷ The witness sometimes observed the VP stopping and questioning the drivers of vehicles with looted goods, and at other times he observed VP take out items from these vehicles and keep them on the side of the road at the check-point, before letting them pass.²⁴⁶⁸ Almost daily, the witness sent his subordinates to the HV liaison officers in Zadar to protest the looting and the burning and ask why the HV allowed it, to which the officers replied that they could not control the situation in the entire area.²⁴⁶⁹ To the witness's knowledge, these HV liaison officers were reporting to joint commanding officer Gotovina.²⁴⁷⁰ Morneau's subordinates reported to him that, after the HV offensive, they saw a specialized HV unit, wearing black balaclavas, searching through and clearing out or cleansing houses.²⁴⁷¹ Morneau further testified that prior to Operation Storm, Benkovac town was populated "in good part" by Croats.²⁴⁷²

560. **Mate Laušić**, chief of the VP administration from 5 March 1992 until 30 December 2002,²⁴⁷³ testified that at 6:15 p.m. on 7 August 1995, he received a telephone call from Assistant Minister Morić, who told him that Assistant Minister of the Interior Reljić, who was in Benkovac, saw a great deal of looting by members of the HV. He further told Laušić that these members of the HV were allegedly offering armed resistance to members of the VP who were attempting to control them. Laušić subsequently asked his assistant, Brigadier Biškić, to see what was happening in Benkovac.²⁴⁷⁴

561. According to Theunens, on 6 August 1995, the 7th Home Guard Regiment took control of Benkovac and was subsequently tasked with taking over the area.²⁴⁷⁵ On 7

²⁴⁶⁶ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 4; P310 (Jacques Morneau, witness statement, 25 February 2008), para. 12.

²⁴⁶⁷ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 4; Jacques Morneau, T. 3973; P318 (Canbat report on human rights abuses, August 1995), p. 3.

²⁴⁶⁸ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 4.

²⁴⁶⁹ P308 (Jacques Morneau, witness statement, 27 August 1996), p. 4; P310 (Jacques Morneau, witness statement, 25 February 2008), para. 28; Jacques Morneau, T. 3942, 4003.

²⁴⁷⁰ Jacques Morneau, T. 3994.

²⁴⁷¹ P310 (Jacques Morneau, witness statement, 25 February 2008), para. 20; Jacques Morneau, T. 3912-3915, 3955; P312 (Canbat military intelligence section report, August 1995), p. 4; P313 (Canbat C-company report on HV attack from 4 to 6 August 1995), p. 9.

²⁴⁷² P308 (Jacques Morneau, witness statement, 27 August 1996), p. 4.

²⁴⁷³ P2159 (Mate Laušić, witness statement, 11 August 2004), p. 1, paras 1, 37-38, 48, 60.

²⁴⁷⁴ P2159 (Mate Laušić, witness statement, 11 August 2004), para. 196.

²⁴⁷⁵ P1113 (Reynaud Theunens, Expert Report, December 2007), p. 389.

August 1995 at 10:30 p.m., the Forward Command Post of OG Zadar was relocated to Benkovac.²⁴⁷⁶

562. In addition to the above, the Trial Chamber has considered evidence by Konstantin Drča (reviewed in chapters 4.3.2 (Konstantin Drča) and 4.2.7 (Parčić) and Witness 56 (reviewed in chapter 4.5.2).

563. In respect of vehicles transporting items out of Benkovac and being stopped at check-points in the period immediately following Operation Storm, the Trial Chamber considered specifically the evidence of Morneau, the UNMO report of 8 August 1995, and Captain Grancarić's reports of 8 and 10 August 1995. Based on this evidence, and the evidence of Drča, the Trial Chamber finds that civilians and persons referred to as military personnel or soldiers took a large number of household items including televisions, radios, and refrigerators, and electrical and mechanical items including generators, out of Benkovac, including from Drča's house, on several days in the period of 6 to 10 August 1995. Given Morneau's description of some of these persons as military personnel and UNMO's description of the persons seen on 8 August 1995 as soldiers, the Trial Chamber finds that those persons wore military-type uniforms.

564. The Trial Chamber further considered Theunens's testimony regarding the presence and tasks of the 7th Home Guard Regiment on 6 August 1995, and the relocation of the Forward Command Post of OG Zadar to Benkovac on 7 August 1995. Based on Theunens's and Laušić's evidence and UNMO's report of 8 August 1995, the Trial Chamber finds that the persons in military-type uniforms who took the items specified above out of Benkovac on several days in the period of 6 to 10 August 1995 were members of the HV. The Trial Chamber has considered Morneau's testimony that prior to Operation Storm Benkovac was populated "in good part" by Croats. The Trial Chamber has considered that in 1991 Benkovac consisted of 2780 Serbs out of a total of 3776 persons and that significant numbers of non-Serbs left the former Sector South between 1991 and 1995 (see chapter 5.1.2). Further considering the large number of items taken from Benkovac over a period of several days, and that items were taken from Drča's house specifically, the Trial Chamber finds that at least some of the objects taken from Benkovac were owned by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

²⁴⁷⁶ P1113 (Reynaud Theunens, Expert Report, December 2007), p. 393.

565. Morneau's evidence further indicates that Croatian soldiers and police looted livestock, cars, tractors and furniture from houses in an area which included Benkovac for a period of three to four weeks after 4 August 1995. An increased number of civilians were involved in the looting after the first week. However, Morneau's testimony regarding alleged looting by Croatian soldiers in the second, third, and fourth weeks after 4 August 1995 is of a general nature and does not specify the date or location of the alleged looting. Similarly, the evidence that Croatian police were looting the items specified above is of a general nature, and does not specify where this allegedly occurred. In the absence of other, more specific, evidence relating to these incidents, the Trial Chamber is unable to establish where and when these incidents occurred. Therefore, the Trial Chamber will not further consider this evidence for the purpose of making factual findings in respect of Benkovac.

566. The Trial Chamber recalls its finding in chapter 4.3.2 (Konstantin Drča) that around 4:30 p.m, on 11 August 1995, armed VP arrested Konstantin Drča outside his house in Benkovac and took him in a civilian car to a privately owned house in Benkovac, which the Drča described as the VP headquarters. For a period of a month, starting from 11 August 1995, men who Drča referred to as VP ordered him and Todor Šarić to remove all personal belongings, including furniture, from apartments in Benkovac. Drča and Šarić loaded the belongings onto civilian trucks with HV license plates, driven by persons Drča referred to as VP. Based on Drča's statement and the evidence of VP presence in Benkovac during August 1995, the Trial Chamber finds that members of the VP ordered Drča and Šarić to take personal belongings, including furniture, out of apartments in Benkovac and load them onto civilian trucks with HV license plates, driven by VP members. Drča stated that these apartments formerly belonged to the JNA. Drča's evidence does not clearly establish how many apartments he and Šarić were ordered to remove items from. Consequently, having considered the ethnic composition of Benkovac in 1991 and that significant numbers of non-Serbs left the former Sector South between 1991 and 1995 (see chapter 5.1.2), the Trial Chamber is nevertheless unable to determine whether the items taken were owned by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

567. With regard to the storage of items seized by the VP on patrols and at checkpoints, the Trial Chamber specifically considered Captain Grancarić's reports of 8 and

10 August 1995, and Drča's statement. Based on this evidence, the Trial Chamber finds that the VP took the items seized by the VP and civilian police at check-points and on patrols in Benkovac during August and September 1995, and stored them at the VP military barracks and a warehouse in Benkovac. At the military barracks in Benkovac, Drča and Šarić unloaded such items, including televisions, doors, cattle, and mechanical tools, from civilian and military trucks, civilian cars, and tractors. Drča also stated that persons he referred to as HV members and civilian police, regularly took items which had been seized by the VP and the civilian police, for personal use, and that he was present when some of these items were taken to HV apartments and houses. Given Konstantin Drča's description of these persons as members of the HV and civilian police, the Trial Chamber finds that they wore military-type and police-type uniforms respectively. Based on Drča's statement and the evidence of VP presence in Benkovac, the Trial Chamber further finds that in Benkovac during August and September 1995, members of the HV and Croatian civilian police regularly took some of the items, which had been seized by the VP and civilian police, for personal use and to HV apartments. The Trial Chamber has considered that in 1991, Benkovac consisted of 2780 Serbs out of a total of 3776 persons, and recalls to its conclusions in chapter 5.1.2 in respect of non-Serbs leaving the former Sector South between 1991 and 1995. Further, considering the reported extent of the seizing of items at check-points, and the regularity with which such seized items were taken for personal use on an ongoing basis for approximately one month, the Trial Chamber finds that at least some of these items, which were taken by the VP to the VP military barracks and a warehouse in Benkovac and by HV members and civilian police for personal use, were owned by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

568. The evidence also indicates that on 5 August 1995 two or three buildings were on fire in Benkovac and that on 15 August 1995, two houses were set on fire in Benkovac. The evidence further indicates that on 21 August 1995, two houses were burning in Benkovac, and that on 1 September 1995, three houses were burning in Benkovac. However the Trial Chamber has received no other reliable evidence as to the circumstances under which these buildings were set alight. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 5 of the Indictment.

Buković

569. The Trial Chamber has received evidence with regard to alleged destruction in Buković in Benkovac municipality through the testimony of Rajko Guša. According to the 1991 Population Census, the population of Buković consisted of 895 Serbs out of a total of 904 persons in 1991.²⁴⁷⁷ **Rajko Guša**, a Serb from the village of Zemunik Gornji in Zadar municipality,²⁴⁷⁸ testified that he travelled to Buković between 4 and 5 August 1995.²⁴⁷⁹ Upon arriving in Buković at 3 a.m., 5 August 1995, Guša discovered that his family, who had been living in the village, were not there.²⁴⁸⁰ Guša stated that people told him that most of the villagers had fled the previous night.²⁴⁸¹ After sleeping outside, at dawn on 5 August 1995, from a distance of approximately 300 metres, Guša saw about 500-600 Croatian soldiers entering Buković in Benkovac municipality and a number of tanks parked on a road.²⁴⁸² Upon seeing the soldiers, Guša and his companion, Rnjak Slavko, ran to a vineyard near the road where they hid for the entire day.²⁴⁸³ Within seconds of when soldiers arrived in the village, five or six houses began to burn.²⁴⁸⁴ Guša believed that the Croatian soldiers used flammable material such as petrol to start the fires because the roofs caught fire very quickly.²⁴⁸⁵ Guša stated that he saw soldiers wearing camouflage uniforms, some with Croatian checkerboard insignia, on the road which passed by the vineyard where he was hiding.²⁴⁸⁶ After dark that night, Guša and Slavko were able to cross the road, through the Croatian troops, and made their way to a nearby forest. They continued to walk for several days until they came to Ervenik.²⁴⁸⁷

570. Based on the evidence received, the Trial Chamber finds that in the morning of 5 August 1995, members of a group of around 500-600 persons described as Croatian soldiers set fire to five or six houses in Buković in Benkovac municipality. Considering the close proximity in time between the group's entry into the village and the houses

²⁴⁷⁷ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 46.

²⁴⁷⁸ P959 (Rajko Guša, witness statement, 28 May 1997), para. 1.

²⁴⁷⁹ P959 (Rajko Guša, witness statement, 28 May 1997), para. 1, 6, 9.

²⁴⁸⁰ P959 (Rajko Guša, witness statement, 28 May 1997), para. 9.

²⁴⁸¹ P959 (Rajko Guša, witness statement, 28 May 1997), para. 10.

²⁴⁸² P959 (Rajko Guša, witness statement, 28 May 1997), paras 11-12; Rajko Guša, T. 9848-9850.

²⁴⁸³ P959 (Rajko Guša, witness statement, 28 May 1997), para. 12; Rajko Guša, T. 9848.

²⁴⁸⁴ P959 (Rajko Guša, witness statement, 28 May 1997), para. 13; P960 (Rajko Guša, witness statement, 19 February 2008), para. 4.

²⁴⁸⁵ P960 (Rajko Guša, witness statement, 19 February 2008), para. 4.

²⁴⁸⁶ P959 (Rajko Guša, witness statement, 28 May 1997), para. 14.

²⁴⁸⁷ P959 (Rajko Guša, witness statement, 28 May 1997), para. 15; Rajko Guša, T. 9848.

catching fire, the Trial Chamber finds that members of this group of persons set fire to the houses. Considering the presence of persons wearing camouflage uniforms, some with checkerboard insignia, the number of persons present, and the presence of tanks in the area, the Trial Chamber finds that the persons burning houses were members of Croatian armed forces or Special Police. Considering the ethnical composition of Buković in 1991, that significant numbers of non-Serbs left the former Sector South between 1991 and 1995 (see chapter 5.1.2), the Trial Chamber finds that at least some of the burnt houses were owned or inhabited by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1 and 5 of the Indictment.

Stegnajići

571. The Trial Chamber has received evidence with regard to alleged destruction in Stegnajići in Benkovac municipality through UNCRO and UNMO reports. According to an UNCRO report, at approximately 5 p.m. on 19 August 1995 in Stegnajići, UNCRO and UNMO staff heard an explosion, and saw two civilians with short hair and desert eagle pistols leaving in a small blue car.²⁴⁸⁸ They discovered a four-metre-long string tied to a grenade pin near a house, and shrapnel damage inside the house. They reported the incident to the Benkovac police.²⁴⁸⁹ At 5:30 p.m. on the same day, UNMO observed one civilian car with one Croatian soldier searching houses in the area of Stegnajići in Benkovac municipality, who exploded a hand grenade in a house.²⁴⁹⁰

572. In addition to the evidence above, the Trial Chamber has considered P1200 and P2566 reviewed in chapter 4.2.2.

573. The evidence indicates that at approximately 5 p.m. on 19 August 1995 in Stegnajići, two civilians carrying desert eagle pistols and travelling in a small blue car, caused a grenade explosion which created shrapnel damage inside a house. The evidence further indicates that at 5:30 p.m. on 19 August 1995, a person referred to as a Croatian soldier, in a civilian car, was searching houses in Stegnajići and exploded a hand grenade in a house. Based on UNMO's description of this person as a Croatian soldier, the Trial Chamber is satisfied that the person wore a uniform. The report does

²⁴⁸⁸ P403 (UNCRO Sector South daily situation report, 8:30 p.m., 21 August 1995), pp. 3-4; D623 (UNCRO Sector South daily situation report, 8:30 p.m., 21 August 1995), pp. 2-3.

²⁴⁸⁹ P403 (UNCRO Sector South daily situation report, 8:30 p.m., 21 August 1995), p. 4; D623 (UNCRO Sector South daily situation report, 8:30 p.m., 21 August 1995), p. 3.

not provide further details as to the factual basis for the person's qualification as Croatian. Consequently, the Trial Chamber cannot assess whether the qualification of the person as a Croatian soldier was made on a proper factual basis. In this respect, the Trial Chamber also notes that the person referred to as a soldier was travelling in a civilian car. There is evidence indicating that the HV 134th Home Guard regiment was ordered to deploy part of the unit in the Benkovačko Selo area on 16 August 1995 and that the regiment in fact was deployed there on 1 September 1995. This evidence does not indicate when the unit was deployed in the Benkovačko Selo area, which is at a distance of about three kilometres from Stegnjajići. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to, including about which armed forces, if any, were present in or in the vicinity of Stegnjajići at the time. Considering all of the above, the Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 5 of the Indictment.

4.2.3 Civljane municipality

Cetina

574. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Cetina in Civljane municipality primarily through the testimonies of Roland Dangerfield, Alun Roberts, and various UNMO reports. According to the 1991 Population Census, the population of Cetina consisted of 793 Serbs out of a total of 853 persons in 1991.²⁴⁹¹

575. **Roland Dangerfield**, a British army sector liaison officer stationed in Knin in August 1995,²⁴⁹² testified that in the week following the attack on Knin in August 1995 he went to the village of Cetina where he saw looting and burning.²⁴⁹³ Dangerfield testified that he saw a truckload of soldiers enter the village firing weapons into the

²⁴⁹⁰ P124 (UNMO Sector South daily situation report, 7 p.m., 20 August 1995), p. 3.

²⁴⁹¹ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

²⁴⁹² P695 (Roland Dangerfield, witness statement, 21 December 1995), paras 1-2; Roland Dangerfield, T. 7132.

²⁴⁹³ Roland Dangerfield, T. 7161-7162, 7279-7282; P699 (The Fall of the Republic of Serb Krajina, authored by Roland Dangerfield, undated), p. 6.

air.²⁴⁹⁴ At first, Dangerfield was not noticed, but once he was, he was detained for five or ten minutes by what he, based on the training he had received, identified as a Special Police officer who, as far as the witness remembered, was armed and in uniform, who then escorted him out of Sector South.²⁴⁹⁵

576. ECMM reported that Cetina is located in a valley, surrounded by small villages. ECMM further reported that on 11 August 1995 at 11:30 a.m., the entire valley in which Cetina is located was burned, and that they saw houses still on fire. According to ECMM, cattle were being shot or loaded on trucks. A newly built shelter, set up the week prior, was blown up from the inside.²⁴⁹⁶

577. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,²⁴⁹⁷ visited Cetina in mid-August 1995 when he found the village deserted and completely burnt.²⁴⁹⁸ Roberts reported that before the Croatian offensive the "centre of community" Cetina had had a population of 2,200 inhabitants.²⁴⁹⁹

578. Before 8 p.m. on 13 August 1995, UNMO observed that Cetina was almost empty, and noticed a few recently burnt houses as well as decomposing animals that someone had shot.²⁵⁰⁰ Before 8 p.m. on 28 August 1995, UNMO observed approximately six burned houses in Dubrava, 15 burned houses in Dragiči, 30 burned houses in Čitluk, 20 burned houses in Milaši and 25 burned houses in Cetina, all in Civljane municipality.²⁵⁰¹ At 1 p.m. on 2 September 1995, UNMO observed 25 civilian vehicles with Split, Šibenik and German licence plates and more than 50 civilians looting houses in the area of Cetina.²⁵⁰² At the same time, UNMO observed that the Orthodox church in Cetina was completely burned on the inside and religious items

²⁴⁹⁴ Roland Dangerfield, T. 7162; P699 (The Fall of the Republic of Serb Krajina, authored by Roland Dangerfield, undated), p. 6.

²⁴⁹⁵ Roland Dangerfield, T. 7161-7162, 7279-7282; P699 (The Fall of the Republic of Serb Krajina, authored by Roland Dangerfield, undated), p. 6.

²⁴⁹⁶ P815 (ECMM report by Liborius, 26 August 1995), p. 6.

²⁴⁹⁷ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

²⁴⁹⁸ P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P684 (Alun Roberts's report to the press on HV's human rights violations in Sector South, 12 October 1995), p. 1.

²⁴⁹⁹ P684 (Alun Roberts's report to the press on HV's human rights violations in Sector South, 12 October 1995), p. 1.

²⁵⁰⁰ P118 (UNMO Sector South daily situation report, 8 p.m., 13 August 1995), pp. 1-2.

²⁵⁰¹ P130 (UNMO Sector South daily situation report, 8 p.m., 28 August 1995), pp. 1, 6.

²⁵⁰² P139 (UNMO Sector South update situation report, 11 p.m., 2 September 1995), p. 1.

smashed and burned. They also observed that 95 per cent of the general Cetina area was burned down.²⁵⁰³ **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,²⁵⁰⁴ visited Cetina in early September 1995 and observed that approximately 95 per cent of the deserted town had recently burned, that the Orthodox church had suffered some destruction, burning and vandalism, and that there were a few dead cattle in the road.²⁵⁰⁵ **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,²⁵⁰⁶ testified that on 2 September 1995, he went on patrol in Cetina and observed that 95 per cent of the houses were damaged.²⁵⁰⁷ The orthodox church was completely destroyed, bibles, holy pictures, crosses, and the church inventory were smashed and burned.²⁵⁰⁸

579. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,²⁵⁰⁹ travelled out of Knin with UN patrols from 9 August 1995 onwards and testified that the village of Cetina had been completely burnt without a single house left standing.²⁵¹⁰

580. **Alexander Tchernetsky**, an UNMO in Croatia from 20 June 1995 until December 1995,²⁵¹¹ testified that for the first several days after the Croatian offensive, UNMOs did not have freedom of movement in the Cetina area.²⁵¹² When the witness visited Cetina, he was shocked by the scale of the destruction, noting that the town had

²⁵⁰³ P138 (UNMO Sector South daily situation report, 8 p.m., 2 September 1995), p. 5.

²⁵⁰⁴ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

²⁵⁰⁵ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 29; P36 (HRAT daily report, 2-4 September 1995), p. 3; P38 (Weekly report from Hussein Al-Alfi, 2-8 September 1995), p. 6.

²⁵⁰⁶ P415 (Peter Marti, witness statement, 13 February 1996), pp. 1-2; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17.

²⁵⁰⁷ P416 (Peter Marti, witness statement, 29 June 1997), pp. 10-11; P417 (Peter Marti, witness statement, 14 December 2007), paras 52, 83; D391 (Summary of humanitarian violations from HQ Sector South daily situation reports, 7 August-8 September 1995), p. 31.

²⁵⁰⁸ P416 (Peter Marti, witness statement, 29 June 1997), pp. 10-11; P417 (Peter Marti, witness statement, 14 December 2007), paras 52, 83; D391 (Summary of humanitarian violations from HQ Sector South daily situation reports, 7 August-8 September 1995), p. 31.

²⁵⁰⁹ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

²⁵¹⁰ P2 (Witness 136, witness statement, 4 July 1996), p. 14; Witness 136, T. 641, 764-765; P5 (Map of Sector South marked by Witness 136).

²⁵¹¹ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), pp. 1-2; Alexander Tchernetsky, T. 3204, 3221.

²⁵¹² P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 6.

been completely burned down and that the new Orthodox Church in the centre had been looted and damaged.²⁵¹³

581. In addition to the evidence above, the Trial Chamber has considered evidence of Berikoff (reviewed in chapter 4.2.1).

582. The evidence indicates that by 11 August 1995, at 11:30 a.m., the entire valley in which Cetina and surrounding villages are located was burned, and that at that time there were houses still on fire. It further indicates that at the same time cattle were being shot or loaded on trucks, and that a newly built shelter was blown up from the inside. However, there is insufficient evidence as to the circumstances under which and by whom the houses were set on fire, the cattle was being shot or loaded on trucks, and the shelter was blown up. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment.

583. The evidence indicates that in the afternoon of 12 August 1995, 50-60 per cent of the buildings in the village of Cetina were burning or recently burned. The Chamber notes that Berikoff's and Dangerfield's reports on observing destruction in Cetina, being detained and escorted out of Sector South are not in all points similar, but are similar with regard to the rough outline of events, in particular with regard to being detained and escorted out of Sector South. The fact that Dangerfield dates this incident in the week following the attack on Knin fits with Berikoff's dating this incident on 12 August 1995. Furthermore, Berikoff stated that Dangerfield was accompanying him on that date. Based on this, the Trial Chamber is satisfied that the two pieces of evidence refer to the same incident.

584. During this visit in Cetina, Dangerfield also saw persons taking goods away, without further describing them. Berikoff saw persons that he referred to as Croatian soldiers, including rag-tag soldiers whom Berikoff thought could have been under a war lord, and persons wearing grey cover-all uniforms, with guns and machetes, moving from house to house, and within minutes of them leaving a house, it would go up in flames. Based on this evidence, the Chamber is convinced that these persons set the houses ablaze. Based on Berikoff's description of some of these persons as soldiers, the Trial Chamber is satisfied that these persons wore military-type uniforms. However, Berikoff does not provide further details as to the factual basis for the qualification of

²⁵¹³ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 6.

these soldiers as Croatian. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. In relation to those persons out of the group of persons referred to as soldiers, that Berikoff described in greater detail as rag-tag, rugged, unshaven, with ripped-off sleeves, headbands, and no markings, their appearance raises further doubt as to their affiliation with the HV. In relation to the persons described as wearing grey cover-all uniforms, with guns and machetes, this description likewise offers insufficient evidence to conclude the affiliation of the perpetrators, if any.

585. Dangerfield reported that he was detained for a couple of minutes by what he describes as a special police officer. Berikoff, on the other hand, reported that one of the group of rugged, unshaven uniformed Croatian men with ripped-off sleeves, headbands and no markings who threatened Berikoff's group at gunpoint brought them to a police station where they were detained, and later a civil policeman released them. This evidence on the person who detained Berikoff, Dangerfield, and others is not sufficiently clear to establish the affiliation of this person, if any, and does not allow for any conclusions as to the affiliation of the perpetrators of the burnings, if any.

586. The Chamber has not received any further evidence regarding the identity or affiliation of the perpetrators who set fire to the houses on 12 August 1995, including evidence about which armed forces, if any, were present in or in the vicinity of Cetina at the time. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment.

587. The evidence before the Chamber indicates that before 8 p.m. on 13 August 1995, the village Cetina was almost empty, that there were a few recently burnt houses and decomposing animals that someone had shot. The evidence further indicates that before 8 p.m. on 28 August 1995, there were at least 25 burnt houses in Cetina. The evidence received further indicates that at 1 p.m. on 2 September 1995, the Orthodox Church in Cetina was completely burned in the inside, and religious items were smashed and burned, and that 95 percent of the deserted town of Cetina was recently burned down. There were also a few dead cattle on the road. However, there is insufficient evidence as to the circumstances under which and by whom the houses were set on fire, the animals were killed, and the interior of the Orthodox Church was set on fire and damaged. Under these circumstances, the Chamber will not further consider these incidents in relation to Counts 1 and 5 of the Indictment.

588. The evidence received indicates that at 1 p.m. on 2 September 1995, more than 50 civilians were looting houses in the area of Cetina. Because the evidence indicates that the perpetrators were civilians, the Chamber will not further consider these incidents in relation to Count 1 of the Indictment.

Civljane village

589. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Civljane village primarily through the testimonies of Jure Radić and Philip Berikoff. According to the 1991 Population Census, the population of Civljane consisted of 790 Serbs out of a total of 819 persons in 1991.²⁵¹⁴

590. At 10 a.m. on 11 August 1995, ECMM observed that 50 per cent of Civljane village was burnt.²⁵¹⁵ **Jure Radić**, Deputy Prime Minister and the Minister for Reconstruction and Development between 1994 and 2000,²⁵¹⁶ testified that on 15 August 1995, when travelling on the road from Sinj to Knin he saw burning houses in Civljane village, at a distance of a couple of hundred metres from the road.²⁵¹⁷ Radić opined that in the villages in the area immediately after the war, those looting and setting fire to property wore military uniforms, but were not members of the HV.²⁵¹⁸ Radić based this opinion on a number of factors: he claimed that although the HV and civilian police would have prevented civilians from entering this area, people still came to the area in uniforms in order to loot and burn; he believed the HV to be disciplined and organized; and he had discussions with colleagues and friends who were commanders in the HV, including Marijan Perković, a secretary in Radić's Ministry who was a member of the HV.²⁵¹⁹ Radić told President Tuđman of the burning houses in Civljane that he had observed on 15 August 1995 and Tuđman agreed with Radić that the events were not good.²⁵²⁰ As Tuđman answered that he kept saying that such acts should be prevented, Radić concluded that others had already told Tuđman of similar events.²⁵²¹ The Croatian Government's position was to condemn the looting and

²⁵¹⁴ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p.110.

²⁵¹⁵ P815 (ECMM report by Liborius, 26 August 1995), p. 6.

²⁵¹⁶ Jure Radić, T. 27127, 27215, 27378.

²⁵¹⁷ Jure Radić, T. 27345, 27367-27368.

²⁵¹⁸ Jure Radić, T. 27345-27346, 27368; D2021 (Tanjug daily newspaper article, 23 August 1995).

²⁵¹⁹ Jure Radić, T. 27368-27370, 27378.

²⁵²⁰ Jure Radić, T. 27345, 27367-27368, 27371-27372.

²⁵²¹ Jure Radić, T. 27371.

burning of property as it was not conducive to the Government's plan to preserve private property and Radić made public statements to this effect in media interviews and during government sessions.²⁵²² Radić was present on several occasions, including a speech in Karlovac, when President Tuđman publicly condemned the destruction of property in Croatia.²⁵²³

591. In addition to the above evidence, the Trial Chamber has considered the evidence of Philip Berikoff reviewed in chapter 4.2.1.

592. Berikoff's evidence indicates that on 11 August 1995 at an unspecified location along the road to Civljane persons referred to as HV troops and persons wearing grey cover-alls were going from house to house, removing items and loading them onto vehicles. Based on Berikoff's description of some of these persons as HV troops, the Trial Chamber is satisfied that those persons wore military-type uniforms. Berikoff does not provide further details as to the factual basis for the qualification of these persons as HV. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of these events at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators.

593. ECMM, Berikoff, and Radić observed burning, burnt, or otherwise destroyed houses in Civljane and at an unspecified location along the road to Civljane on 11 and 15 August 1995. The Trial Chamber has considered, but attaches little weight to the opinion provided by Radić as to the perpetrators of destruction and plunder generally, in the area at the time. Regardless of Radić's testimony in this regard, the Trial Chamber considers that there is insufficient reliable evidence as to when, the circumstances under which, and by whom the houses in and along the road to Civljane were set on fire or otherwise destroyed. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment.

²⁵²² Jure Radić T. 27344, 27346-27347; D2021 (Tanjug daily newspaper article, 23 August 1995).

²⁵²³ Jure Radić, T. 27348.

4.2.4 Donji Lapac municipality

Brotnja and Donji Suvaja

594. The Trial Chamber has received relevant evidence with regard to alleged plunder in Brotnja and Donji Suvaja in Donji Lapac municipality through an UNMO report.

595. This evidence indicates that before 8 p.m. on 9 September 1995, an unknown number of persons referred to as Croatian soldiers looted houses in Brotnja and Donji Suvaja, which the Trial Chamber understands to mean they took unspecified items away. Given UNMO's description of these persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. However, the UNMO report does not provide further details as to the factual basis for the qualification as Croatian. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to, nor any evidence regarding which armed forces, if any, were present in or in the vicinity of Brotnja and Donji Suvaja at the time. Therefore, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

Dnopolje

596. The Trial Chamber has received relevant evidence with regard to alleged plunder in Dnopolje in Donji Lapac municipality through an UNMO report. According to this report, at 11:05 a.m. on 27 August 1995, UNMO observed two HV soldiers with a truck looting houses in Dnopolje.²⁵²⁴ The Trial Chamber understands this to mean the two persons took unspecified items away. Based on the UNMO report's description of these persons as HV soldiers, the Trial Chamber is satisfied that these persons wore military-type uniforms. The UNMO report does not provide further details as to the factual basis for the qualification as HV soldiers. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The above evidence does not establish to which armed forces, if any, the perpetrators belonged. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in

or in the vicinity of Dnopolje at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

Dobroselo

597. The Trial Chamber has received evidence with regard to alleged destruction in Dobroselo in Donji Lapac municipality primarily through UNMO and HRAT reports. At 4 p.m. on 9 September 1995, UNMO observed Croatian soldiers destroy a World War II monument in Dobroselo, in Donji Lapac municipality.²⁵²⁵ HRAT reported that on 25 September 1995 HRAT travelled through the villages of Dobroselo and Gorni Lapac, both in Donji Lapac municipality, and observed that both villages were 60 to 70 per cent destroyed.²⁵²⁶

598. The evidence suggests that on 9 September 1995, persons referred to as soldiers destroyed a World War II monument in Dobroselo, in Donji Lapac municipality. Based on UNMO's description of these persons as Croatian soldiers, the Trial Chamber is satisfied they wore military-type uniforms. However, the UNMO report does not provide further details as to the factual basis for the qualification as Croatian soldiers. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in Dobroselo at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators.

599. Moreover, the evidence indicates that by 25 September 1995, 60 to 70 per cent of the villages of Dobroselo and Gorni Lapac, both in Donji Lapac municipality, were destroyed. However, the Trial Chamber has received insufficient reliable evidence regarding the circumstances under which and by whom these villages were destroyed.

²⁵²⁴ P129 (UNMO Sector South daily situation report, 7 p.m., 27 August 1995), p. 3.

²⁵²⁵ P145 (UNMO Sector South daily situation report, 8 p.m., 9 September 1995), p. 5.

²⁵²⁶ P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 51; P1104 (HRAT daily report, 25 September 1995), p. 2.

Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 5 of the Indictment.

Donji Lapac town

600. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Donji Lapac town through the testimonies of a large number of witnesses, including Witness 82, John Hill, Dražen Vitez, Ivan Herman, Davorin Pavlović, Philip Berikoff, Josip Čelić, Zdravko Janić, and Željko Sačić. According to the 1991 Population Census, the population of Donji Lapac consisted of 1742 Serbs out of a total of 1791 persons in 1991.²⁵²⁷

601. **Dražen Vitez**, who during Operation Storm was Assistant Commander for the Special Police Unit of the Varaždin Police Administration,²⁵²⁸ testified that, going from the Gračac area to Donji Lapac, he and his unit moved mainly on foot through mainly uninhabited and hilly areas until they reached the Lapac – Dobroselo road, in Donji Lapac municipality.²⁵²⁹ They also passed through Mazin, in Gračac municipality, where they encountered no resistance.²⁵³⁰ There the witness saw civilians for the first time, elderly women and men standing in front of several houses, and his policemen told them to wait there because regular police or someone else would come to pick them up.²⁵³¹ They ascended the winding road above Mazin.²⁵³² Around 1 p.m. on 7 August 1995, as the witness and his unit reached the first houses outside of Donji Lapac, they came under artillery fire which lasted roughly half an hour.²⁵³³ They did not know whether it was enemy or friendly fire and because of natural obstacles in the configuration of the terrain they could not communicate with the Special Police's Main Staff.²⁵³⁴ When the artillery fire was over, the witness and his unit continued into Donji

²⁵²⁷ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 72.

²⁵²⁸ D1893 (Dražen Vitez, witness statement, 12 May 2009), p. 1, para. 1; Dražen Vitez, T. 25970-25972, 25986, 25977, 25999.

²⁵²⁹ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 5; Dražen Vitez, T. 25990, 26061-26062.

²⁵³⁰ Dražen Vitez, T. 25989.

²⁵³¹ Dražen Vitez, T. 25989, 26071.

²⁵³² Dražen Vitez, T. 25989-25990.

²⁵³³ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 5; Dražen Vitez, T. 25989-25990, 25996, 26062.

²⁵³⁴ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 5; Dražen Vitez, T. 25990, 26056.

Lapac.²⁵³⁵ The witness saw two or three buildings smouldering in the town centre.²⁵³⁶ The witness testified that their commanders were then joined by Markač.²⁵³⁷ Together with Markač, they visited the UNPROFOR base in the northern part of Donji Lapac and had a meeting there. Markač told UNPROFOR members that they were part of the Croatian armed forces and, according to the witness, UN soldiers came out of their shelters, seemed happy and hugged each other. Markač left right after the meeting.²⁵³⁸

602. The witness testified that he and his unit stayed in Donji Lapac until the arrival of the HV in the afternoon of 7 August 1995.²⁵³⁹ Then they withdrew to a hamlet on the outskirts of Donji Lapac, about one kilometre from the centre, to spend the night.²⁵⁴⁰ This was the first time since the beginning of the operation that the witness saw HV members.²⁵⁴¹ From the hamlet, the witness heard lots of firing in Donji Lapac.²⁵⁴² Early in the morning on 8 August 1995 they received the order from their commander to advance towards Kulen Vakuf.²⁵⁴³ Leaving the place where they had spent the night, the witness noticed smoke rising from many buildings and houses in Donji Lapac.²⁵⁴⁴ The witness stated that no member of the Special Police was involved in the burning in Donji Lapac.²⁵⁴⁵ Once the witness and his unit reached the area of Boričevac, Donji Lapac municipality, and Kulen Vakuf, they waited all day as a reserve force in full combat gear but were never engaged.²⁵⁴⁶ Eventually, after a meeting with the head of the Special Police sector, Željko Sačić, the units which had been engaged in combat since the beginning of the operation were released and the witness with his unit were ordered to return to Varaždin, which they did, passing through Udbina.²⁵⁴⁷

603. **Ivan Herman**, who was a medical doctor with the Varaždin Special Police during Operation Storm,²⁵⁴⁸ testified that on 7 August 1995 his unit arrived at Donji

²⁵³⁵ Dražen Vitez, T. 25990.

²⁵³⁶ D1893 (Dražen Vitez, witness statement, 12 May 2009), paras 5-6; Dražen Vitez, T. 25991.

²⁵³⁷ Dražen Vitez, T. 25990-25991.

²⁵³⁸ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 6; Dražen Vitez, T. 25991.

²⁵³⁹ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 7.

²⁵⁴⁰ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 7; Dražen Vitez, T. 25991, 26065.

²⁵⁴¹ Dražen Vitez, T. 25997, 26063-26064.

²⁵⁴² Dražen Vitez, T. 26066.

²⁵⁴³ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 7; Dražen Vitez, T. 25968, 25992, 26066.

²⁵⁴⁴ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 7.

²⁵⁴⁵ Dražen Vitez, T. 25991-25994.

²⁵⁴⁶ Dražen Vitez, T. 25992.

²⁵⁴⁷ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 7; Dražen Vitez, T. 25968, 25992, 25997-25998.

²⁵⁴⁸ D1910 (Ivan Herman, witness statement, 18 May 2009), p. 1, paras 1-4; Ivan Herman, T. 26428-26431, 26456.

Lapac via a forest road with Herman following in an off-road vehicle.²⁵⁴⁹ As his unit approached the town, Herman saw a Serbian column leaving Donji Lapac, comprised of civilians, military vehicles, and at least two tanks.²⁵⁵⁰ Despite the Serbian column being in range and despite Herman hearing the column firing into the forest on the edge of which Herman's unit was located, Herman testified that his unit did not open fire because the column contained civilians.²⁵⁵¹ Once the column had left towards Srb, in Donji Lapac municipality, Herman and his unit entered Donji Lapac.²⁵⁵² In Donji Lapac, a few buildings had sustained minor damage and certain haystacks were on fire.²⁵⁵³ Herman also found a sick elderly woman in a house and provided her with medical assistance, food, and medicine.²⁵⁵⁴ A few hours after the unit's arrival in Donji Lapac, in the late afternoon, members of the HV arrived from the direction of Udbina.²⁵⁵⁵ They began making noise and shooting in celebration.²⁵⁵⁶ Herman estimated that within about one hour of the arrival of the HV, the commander of the unit pulled the unit out to the outskirts of town (in the direction of Srb), where they spent the night.²⁵⁵⁷ Herman testified that as his unit was leaving Donji Lapac, he noticed that some haystacks and houses had been set on fire.²⁵⁵⁸ Herman further testified that the next day, his unit went further towards the Bosnian border.²⁵⁵⁹ On 9 August 1995, the unit received an order to return to Varaždin, and began doing so, taking the short route through Udbina.²⁵⁶⁰

604. **Davorin Pavlović**, who during Operation Storm was Chief of the Operative Equipment Sector of the MUP,²⁵⁶¹ testified that on 7 August 1995 he travelled with Markač and Special Police personnel from Gračac town to Donji Lapac town via

²⁵⁴⁹ D1910 (Ivan Herman, witness statement, 18 May 2009), paras 6, 9; Ivan Herman, T. 26438-26439, 26458-26459.

²⁵⁵⁰ D1910 (Ivan Herman, witness statement, 18 May 2009), para. 9; Ivan Herman, T. 26438-26439.

²⁵⁵¹ D1910 (Ivan Herman, witness statement, 18 May 2009), para. 9; Ivan Herman, T. 26438-26439, 26464-26465.

²⁵⁵² D1910 (Ivan Herman, witness statement, 18 May 2009), para. 9.

²⁵⁵³ Ivan Herman, T. 26438-26439.

²⁵⁵⁴ D1910 (Ivan Herman, witness statement, 18 May 2009), para. 11; Ivan Herman, T. 26440-26441.

²⁵⁵⁵ D1910 (Ivan Herman, witness statement, 18 May 2009), para. 10; Ivan Herman, T. 26439, 26460.

²⁵⁵⁶ D1910 (Ivan Herman, witness statement, 18 May 2009), para. 10; Ivan Herman, T. 26439-26440.

²⁵⁵⁷ D1910 (Ivan Herman, witness statement, 18 May 2009), para. 10; Ivan Herman, T. 26439, 26459-26461.

²⁵⁵⁸ D1910 (Ivan Herman, witness statement, 18 May 2009), para. 10; Ivan Herman, T. 26439-26440, 26461.

²⁵⁵⁹ Ivan Herman, T. 26440.

²⁵⁶⁰ Ivan Herman, T. 26441-26442, 26446-26447.

²⁵⁶¹ D1830 (Davorin Pavlović, witness statement, 11 May 2009), p. 1, paras 1-4; Davorin Pavlović, T. 25237, 25239-25240, 25277-25278, 25289.

Bruvno and Mazin, both in Gračac municipality.²⁵⁶² When they reached Dobroselo, in Donji Lapac municipality, they observed two columns.²⁵⁶³ First, a large column of civilians, which may also have included soldiers, was travelling from Donji Lapac town toward Martin Brod, in Bosnia-Herzegovina. Markač ordered the Special Police not to take military action against the first column.²⁵⁶⁴ The second column was a mixed group of civilians and enemy soldiers, including tanks and heavy weaponry, travelling from Srb, in Donji Lapac municipality, to Martin Brod.²⁵⁶⁵ When the second column encountered the Special Police, the tanks in the column stopped and pointed the barrels of their guns at the Special Police.²⁵⁶⁶ According to Pavlović, Markač ordered the Special Police convoy to halt and to avoid pointing weapons at the column.²⁵⁶⁷ The witness noted that the Special Police only had armoured combat vehicles with machine-guns and a couple of mortars.²⁵⁶⁸ During the tense standoff, which lasted several hours, Markač repeated his order not to fire on the enemy forces in order to protect the civilians.²⁵⁶⁹ The mixed column eventually continued unobstructed to the border with Bosnia-Herzegovina, and the Special Police continued toward Donji Lapac.²⁵⁷⁰ As the special police entered Gornji Lapac, in Donji Lapac municipality, the witness noticed fire in fireplaces and warm food on stoves and tables, but he saw no civilians.²⁵⁷¹ Between Gornji Lapac and Donji Lapac, the witness observed no destruction.²⁵⁷²

605. Upon entering Donji Lapac with the Special Police around 3 or 3:30 p.m. on 7 August 1995, Pavlović observed an enemy heavy-duty army vehicle that had been destroyed by an artillery shell.²⁵⁷³ According to radio communications monitored by the witness as he was entering Donji Lapac, troops from the Split MD had reached Otrić, in

²⁵⁶² D1830 (Davorin Pavlović, witness statement, 11 May 2009), paras 10, 14; Davorin Pavlović, T. 25257-25259, 25292-25293, 25297, 25300.

²⁵⁶³ D1830 (Davorin Pavlović, witness statement, 11 May 2009), paras 14-15; Davorin Pavlović, T. 25258-25259.

²⁵⁶⁴ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 15; Davorin Pavlović, T. 25259.

²⁵⁶⁵ D1830 (Davorin Pavlović, witness statement, 11 May 2009), paras 15-16; Davorin Pavlović, T. 25259-25260.

²⁵⁶⁶ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 16; Davorin Pavlović, T. 25259-25260.

²⁵⁶⁷ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 15; Davorin Pavlović, T. 25259.

²⁵⁶⁸ Davorin Pavlović, T. 25259.

²⁵⁶⁹ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 16.

²⁵⁷⁰ D1830 (Davorin Pavlović, witness statement, 11 May 2009), paras 14-15, 17; Davorin Pavlović, T. 25259-25260.

²⁵⁷¹ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 15; Davorin Pavlović, T. 25258.

²⁵⁷² Davorin Pavlović, T. 25262.

²⁵⁷³ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 17; Davorin Pavlović, T. 25260-25262, 25267, 25307-25308.

Gračac municipality.²⁵⁷⁴ The witness saw no more than two buildings on fire in Donji Lapac town.²⁵⁷⁵ In his witness statement, he testified that the police station was still burning.²⁵⁷⁶ In court, however, the witness testified that the police station itself was not on fire but had been damaged by a shell. He further testified that only the building behind the police station and another building, which someone told him was a hotel, were on fire.²⁵⁷⁷ The witness ordered communication personnel to bring all documents and equipment, including encryption devices, out of the police building.²⁵⁷⁸ Markač spoke with the commander of the UN base and remained in the town only a short time before continuing on to Boričevac, in Donji Lapac municipality.²⁵⁷⁹ Between 2 and 3 p.m., the witness heard shelling, and Janić called Sačić and informed him that an unknown artillery unit was firing at Donji Lapac.²⁵⁸⁰ The witness left Donji Lapac at approximately 5 p.m. on 7 August, at which point the town was practically undamaged, and continued on to Boričevac, where he spent an hour or an hour and a half.²⁵⁸¹

606. Pavlović learned of the following events that occurred in Donji Lapac after his departure by monitoring radio communications between Janić and Sačić.²⁵⁸² According to the witness, the 118th Home Guard Regiment of the HV, which had been left without means of communication and had lost a commander and 15 of its soldiers, opened fire on Donji Lapac town from the direction of Udbina without realizing that the Special Police were already there.²⁵⁸³ By radio, Janić reported the scope of the destruction in the area after the entry of the 118th Home Guard Regiment.²⁵⁸⁴ Janić and his unit left the town, at which point all of the Special Police personnel except six logistics and four communications personnel had left Donji Lapac town.²⁵⁸⁵ Markač had to wait until he

²⁵⁷⁴ D1830 (Davorin Pavlović, witness statement, 11 May 2009), paras 8, 21; Davorin Pavlović, T. 25251-25252, 25286-25287.

²⁵⁷⁵ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 17; Davorin Pavlović, T. 25261-25262, 25265.

²⁵⁷⁶ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 17.

²⁵⁷⁷ Davorin Pavlović, T. 25262, 25308.

²⁵⁷⁸ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 17; Davorin Pavlović, T. 25263.

²⁵⁷⁹ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 17; Davorin Pavlović, T. 25262-25263.

²⁵⁸⁰ Davorin Pavlović, T. 25263, 25266.

²⁵⁸¹ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 17; Davorin Pavlović, T. 25257-25258, 25263, 25265-25266, 25271, 25296, 25309-25311.

²⁵⁸² D1830 (Davorin Pavlović, witness statement, 11 May 2009), paras 17, 21; Davorin Pavlović, T. 25265-25266, 25309.

²⁵⁸³ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 17; Davorin Pavlović, T. 25265-25267, 25311.

²⁵⁸⁴ Davorin Pavlović, T. 25266, 25272-25273, 25311.

²⁵⁸⁵ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 17; Davorin Pavlović, T. 25263, 25265-25266, 25308-25309.

returned to Gračac to contact the HV Main Staff about the attack on Donji Lapac because he could not contact them from anywhere else in the area.²⁵⁸⁶ In Gračac, upon his return from Boričevac, the witness observed Markač engage in a heated telephone conversation with a person from the Main Staff whom the witness believed to be General Miljavac.²⁵⁸⁷ Markač told Miljavac that units were attacking Donji Lapac from the direction of Udbina, and Markač demanded that communication with those units be established as soon as possible. According to the witness, Markač shouted angrily during the call, demanding that the artillery fire on Donji Lapac stop in order to end the destruction of property in the town.²⁵⁸⁸ In the evening of 7 August 1995, the witness again attended a briefing with Markač at the headquarters in Gračac.²⁵⁸⁹ According to the War Diary of the Main Staff of the Croatian Army, which covered the period between 3 August 1995 and 11 August 1995, the Split MD reported at 3:20 p.m. on 7 August 1995 that Croatian forces had entered Donji Lapac at 3:15 p.m.²⁵⁹⁰ At 9:20 p.m. on the same day, Markač reported regarding Donji Lapac that a unit from the north with which he had no contact was closing in on him. The Gospić MD was informed about it but reportedly had nothing to do with that unit. General Markač was tasked to establish contact by himself. Information about this was forwarded to General Miljavac.²⁵⁹¹

607. On 8 August 1995, when Pavlović returned to Donji Lapac town, he saw that a substantial part of the town had been torched and damaged.²⁵⁹² The witness did not see any soldiers from the Split MD in the Donji Lapac area on 7 or 8 August.²⁵⁹³ On 8 August 1995, he attended a meeting in Boričevac, and came under enemy tank fire.²⁵⁹⁴ According to the witness, commanders ordered their units to return to base on 8 and 9 August 1995.²⁵⁹⁵

608. **Zoran Cvrk**, who was commander of the Alpha Special Unit of the Zagreb Police Administration from May 1993 to February 2000 and was commander of the

²⁵⁸⁶ Davorin Pavlović, T. 25272-25273, 25298.

²⁵⁸⁷ Davorin Pavlović, T. 25271-25273.

²⁵⁸⁸ Davorin Pavlović, T. 25273.

²⁵⁸⁹ Davorin Pavlović, T. 25292-25293.

²⁵⁹⁰ D555 (War diary of the HV main staff for the period of 3 to 11 August 1995), pp. 45-46 (item 316).

²⁵⁹¹ D555 (War diary of the HV main staff for the period of 3 to 11 August 1995), p. 47 (item 332).

²⁵⁹² D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 17; Davorin Pavlović, T. 25310-25311.

²⁵⁹³ Davorin Pavlović, T. 25286-25287.

²⁵⁹⁴ Davorin Pavlović, T. 25273, 25302.

²⁵⁹⁵ Davorin Pavlović, T. 25273-25274, 25310.

Special Police's 4th auxiliary axis of operation during Operation Storm,²⁵⁹⁶ testified that late in the evening of 7 August 1995 he came to Donji Lapac to report to Sačić that his unit had linked up near Udbina with the 9th Guards Brigade, which was part of the Gospić MD.²⁵⁹⁷ In Donji Lapac that evening, he observed that the police station, which he believed was also the command building, had received several direct hits and that up to ten buildings, including the local hotel, and a transport truck that had been hit at the very entrance to the town, were on fire.²⁵⁹⁸ While in the town, the witness was invited to attend a coordination meeting of all Special Police unit commanders scheduled for 10 or 11 a.m. the following morning, and also spent time with his unit's rocket artillery battery.²⁵⁹⁹ At nightfall on 7 August, the witness left the town to travel, under enemy artillery fire, to Bruvno, where most of his unit was located and where he spent the night from 7 to 8 August 1995. He also testified that in the evening of 7 August the Special Police were deployed deep behind the lines toward the village of Boričevac, in Donji Lapac municipality, and part of his unit providing rocket and artillery support for the Special Police spent the night of 7 to 8 August 1995 in the area of Boričevac.²⁶⁰⁰ On the morning of 8 August 1995, the witness attended the coordination meeting to which he had been invited, which was held in a building near a church and the school in Boričevac, and which Markač, Sačić, and most of the Special Police commanders attended.²⁶⁰¹ That day, the witness's unit completed its task by reaching the border with Bosnia-Herzegovina, after which it received orders to withdraw back to Zagreb, which it did in the early afternoon of 9 August 1995.²⁶⁰² By the end of 9 August 1995, all units of the joint forces had left the general area of Donji Lapac. The witness thought that his unit travelled through Udbina and Plitvice, in Korenica municipality, on its way back to Zagreb.²⁶⁰³

609. **Željko Sačić**, chief of the Special Police sector of the MUP during and after Operation Storm,²⁶⁰⁴ testified that around 7 a.m. on 7 August 1995, Sačić followed the

²⁵⁹⁶ D1833 (Zoran Cvrk, witness statement, 13 May 2009), p. 1, paras 1-2, 17; Zoran Cvrk, T. 25330-25332, 25367-25369, 25422, 25427, 25466.

²⁵⁹⁷ Zoran Cvrk, T. 25378, 25455-25456, 25258-25459.

²⁵⁹⁸ Zoran Cvrk, T. 25378-25379, 25456, 25258-25459.

²⁵⁹⁹ Zoran Cvrk, T. 25378-25379.

²⁶⁰⁰ Zoran Cvrk, T. 25379, 25458.

²⁶⁰¹ Zoran Cvrk, T. 25379, 25457.

²⁶⁰² Zoran Cvrk, T. 25377, 25379-25380.

²⁶⁰³ Zoran Cvrk, T. 25380.

²⁶⁰⁴ Željko Sačić, T. 27597, 27875, 27946.

troops setting out for Bruvno on their way to Donji Lapac.²⁶⁰⁵ The axis commanders were subordinated directly to Sačić and in direct contact with him.²⁶⁰⁶ Sačić periodically informed Markač of key issues happening on the ground, despite the fact that Markač was able to follow everything through his own communications system.²⁶⁰⁷ Markač also accompanied the forces advancing towards Donji Lapac but was toward the middle or rear of the column, and entered the town about 15 or 20 minutes after Sačić did.²⁶⁰⁸ The northern flank's task was to reach Udbina and deploy there, rather than to also advance towards Donji Lapac.²⁶⁰⁹ The flank moved towards Bruvno and then to Udbina.²⁶¹⁰ The main axis moved from Mazin towards Podselo via Zuldovaca and split at Mazin Polje, where 300-400 troops led by Janić moved towards the northerly wooded areas of the Javornik hill for an infantry advance on Donji Lapac, while the main forces took the main road to Donji Lapac.²⁶¹¹ According to Sačić, Janić moved with his troops through Kovačevići, the Javornik hill, past Oraovac, and towards the main road to Donji Lapac.²⁶¹² Sačić further testified that Janić's troops had to consider the terrain and may have strayed from this line a bit.²⁶¹³ Sačić testified that there were no other units in this area.²⁶¹⁴ One unit also reached Dobroselo.²⁶¹⁵ Throughout the advance, the units had artillery support from the artillery unit which was commanded by Turkalj.²⁶¹⁶ A reserve unit was in charge of escorting the artillery unit.²⁶¹⁷ There were six 128-millimetre mortar batteries, multiple rocket launchers, and 75-millimetre mortars and the artillery unit operated on call from axis commanders or from Sačić in order to clear the passage.²⁶¹⁸ Sačić assumed that there were pre-defined artillery target lists, but only on the first day for the Velebit frontline and up to six kilometres past.²⁶¹⁹

²⁶⁰⁵ Željko Sačić, T. 27736, 27745, 27757.

²⁶⁰⁶ Željko Sačić, T. 27745.

²⁶⁰⁷ Željko Sačić, T. 27746.

²⁶⁰⁸ Željko Sačić, T. 27781.

²⁶⁰⁹ Željko Sačić, T. 27746.

²⁶¹⁰ Željko Sačić, T. 27747.

²⁶¹¹ Željko Sačić, T. 27747-27749, 27756; C4 (Map of Donji Lapac area with markings by Sačić detailing the Special Police advance).

²⁶¹² C4 (Map of Donji Lapac area with markings by Sačić detailing the Special Police advance).

²⁶¹³ Željko Sačić, T. 27755.

²⁶¹⁴ Željko Sačić, T. 27756-27757.

²⁶¹⁵ Željko Sačić, T. 27757.

²⁶¹⁶ Željko Sačić, T. 27758.

²⁶¹⁷ Željko Sačić, T. 27759.

²⁶¹⁸ Željko Sačić, T. 27759-27760.

²⁶¹⁹ Željko Sačić, T. 27761-27763.

610. Around 2 p.m. on 7 August 1995, the Special Police arrived in Donji Lapac.²⁶²⁰ There was not a lot of destruction but Sačić saw some smoke and the police station building on fire.²⁶²¹ He also saw some torched trucks and broken glass but the houses seemed otherwise intact.²⁶²² Around 30-40 minutes later, Sačić received an order from Markač to gather his men and move on towards the state border.²⁶²³ He then left with most of his troops on the axis Donji Lapac-Boričevac-Gornji Vakuf-Kulen Vakuf, leaving behind only logistics officers and around 40-50 men who deployed outside of Donji Lapac along the road to Gornji Lapac.²⁶²⁴ In total there could have been up to 100 people left behind.²⁶²⁵ Between 2:30 p.m. and 4 p.m., Markač had a meeting with UNPROFOR representatives in Donji Lapac.²⁶²⁶

611. Around 8 August 1995, Sačić set up a forward command post in Boričevac in the direction of Kulen Vakuf.²⁶²⁷ Sačić testified that someone may have told him on 9 August 1995 that Donji Lapac was burning but that he did not investigate this.²⁶²⁸ At the latest three or four weeks later, Sačić heard from the chief of logistics, Branislav Bole, who was in Donji Lapac on that day, that in the evening of 7 August 1995 HV forces noisily entered the town and were surprised to find logistics officials there.²⁶²⁹ According to Sačić's knowledge, the burning of Donji Lapac was not further investigated.²⁶³⁰

612. When interviewed by the Prosecution, Markač stated that one axis of the Special Police forces moved towards Donji Lapac on 7 August 1995 and took it at 1 p.m.²⁶³¹ Markač saw convoys consisting of Serb civilians but also tanks, crossing the border, when the Special Police reached Donji Lapac and Gornji Lapac in Donji Lapac municipality.²⁶³² After seeing that the convoy included civilians, Markač decided not to

²⁶²⁰ Željko Sačić, T. 27763.

²⁶²¹ Željko Sačić, T. 27763, 27790-27791.

²⁶²² Željko Sačić, T. 27763-27764, 27791.

²⁶²³ Željko Sačić, T. 27764, 27783.

²⁶²⁴ Željko Sačić, T. 27764, 27781, 27783-27785, 27794.

²⁶²⁵ Željko Sačić, T. 27785.

²⁶²⁶ Željko Sačić, T. 27782.

²⁶²⁷ Željko Sačić, T. 27782.

²⁶²⁸ Željko Sačić, T. 27791-27792.

²⁶²⁹ Željko Sačić, T. 27792-27793.

²⁶³⁰ Željko Sačić, T. 27799.

²⁶³¹ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), pp. 41-42, 45; P2531 (Accused interview with Mladen Markač, 8 June 2004), p. 20.

²⁶³² P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), pp. 47-48; P2531 (Accused interview with Mladen Markač, 8 June 2004), p. 43.

attack it.²⁶³³ Markač stated that this “exodus” began before the Special Police arrived in Donji Lapac and that it lasted several days.²⁶³⁴ Markač stated that some buildings and houses were damaged and destroyed by the (artillery) fighting in Donji Lapac and that he was told that some of the Serbs from the convoy were setting their houses on fire to prevent them from falling in the hands of “Ustashes”.²⁶³⁵ Markač also saw some burning houses.²⁶³⁶ At 3 p.m., the Special Police forces continued towards Kulen Vakuf in Bosnia-Herzegovina and reached it at 7 p.m.²⁶³⁷ Around 3 p.m., parts of the HV also reached Donji Lapac.²⁶³⁸ Around 11 p.m. on 7 August 1995, the 8th Home Guards Regiment, the 118th Home Guards Regiment, and the 128th Home Guards Regiment took over control of the border.²⁶³⁹ Markač stated that he had followed the advance of his troops but returned to Gračac to spend the night at the headquarters of the Special Police.²⁶⁴⁰

613. On 4 August 1995 at 5 a.m., the Special Police unit of the Osijek-Baranja administration was ordered to get into action as the first auxiliary group to members of the Zadar, Split, and Varaždin Special Police units. While advancing the unit was split into two combat groups, one of which remained in the Mali Alan area to evacuate the wounded, while the second group went to the Crveni Bunari area to support the Special Police unit from Splitsko-Dalmatinska. After the two units were rejoined, they advanced towards Gračac on 5 August 1995 taking control of the prominent elevations in order to capture dispersed enemy formations. On 6 August 1995, the unit came down from their elevated positions into Gračac and were accommodated in the local school.²⁶⁴¹ From Gračac, the unit took part in the liberation of Donji Lapac with other Special Police units on 7 August 1995. After advancing to Donji Lapac without any serious problems, the Special Police Joint Force Command ordered the unit to return to its original base in Osijek after the successful completion of Operation Storm. Following Operation Storm,

²⁶³³ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), p. 48; P2531 (Accused interview with Mladen Markač, 8 June 2004), p. 43.

²⁶³⁴ P2531 (Accused interview with Mladen Markač, 8 June 2004), p. 43.

²⁶³⁵ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), p. 123; P2531 (Accused interview with Mladen Markač, 8 June 2004), p. 99.

²⁶³⁶ P2531 (Accused interview with Mladen Markač, 8 June 2004), p. 99.

²⁶³⁷ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), pp. 41-43, 45; P2531 (Accused interview with Mladen Markač, 8 June 2004), p. 93.

²⁶³⁸ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), p. 46; P2531 (Accused interview with Mladen Markač, 8 June 2004), p. 97.

²⁶³⁹ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), p. 49.

²⁶⁴⁰ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), pp. 53-54.

²⁶⁴¹ P2382 (Extract from record of Operation Storm related to Osijek-Baranja Special Police unit), p. 1.

which involved the military and police, the unit took part in mopping up the terrain from remaining Chetnik groups.²⁶⁴²

614. A log of the Special Police during Operation Storm recounts activities and movements between 2 August 1995 and 7 August 1995.²⁶⁴³ At 4:40 a.m. on 4 August 1995, Markač confirmed the order to attack which was then signalled at 5 a.m.²⁶⁴⁴ By 10 a.m. on that day, Mali Alan, Lovinac municipality, had been surrounded and was subsequently liberated by Special Police units at 1 p.m.²⁶⁴⁵ At 8 p.m. on 4 August 1995, all members who had reached new locations in the area of Gračac and Gospić were ordered to carry out fortifications of their positions.²⁶⁴⁶ On 5 August 1995, at 5 a.m. the order to continue action was given while logistics were relocated to Mali Alan.²⁶⁴⁷ At 9:30 a.m. on that day, Markač ordered that Gračac be taken and after completion of this activity the forward command post was relocated to Gračac.²⁶⁴⁸ The following day, 6 August 1995, the Internal Control Special Police Sector Chief received an order from Markač not to cross over the road near Otrić, Gračac municipality, at 12:20 p.m. As of 1:50 p.m. on 7 August 1995, Donji Lapac had been liberated.²⁶⁴⁹ Following this liberation, the Special Police and the HV linked up in Otrić.²⁶⁵⁰

615. At the beginning of Operation Storm, the Special Police unit of the Split-Dalmatia administration was advancing toward the area of Mali Alan. The unit's objective was to disable the actions of enemy artillery which proved challenging due to fortified enemy positions. Several members of the unit were killed in the early stages. As enemy positions were penetrated and neutralized, the unit encountered bunkers with weapons left by fleeing soldiers.²⁶⁵¹ Continuing beyond Mali Alan, the unit was involved in a fierce skirmish with an enemy group at Čuljeti. With night falling at this point, the unit linked up with the Zadar Special Police unit on their right flank and established flexible defensive positions until morning. The following day, a small portion of the unit entered the city of Gračac while the larger remainder stayed at higher

²⁶⁴² P2382 (Extract from record of Operation Storm related to Osijek-Baranja Special Police unit), p. 2.

²⁶⁴³ P2385 (Log of Special Police activities during Operation Storm), pp. 1-9.

²⁶⁴⁴ P2385 (Log of Special Police activities during Operation Storm), p. 1.

²⁶⁴⁵ P2385 (Log of Special Police activities during Operation Storm), pp. 2-3.

²⁶⁴⁶ P2385 (Log of Special Police activities during Operation Storm), p. 5.

²⁶⁴⁷ P2385 (Log of Special Police activities during Operation Storm), p. 6.

²⁶⁴⁸ P2385 (Log of Special Police activities during Operation Storm), p. 7.

²⁶⁴⁹ P2385 (Log of Special Police activities during Operation Storm), p. 8.

²⁶⁵⁰ P2385 (Log of Special Police activities during Operation Storm), p. 9.

²⁶⁵¹ P2383 (Extract from record of Operation Storm related to Split-Dalmatia Special Police unit), p. 1.

elevations carrying out tasks ordered by the commander, Vinko Budiša.²⁶⁵² At 9 a.m. on 7 August 1995, the unit began combat tasks in the direction of Donji Lapac, taking control of Kovačevići in Gračac municipality and Zalužje in Donji Lapac municipality. After arrival in Donji Lapac at 4 p.m. and the subsequent cleaning of the area, combat roadblocks were installed at the eastern and southern entrances to the city. On 8 August 1995, pursuant to the order of the Chief of the Special Police Sector, Željko Sačić, the unit headed towards its home base in Split.²⁶⁵³

616. On 19 August 1995, the Assistant Commander of the Special Police unit of the Šibenik administration, Dragan Zorica, reported to Markač as the Commander of the Special Police unit. Zorica described the activities of his unit throughout Operation Storm beginning on 30 July 1995 when preparing for tasks at Velebit as part of Operation “Horned Viper – 2”, the Šibenik Special Police unit went in vehicles to Zelenikovac and were then transferred to Gornja Bukva. On 31 July 1995, the unit was briefed about the presence of enemy forces and their strength as it related to the axis of movement.²⁶⁵⁴ There were no extraordinary events throughout 2 August 1995. The day of 3 August 1995, the unit remained at the tasked position and replenished their equipment, with no problems having occurred. On 4 August 1995, when the joint combat activities of the HV and the police commenced, the unit remained in position at Gornja Bukva awaiting further orders. At 4 a.m. on 5 August 1995, the unit was ordered move to the area of Trešnje and then on further to Sveti Roko, Lovinac municipality. After arrival in Sveti Roko, the unit proceeded on foot towards Gračac where they assisted in cleaning the town. Later on 5 August 1995, the unit was further ordered to head towards Otrić. On 6 August 1995, the unit reached Sučevići, Gračac municipality, and then took Otrić under their control while immediately installing combat roadblocks.²⁶⁵⁵ The next day, 7 August 1995, the unit had several skirmishes with the enemy in Otrić, and after linking up with the HV 4th Guard Brigade continued advancing toward Donji Lapac.²⁶⁵⁶ On 8 August 1995, a first line of defence was established above Kulen Vakuf which is inside the Bosnia-Herzegovina border, where

²⁶⁵² P2383 (Extract from record of Operation Storm related to Split-Dalmatia Special Police unit), p. 2.

²⁶⁵³ P2383 (Extract from record of Operation Storm related to Split-Dalmatia Special Police unit), p. 3.

²⁶⁵⁴ P2384 (Report to the Commander of the Special Police from the Šibenik Special Police unit, 19 August 1995), p. 1.

²⁶⁵⁵ P2384 (Report to the Commander of the Special Police from the Šibenik Special Police unit, 19 August 1995), p. 2.

²⁶⁵⁶ P2384 (Report to the Commander of the Special Police from the Šibenik Special Police unit, 19 August 1995), pp. 2-3.

the unit remained throughout the day and following night. After being relieved by a battalion of Home Guards Regiment on 9 August 1995, Assistant Commander Zorica ordered the unit to return to its home base in Šibenik. He concluded his report by stating that all members of the unit displayed exceptional courage and boldness in the completion of their tasks.²⁶⁵⁷

617. **Witness 82**, a Croatian member of an HV Home Guard Regiment from 18 June to 28 August 1995,²⁶⁵⁸ testified that starting on 4 August 1995, he travelled with his unit from Ljubovo, in Udbina municipality, via Lovinac, Sveti Rok, and Ričice, all in Lovinac municipality, to Gračac in the afternoon of 6 August 1995, and then finally via Bruvno, in Gračac municipality, or Donji Srb, in Donji Lapac municipality, to Donji Lapac. Many of the soldiers in the witness's unit and some of the commanders were from the areas they travelled through and went to see the condition of their houses.²⁶⁵⁹ Upon entering the villages of Lovinac, Sveti Rok, and Ričice, the witness saw that these villages had been razed to the ground and the houses there had been burned and were already overgrown with bushes and vegetation.²⁶⁶⁰ The witness did not see any fighting in the villages as they moved through them, but his unit did come under sniper-fire and suffered several casualties as a result.²⁶⁶¹ In Gračac, the witness saw that several houses and other buildings had been burned, and saw members of the Special Police in the town.²⁶⁶² Almost all of the houses along the road to Donji Lapac had been burned or destroyed.²⁶⁶³ Some of the burned houses looked to the witness like they had been burned years ago and had trees growing out of the ruins. Other houses appeared to the witness to have been burned a number of days earlier, because they were no longer on fire, but were smouldering or covered in ash.²⁶⁶⁴ A member of the Special Police told the witness that the Serbs had burned some of the houses before they left so as to prevent the HV from using them.²⁶⁶⁵ Other houses the witness's unit passed along the

²⁶⁵⁷ P2384 (Report to the Commander of the Special Police from the Šibenik Special Police unit, 19 August 1995), p. 3.

²⁶⁵⁸ P2359 (Witness 82, witness statement, 29 September 2004), p. 1, paras 1, 8, 16, 21; Witness 82, T. 16842, 16846-16847; P2360 (Military documents relating to Witness 82), pp. 4-5, 14, 21.

²⁶⁵⁹ P2359 (Witness 82, witness statement, 29 September 2004), para. 25; Witness 82, T. 16853, 16858, 16860.

²⁶⁶⁰ Witness 82, T. 16853.

²⁶⁶¹ P2359 (Witness 82, witness statement, 29 September 2004), para. 29.

²⁶⁶² Witness 82, T. 16805.

²⁶⁶³ P2359 (Witness 82, witness statement, 29 September 2004), para. 42.

²⁶⁶⁴ Witness 82, T. 16761, 16770-16771.

²⁶⁶⁵ P2359 (Witness 82, witness statement, 29 September 2004), para. 46; Witness 82, T. 16765, 16797, 16864-16865.

road were still on fire as they passed them.²⁶⁶⁶ Along the road between Gračac and Donji Lapac, the witness saw members of the Special Police in front of and near the burning houses.²⁶⁶⁷ The witness also saw two dead bodies dressed in camouflage uniforms.²⁶⁶⁸ While travelling to Donji Lapac, the witness saw persons wearing Special Police and camouflage HV uniforms driving trucks, tractors, vans, and other agricultural machinery with RSK licence plates.²⁶⁶⁹ One of the persons whom the witness saw taking such vehicles informed him that they were salvaging them to save them from burning in the fires.²⁶⁷⁰ When the witness's unit arrived at Donji Lapac, the Special Police were already there.²⁶⁷¹ For a short time after arriving, the witness's unit was shelled by what they presumed were Croatian forces.²⁶⁷² Upon arrival, the witness saw that around five houses were burned or burning at that time, but that the approximately 100 remaining houses were undamaged.²⁶⁷³ The witness saw Special Police standing in front of the burning houses with fingers in the air, waving and laughing.²⁶⁷⁴ The headquarters of both the military and the police were set up in a school building in the town.²⁶⁷⁵ When the witness's commander returned from a briefing at the headquarters, he told the unit to put guards in front of the house they were based in, so that it would not be burned down.²⁶⁷⁶ The house was later set on fire and the witness's unit complained, but they were told that it was their own fault as they had not marked the house with the HV sign.²⁶⁷⁷ According to the witness, the Special Police marked the houses that they were in with the letters MUP.²⁶⁷⁸ The witness was told to stay in the house allocated to his unit, and so spent most of his time there.²⁶⁷⁹ During the time the witness was in Donji Lapac, many of the houses were burned or destroyed.²⁶⁸⁰ The witness heard detonations and saw smoke.²⁶⁸¹ The witness also saw soldiers and Special Police entering buildings and throwing hand grenades, after which the houses caught

²⁶⁶⁶ P2359 (Witness 82, witness statement, 29 September 2004), para. 27; Witness 82, T. 16770-16771.

²⁶⁶⁷ Witness 82, T. 16761-16762, 16765, 16770-16771.

²⁶⁶⁸ P2359 (Witness 82, witness statement, 29 September 2004), para. 27; Witness 82, T. 16756-16757.

²⁶⁶⁹ Witness 82, T. 16772-16773, 16776, 16781-16783.

²⁶⁷⁰ Witness 82, T. 16772.

²⁶⁷¹ P2359 (Witness 82, witness statement, 29 September 2004), paras 32, 35, 42; Witness 82, T. 16892.

²⁶⁷² P2359 (Witness 82, witness statement, 29 September 2004), para. 32.

²⁶⁷³ P2359 (Witness 82, witness statement, 29 September 2004), paras 32, 42; Witness 82, T. 16784.

²⁶⁷⁴ P2359 (Witness 82, witness statement, 29 September 2004), para. 42.

²⁶⁷⁵ P2359 (Witness 82, witness statement, 29 September 2004), para. 33; Witness 82, T. 16800.

²⁶⁷⁶ P2359 (Witness 82, witness statement, 29 September 2004), para. 33; Witness 82, T. 16785.

²⁶⁷⁷ P2359 (Witness 82, witness statement, 29 September 2004), para. 33.

²⁶⁷⁸ P2359 (Witness 82, witness statement, 29 September 2004), para. 33; Witness 82, T. 16785.

²⁶⁷⁹ P2359 (Witness 82, witness statement, 29 September 2004), para. 42.

²⁶⁸⁰ P2359 (Witness 82, witness statement, 29 September 2004), para. 42; Witness 82, T. 16784, 16786, 16798-16799.

fire.²⁶⁸² The witness saw another person in uniform leave a building, which was on fire several minutes later.²⁶⁸³ The witness saw persons in uniform carrying jerry cans containing oil, which they used to burn the animal carcasses lying beside the road, to prevent the spread of diseases.²⁶⁸⁴ The witness also saw a Lieutenant of the Home Guard fire a grenade from a handheld rocket launcher at a house about ten metres away, but miss it. While he was on guard duty, the witness prevented two drunken cousins from Lovinac from burning houses.²⁶⁸⁵ Some of the soldiers in the witness's regiment who were from the Lika and Lovinac region, participated in the burning of houses in the town.²⁶⁸⁶ When the witness asked these soldiers why the houses were being burned, they responded that their houses had been burned in the past.²⁶⁸⁷ The witness's commander told him that the Special Police insisted on burning the houses down.²⁶⁸⁸ The witness heard that other units had been instructed to burn down the houses, although the witness himself never received such an order.²⁶⁸⁹ The witness also heard that the houses had to be burned down so that Serbs would have no reason to return to the area.²⁶⁹⁰ The witness's commander was present when the witness heard this and disapproved of the situation.²⁶⁹¹ The commander went to the headquarters to inquire about the burning.²⁶⁹² After the commander returned from the headquarters, the witness continued to see houses being set on fire in Donji Lapac by individuals who appeared to be inebriated and acting independently of each other.²⁶⁹³ A few days after Operation Storm, groups of three or four HV soldiers wearing camouflage uniforms belonging to different units that had arrived later, began looting houses in Donji Lapac.²⁶⁹⁴ The witness observed conflicts between these looting groups and soldiers from other units or members of the Special Police who tried to prevent the looting.²⁶⁹⁵ There were no civilian authorities or military police in the area at the time.²⁶⁹⁶ According to the witness,

²⁶⁸¹ P2359 (Witness 82, witness statement, 29 September 2004), para. 42.

²⁶⁸² Witness 82, T. 16799-16800, 16802-16803.

²⁶⁸³ Witness 82, T. 16801.

²⁶⁸⁴ Witness 82, T. 16801-16803.

²⁶⁸⁵ P2359 (Witness 82, witness statement, 29 September 2004), para. 52.

²⁶⁸⁶ P2359 (Witness 82, witness statement, 29 September 2004), para. 44.

²⁶⁸⁷ P2359 (Witness 82, witness statement, 29 September 2004), para. 44.

²⁶⁸⁸ P2359 (Witness 82, witness statement, 29 September 2004), para. 45.

²⁶⁸⁹ P2359 (Witness 82, witness statement, 29 September 2004), para. 32; Witness 82, T. 16786, 16796.

²⁶⁹⁰ P2359 (Witness 82, witness statement, 29 September 2004), para. 45; Witness 82, T. 16796-16797.

²⁶⁹¹ Witness 82, T. 16798.

²⁶⁹² Witness 82, T. 16798, 16864.

²⁶⁹³ Witness 82, T. 16799.

²⁶⁹⁴ P2359 (Witness 82, witness statement, 29 September 2004), para. 52; Witness 82, T. 16774-16775.

²⁶⁹⁵ P2359 (Witness 82, witness statement, 29 September 2004), para. 52; Witness 82, T. 16773-16775.

²⁶⁹⁶ Witness 82, T. 16774, 16800.

looting was expressly prohibited.²⁶⁹⁷ The witness and others spoke with their commanders who also expressed discontent with the looting.²⁶⁹⁸ On 8 or 9 August 1995, the witness heard that Mr Jarnjak, Minister of the Interior, and General Markač would visit the town.²⁶⁹⁹ The witness did not see either of these men, but saw a man he believed always accompanied Markač. According to the witness, most of the burning had already finished by this time, but the destruction of the town was clearly visible. The witness's commander told him that Jarnjak and Markač had commended the HV and Special Police for a job well done in that area.²⁷⁰⁰ Around 8 August 1995, the Special Police left Donji Lapac and approximately 100 civilian police officers, wearing grey police uniforms, arrived in buses.²⁷⁰¹ According to the witness, there were still houses on fire at that time.²⁷⁰²

618. **Dragutin Repinć**, Chief of the Planning Department in the HV Main Staff and an expert on military training and planning,²⁷⁰³ testified that at 6 a.m. on 7 August 1995 a Special Police battalion launched an attack to liberate Donji Lapac.²⁷⁰⁴ According to Repinć, Donji Lapac was liberated at 2 p.m.²⁷⁰⁵ He testified that troops of the Gospić MD entered Donji Lapac in the course of the afternoon, and referred specifically to troops from the 118th Home Guard Regiment of the HV and units of the 1st Battalion, 118th Home Guard Regiment, attached to the 9th Guards Brigade.²⁷⁰⁶ After having gained control of Donji Lapac, some of the Special Police forces remained in the town and others went in the direction of Kulen Vakuf.²⁷⁰⁷ In the morning of 8 August 1995, Markač sent a report to the Chief of Staff of the HV stating that Special Police forces on 7 August 1995 took Donji Lapac with rocket and artillery support, after which the units advanced towards the state border and the Una River, with the objective of liberating Kulen Vakuf.²⁷⁰⁸ On 7 August 1995, one VP squad followed HV units towards Udbina and then to Donji Lapac, in order to start a search operation and begin establishing a VP

²⁶⁹⁷ Witness 82, T. 16773.

²⁶⁹⁸ Witness 82, T. 16774.

²⁶⁹⁹ P2359 (Witness 82, witness statement, 29 September 2004), paras 25, 51.

²⁷⁰⁰ P2359 (Witness 82, witness statement, 29 September 2004), para. 51.

²⁷⁰¹ P2359 (Witness 82, witness statement, 29 September 2004), para. 54; Witness 82, T. 16869.

²⁷⁰² P2359 (Witness 82, witness statement, 29 September 2004), para. 54.

²⁷⁰³ D1932, (Dragutin Repinć, Expert Report, December 2009), paras 1-16; Dragutin Repinć, T. 26661-26665.

²⁷⁰⁴ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 149-150.

²⁷⁰⁵ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 151.

²⁷⁰⁶ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 153-154.

²⁷⁰⁷ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 155; Dragutin Repinć, T. 26732-26733.

²⁷⁰⁸ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 161.

platoon in Donji Lapac.²⁷⁰⁹ On 8 August 1995, a VP platoon was formed and began to operate in Donji Lapac.²⁷¹⁰ On the same day, the regular police began organizing a police station in Donji Lapac.²⁷¹¹

619. At 10:45 a.m. on 10 August 1995, UNMO observed that approximately 80 per cent of the houses in Donji Lapac were destroyed and that some of them were still burning.²⁷¹² At 12:30 p.m. on 10 August 1995, UNMO observed soldiers wearing "BiH" insignia helping civilians in trucks with Bihac number plates to gather cows and household items in Donji Lapac.²⁷¹³ Sometime between 6 p.m. on 11 August 1995 and 6 p.m. on 12 August 1995, UNMOs observed that 95 per cent of the houses in Donji Lapac were destroyed by fire.²⁷¹⁴ They observed VP or HV soldiers in some half-destroyed houses, and HV soldiers searching and looting houses, but they did not see any civilians.²⁷¹⁵

620. **John Hill**, Commanding Officer of the International Military Police in Sector South from early June 1995 to 8 December 1995,²⁷¹⁶ stated that on 11 August 1995, he travelled to Donji Lapac where he saw soldiers from the Croatian 4th Brigade looting.²⁷¹⁷ Hill described the town as destroyed and saw many artillery impacts in the fields south of the town.²⁷¹⁸ He then went to a check-point outside Donji Lapac from where he observed the burning of houses by Croatian soldiers, members of the 4th Brigade, in a village north of Donji Lapac, towards the Bosnia-Herzegovina border and a kilometre away from the check-point.²⁷¹⁹ Hill saw soldiers coming out of the houses and shortly thereafter the houses bursting into flames.²⁷²⁰ Hill stated that the 4th Brigade members considered the village to be in Bosnia-Herzegovina, as everything beyond the check-point from which Hill was observing the village was, according to him, in their

²⁷⁰⁹ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 163; D1926 (Report on execution of tasks of the 71st VP Battalion, 7 August 1995), p. 3.

²⁷¹⁰ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 170; D1927 (Report on execution of tasks of the 71st VP Battalion, 8 August 1995), pp. 1-2.

²⁷¹¹ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 164-165.

²⁷¹² P114 (UNMO Sector South daily situation report, 8 p.m., 10 August 1995), p. 6.

²⁷¹³ P114 (UNMO Sector South daily situation report, 8 p.m., 10 August 1995), p. 6.

²⁷¹⁴ P117 (UNMO Sector South daily situation report, 7 p.m., 12 August 1995), pp. 1-2.

²⁷¹⁵ P117 (UNMO Sector South daily situation report, 7 p.m., 12 August 1995), p. 2.

²⁷¹⁶ P291 (John Hill, witness statement, 23 August 1996), p. 2; P292 (John Hill, witness statement, 21 January 1998), pp. 3, 93; P293 (John Hill, witness statement, 2 November 1999), p. 3.

²⁷¹⁷ P292 (John Hill, witness statement, 21 January 1998), pp. 71-72; John Hill, T. 3779, 3783-3784; P307 (Map of routes taken by John Hill on his travels after Operation Storm).

²⁷¹⁸ P292 (John Hill, witness statement, 21 January 1998), pp. 71-72; John Hill, T. 3779.

²⁷¹⁹ P292 (John Hill, witness statement, 21 January 1998), pp. 3, 72-75; John Hill, T. 3780-3781, 3895-3897; P306 (Report by John Hill on HV activities from 4-11 August 1995), p. 2.

²⁷²⁰ P292 (John Hill, witness statement, 21 January 1998), pp. 72-75.

view Bosnia-Herzegovina.²⁷²¹ Hill further stated that in his view, the village was still in Croatia as the maps he had at the time indicated that there were one or two villages between Donji Lapac and the border.²⁷²²

621. The Trial Chamber finally received relevant evidence from various sources concerning the second half of August, and September 1995. **Witness 136** a Serb field interpreter for UNCIVPOL and UNCRO,²⁷²³ testified that on 18 August 1995 and again on 28 August 1995, she observed a large number of burning houses in Donji Lapac.²⁷²⁴ According to an IHF report dated 25 August 1995, detailing an IHF mission of 17 August 1995 to 19 August 1995, the village of Srb in Donji Lapac municipality was completely burned and 70 per cent of the town of Donji Lapac was destroyed.²⁷²⁵ According to a UNCIVPOL weekly report, dated 27 August 1995, Donji Lapac was completely ruined as a result of arson.²⁷²⁶ At 6 p.m. on 27 August 1995, UNMO observed one burning house in Donji Lapac.²⁷²⁷ At 7:15 p.m. on 30 August 1995, UNMO observed a burning house near Donji Lapac.²⁷²⁸ **Søren Liborius**, an ECMM Operations Officer and team leader based in Knin from 28 July 1995 until 27 November 1995,²⁷²⁹ testified that on 1 September 1995, he witnessed occasional burning of barns and haystacks in Donji Lapac and many HV and police in the area.²⁷³⁰ According to an HRAT report, dated 6 September 1995, Donji Lapac was found to be, except for several houses, completely destroyed and it was recorded that this destruction was clearly not a result of war operations.²⁷³¹ HRAT also reported that on 25 September 1995 it visited the town of Donji Lapac, which was destroyed to approximately 80-90 per cent, and

²⁷²¹ P292 (John Hill, witness statement, 21 January 1998), p. 74; John Hill, T. 3784.

²⁷²² P292 (John Hill, witness statement, 21 January 1998), p. 74; John Hill, T. 3783-3784; P307 (Map of routes taken by John Hill on his travels after Operation Storm).

²⁷²³ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

²⁷²⁴ P2 (Witness 136, witness statement, 4 July 1996), pp. 8-9, 12; P3 (Witness 136, witness statement, 11 June 2007), para. 16; Witness 136, T. 641-642; P5 (Map of Sector South marked by Witness 136).

²⁷²⁵ William Hayden, T. 10596; P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), p. 2, para. 1.2.

²⁷²⁶ P230 (UNCIVPOL weekly report 21-26 August 1995, 27 August 1995), p. 5.

²⁷²⁷ P129 (UNMO Sector South daily situation report, 7 p.m., 27 August 1995), p. 3.

²⁷²⁸ P132 (UNMO Sector South daily situation report, 11:59 p.m., 30 August 1995), p. 2.

²⁷²⁹ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 1, 3; P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; P801 (Søren Liborius, witness statement, 12 October 2005), p. 2; P803 (Søren Liborius, witness statement, 6 September 2008), para. 6; Søren Liborius, T. 8229; D741 (Diary of Liborius), p. 3.

²⁷³⁰ P801 (Søren Liborius, witness statement, 12 October 2005), p. 12.

²⁷³¹ P710 (HRAT report Donji Lapac and Otrić, 6 September 1995).

observed a strong HV presence but little sign of normal life.²⁷³² HRAT further noted that the road from Donji Lapac to Udbina was still impassable close to Udbina because of hundreds of unexploded mortar shells on the road and in the proximity of the road.²⁷³³

622. In addition to the evidence above, the Trial Chamber has considered the evidence of Josip Čelić, Zdravko Janić, and Josip Turkalj reviewed in chapter 4.4.7; Milan Ilić reviewed in chapter 4.1.4 (Marko Ilić and others - Schedule no. 10), and Philip Berikoff reviewed in chapter 4.2.1. Furthermore, the Trial Chamber has considered P470, reviewed in chapter 6.2.3.

623. The Trial Chamber finds that on 7 August 1995 Special Police units and HV units of the Gospić MD entered Donji Lapac. More specifically, based in particular on the evidence of Vitez, Herman, Pavlović, Čelić, Cvrk, Turkalj, Janić, Sačić, Repinć, the Markač interviews, D556, P621, and P2385, the Trial Chamber finds that Special Police units started entering town between approximately 12 and 2 p.m., while units of the 118th Home Guard Regiment and of the 9th Guards Brigade of the HV arrived a few hours later, in the late afternoon or early evening. Based on the evidence of Vitez, Pavlović, and Sačić, the Trial Chamber further finds that Markač entered Donji Lapac in the early afternoon on 7 August 1995, and left again after a few hours.

624. The evidence of Witness 82, Vitez, Pavlović, Ilić, Witness MM-25, Čelić, Janić, Sačić, and the Markač interviews shows that by around 3:30 p.m. on 7 August 1995 in Donji Lapac there were only approximately four destroyed or burning buildings, which the Trial Chamber has dealt with in chapter 4.4.7. Pavlović testified that at 5 p.m. on 7 August 1995 Donji Lapac was still practically undamaged.

625. The evidence shows an increase in the destruction of Donji Lapac between 7 and 8 August 1995. Pavlović, who after having visited Donji Lapac spent the night of 7 August 1995 elsewhere, went back to Donji Lapac on the following day and saw that a substantial part of it had been torched or damaged. Čelić, who did not see any building on fire on 7 August 1995, saw quite a few structures burning on 8 August 1995. Herman noticed, as he withdrew from Donji Lapac in the evening of 7 August 1995, that some haystacks and houses had been set on fire. The only eye-witness to the acts of

²⁷³² P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 51; P1104 (HRAT daily report, 25 September 1995), p. 2.

destruction is Witness 82, an HV member who arrived in Donji Lapac in the late afternoon or early evening of 7 August 1995, and testified that he saw HV soldiers and Special Police set fire to buildings in Donji Lapac. Having observed the demeanour of Witness 82 in Court and considered his lapses of memory and significant inconsistencies that emerged during his testimony,²⁷³⁴ the Trial Chamber relies on his testimony only where it is corroborated by other evidence. Witness 82's testimony on the burning of Donji Lapac is corroborated with regard to the timing of the destruction by the above-mentioned evidence of Pavlović, Čelić, and Herman. With regard to perpetrators, it is partly corroborated by Special Police reports D556 and P586, according to which units of the 118th Home Guard Regiment and of the 9th Guards Brigade of the HV, but not Special Police units, began shooting infantry weapons, throwing bombs and torching houses upon their entrance in Donji Lapac, and continued to do so overnight. Further corroboration of Witness 82's testimony is provided by Vitez, who testified that after having moved with his unit to the outskirts of Donji Lapac upon the arrival of the HV, he heard a lot of firing coming from the town, and early the next morning he saw smoke rising from many buildings and houses in Donji Lapac. In assessing the credibility of Witness 82, the Trial Chamber has also considered the evidence of Vitez and Čelić, who denied the involvement of the Special Police in the burning. However, the evidence does not indicate that these Special Police witnesses had any solid factual basis for their affirmations. The evidence, in particular that of Vitez, Herman, Sačić, D556, and P586, indicates that the bulk of the Special Police units who remained in the area spent the night in the outskirts of Donji Lapac, within close range of where the destruction occurred. The evidence of Pavlović, Sačić, Repinć, and P586 furthermore indicates that some Special Police forces, in particular logistics and communication personnel, remained in town. The evidence of Pavlović and Janić indicates that Janić's unit, the last Special Police unit to leave town on 7 August 1995, left as late as at nightfall. This provides sufficient corroboration for the Trial Chamber to believe that Witness 82 observed members of the Special Police participating in setting houses on fire. On the basis of the above, the Trial Chamber finds that at some point after the late afternoon on 7 August and continuing on 8 August 1995, members of the HV and Special Police torched or otherwise destroyed a substantial part of Donji

²⁷³³ P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 51; P1104 (HRAT daily report, 25 September 1995), p. 3.

²⁷³⁴ See e.g. Witness 82, T. 16787-16790, 16801-16803.

Lapac. Considering the ethnic composition of Donji Lapac in 1991 and the evidence of Milan Ilić that Donji Lapac was mainly inhabited by Serbs, the Trial Chamber finds that the vast majority of the destroyed houses were owned or inhabited by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

626. UNMO report P114 indicates that on 10 August 1995, soldiers wearing “BiH” insignia were helping civilians in trucks with Bihac number plates to gather cows and household items in Donji Lapac. Based on the description of some of the persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. Considering however the “BiH” insignia, referring to Bosnia-Herzegovina, there is insufficient evidence to establish that these persons were members of the Croatian forces. Consequently, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

627. According to evidence from Hill, on 11 August 1995 persons referred to as members of the HV 4th Brigade were looting in Donji Lapac, which the Trial Chamber understands to mean they took unspecified objects away. Berikoff testified that on 11 August 1995 many HV/HVO soldiers, together with persons in grey cover-all uniforms, were going from house to house, which would start burning after they exited it and before they entered the next one. Further, according to UNMO report P117, on 11 or 12 August 1995 people referred to as HV soldiers were taking unspecified objects away from houses. According to Witness 82, a few days after Operation Storm, groups of three or four HV soldiers wearing camouflage uniforms belonging to units other than his, began taking unspecified objects away from houses in Donji Lapac. Based on the description of the perpetrators in the aforementioned incidents, the Trial Chamber is satisfied that they wore military-type uniforms. Based in particular on the evidence of Hill, who on 10 August 1995 had recognized HV soldiers of the 4th Brigade by their arm patches 4.2.4 (Srb), and the evidence of Witness 82 referring to HV soldiers of a unit other than his, the Trial Chamber finds that members of the 4th HV Brigade took unspecified items away from houses in Donji Lapac on 11 August 1995. Based on this finding, and the evidence of Berikoff, the Trial Chamber further finds that HV soldiers set fire to houses in Donji Lapac on the same day. However, the above evidence does not provide further details as to the factual basis for the qualification of some of the perpetrators as HVO soldiers. Consequently, the Trial Chamber cannot assess whether

this qualification was made on a proper factual basis. In relation to the persons described as wearing grey cover-all uniforms, this description likewise offers insufficient evidence to conclude the affiliation of the perpetrators, if any. Considering the above-mentioned ethnic composition of Donji Lapac, the Trial Chamber finds that the vast majority of the unspecified objects taken and houses burned were owned or inhabited by Krajina Serbs. The Trial Chamber will further consider the burning and removal of property committed by HV members on 11 August 1995 in relation to Counts 1, 4, and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

628. UNMO report P129 indicates that on 27 August 1995 one house was burning in Donji Lapac. Evidence from Witness 136 and Liborius indicates that a large number of houses were burning in Donji Lapac on 18 and 28 August 1995, and that on 1 September 1995 there was still occasional burning of houses and haystacks. The evidence from Liborius also indicates that, on 1 September 1995, there were many persons referred to as HV or police in the area. However, the Trial Chamber did not receive, in relation to these incidents, sufficient evidence as to the circumstances under which or by whom the buildings were set on fire. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 5 of the Indictment.

Mandić Dol

629. The Trial Chamber has received evidence with regard to alleged plunder in Mandić Dol in Donji Lapac municipality through an UNMO report. At 11:20 a.m. on 27 August 1995, UNMO observed two HV soldiers with a van looting houses in Mandić Dol.²⁷³⁵

630. The evidence indicates that at 11:20 a.m. on 27 August 1995, two persons with a van, referred to as HV soldiers, looted houses in Mandić Dol, in Donji Lapac municipality. Given UNMO's description of these persons as Croatian soldiers, the Trial Chamber is satisfied they wore military-type uniforms. However, the report does not provide further details as to the factual basis for their qualification as Croatian. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. Nor has the Trial Chamber received sufficient evidence about

²⁷³⁵ P129 (UNMO Sector South daily situation report, 7 p.m., 27 August 1995), p. 3.

which armed forces, if any, were present in or in the vicinity of Mandić Dol at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. The evidence indicates that persons in military-type uniforms were looting, which the Trial Chamber understands to mean they took unspecified items away. Further, the evidence does not establish whether the items that were taken were owned by Krajina Serbs. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

Srb

631. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Donji Srb and Gornji Srb in Donji Lapac municipality primarily through the testimonies of John Hill and Søren Liborius. According to the 1991 Population Census, the population of Donji Srb consisted of 1059 Serbs out of a total of 1098 persons and Gornji Srb consisted of 354 Serbs out of a total of 356 persons in 1991.²⁷³⁶

632. **John Hill**, Commanding Officer of the International Military Police in Sector South from early June 1995 to 8 December 1995,²⁷³⁷ testified that on 10 August 1995, he saw civilian police or HV looting houses in Srb, in Donji Lapac municipality, and bringing the looted goods to a check-point to build up the sparsely equipped check-point.²⁷³⁸ He saw two men in blue uniforms or HV soldiers carrying out a couch from a house in Srb to build up their check-point and another taking rakija away.²⁷³⁹ The witness testified that further in Srb there was also looting by HV soldiers of the 4th Brigade, whose arm patches he saw.²⁷⁴⁰ In court, Hill testified that he believed he only saw HV soldiers looting in Srb and did not mention the civilian police.²⁷⁴¹ He further stated that some houses in Srb were destroyed and others were burning.²⁷⁴²

²⁷³⁶ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 72.

²⁷³⁷ P291 (John Hill, witness statement, 23 August 1996), p. 2; P292 (John Hill, witness statement, 21 January 1998), pp. 3, 93; P293 (John Hill, witness statement, 2 November 1999), p. 3.

²⁷³⁸ P292 (John Hill, witness statement, 21 January 1998), pp. 66-69; John Hill, T. 3777-3778.

²⁷³⁹ P292 (John Hill, witness statement, 21 January 1998), pp. 3, 68; John Hill, T. 3777-3778, 3780-3781, 3895-3897; P306 (Report by John Hill on HV activities from 4-11 August 1995), p. 2.

²⁷⁴⁰ P292 (John Hill, witness statement, 21 January 1998), p. 68.

²⁷⁴¹ John Hill, T. 3777-3778.

²⁷⁴² P292 (John Hill, witness statement, 21 January 1998), p. 68; John Hill, T. 3777-3778.

633. **Søren Liborius**, an ECMM Operations Officer and team leader based in Knin from 28 July 1995 until 27 November 1995,²⁷⁴³ stated that at an unidentified date weeks after Operation Storm, he saw recent arson and destruction in Srb or Donji Srb in Donji Lapac municipality and only blue and white Special Police vehicles with police insignia in the vicinity.²⁷⁴⁴ One of Liborius's colleagues made a telephone call to the Knin headquarters and was told that there was a Special Police operation ongoing.²⁷⁴⁵

634. According to an UNMO report, before 8 p.m. on 9 September 1995, UNMO observed Croatian soldiers loot houses in Srb, D. Suvaja and Brotnja, all in Donji Lapac municipality.²⁷⁴⁶

635. **Vladimir Gojanović**, a former HV soldier,²⁷⁴⁷ testified that at around 2-3 p.m. on 8 August 1995, while he was in Zrmanja, Gračac municipality, he received an order from his Battalion commander which he believed was passed on from Commander Daniel Kotlar, that the unit was to move to the Bosnian border.²⁷⁴⁸ **Radoslav Juričev Sudac**, Tank Platoon Commander within the Armoured Mechanized Company of the 113th Šibenik Reserve Brigade during Operation Storm,²⁷⁴⁹ also stated that he was in Zrmanja on 8 August, but only for two to three hours.²⁷⁵⁰ On the evening of 8 August 1995, Gojanović testified that his unit reached Donji Srb, in Donji Lapac municipality, where they searched the terrain and fought with members of the SVK who, according to Gojanović, were in the hills around Donji Srb.²⁷⁵¹ Gojanović further testified that he stayed for two to four days in Donji Srb, and that there was a lack of discipline in the Brigade as demonstrated by the fact that soldiers from the Brigade were shooting at

²⁷⁴³ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 1, 3; P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; P801 (Søren Liborius, witness statement, 12 October 2005), p. 2; P803 (Søren Liborius, witness statement, 6 September 2008), para. 6; Søren Liborius, T. 8229; D741 (Diary of Liborius), p. 3.

²⁷⁴⁴ Søren Liborius, T. 11294-11296.

²⁷⁴⁵ Søren Liborius, T. 11298.

²⁷⁴⁶ P145 (UNMO Sector South daily situation report, 8 p.m., 9 September 1995), pp. 1, 5.

²⁷⁴⁷ P194 (Vladimir Gojanović, witness statement, 20 January 2005), paras 2-3; Vladimir Gojanović, T. 2973, 2983, 2987, 3010-3011, 3015, 3018-3019, 3039, 3119, 3121-3122, 3131-3133, 3138; C2 (Gojanović's military record), pp. 1, 3-4, 19; P198 (Further record of Gojanović's military service), pp. 1-2; P200 (Letter of Daniel Kotlar terminating the mobilization of Vladimir Gojanović, 30 August 1995), p. 1.

²⁷⁴⁸ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 17; P196 (Vladimir Gojanović, supplemental information sheet, 14 May 2008), para. 7.

²⁷⁴⁹ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 3; D193 (Radoslav Juričev Sudac, witness statement, 12 May 2008), para. 2; Radoslav Juričev Sudac, T. 21364.

²⁷⁵⁰ D193 (Radoslav Juričev Sudac, witness statement, 12 May 2008), para. 11.

²⁷⁵¹ P194 (Vladimir Gojanović, witness statement, 20 January 2005), paras 18-19; Vladimir Gojanović, T. 2928-2929, 2934, 2937, 2960-2961; P197 (Map of Gojanović's movement during Operation Storm, marked by Gojanović).

night for no particular reason.²⁷⁵² While in Donji Srb, Gojanović testified that he saw soldiers looting items and taking them away to Šibenik in private vehicles, military vehicles, and civilian buses that Gojanović testified had been commandeered by the military to transport troops.²⁷⁵³ Gojanović recalled that on one occasion, Commander Kotlar visited the area of Donji Srb and shouted at the soldiers not to torch or loot property.²⁷⁵⁴ Gojanović testified that on this occasion, neither looting nor the setting alight of houses could have been observed from the spot where Commander Kotlar addressed the soldiers.²⁷⁵⁵ However, since there was smoke in the area, one could conclude that certain buildings were burning at the time.²⁷⁵⁶

636. In addition, the Trial Chamber has also considered D559 reviewed in Chapter 3.1.1 and P2349 reviewed in chapter 4.2.8 (Gošić).

637. After having cautiously reviewed Gojanović's evidence and considering that it is partially corroborated by P2349, the Trial Chamber finds that Vladimir Gojanović, an HV soldier, and his unit were present in Donji Srb from the evening of 8 August 1995 for two to four days. During this time, persons referred to as soldiers took items away in private and military vehicles and civilian buses. Based on the witness's description of these persons as soldiers, the Trial Chamber is satisfied the persons wore military-type uniforms. Considering that the persons referred to utilised, among others, military vehicles, that HV troops were billeted in the village at that time, and that the number of vehicles used implies that a significant number of persons were involved, the Chamber finds that they were members of Croatian military forces or Special Police. According to the 1991 Population Census, the population of Srb (Donji Srb and Gornji Srb) was almost entirely Serb, therefore the Trial Chamber finds that a vast majority if not all of the property taken away was owned by Krajina Serbs. Therefore, the Trial Chamber will further consider these incidents in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

638. According to John Hill, on 10 August 1995, persons looted houses in Srb which the Trial Chamber understands to mean they took unspecified items away. The evidence

²⁷⁵² P194 (Vladimir Gojanović, witness statement, 20 January 2005), paras 18-19.

²⁷⁵³ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 20; Vladimir Gojanović, T. 2967-2969.

²⁷⁵⁴ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 20; Vladimir Gojanović, T. 3062.

²⁷⁵⁵ Vladimir Gojanović, T. 2975.

²⁷⁵⁶ Vladimir Gojanović, T. 2967-2968, 2975.

indicates that they brought these unspecified items to a check-point. The evidence further indicates that two men carried out a couch from a house in Srb to build up their check-point and another took rakija away. The Trial Chamber notes that with regard to the taking of unspecified items, Hill's evidence is inconsistent as he alternates between identifying the civilian police and HV soldiers as the alleged perpetrators in this incident. With regard to the taking of the couch and the rakija, Hill's evidence is likewise inconsistent as in this regard he alternates between blue uniforms and HV soldiers. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

639. According to John Hill, on 10 August 1995, in Srb town, persons looted, which the Trial Chamber understands to mean that these persons took unspecified items away. Hill testified that he identified these persons as HV soldiers of the 4th Brigade by their arm patches, which he saw. Therefore, the Trial Chamber finds that that these persons were members of the 4th HV Brigade. According to the 1991 Population Census, the population of Srb (Donji Srb and Gornji Srb) was almost entirely Serb, therefore the Trial Chamber finds that a vast majority of the property taken away was owned by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2, and 5.8.2 (f) below.

640. The evidence further indicates that on an unidentified date weeks after Operation Storm, there was recent arson and destruction in Srb and only blue and white Special Police vehicles with police insignia in the vicinity. However, the evidence does not establish the circumstances under which or by who these building were set alight. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

641. The evidence further indicates that before 8 p.m. on 9 September 1995, persons referred to as Croatian soldiers looted houses in Srb, which the Trial Chamber understands to mean they took unspecified items away. Given UNMO's description of these persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. However, the Trial Chamber has received no further evidence regarding which armed forces, if any, the alleged perpetrators belonged to, nor any evidence relating to which armed forces, if any, were present in or in the vicinity of Srb at the

time. The Trial Chamber notes that the document cited by the Prosecution in Annex A, page 7 of its Final Brief in support HV of troop presence in Srb on 9 September 1995, is merely a summary of other UNMO situation reports and does not provide any further details than the report, P145, referred to above. Therefore this reference does not assist the Chamber. Therefore, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

4.2.5 Drniš municipality

Manovac

642. The Trial Chamber has received relevant evidence with regard to the alleged destruction of one house in Manovac in Drniš municipality through an UNMO report. On 20 August 1995, UNMO observed one house burning in Manovac and eight Croatian soldiers on the road with a military truck.²⁷⁵⁷

643. The evidence indicates that on 20 August 1995 one house was burning in Manovac, in Drniš municipality and that eight persons referred to as Croatian soldiers were on the road in a military truck. Based on this evidence, the Trial Chamber cannot draw any definite conclusions regarding those responsible for setting the house on fire. Further, the evidence does not allow the Trial Chamber to draw any conclusion with regard to who owned or inhabited the property. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

Miočić

644. The Trial Chamber has received evidence with regard to alleged destruction and looting in Miočić in Drniš municipality through UNMO and ECMM reports. At 1:05 p.m. on 12 August 1995, ECMM observed that Miočić, was deserted and completely destroyed.²⁷⁵⁸ At 11 a.m. on 29 August 1995, UNMO observed approximately 43 burned and destroyed houses in Miočić, and 15 dead dogs, sheep, and cows in the

²⁷⁵⁷ D872 (UNMO report, 27 August 1995), p. 2.

area.²⁷⁵⁹ At 3:30 p.m. on 15 September 1995, UNMO observed two civilians and two soldiers looting a house, with a vehicle with registration number RH5995, and two soldiers loading equipment onto a tractor, all in Miočić in Drniš municipality.²⁷⁶⁰ According to the 1991 Population Census, the population of Miočić consisted of 402 Serbs out of a total of 415 persons.²⁷⁶¹

645. According to the 6th Home Guard Regiment Command war journal, on 7 August 1995, the 3rd Battalion was deployed to positions in Biočić and Kanjane, both in Drniš municipality.²⁷⁶² By 9 August 1995, work had started on setting up the future forward command post of the 6th Home Guard Regiment in Miočić, in Drniš municipality. On the same day, the Anti-aircraft Defence Platoon of the 6th Home Guard Regiment took up position in Biočić. On 11 August 1995, the Regiment Commanding Officer and the unit commanders conducted reconnaissance in the future area of responsibility around Strmica, in Knin municipality, and Tičevo, in Donji Lapac municipality. On 12 August 1995, the 1st and 4th battalion and the commanding staff team left to go to the new area of responsibility, and detachments of the 2nd and 3rd Battalion were relocated.²⁷⁶³

646. The evidence indicates that at 1:05 p.m. on 12 August 1995 Miočić in Drniš municipality was completely destroyed. It further indicates that at 11 a.m. on 29 August 1995 there were 43 burned and destroyed houses and 15 dead animals in Miočić. The Trial Chamber has not received any evidence regarding when, by whom, and under what circumstances the destruction occurred. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Miočić at the time. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

647. The evidence also indicates that at 3:30 p.m. on 15 September 1995 in Miočić, four individuals, namely two civilians and two persons referred to as soldiers, were looting a house with a vehicle with registration number RH5995. The Trial Chamber has not received any evidence about what was being looted. The evidence also indicates that two other persons referred to as soldiers were loading equipment onto a tractor.

²⁷⁵⁸ P815 (ECMM report by Liborius, 26 August 1995), p. 7.

²⁷⁵⁹ P131 (UNMO Sector South daily situation report, 9 p.m., 28 August 1995), p. 8.

²⁷⁶⁰ P150 (UNMO Sector South daily situation report, 8 p.m., 15 September 1995), p. 4.

²⁷⁶¹ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 74.

²⁷⁶² P2586 (Regiment Command War Journal Extract, 6th Home Guard Regiment), p. 4.

²⁷⁶³ P2586 (Regiment Command War Journal Extract, 6th Home Guard Regiment), p. 5.

Based on the UNMO's description of four of these individuals as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. The Trial Chamber notes that two of these persons in uniform were seen together with two civilians. The above evidence does not establish to which armed forces, if any, the alleged perpetrators belonged. The Trial Chamber has not received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Miočić at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the four persons in uniform. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

4.2.6 Ervenik municipality

Ervenik town

648. The Trial Chamber has received relevant evidence with regard to the alleged destruction in Ervenik town primarily through the testimony of Rajko Guša. According to the 1991 Population Census, the population of Ervenik town consisted of 1,526 Serbs out of a total of 1,570 persons in 1991.²⁷⁶⁴

649. **Rajko Guša**, a Serb from the village of Zemunik Gornji in Zadar municipality,²⁷⁶⁵ testified that for several days around 10 August 1995, he and Rnjak Slavko walked from the municipality of Benkovac to the municipality of Ervenik. The presence of the HV throughout the entire area required them to travel through the forest to avoid being discovered.²⁷⁶⁶ Once they arrived, they hid in the forest on the mountain of Zmistak, which is south-west of Ervenik and north of Kistanje.²⁷⁶⁷ While there, Guša met a Serb man by the name of Jovo Subotić, who lived nearby.²⁷⁶⁸ Subotić told Guša and Slavko that if they went to his parents' home, they would be given food.²⁷⁶⁹ At the house, Guša and Slavko met Todor and Marta Subotić who gave them food and blankets but told them that there were a lot of soldiers in the area, so they could not stay in the house. After returning to the forest, Guša and Slavko were joined by Jovo Subotić and his twelve-year-old son, Damir, who were also afraid of the Croatian soldiers and felt

²⁷⁶⁴ C5 (Population census 1991, 31 March 1991), p. 110.

²⁷⁶⁵ P959 (Rajko Guša, witness statement, 28 May 1997), para. 1.

²⁷⁶⁶ P960 (Rajko Guša, witness statement, 19 February 2008), para. 5.

²⁷⁶⁷ P960 (Rajko Guša, witness statement, 19 February 2008), para. 6.

²⁷⁶⁸ P959 (Rajko Guša, witness statement, 28 May 1997), para. 16; D827 (Zadar-Knin Police interview, 11 October 1995), p. 5.

the forest would be safer than their home.²⁷⁷⁰ The group moved around, changing their position each night, returning to the Subotić home to get food and to help the older couple with chores.²⁷⁷¹

650. While hiding in the forest, the group had varying views of Ervenik town, but never had a clear view of the entire town because of the mountainous terrain.²⁷⁷² Guša testified that the town consisted of about 500 or 600 houses and covered an area of seven square kilometres.²⁷⁷³ In the first month of hiding, he saw the burning of houses and the theft of livestock in the town.²⁷⁷⁴ During the day they could see smoke rising from the town and at night they could see flames.²⁷⁷⁵ Specifically, Guša testified that Subotići, Brekići, and Travica hamlets received the most damage.²⁷⁷⁶ Guša testified that he saw at least 100 houses which had been destroyed in the Subotići area.²⁷⁷⁷ He saw groups of soldiers casually entering houses which shortly thereafter began to burn.²⁷⁷⁸ The soldiers set three or four houses on fire at a time and then moved to another hamlet where they repeated the same process. Guša estimated that 80 houses in the central portion of Ervenik were burnt, along with the village school, and a shop. He did not detect any selective pattern in the burning.²⁷⁷⁹

651. For about a month on a daily basis, he saw groups of Croatian soldiers in camouflage uniforms moving from house to house in town removing furniture, electrical appliances, and other valuable household goods, loading it primarily onto civilian trucks and occasionally onto military trucks.²⁷⁸⁰ Croatian soldiers stole cars, trucks, tractors, trailers, and other farming vehicles which had been left behind by residents. Broken down vehicles were stripped for parts.²⁷⁸¹ Guša also observed Croatian soldiers in uniform stealing thousands of cows, goats, and sheep and openly loaded them onto trucks and removed them from farms.²⁷⁸² On some occasions, Guša

²⁷⁶⁹ P959 (Rajko Guša, witness statement, 28 May 1997), para. 16.

²⁷⁷⁰ P959 (Rajko Guša, witness statement, 28 May 1997), para. 18.

²⁷⁷¹ P959 (Rajko Guša, witness statement, 28 May 1997), paras 19-20; Rajko Guša, T. 9903-9904.

²⁷⁷² P959 (Rajko Guša, witness statement, 28 May 1997), para. 28.

²⁷⁷³ P959 (Rajko Guša, witness statement, 28 May 1997), para. 27.

²⁷⁷⁴ P959 (Rajko Guša, witness statement, 28 May 1997), para. 26.

²⁷⁷⁵ P960 (Rajko Guša, witness statement, 19 February 2008), para. 5.

²⁷⁷⁶ Rajko Guša, T. 9885.

²⁷⁷⁷ Rajko Guša, T. 9890.

²⁷⁷⁸ P959 (Rajko Guša, witness statement, 28 May 1997), para. 31; P960 (Rajko Guša, witness statement, 19 February 2008), para. 5.

²⁷⁷⁹ P959 (Rajko Guša, witness statement, 28 May 1997), para. 31.

²⁷⁸⁰ P959 (Rajko Guša, witness statement, 28 May 1997), paras 26, 30.

²⁷⁸¹ P959 (Rajko Guša, witness statement, 28 May 1997), para. 34.

²⁷⁸² P959 (Rajko Guša, witness statement, 28 May 1997), para. 35.

saw groups of soldiers herd flocks of goats together, slaughter them, skin and clean them, load them and drive away, all very much in the open with no apparent concern.²⁷⁸³ He reported that Croatian soldiers stole hay and firewood on a large scale.²⁷⁸⁴ Guša estimated that, for over a month, he saw at least ten trucks a day leaving town carrying stolen property and livestock.²⁷⁸⁵

652. Guša testified that the soldiers who were conducting the looting and burning did not show any signs of evasiveness or fear of detection. He explained that there was a lot of military traffic on the main road from which the looting and burning was clearly visible, however, this did not prevent the soldiers from committing the acts in their uniforms or induce them to conceal their activities. He never saw any attempt by anybody to halt the behaviour.²⁷⁸⁶ Further, the trucks loaded with looted property were driven away by soldiers in uniform openly on the road towards Kistanje or Benkovac, joining the flow of largely military traffic, the loads openly displayed.²⁷⁸⁷ According to an ECMM report dated 26 August 1995, by 4:20 p.m. on 15 August 1995, Ervenik village was burnt down.²⁷⁸⁸

653. Guša reported that at the end of September 1995, while he was hiding in the forest about 25 metres from the Subotić home, he saw three Croatian soldiers arrive at the Subotić farm.²⁷⁸⁹ The soldiers appeared to be about 45 years old, of medium height, and stout. They had brown hair and one had a moustache. They did not have any visible insignia on their camouflage uniforms, but they spoke the Croatian language dialect common to the Zadar area.²⁷⁹⁰ The soldiers first asked Todor Subotić if they could have five or six of his livestock.²⁷⁹¹ Todor agreed, but one of the soldiers then insisted that they take all of the 130 goats, 40 sheep, two oxen, one cow, and one calf that belonged to the Subotićs. Marta Subotić begged the soldiers to at least leave the cow and calf. The soldiers refused to do so, and Marta started to scream.²⁷⁹² A soldier, who was standing by the truck, approximately three metres from her, turned, and fired a shot with his

²⁷⁸³ P959 (Rajko Guša, witness statement, 28 May 1997), para. 36.

²⁷⁸⁴ P959 (Rajko Guša, witness statement, 28 May 1997), para. 37.

²⁷⁸⁵ P959 (Rajko Guša, witness statement, 28 May 1997), para. 38.

²⁷⁸⁶ P959 (Rajko Guša, witness statement, 28 May 1997), para. 32.

²⁷⁸⁷ P959 (Rajko Guša, witness statement, 28 May 1997), para. 33.

²⁷⁸⁸ P815 (ECMM report by Liborius, 26 August 1995), pp. 1, 7.

²⁷⁸⁹ P959 (Rajko Guša, witness statement, 28 May 1997), para. 39; Rajko Guša, T. 9874.

²⁷⁹⁰ P959 (Rajko Guša, witness statement, 28 May 1997), para. 40.

²⁷⁹¹ Rajko Guša, T. 9874.

²⁷⁹² P959 (Rajko Guša, witness statement, 28 May 1997), para. 39; Rajko Guša, T. 9874.

hand-gun in her direction.²⁷⁹³ The bullet struck the stone door frame causing a chip from the door to hit Marta in the hand resulting in a minor injury.²⁷⁹⁴ Another soldier immediately intervened and told the first soldier to let it be.²⁷⁹⁵ The soldiers then drove away in their green four ton “Zastava” truck with all the Subotić livestock, except for a single pig.²⁷⁹⁶

654. According to an ECMM report dated 26 August 1995, by 4:20 p.m. on 15 August 1995, Ervenik village was burnt down.²⁷⁹⁷

655. In addition, the Trial Chamber has considered P1200 reviewed in chapter 4.2.8 (Parčić).

656. Based on the evidence of Rajko Guša, the Trial Chamber finds that sometime between approximately 10 August and 10 September 1995, persons referred to as soldiers were entering houses in Ervenik village and its hamlets, which would begin to burn shortly thereafter. The persons set fire to three to four houses in a hamlet, before moving to another hamlet and repeating the process. During this period, around 100 houses were destroyed in the Subotići area of Ervenik town and about 80 houses in the centre of Ervenik were burnt, along with the village school and a shop. According to an ECMM report, by 4:20 p.m. on 15 August 1995, Ervenik town was burnt down. During the same period, groups of persons in camouflage uniforms, referred to as Croatian soldiers, loaded furniture, electrical appliances, and other valuable household goods from houses in Ervenik onto civilian and military trucks and drove off. The evidence indicates that this happened on a daily basis. These persons also took cars, trucks, tractors, trailers, and farming vehicles, as well as parts from broken down vehicles, hay, and firewood on a large scale, and large numbers of livestock from farms. On one occasion a large number of goats were slaughtered, skinned, and taken away. A number of trucks left the town every day carrying property and livestock. Based on Guša’s description of these persons as Croatian soldiers, the Trial Chamber finds that they wore military-type uniforms. However, Guša did not provide any further details as to the factual basis for this qualification. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. However, considering the

²⁷⁹³ P959 (Rajko Guša, witness statement, 28 May 1997), para. 39.

²⁷⁹⁴ P959 (Rajko Guša, witness statement, 28 May 1997), para. 39; Rajko Guša, T. 9874-9875.

²⁷⁹⁵ P959 (Rajko Guša, witness statement, 28 May 1997), para. 39; Rajko Guša, T. 9874.

²⁷⁹⁶ P959 (Rajko Guša, witness statement, 28 May 1997), para. 39.

²⁷⁹⁷ P815 (ECMM report by Liborius, 26 August 1995), pp. 1, 7.

number of persons involved in these incidents, the fact that these persons wore military uniforms and that some of them travelled in military trucks, and in light of the time and location of the events, the Trial Chamber finds that the persons who burnt the approximately 180 houses, a shop, and a school, and took goods, vehicles, and livestock from Ervenik town were members of the Croatian military forces or Special Police.

657. Further, the Trial Chamber finds that on 8 August 1995, the 3rd Infantry Battalion of the 134th Home Guard Regiment was in the area of Kaštel Žegarski and Ervenik. On 9 August 1995, the 134th Home Guard Regiment was reinforced with the 2nd Infantry Battalion and was in the area of the villages of Muškovci, Kaštel Žegarski and Ervenik, and a forward command post and forward section of the logistics base was set up in Kaštel Žegarski. From 11 August until 15 August 1995, the 3rd Infantry Battalion was on leave, and the 1st Infantry Battalion remained in this area. On 15 August 1995, the 1st Infantry Battalion started marching to Velika Popina in Gračac municipality. Based on this evidence, the Trial Chamber finds that between 8 and 15 August 1995, members of the 134th Home Guard Regiment were in the vicinity of Ervenik.

658. According to the 1991 Population Census, in 1991 the inhabitants of Ervenik were almost exclusively Serbs. Based on this evidence, and considering the amount of objects taken and the number of houses burnt, the Trial Chamber finds that a vast majority, if not all of the property that was taken or burnt was owned or inhabited by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment, in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

659. The evidence also indicates that at the end of September 1995, three persons wearing camouflage uniforms, who were referred to as Croatian soldiers, came to Todor and Marta Subotić's farm in Ervenik and forcefully took almost all of their livestock, comprising a large number of animals. Considering that the persons who came to the farm spoke a Croatian dialect common to the Zadar area, the Trial Chamber is satisfied that they were Croatian. Further, based on Guša's description of these persons as soldiers, the Trial Chamber is satisfied that these persons wore military-type camouflage uniforms. However, Guša did not provide further details as to the factual basis for the qualification of Croatian soldiers. Considering this and the absence of any visible insignia, the Trial Chamber cannot assess whether this qualification was made on a

proper factual basis. The Trial Chamber has also considered that the persons drove a green truck, not further specified as military or civilian; that one person intervened after a shot was fired and told the shooter to “let it be”; and the fact that there were only three alleged perpetrators present. The Trial Chamber has received no other reliable evidence indicating which armed forces, if any, the alleged perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Ervenik at the time. Consequently, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

Mokro Polje

660. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Mokro Polje in Ervenik municipality through the testimony of Jovan Popović and UNMO reports.

661. HRAT reported that on 12 or 13 September 1995 HRAT observed a man, a woman and two teenage boys, resembling a family, looting residences in the area of Mokro Polje, Ervenik municipality.²⁷⁹⁸ At 3 p.m. on 19 September 1995, UNMO HRAT observed, in Mokro Polje in Ervenik municipality, civilians and persons in HV uniform loading items from houses onto the trailers of several civilian cars without registration plates.²⁷⁹⁹ Before 8 p.m. on 26 September 1995, UNMO observed civilians and persons in uniform looting in the area of Mokro Polje, and driving cars with registration plates ST-281-E, ZD-439-F and SI-313-V.²⁸⁰⁰ On 27 September 1995, at Mokro Polje, Ervenik municipality, the Serbs living in the area informed an UNMO patrol that HV soldiers were continuing to harass people and loot the area, and that they needed Croatian documents.²⁸⁰¹

662. In addition this evidence, the Trial Chamber has considered the evidence of Jovan Popović reviewed in chapter 4.1.6 (Stana and Mirko Popović - Further Clarification nos 5-6).

²⁷⁹⁸ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 35; P39 (HRAT daily report, 12-13 September 1995), p. 1.

²⁷⁹⁹ P154 (UNMO Sector South daily situation report, 8 p.m., 19 September 1995), p. 5.

²⁸⁰⁰ P158 (UNMO Sector South daily situation report, 8 p.m., 26 September 1995), pp. 1, 7.

663. Based on the evidence received, the Trial Chamber finds that on 6 August 1995, around 5 p.m., approximately 24 persons wearing grey-green camouflage uniforms and grey-green camouflage hats, their faces painted black and accompanied by three tanks, approached Popovići. Jovan Popović hid, but could still hear shooting, see flames and smell smoke. Upon seeing the uniformed persons leave, he returned home and found the house ransacked with broken windows, his guitar and several kilograms of his honey gone, and three stables and around 20 haystacks burned. The Trial Chamber finds on this basis that the uniformed persons caused this damage and took these items. Considering that Jovan Popović is a Serb, the Trial Chamber finds that all these items were owned by a Krajina Serb. The Trial Chamber has previously found that the approximately five men who came to Jovan Popović's house in the morning or early afternoon of 7 August 1995 were HV soldiers, based on the witness's description of their uniforms, in particular the patches with the letters "HV", and the similarity of their uniforms to those of the men standing or sitting on tanks on 6 August 1995 (see 4.1.6 (Stana and Mirko Popović - Further Clarification nos 5-6)). Considering that the latter persons wore military uniforms, came in a large group together with three tanks, and looked like the HV soldiers who came on 7 August 1995, the Trial Chamber finds that they were also members of the HV. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

664. Based on the evidence received, the Trial Chamber further finds that the HV soldiers who came to Jovan Popović's house in the morning or early afternoon of 7 August 1995 entered every house in Popovići hamlet, forcing any locked doors, took items such as TV sets and hams, and loaded them onto a tractor. Considering Jovan Popović's statement that Mokro Polje was an entirely Serb village before Operation Storm, the Trial Chamber finds that all these items were owned by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

665. The evidence indicates that on 12 or 13 September 1995 a group of four people resembling a family were looting residences in the area of Mokro Polje, which the Trial Chamber understands to mean they took unspecified items away. The evidence strongly indicates that these four people were civilians. Under these circumstances, the Trial

²⁸⁰¹ P68 (Summary of UNMO Sector South situation reports from 7 August to 22 November 1995), p. 44.

Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

666. The evidence indicates that on 19 and 26 September 1995, in Mokro Polje, persons in uniform were taking unspecified items away together with persons in civilian clothes, and that on both occasions they used civilian vehicles. According to an UNMO report, on 19 September 1995 the uniformed persons removing items together with the civilians wore HV uniforms. Furthermore, another UNMO report indicates that on 27 September 1995, Serbs living in the area of Mokro Polje reported that HV soldiers were harassing them and removing items from the area. Based on the description of these persons as HV soldiers, the Trial Chamber is satisfied that the persons wore military-type uniforms. However, in neither instance do the UNMO reports provide further details as to the factual basis for the qualification of the alleged perpetrators as HV soldiers. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The above evidence therefore does not establish to which armed forces, if any, the alleged perpetrators belonged. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Mokro Polje at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 4 of the Indictment.

4.2.7 Gračac municipality

Glogovo

667. The Trial Chamber has received relevant evidence with regard to alleged plunder in Glogovo, Gračac municipality, through a UNCIVPOL report. According to this report, dated 2 October 1995, Milan Cvjetković in Glogovo, Gračac municipality, informed UNCIVPOL that about 15 days earlier two soldiers dressed in Croatian military uniforms had come to his house and had stolen his tractor and four horses. These soldiers were approximately 20-25 years old and traveled in a white Volkswagen vehicle with no registration plates. He had reported the theft to the police who arrived shortly after the incident and they had assured him that he would get his tractor back as

it was impossible to leave the area without passing through a police check-point. One of the police officers told him not to inform anyone about the theft.²⁸⁰²

668. The evidence indicates that on or around 17 September 1995 in Glogovo, in Gračac municipality two persons in military uniforms traveling in a white Volkswagen vehicle with no registration plates took Milan Cvjetković's tractor and four horses away. Although based on the UNCIVPOL report, the Trial Chamber is satisfied that these persons wore military-type uniforms, the report does not provide further details as to the factual basis for the qualification of the uniforms as Croatian. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to. In this respect, the Trial Chamber has also considered that the two persons were travelling in a civilian vehicle without license plates. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Glogovo at the time. The Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

Gračac town

669. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Gračac town primarily through the testimonies of Edmond Vanderostyne, Herman Steenbergen, Dragutin Vurnek, Davorin Pavlović, Dražen Vitez, and Ivan Herman. According to the 1991 Population Census, the population of Gračac town consisted of 3,906 Serbs out of a total of 4,101 persons in 1991.²⁸⁰³ The Trial Chamber has further considered relevant evidence from Mile Sovilj reviewed in chapter 4.4.5.

670. **Dragutin Vurnek**, who during Operation Storm was Assistant Commander for the Special Police Unit of the Sisak-Moslavina Police Administration (Kutina

²⁸⁰² Laila Malm, T. 8179-8180; P796 (UNCIVPOL incident report, S05-95-244, 2 October 1995).

²⁸⁰³ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 94.

Group),²⁸⁰⁴ testified that on 4 August 1995 his unit commander ordered his unit to depart from the Velike Vrsine area of Mount Velebit in order to penetrate the frontline in Crni Vrh, in Gospić municipality, and to advance further towards Gračac.²⁸⁰⁵ The witness's unit entered into combat with the enemy at Crni Vrh, which was a fortified enemy facility surrounded by several minefields, and occupied it.²⁸⁰⁶ Vurnek's unit was then ambushed just outside the village of Egeljac, in Lovinac municipality, and eight of his men were injured and one was killed.²⁸⁰⁷ The witness testified that with the help of reserve Special Police forces as well as parts of the Vukovar-Srijem unit, his unit eventually quashed the attack, capturing two T-55 tanks.²⁸⁰⁸ The witness stated that a segment of his unit then continued on to set up two combat barrier points along the road between Gračac and Gospić, while the witness and others remained with the tanks and spent the night along Ruka-Papuča Road.²⁸⁰⁹

671. The following day, 5 August 1995, the witness testified that his unit encountered no further combat when they passed very near to Sveti Rok, in Lovinac municipality, took the Gospić-Gračac road and entered Gračac around 2 p.m.²⁸¹⁰ Along the way, Vurnek saw some destroyed houses that had vegetation and trees growing out of them.²⁸¹¹ The witness testified that he saw various craters on the road into Gračac – in particular, some close to an intersection – and one burning house in Gračac that was mostly burned down; near the house, he entered a factory with hangars that contained a large amount of weapons, pieces of weapons, and ammunition crates.²⁸¹² Vurnek's unit spent the night and the following day, 6 August 1995, in empty public buildings in

²⁸⁰⁴ D1895 (Dragutin Vurnek, witness statement, 18 May 2009), p. 1, para. 1; Dragutin Vurnek, T. 26165-26166, 26169-26171, 26211, 26223, 26253.

²⁸⁰⁵ D1895 (Dragutin Vurnek, witness statement, 18 May 2009), paras 2, 4; Dragutin Vurnek, T. 26172-26174, 26181; D1896 (Extract from the Kutina group's war path report), p. 1.

²⁸⁰⁶ D1895 (Dragutin Vurnek, witness statement, 18 May 2009), para. 4; Dragutin Vurnek, T. 26173-26174, 26176; D1896 (Extract from the Kutina group's war path report), pp. 1-2.

²⁸⁰⁷ D1895 (Dragutin Vurnek, witness statement, 18 May 2009), para. 4; Dragutin Vurnek, T. 26173, 26177-26178; D1896 (Extract from the Kutina group's war path report), pp. 1-2.

²⁸⁰⁸ Dragutin Vurnek, T. 26173, 26178; D1896 (Extract from the Kutina group's war path report), pp. 1-2.

²⁸⁰⁹ D1895 (Dragutin Vurnek, witness statement, 18 May 2009), para. 4; Dragutin Vurnek, T. 26173, 26178-26180; D1896 (Extract from the Kutina group's war path report), p. 2.

²⁸¹⁰ D1895 (Dragutin Vurnek, witness statement, 18 May 2009), paras 5-6; Dragutin Vurnek, T. 26173, 26181, 26230, 26259-26262; D1896 (Extract from the Kutina group's war path report), pp. 4-5; D1899 (Map of route to Gračac marked by Dragutin Vurnek).

²⁸¹¹ Dragutin Vurnek, T. 26223, 26261-26265, 26270; D294 (Video footage of road between Sveti Rok and Gračac, 5 August 1995).

²⁸¹² Dragutin Vurnek, T. 26181-26182; 26230, 26232, 26258-26259, 26270-26273; D1900 (Approximate location of burning house on map of Gračac marked by Vurnek). See also P1242 (War path of Dubrava-Neretva Special Police unit), p. 7.

Gračac, resting and preparing for further activities.²⁸¹³ The witness testified that apart from the burning home and craters he observed on the road into Gračac, he did not see any other property that had been recently damaged in Gračac.²⁸¹⁴ Vurnek testified that he did not witness any of the Special Police destroying or stealing any property.²⁸¹⁵ Moreover, the witness testified that he did not see any soldiers or civilians, dead or alive, in Gračac.²⁸¹⁶ On 7 August 1995 the unit travelled together with other Special Police forces by means of military trucks, several passenger vehicles with police plates, and a civilian van to a meadow right outside Bruvno, in Gračac municipality, where they waited as reserve forces for the units that were in the process of taking over Mazin, in Gračac municipality.²⁸¹⁷ They then continued to a position right above Mazin; the witness saw a haystack on fire right outside Mazin, which was the first time he saw anything on fire since he left Gračac.²⁸¹⁸ Vurnek also testified that he and his unit were involved in mop-up operations in and around the area of Gračac municipality sometime toward the end of August 1995.²⁸¹⁹ Their responsibilities included uncovering remaining groups of enemy soldiers, finding explosives depots, and pin-pointing minefields in the area; they were not responsible for clearing bodies, however if they found bodies, they were supposed to notify the police headquarters.²⁸²⁰

672. **Davorin Pavlović**, who during Operation Storm was Chief of the Operative Equipment Sector of the MUP,²⁸²¹ testified that on 5 August 1995, he advanced with Special Police from Seline, in Starigrad municipality, through Mali Alan and Sveti Rok, both in Lovinac municipality, and came to Lovinac.²⁸²² Then, Minister of the Interior Jarnjak arrived there, and they put a sign saying “police station” on the chimney of a

²⁸¹³ D1895 (Dragutin Vurnek, witness statement, 18 May 2009), paras 5-6; Dragutin Vurnek, T. 26182-26183, 26224, 26230, 26257.

²⁸¹⁴ D1895 (Dragutin Vurnek, witness statement, 18 May 2009), para. 5; Dragutin Vurnek, T. 26182-26183, 26257-26259.

²⁸¹⁵ D1895 (Dragutin Vurnek, witness statement, 18 May 2009), para. 5; Dragutin Vurnek, T. 26182-26183, 26216, 26258.

²⁸¹⁶ Dragutin Vurnek, T. 26182, 26225, 26230.

²⁸¹⁷ D1895 (Dragutin Vurnek, witness statement, 18 May 2009), para. 7; Dragutin Vurnek, T. 26173, 26183-26184; D1896 (Extract from the Kutina group's war path report), p. 5; D1897 (Sisak-Moslavina Special Police unit map of movements during Operation Storm, from 6 to 9 August 1995).

²⁸¹⁸ Dragutin Vurnek, T. 26184; D1897 (Sisak-Moslavina Special Police unit map of movements during Operation Storm, from 6 to 9 August 1995).

²⁸¹⁹ Dragutin Vurnek, T. 26194.

²⁸²⁰ Dragutin Vurnek, T. 26194, 26224-26225, 26233.

²⁸²¹ D1830 (Davorin Pavlović, witness statement, 11 May 2009), p. 1, paras 1-4; Davorin Pavlović, T. 25237, 25239-25240, 25277-25278, 25289.

²⁸²² Davorin Pavlović, T. 25250-25251, 25253, 25299.

destroyed house.²⁸²³ They continued through Ričice, in Lovinac municipality.²⁸²⁴ The witness testified that Sveti Rok, Lovinac, and Ričice were Croatian villages, and he saw that all of the houses in these villages were destroyed.²⁸²⁵ The witness testified that they continued from Lovinac to Gračac, and near Gračac he observed one house on fire and other damaged houses.²⁸²⁶ Along the outskirts of Gračac and within the town itself, the witness observed multiple civilian vehicles, some with raised hoods, and agricultural machines such as tractors and cultivators.²⁸²⁷ Minister of the Interior Jarnjak came to Gračac in the afternoon, during daylight, and officially opened the Gračac police station.²⁸²⁸ The witness attended a briefing with Markač that evening in the headquarters in the Municipal Court building in Gračac.²⁸²⁹ That same evening, the witness had dinner at the Jordanian Battalion's base in Štikada, in Gračac municipality, together with Markač, Sačić and Cvrk.²⁸³⁰

673. The witness further testified that in Gračac, on what he thought was the evening of 5 August 1995, he heard Markač order the Special Police to remove obstructing vehicles and agricultural machines from the roads and move them to collection points for processing by Civil Protection.²⁸³¹ The witness heard instructions over radio and probably also at evening staff meetings that the vehicles could be used within Sector South, but not outside because it would not be legally possible to register them without the necessary ownership papers.²⁸³² The witness also heard through the communications system that Special Police used means that included jumpstarting to remove certain vehicles from the road and used some of the vehicles in Sector South while the Special Police were there.²⁸³³ The witness testified that the Special Police had a shortage of vehicles.²⁸³⁴ Some members of the Special Police wrote the names of their units on the doors of the vehicles, which lacked registration plates, in order to prevent friendly fire

²⁸²³ Davorin Pavlović, T. 25250-25251, 25275, 25295, 25299.

²⁸²⁴ Davorin Pavlović, T. 25251, 25299.

²⁸²⁵ Davorin Pavlović, T. 25251.

²⁸²⁶ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 12; Davorin Pavlović, T. 25250-25251, 25253-25255, 25275, 25297-25300.

²⁸²⁷ Davorin Pavlović, T. 25253-25254, 25300, 25305, 25317.

²⁸²⁸ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 12; Davorin Pavlović, T. 25275, 25295-25296, 25312-25313.

²⁸²⁹ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 12; Davorin Pavlović, T. 25254, 25292-25293, 25295-25296.

²⁸³⁰ Davorin Pavlović, T. 25250, 25257, 25262.

²⁸³¹ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 12; Davorin Pavlović, T. 25254, 25299-25301, 25303-25306, 25315, 25317-25319.

²⁸³² Davorin Pavlović, T. 25301, 25318-25219.

²⁸³³ Davorin Pavlović, T. 25254-25255, 25304-25306, 25317-25319.

from Croatian forces who otherwise might not know who was driving the vehicle.²⁸³⁵ The witness identified the man shown jumpstarting a civilian vehicle in the second photograph of P324 as a member of the Special Police based on the insignia on the man's left arm.²⁸³⁶ The witness also identified "Delta" as the name of a Special Police unit.²⁸³⁷ In Gračac, on 6 August 1995, the witness met with representatives of Civil Protection and civilian authorities and in the evening attended a briefing with Markač at the headquarters.²⁸³⁸

674. **Dražen Vitez**, who during Operation Storm was Assistant Commander for the Special Police Unit of the Varaždin Police Administration,²⁸³⁹ testified that on 4 August 1995 his unit's task was to break through the first lines in the Mali Alan area, Lovinac municipality, and to advance further through the woods towards Gračac.²⁸⁴⁰ The witness testified that every Special Police unit had a reconnaissance operative group which engaged in reconnaissance for the offensive actions of the Special Police.²⁸⁴¹ The witness's reconnaissance group included scouts who directed artillery fire as well as explosive experts who cleared mines, and was followed by the witness and his unit.²⁸⁴² The witness testified that his unit comprised approximately 120-140 special policemen.²⁸⁴³ Around 7 a.m. the unit engaged the enemy for the first time, in the area of Vrcina.²⁸⁴⁴ The enemy was protected by lightly fortified positions, and the unit's reconnaissance group requested artillery support from the Special Police artillery support.²⁸⁴⁵ The witness stated that the artillery support of the Special Police provided support to all the Special Police units.²⁸⁴⁶ He testified that, in his axis, the Special Police did not rely on other artillery support.²⁸⁴⁷ Two members of his unit were wounded as a consequence of the fighting.²⁸⁴⁸ The unit spent the night in the woods nearby Čelavac,

²⁸³⁴ Davorin Pavlović, T. 25255.

²⁸³⁵ Davorin Pavlović, T. 25255, 25319-25320.

²⁸³⁶ Davorin Pavlović, T. 25301-25302.

²⁸³⁷ Davorin Pavlović, T. 25301-25302, 25319-25320.

²⁸³⁸ D1830 (Davorin Pavlović, witness statement, 11 May 2009), para. 13; Davorin Pavlović, T. 25258, 25292-25293, 25297, 25300.

²⁸³⁹ D1893 (Dražen Vitez, witness statement, 12 May 2009), p. 1, para. 1; Dražen Vitez, T. 25970-25972, 25986, 25977, 25999.

²⁸⁴⁰ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 4.

²⁸⁴¹ Dražen Vitez, T. 25987.

²⁸⁴² Dražen Vitez, T. 25983, 25987, 26000.

²⁸⁴³ Dražen Vitez, T. 25972, 26000-26001, 26062.

²⁸⁴⁴ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 4; Dražen Vitez, T. 25983.

²⁸⁴⁵ Dražen Vitez, T. 25983, 25995-25997.

²⁸⁴⁶ Dražen Vitez, T. 25995.

²⁸⁴⁷ Dražen Vitez, T. 25995-25996.

²⁸⁴⁸ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 4; Dražen Vitez, T. 25984-25985.

and on 5 August 1995 continued towards Gračac until around noon, when they reached the area of Štikada, Gračac municipality, by Lake Jezero where they remained on stand-by in Loncari hamlet during the rest of the day and the next day.²⁸⁴⁹ The witness testified that his unit did not enter Gračac, but also stated that he did.²⁸⁵⁰ On 7 August 1995, the witness's and other Special Police units were ordered by the Special Police Main Staff to go to and deploy in Bruvno, Gračac municipality, in order to prevent a possible counter-attack by the SVK.²⁸⁵¹ The witness and his unit left in the morning hours, and going from the Štikada area, passing south of Gračac, up to Bruvno, the witness noticed, in Gračac, several destroyed buildings that had vegetation growing out of the ruins.²⁸⁵² During his stay outside of Gračac he did not witness any artillery attack or smoking or burning houses.²⁸⁵³ The witness also testified that he saw only Special Police around Gračac.²⁸⁵⁴ Arriving in Bruvno, they found it empty of SVK, and the witness's unit was tasked to attack Donji Lapac together with units of Primorsko Gorinska, the Lučko Anti-Terrorist Unit and the Gospić unit.²⁸⁵⁵

675. **Ivan Herman**, who was a medical doctor with the Varaždin Special Police during Operation Storm,²⁸⁵⁶ testified that on the first day of Operation Storm he was at Mount Velebit where his unit broke through enemy lines and reached Mali Alan, in Lovinac municipality.²⁸⁵⁷ They then passed through Sveti Rok, Ričice and Lovinac, all in Lovinac municipality, and the villages along the way, which Herman testified had been inhabited by Croats prior to 1991, were devastated, full of roofless houses with bushes growing in and out of them.²⁸⁵⁸ Advancing towards Gračac, Herman saw scattered military equipment and old abandoned vehicles.²⁸⁵⁹ On 5 August 1995, he entered Gračac in the afternoon via the main road in a vehicle.²⁸⁶⁰ While Herman remembered seeing some craters on the tarmac, he testified that the road was largely in

²⁸⁴⁹ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 4; Dražen Vitez, T. 25987, 26053-26055.

²⁸⁵⁰ Dražen Vitez, T. 25987-25989, 25997, 26053-26054, 26057.

²⁸⁵¹ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 4; Dražen Vitez, T. 25987-25988, 26056.

²⁸⁵² Dražen Vitez, T. 25987-25989, 26056-26059; P2696 (Map on which Dražen Vitez marked his route).

²⁸⁵³ Dražen Vitez, T. 25997, 26060-26061.

²⁸⁵⁴ Dražen Vitez, T. 25997.

²⁸⁵⁵ D1893 (Dražen Vitez, witness statement, 12 May 2009), para. 4; Dražen Vitez, T. 25989.

²⁸⁵⁶ D1910 (Ivan Herman, witness statement, 18 May 2009), p. 1, paras 1-4; Ivan Herman, T. 26428-26431, 26456.

²⁸⁵⁷ Ivan Herman, T. 26432-26434, 26454, 26458.

²⁸⁵⁸ D1910 (Ivan Herman, witness statement, 18 May 2009), para. 6; Ivan Herman, T. 26434-26436.

²⁸⁵⁹ Ivan Herman, T. 26435-26436.

fair condition.²⁸⁶¹ When Herman arrived in Gračac, he noticed that the buildings had been abandoned.²⁸⁶² Herman testified that there were a few buildings that had been shelled, but there was no burning or major destruction.²⁸⁶³ Herman came across a building with a sign that said, “Medical clinic”.²⁸⁶⁴ Herman testified that there were some civilians in the area, most of whom were elderly and that he asked some of them if they needed his assistance.²⁸⁶⁵ Herman and his unit were only briefly in Gračac, then they retreated to the outskirts of town, in a place which he believed was called Štikada, which was near a lake and a hydro-electric plant and where they spent the rest of the day and the night.²⁸⁶⁶ On the third day of Operation Storm, Herman and the others passed through Bruvno and Mazin, both in Gračac municipality, and Herman testified that Mazin was abandoned and did not have extensive damage or traces of fire.²⁸⁶⁷ Herman met Markač in or near Mazin.²⁸⁶⁸

676. **Željko Sačić**, chief of the Special Police sector of the MUP during and after Operation Storm,²⁸⁶⁹ testified that on the eve of Operation Storm until noon on 5 August 1995, Sačić was at his forward command post in Veliki Golić on Mount Velebit with all engaged forces.²⁸⁷⁰ Markač was at that time at the basic forward command post in the territory of Stari Grad and Sačić maintained continuous contact with him.²⁸⁷¹ Around 11 a.m. on 5 August 1995, Sačić received information that the Special Police units had taken control of the road Bukva-Mali Alan-Kraljicina Vrata-Sveti Rok-Gračac.²⁸⁷² Among the about 2,500 Special Police troops moving along that road were the Bjelovar-Bilogora unit, the Tiger-Gospić unit, the Rijeka unit (on the fourth auxiliary axis going to the Sveti Rok-Medak road), the Zagreb Alpha unit (which commanded the third or fourth auxiliary axis of advance under its commander Zoran Cvrk), the Lučko unit (which was on the same axis as the Alpha unit), the Zabok unit (which was on the same

²⁸⁶⁰ D1910 (Ivan Herman, witness statement, 18 May 2009), paras 6-7; Ivan Herman, T. 26435-29436, 26447-26448, 26457-26458.

²⁸⁶¹ Ivan Herman, T. 26435.

²⁸⁶² Ivan Herman, T. 26436.

²⁸⁶³ D1910 (Ivan Herman, witness statement, 18 May 2009), para. 7; Ivan Herman, T. 26436.

²⁸⁶⁴ D1910 (Ivan Herman, witness statement, 18 May 2009), para. 12; Ivan Herman, T. 26436-26437, 26458.

²⁸⁶⁵ Ivan Herman, T. 26437.

²⁸⁶⁶ Ivan Herman, T. 26437, 26458.

²⁸⁶⁷ D1910 (Ivan Herman, witness statement, 18 May 2009), paras 6, 9; Ivan Herman, T. 26438.

²⁸⁶⁸ Ivan Herman, T. 26455-26456.

²⁸⁶⁹ Željko Sačić, T. 27597, 27875, 27946.

²⁸⁷⁰ Željko Sačić, T. 27600.

²⁸⁷¹ Željko Sačić, T. 27600-27601, 27737.

²⁸⁷² Željko Sačić, T. 27737.

axis as the Alpha unit), part of the Vukovar-Srijem-Vinkovci unit, and part of the Sisak-Moslavina unit.²⁸⁷³ Sačić immediately instructed his staff to pack up all equipment in order to move to Gračac.²⁸⁷⁴

677. The first echelon of troops entered the Gračac area around 11 a.m. on 5 August 1995. The centre of Gračac was under the control of the Delta unit from Zupanja from the Vukovar-Srijem Police Administration. The access road from Ričice in Lovinac municipality to Gračac was partly under the control of the Bijelovarska-Bilogorska unit, with the surrounding hills being controlled by the Bak unit of the Istria Police Administration.²⁸⁷⁵ The second echelon of troops went to the areas south of Gračac at the foot of Mount Velebit, as well as to the north. Some forces were also at the cross-roads from Gračac to Knin.²⁸⁷⁶ At 4 p.m., Sačić arrived in Gračac and established a headquarters in the courthouse.²⁸⁷⁷ In the outskirts Sačić saw a house on fire.²⁸⁷⁸ Markač expressly told Sačić who passed this on to his troops that no cases of looting, torching or any other irregularities would be tolerated.²⁸⁷⁹ Around 6 p.m., Jarnjak visited Gračac.²⁸⁸⁰

678. Sačić testified that some troops stayed at Stikada in Gračac municipality, west of Gračac, for one day before moving on to Bruvno in Gračac municipality.²⁸⁸¹ Some Special Police units moved towards Gospić mostly along the main road west of Gračac from the Sveti Rok-Medak road to Lički Ribnik in Gospić municipality, where they joined up with HV forces advancing from Gospić around 10 p.m.²⁸⁸² In the late evening hours of 5 August 1995, upon instruction from Červenko passed on to Sačić by Markač, some units were sent to Bruvno immediately because of an expected counter-attack of an enemy tank platoon.²⁸⁸³ The units arrived in Bruvno at 11 p.m. without any confrontation.²⁸⁸⁴ On 6 August 1995, Sačić developed and prepared a plan for the further advance towards the state border and showed it to Markač. The shortest route to take which was suggested by the headquarters was the one via Bruvno, Mazin, Gornji

²⁸⁷³ Željko Sačić, T. 27737-27739.

²⁸⁷⁴ Željko Sačić, T. 27737.

²⁸⁷⁵ Željko Sačić, T. 27740.

²⁸⁷⁶ Željko Sačić, T. 27741.

²⁸⁷⁷ Željko Sačić, T. 27736-27737, 27741.

²⁸⁷⁸ Željko Sačić, T. 27809, 27816.

²⁸⁷⁹ Željko Sačić, T. 27809.

²⁸⁸⁰ Željko Sačić, T. 27741.

²⁸⁸¹ Željko Sačić, T. 27741-27742.

²⁸⁸² Željko Sačić, T. 27742.

²⁸⁸³ Željko Sačić, T. 27743-27744.

Lapac, Donji Lapac, and Boričevac towards the Una river. This necessitated a significant amount of troops (five or six battalions and two axes).²⁸⁸⁵ In order to protect the flanks and to join up with HV forces, Markač ordered that one battalion (Karlovac unit and part of the Sisak unit) should head in the direction of Udbina and another in the direction of Otrić in Gračac municipality.²⁸⁸⁶ The Otrić flank set out on 6 August 1995.²⁸⁸⁷ On 6 August 1995, military police arrived in Gračac and the commander reported to Sačić.²⁸⁸⁸

679. **Zoran Cvrk**, who was commander of the Alpha Special Unit of the Zagreb Police Administration from May 1993 to February 2000 and was commander of the Special Police's 4th auxiliary axis of operation during Operation Storm,²⁸⁸⁹ testified that on 5 August 1995, the Special Police entered Gračac while his unit was engaged in the direction of Otrić, in Gračac municipality, and that he passed through Gračac on multiple occasions on 5 August and thereafter, including to participate in the opening of the Gračac police station.²⁸⁹⁰ In Gračac, the witness observed that the police station, the enemy command building, and a few cross-roads had been damaged by artillery fire; that several buildings were on fire; and that several family homes were riddled with bullets. He also noticed some abandoned machinery.²⁸⁹¹

680. **Zdravko Janić**, the chief of the Anti-Terrorist Department of the Special Police Sector in 1995,²⁸⁹² testified that Gračac fell by 11:30 a.m. on 5 August 1995, and the civilian police arrived there either the same day or the following morning, and established a police station there.²⁸⁹³ According to Janić, when he entered Gračac town on the afternoon of 5 August 1995, the town was intact and there was no damage caused

²⁸⁸⁴ Željko Sačić, T. 27744.

²⁸⁸⁵ Željko Sačić, T. 27745.

²⁸⁸⁶ Željko Sačić, T. 27745-27746.

²⁸⁸⁷ Željko Sačić, T. 27745.

²⁸⁸⁸ Željko Sačić, T. 27810.

²⁸⁸⁹ D1833 (Zoran Cvrk, witness statement, 13 May 2009), p. 1, paras 1-2, 17; Zoran Cvrk, T. 25330-25332, 25367-25369, 25422, 25427, 25466.

²⁸⁹⁰ Zoran Cvrk, T. 25372, 25374-25375.

²⁸⁹¹ Zoran Cvrk, T. 25375-25376.

²⁸⁹² P552 (Zdravko Janić, witness statement, 14 January 2004), para. 13; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 25; Zdravko Janić, T. 6099.

²⁸⁹³ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 33; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, pp. 99-100; part II, p. 58; Zdravko Janić, T. 6211-6212, 6350; P583 (Special Police report to General Červenko on lines reached, Mladen Markač, 5 August 1995), p. 1; P584 (Special Police report signed by Mladen Markač, 5 August 1995), p. 1.

by artillery.²⁸⁹⁴ There is further relevant evidence of Zdravko Janić reviewed in chapter 3.3.

681. According to the witness, the white land rover and blue truck that appear in the first picture of exhibit P325 were Special Police vehicles. The two uniformed individuals in the second picture of exhibit P325 were members of the Special Police, although Janić did not know their names.²⁸⁹⁵ Janić further confirmed that the blue truck with a Cyrillic sign attached to the front as can be seen in exhibit D295, was a MUP vehicle based on the fact that it had a license plate containing the numbers “010” which were used by all units of the MUP, including Special Police units. According to Janić, blue trucks like the one depicted in exhibit D295 were used for transporting logistical equipment; personnel were not transported in such trucks.²⁸⁹⁶

682. According to the War Diary of the Main Staff of the Croatian Army, which covered the period between 3 August 1995 and 11 August 1995, on 5 August 1995 at 10:01 a.m. Markač entered Gračac town.²⁸⁹⁷ When interviewed by the Prosecution, Markač stated that on 5 August 1995 he was in Gračac meeting with the Minister of the Interior and Miro Tuđman, the head of the Croatian Intelligence Service.²⁸⁹⁸ The Minister of the Interior ordered that a police branch should be set up in Gračac.²⁸⁹⁹ On 6 August 1995, Markač was still in Gračac and then followed the advancing Special Police forces.²⁹⁰⁰

683. **Dragutin Repinć**, Chief of the Planning Department in the HV Main Staff and an expert on military training and planning,²⁹⁰¹ testified that by 11:30 a.m. on 5 August 1995, the Collective Special Police Forces had taken control of the town of Gračac, without encountering significant resistance.²⁹⁰² As soon as Gračac was taken, the

²⁸⁹⁴ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, pp. 99, 104-105; Zdravko Janić, T. 6355-6356.

²⁸⁹⁵ Zdravko Janić, T. 6354.

²⁸⁹⁶ Zdravko Janić, T. 6353.

²⁸⁹⁷ D555 (War diary of the HV main staff for the period of 3 to 11 August 1995), items 183, 205.

²⁸⁹⁸ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), p. 53; P2531 (Accused interview with Mladen Markač, 8 June 2004), pp. 14, 22-23.

²⁸⁹⁹ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), p. 53.

²⁹⁰⁰ P2530 (Suspect interview with Mladen Markač, 3-4 March 2003), pp. 53-54.

²⁹⁰¹ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 1-16; Dragutin Repinć, T. 26661-26665.

²⁹⁰² D1932 (Dragutin Repinć, Expert Report, December 2009), paras 129-131; D2081 (Report from the Chief of Staff of the HV to President Tuđman, 5 August 1995), p. 1; Dragutin Repinć, T. 26726-26727.

Collective Forces Staff moved into the Gračac municipal court building, where it became operational at 4 p.m.²⁹⁰³

684. **Herman Steenbergen**, an UNMO in Team Gračac from 5 May until 24 October 1995,²⁹⁰⁴ testified that at 3:30 p.m. on 5 August 1995, while he was with his team at the shelter in the Jordanian Battalion III compound in Štikada in Gračac municipality, they saw about 500 members of the Special Police Forces moving on foot towards Gračac.²⁹⁰⁵ Team Gračac asked if the Special Police commander wanted to speak to them, but he said that he was heading for Gračac and had no time because he had a job to do.²⁹⁰⁶ The Special Police were wearing olive-green military suits without a camouflage pattern, ops vests, and mountain boots, and the commander was wearing a Kevlar helmet. Steenbergen testified that their uniforms were the same as the uniform of the person seen in the second photograph of P324.²⁹⁰⁷ On 6 August 1995, Team Gračac got permission from the commander of the HV Special Forces, which had a lightning flash on their uniform, to patrol in Gračac.²⁹⁰⁸ In his 2007 witness statements, Steenbergen testified that they initially saw regular HV troops taking property from houses, although in his testimony in court it became unclear whether these persons were HV or Special Police, and whether he actually saw them taking property.²⁹⁰⁹ He further testified that they then observed people, over 50 years old, in civilian clothes with orange arm bands removing furniture from houses and putting it outside, where it was later collected by open civilian and military trucks.²⁹¹⁰ The witness stated that this organized “cleaning” continued for weeks.²⁹¹¹ According to Croatian regulations, members of organized protection and safety units who undertook civil protection tasks without wearing specified uniforms were to wear an orange band with a blue triangle on

²⁹⁰³ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 136.

²⁹⁰⁴ P516 (Herman Steenbergen, witness statement, 18 July 2007), p. 1, paras 1-5, 7; P517 (Herman Steenbergen, witness statement, 18 September 2007), p. 1, para. 1; P518 (Herman Steenbergen, witness statement, 10 March 1996), p. 1; P519 (Incident report by Steenbergen regarding lost items due to Operation Storm, 21 September 1995), p. 1; Herman Steenbergen, T. 5408, 5442, 5461-5462.

²⁹⁰⁵ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 37, 40-42; Herman Steenbergen, T. 5409-5410, 5467-5468.

²⁹⁰⁶ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 41; Herman Steenbergen, T. 5424-5425.

²⁹⁰⁷ Herman Steenbergen, T. 5425-5426.

²⁹⁰⁸ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 51; P517 (Herman Steenbergen, witness statement, 18 September 2007), para. 18; Herman Steenbergen, T. 5453.

²⁹⁰⁹ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 49-52; P517 (Herman Steenbergen, witness statement, 18 September 2007), para. 20; P518 (Herman Steenbergen, witness statement, 10 March 1996), p. 1; Herman Steenbergen, T. 5411, 5429-5430.

²⁹¹⁰ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 49-50; Herman Steenbergen, T. 5430, 5471.

the upper left arm.²⁹¹² Steenbergen stated that they also observed, as early as 6 August 1995, looted and ransacked houses in hamlets and villages, including the house of their interpreter located north of Gračac town and another house in Glogovo in Gračac municipality.²⁹¹³ Steenbergen further testified that he and his team observed extensive damage throughout Gračac on 6 August 1995.²⁹¹⁴ Five houses in Gračac had been completely destroyed with the remainder partially destroyed.²⁹¹⁵ They observed burnt houses and houses that were still on fire, including the house in which Steenbergen lived.²⁹¹⁶ At 2 p.m., the team found that the UNMO office in the centre of Gračac was burnt out too.²⁹¹⁷ Steenbergen stated that it was difficult to distinguish between damage caused by shelling and damage caused by arson.²⁹¹⁸ Within a few days after 4 August 1995, Steenbergen complained at the police station in Gračac about the continuing burning of houses, but civilian police in grey uniform responded that the fires were caused by faulty wiring installed by Serbs.²⁹¹⁹ On 6 August 1995, Steenbergen observed and photographed a burning house near Gaćeše in Gračac municipality and another on the road towards the Jordanian Battalion III compound in Štikada in Gračac municipality.²⁹²⁰ Part of Steenbergen's testimony is reflected in contemporaneous

²⁹¹¹ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 49-50.

²⁹¹² D436 (Regulations regarding uniforms, insignia and separate insignia of members of civil protection, issued by the Ministry of the Interior, 18 April 1995), Article 25.

²⁹¹³ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 61; P517 (Herman Steenbergen, witness statement, 18 September 2007), paras 8-9; P528 (Photograph of interpreter's house, taken by Steenbergen on 6 August 1995); P529 (Photograph of interpreter's house, taken by Steenbergen on 6 August 1995); P531 (Photograph of Steenbergen in a ransacked house in Glogovo in Gračac municipality).

²⁹¹⁴ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 45-46.

²⁹¹⁵ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 51-52; P517 (Herman Steenbergen, witness statement, 18 September 2007), paras 3, 7; P527 (Photograph of destroyed house in Gračac town centre, taken by Steenbergen some days after 4 August 1995).

²⁹¹⁶ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 45, 59; P517 (Herman Steenbergen, witness statement, 18 September 2007), para. 3; P522 (Photograph of Steenbergen's residence on fire, taken by Steenbergen on 6 August 1995).

²⁹¹⁷ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 51-52; P517 (Herman Steenbergen, witness statement, 18 September 2007), para. 3; P519 (Incident report by Steenbergen regarding lost items due to Operation Storm, 21 September 1995), p. 1; Herman Steenbergen, T. 5419; P520 (Photograph of UNMO Team Gračac office, taken by Steenbergen on 6 August 1995); P521 (Photograph of UNMO Team Gračac office, taken by Steenbergen on 6 August 1995); P536 (Map of Gračac municipality with markings by Herman Steenbergen), UNMO office marked B; P537 (Map of Gračac municipality with markings by Herman Steenbergen, computer version), UNMO office marked B.

²⁹¹⁸ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 45.

²⁹¹⁹ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 59; P517 (Herman Steenbergen, witness statement, 18 September 2007), para. 15; P518 (Herman Steenbergen, witness statement, 10 March 1996), p. 1; Herman Steenbergen, T. 5431-5432, 5479-5480; P538 (Map of Gračac municipality with markings by Herman Steenbergen), police station marked F.

²⁹²⁰ P517 (Herman Steenbergen, witness statement, 18 September 2007), paras 5-6; P525 (Photograph of burning house on the road to Štikada, taken by Steenbergen on 6 August 1995); P526 (Photograph of burning house near Gaćeše, taken by Steenbergen on 6 August 1995).

UNMO reports. At 10:30 a.m. on 6 August 1995, UNMO observed HV troops looting houses in Gračac, in which five houses were totally destroyed and the rest were partially destroyed.²⁹²¹ Sometime between 8 p.m. on 6 August 1995 and 8 p.m. on 7 August 1995, UNMO observed that the UNMO office/house in Gračac was set on fire.²⁹²² UNMO also observed police rounding up and loading livestock onto large vans.²⁹²³

685. **Edmond Vanderostyne**, a journalist from Belgium,²⁹²⁴ testified that he and his two colleagues, Frank Dejongh and Alain Guillaume, obtained a travel permit to enter the Krajina and travelled extensively in that region on 8 August 1995.²⁹²⁵ Upon entering the outskirts of Gračac on 8 August 1995, the witness testified that he observed policemen in grey or grey-blue uniforms and civilians engaged in looting; he saw a television set in a police car, civilian trucks and police vehicles being loaded with “booty”, policemen carrying bags of shoes, and trucks loaded with booty coming and going.²⁹²⁶ The witness also saw several houses that had been set on fire and huge plumes of smoke all over the outskirts of Gračac.²⁹²⁷ He saw small groups of young men, some of whom wore grey-blue police uniforms and others of whom were shirtless, returning from the outskirts of Gračac, and believed that they were the arsonists because there was nobody else around.²⁹²⁸ In the central square and the streets around the centre of Gračac, Vanderostyne saw a group of about 50-100 men in khaki, olive-green uniforms with yellow ribbons on their shoulders, which he testified were the same uniforms as that worn by the central figure in the first photograph of P324.²⁹²⁹ Half of these individuals were relaxing, and several small groups were looting.²⁹³⁰ There were

²⁹²¹ P109 (UNMO Sector South daily situation report, 8:30 p.m., 6 August 1995), p. 6.

²⁹²² P111 (UNMO Sector South daily situation report, 8 p.m., 7 August 1995), pp. 1, 3.

²⁹²³ P111 (UNMO Sector South daily situation report, 8 p.m., 7 August 1995), p. 3.

²⁹²⁴ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), p. 1, para. 1; P327 (Vanderostyne’s CV).

²⁹²⁵ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), paras 7, 15; Edmond Vanderostyne, T. 4038-4040; P326 (Map marked by Vanderostyne of route he travelled on 8 August 1995).

²⁹²⁶ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), paras 29-30; Edmond Vanderostyne, T. 4047, 4076, 4087; P324 (Photographs of soldiers in Gračac), pp. 1, 3.

²⁹²⁷ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), para. 29; Edmond Vanderostyne, T. 4045, 4076; P322 (Article “Croats plunder their way through Krajina”, 9 August 1995), p. 1; P323 (Three photographs of houses on fire).

²⁹²⁸ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), para. 29; P322 (Article “Croats plunder their way through Krajina”, 9 August 1995), pp. 1-2.

²⁹²⁹ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), paras 30-31, 34; Edmond Vanderostyne, T. 4028-4029, 4031, 4035-4036, 4073, 4076, 4087; P322 (Article “Croats plunder their way through Krajina”, 9 August 1995), pp. 1-2; P324 (Photographs of soldiers in Gračac), pp. 2-4.

²⁹³⁰ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), paras 30-31, 34; Edmond Vanderostyne, T. 4029, 4031, 4035-4036, 4073, 4076, 4087; P322 (Article “Croats plunder their way through Krajina”, 9 August 1995), pp. 1-2; P324 (Photographs of soldiers in Gračac), pp. 2-4.

no fires in the centre of town.²⁹³¹ Some of the uniformed individuals told the witness, who also noticed that they wore MUP armbands, that they were with the MUP.²⁹³² The witness observed some of these uniformed individuals cutting car wires, and others loading a blue truck bearing a sign with Cyrillic letters, with goods (TVs, stereo systems, shoes, bags, and suitcases).²⁹³³ Vanderostyne's photographer, Frank Dejongh, took photos of these uniformed individuals carrying items out of houses and loading them into the blue truck, and a uniformed man putting wires together in a car in order to start it.²⁹³⁴ One uniformed individual, whom another person in the square had pointed out as his commander, told the witness that he was from the Delta Unit from Vinkovci in Eastern Slavonia and the "Special Forces", and that his unit had arrived in Gračac on 5 August 1995, which was the date when the last "Chetniks" had left.²⁹³⁵ The Lieutenant's uniform had yellow ribbons and a MUP emblem containing the word "Policija" on the arm.²⁹³⁶ Vanderostyne saw a civilian car with the words "Delta VK" painted on it; he also saw these words written on the walls of houses.²⁹³⁷ Vanderostyne saw no civilians in the central part of Gračac.²⁹³⁸ Vanderostyne further testified that almost all the houses along the 50-kilometre stretch between Gračac and Gospić were destroyed, and some of them appeared to have been recently destroyed.²⁹³⁹ Between Gračac and Gospić, while standing on a little hill, Vanderostyne observed that every single building in the countryside, although not in the villages, was on fire.²⁹⁴⁰

²⁹³¹ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), para. 33.

²⁹³² P321 (Edmond Vanderostyne, witness statement, 1 July 2005), para. 33; P322 (Article "Croats plunder their way through Krajina", 9 August 1995), p. 2.

²⁹³³ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), para. 31; Edmond Vanderostyne, T. 4028, 4030, 4077-4079; P322 (Article "Croats plunder their way through Krajina", 9 August 1995), pp. 1-2; P324 (Photographs of soldiers in Gračac), p. 1.

²⁹³⁴ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), paras 7, 31, 42; Edmond Vanderostyne, T. 4030, 4035, 4072; P324 (Photographs of soldiers in Gračac), pp. 1-3.

²⁹³⁵ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), para. 31; Edmond Vanderostyne, T. 4031-4034; P322 (Article "Croats plunder their way through Krajina", 9 August 1995), pp. 1-2.

²⁹³⁶ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), para. 32; Edmond Vanderostyne, T. 4037-4038, 4041, 4072; P322 (Article "Croats plunder their way through Krajina", 9 August 1995), p. 2; P325 (Photographs of uniformed persons in Gračac, 8 August 1995), pp. 1-3; P328 (Emblems of MUP Special Police), pp. 1-2; P329 (MUP rules on uniforms and insignia of the Special Police), pp. 12-13.

²⁹³⁷ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), para. 31; Edmond Vanderostyne, T. 4030; P324 (Photographs of soldiers in Gračac), pp. 3-4.

²⁹³⁸ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), para. 33.

²⁹³⁹ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), paras 29, 33; Edmond Vanderostyne, T. 4062-4063; P322 (Article "Croats plunder their way through Krajina", 9 August 1995), p. 1.

²⁹⁴⁰ P321 (Edmond Vanderostyne, witness statement, 1 July 2005), para. 31; Edmond Vanderostyne, T. 4047.

686. **John Hill**, Commanding Officer of the International Military Police in Sector South from early June 1995 to 8 December 1995,²⁹⁴¹ stated that on 10 August 1995 he went into Gračac and observed that there were artillery holes in the fields leading to the town.²⁹⁴² Hill further observed that some of the houses in the town were still burning and described the town as destroyed.²⁹⁴³ He saw Croatian soldiers in American camouflage pattern uniforms looting alcohol and food and stealing cars.²⁹⁴⁴ Hill stated that there was a smell of bodies in the town but did not see any bodies.²⁹⁴⁵

687. The Trial Chamber finally received relevant evidence from various sources concerning the second half of August, and September 1995. At 2:30 p.m. on 18 August 1995, **Steenbergen** and his patrol saw approximately ten burning houses at Velika Popina in Gračac municipality.²⁹⁴⁶ They wanted to go to the spot, but turned back because they were threatened by some 20 regular HV soldiers in camouflage uniform who banged the UNMO vehicle with their rifle-butts and showed their hand grenades.²⁹⁴⁷ Steenbergen testified that almost immediately after Operation Storm, check-points were established that monitored all entry and exit routes into Gračac. The check-points in Gračac were initially manned by Special Police Forces and later on by normal police with Kalashnikovs, and the check-points at Otrić were manned by regular HV troops.²⁹⁴⁸ According to a UNCIVPOL weekly report, dated 27 August 1995, 170 out of 200 buildings in Gračac had been destroyed.²⁹⁴⁹ At 12:57 p.m. on 27 August 1995, UNMO observed a burning house in Gračac.²⁹⁵⁰ On 28 August 1995, Civilian

²⁹⁴¹ P291 (John Hill, witness statement, 23 August 1996), p. 2; P292 (John Hill, witness statement, 21 January 1998), pp. 3, 93; P293 (John Hill, witness statement, 2 November 1999), p. 3.

²⁹⁴² P292 (John Hill, witness statement, 21 January 1998), pp. 58, 61; John Hill, T. 3772, 3782-3784, 3887-3888; P301 (UNCRO Military Police report 4-7 August 1995), p. 5; P307 (Map of routes taken by John Hill on his travels after Operation Storm); D274 (John Hill's diary, entries from 5-13 August 1995), pp. 5-6.

²⁹⁴³ P292 (John Hill, witness statement, 21 January 1998), pp. 3, 61-62; John Hill, T. 3772, 3780-3781, 3887-3888, 3895-3897; P306 (Report by John Hill on HV activities from 4-11 August 1995), p. 2; D274 (John Hill's diary, entries from 5-13 August 1995), p. 6.

²⁹⁴⁴ P292 (John Hill, witness statement, 21 January 1998), pp. 61-62; John Hill, T. 3772, 3889; D274 (John Hill's diary, entries from 5-13 August 1995), p. 6.

²⁹⁴⁵ P292 (John Hill, witness statement, 21 January 1998), pp. 3, 61-62; John Hill, T. 3772, 3780-3781, 3887-3888, 3895-3897; P306 (Report by John Hill on HV activities from 4-11 August 1995), p. 2; D274 (John Hill's diary, entries from 5-13 August 1995), p. 6.

²⁹⁴⁶ Herman Steenbergen, T. 5427-5429; P541 (UNMO Team Gračac human rights violations list), p. 2;

²⁹⁴⁷ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 42; P517 (Herman Steenbergen, witness statement, 18 September 2007), para. 19; Herman Steenbergen, T. 5426-5429; P541 (UNMO Team Gračac human rights violations list), p. 2.

²⁹⁴⁸ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 62; Herman Steenbergen, T. 5471.

²⁹⁴⁹ P230 (UNCIVPOL weekly report 21-26 August 1995, 27 August 1995), p. 5.

²⁹⁵⁰ P129 (UNMO Sector South daily situation report, 7 p.m., 27 August 1995), p. 4.

Protection Gračac reported to the Zadar-Knin Police Administration that they had collected and disposed cattle, emptied and cleaned deep freezer cabinets in houses, disposed meat and rotten food, and burned and buried carcasses, but Steenbergen testified that, during his time in Gračac, he observed on the road other things than just deep freezers and their contents.²⁹⁵¹ At 7 p.m. on 29 August 1995, in Štikada Team Gračac found a burning house with ammunition exploding inside it.²⁹⁵² At 7 p.m. on 29 August 1995, UNMO heard an explosion in Gračac and found that a house, situated approximately 200 metres from UNMO's accommodation in JORBAT 3 location, was on fire and that ammunition was exploding inside it.²⁹⁵³ HRAT reported that on 30 August 1995 HRAT saw one burning and one burned house, as well as five buses full of Croatian soldiers, in Gračac.²⁹⁵⁴ **Zdravko Židovec**, the Assistant Minister for Information, Analysis and Fire and Civilian Protection throughout 1995 and a member of the Command Staff of Operation Return,²⁹⁵⁵ testified that the part of Gračac he visited in late August/early September 1995 was practically intact, with the police station showing no signs of damage.²⁹⁵⁶

688. Joško Morić testified that the uniform of the regular police, in the selection of which he had participated, was dark-blue over a grey shirt, with police insignia on the sleeves, and a police badge in front.²⁹⁵⁷ In atypical situations, regular police could also wear grey, but the insignia remained blue.²⁹⁵⁸

689. In addition to the above evidence, the Trial Chamber has also considered evidence of Witness 82 reviewed in chapter 4.2.4 (Donji Lapac town). The Trial Chamber has further considered exhibits P2383-P2385.

690. Based on UNMO report P109 and evidence from Herman Steenbergen, the Trial Chamber finds that on 6 August 1995, persons referred to as HV troops were removing property from houses in Gračac. Based on the description of these persons as HV troops, the Trial Chamber finds that they wore military-type uniforms. Neither P109 nor Steenbergen provided any further details as to the factual basis for their qualifications.

²⁹⁵¹ Herman Steenbergen, T. 5475-5476; D437 (Work report by the Commander of the Civilian Protection Gračac, 28 August 1995).

²⁹⁵² P156 (Herman Steenbergen, witness statement, 18 July 2007), para. 60.

²⁹⁵³ P131 (UNMO Sector South daily situation report, 9 p.m., 28 August 1995), p. 6.

²⁹⁵⁴ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 28; P49 (HRAT daily report, 30-31 August, 1 September 1995), p. 4.

²⁹⁵⁵ D1570 (Zdravko Židovec, witness statement, 15 June 2007), paras 6, 8; Zdravko Židovec, T. 19921.

²⁹⁵⁶ D1570 (Zdravko Židovec, witness statement, 15 June 2007), para. 39; Zdravko Židovec, T. 19918.

²⁹⁵⁷ D1842 (Joško Morić, witness interview, 17 January 2004), pp. 258-259; Joško Morić, T. 25550.

Based in particular on the evidence of Herman, Janić, Sačić, Vurnek, Repinć, and D556, the Trial Chamber finds that Special Police units started entering Gračac between approximately 10 a.m. and 2 p.m. on 5 August 1995. On the basis of evidence from Repinć, Sačić, Janić and Pavlović, the Trial Chamber further finds that the Special Police set up a headquarters in Gračac on 5 August 1995. The Trial Chamber has also considered evidence from Sačić that the VP arrived in Gračac on 6 August 1995, and evidence from Janić, Pavlović and Steenbergen indicating that the civilian police had arrived in Gračac by 6 August 1995. The Trial Chamber has further considered the evidence of Witness 82 that he and his unit passed through Gračac in the afternoon of 6 August 1995. Based on all this evidence, the Trial Chamber finds that the persons in military-type uniforms removing property from houses were members of the HV, VP or Special Police.

691. The Trial Chamber finds, on the basis of evidence from Steenbergen, that on 6 August 1995 persons wearing civilian clothing with orange arm bands, aged over 50 years old, were removing furniture from houses and putting it outside where it was later collected by civilian and military trucks. This activity continued for several weeks according to Steenbergen, who also noted that he observed items on the road in Gračac other than deep freezers and their contents. Based on the evidence received, including D436, D437, and the evidence of Davorin Pavlović that he met Civil Protection in Gračac on 6 August 1995, the Trial Chamber finds that the persons in civilian clothing were members of Civilian Protection.

692. Based on UNMO report P111, the Trial Chamber also finds that in Gračac sometime between 8 p.m. on 6 and 8 p.m. on 7 August 1995, persons described as police were rounding up and loading livestock into large vans. Based on UNMO's description of these persons as police, the Trial Chamber finds that they wore police-type uniforms. Based on this evidence, and on the aforementioned evidence that the civilian police had arrived in Gračac by 6 August 1995, the Trial Chamber finds that the uniformed persons were members of the civilian police.

693. The Trial Chamber also finds, based in particular on the evidence of Vanderostyne, that on 8 August 1995 in and around the centre of Gračac there were approximately 50-100 men wearing olive-green uniforms with MUP armbands, and yellow ribbons on their shoulders. Some of these individuals were loading televisions,

²⁹⁵⁸ Joško Morić, T. 25550.

stereo systems, shoes, bags and suitcases onto a blue truck with a Cyrillic sign. Having observed the demeanour of Vanderostyne during his testimony in Court, the Trial Chamber finds his testimony to be credible. According to Zdravko Janić, the blue truck, pictured in D295 and P324, belonged to the MUP and was of a type used by the Special Police. The Trial Chamber also finds that, on the same date, some of these uniformed persons were cutting and connecting the electric wires of cars, including at least one civilian car, in order to jumpstart them. In this regard, the Trial Chamber notes that Davorin Pavlović identified the man wearing an olive-green uniform with a yellow ribbon and insignia on his arm, pictured jump-starting a civilian car in the second photograph of P324, taken in Gračac on 8 August 1995, as a member of the Special Police. Steenbergen testified that the man's uniform was the same as that of other persons whom he identified as Special Police, and the Markač Defence confirmed that Steenbergen correctly identified the Special Police uniform.²⁹⁵⁹ The Trial Chamber also notes the evidence from Pavlović that the Special Police jumpstarted vehicles to remove them from the road, and used them in Sector South, sometimes with the names of their unit written on the door. Pavlović also identified Delta as the name of a Special Police unit. Photos 2-4 of P324, which show a red civilian vehicle with the words 'Delta VK' written on the door, are consistent with this evidence. The Trial Chamber has found above that on 5 August 1995 a Special Police headquarters was set up in Gračac. Based on all this evidence, the Trial Chamber finds that the uniformed men who were loading goods onto the blue truck and jumpstarting cars in Gračac on 8 August 1995 were members of the Special Police.²⁹⁶⁰

694. The Trial Chamber further finds, based in particular on the evidence of Vanderostyne, that on 8 August 1995 in the outskirts of Gračac, civilians and persons wearing grey or grey-blue uniforms, referred to as policemen, were loading civilian trucks and 'police' vehicles with items, including a television, and that some of the persons referred to as policemen were carrying bags of shoes. Based on the description of their uniforms, Morić's description of the uniforms of the regular police, and on the aforementioned evidence that the civilian police had arrived in Gračac by 6 August 1995, the Trial Chamber finds that the uniformed persons loading trucks together with civilians and carrying bags of shoes were members of the civilian police.

²⁹⁵⁹ Defendant Mladen Markač's Final Trial Brief, 16 July 2010, p. 124.

²⁹⁶⁰ See also P1242 (War path of Dubrava-Neretva Special Police unit), p. 7.

695. Considering the ethnic composition of Gračac in 1991, that significant numbers of non-Serbs left the former Sector South between 1991 and 1995 (see chapter 5.1.2 above), and that the items were taken over a period of three days, the Trial Chamber finds that the vast majority of the items taken were owned by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

696. The evidence also indicates that on 10 August 1995 in Gračac, persons described as Croatian soldiers wearing American camouflage pattern uniforms looted alcohol and food and stole cars, which the Trial Chamber understands to mean they took such objects away. Based on John Hill's description of these persons as Croatian soldiers in American camouflage pattern uniforms, the Trial Chamber is satisfied that they wore military-type camouflage uniforms. However, John Hill did not provide further details as to the factual basis for his qualification of these persons as Croatian soldiers. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The above evidence does not establish to which armed forces, if any, the perpetrators belonged. Considering the Trial Chamber's preceding findings on the various formations and groups of persons present in Gračac on the preceding days, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

697. With regard to the burning and destruction in Gračac town, according to Vurnek only one house, located near an ammunition depot, was burning at 2 p.m. on 5 August 1995. Herman testified that in the afternoon of 5 August 1995, there were signs of shelling on a few buildings in Gračac, but no burning or major destruction. Similarly, Janić testified that on the afternoon of 5 August 1995, the town was intact. The evidence therefore indicates that on the afternoon of 5 August 1995, Gračac town showed limited signs of damage, most of which appeared to have been caused by artillery fire. Cvrk testified that in Gračac on or after 5 August 1995, some buildings and cross-roads had been damaged by artillery, several buildings were on fire, and some family houses were riddled with bullets. Witness 82 testified that he saw that several houses and buildings in Gračac had been burnt and saw Special Police in the town in the afternoon of 6 August 1995. UNMO report P109 and evidence from Steenberg indicate that by 10:30 a.m. on 6 August 1995, five houses in Gračac had been completely destroyed, and

the remainder partially destroyed. Steenbergen further testified that some houses were burnt, while others were still on fire. On the basis of the aforementioned evidence, the majority of the Trial Chamber finds, Judge Ćinisi dissenting, that sometime between the afternoon of 5 August and 10:30 a.m. on 6 August 1995, there was a substantial increase in the number of buildings in Gračac which were burnt or on fire. Considering the Trial Chamber's finding above on the arrival of the Special Police in Gračac on 5 August 1995, the evidence it considered above regarding the later arrival in or passage through Gračac of members of the HV, VP or civilian police, and its finding on the similar participation of members of the Special Police in the destruction of a substantial part of Donji Lapac between 7 and 8 August 1995 (see chapter 4.2.4 (Donji Lapac)), the majority further finds that members of the Special Police were involved in the destruction of a substantial part of Gračac between the afternoon of 5 August 1995 and 10:30 a.m. on 6 August 1995. Considering the abovementioned ethnic composition of Gračac, the Trial Chamber finds that the vast majority of the houses destroyed were owned or inhabited by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

698. The evidence of Vanderostyne further indicates that on 8 August 1995, several houses were on fire on the outskirts of Gračac. The Trial Chamber has considered his evidence that there were small groups of young men, some of whom wore grey-blue police uniforms, others of whom were shirtless, returning from the outskirts of Gračac, and that there was no one else around. However, Vanderostyne also testified that when he entered Gračac on 8 August 1995, he saw civilians and police on the outskirts. Therefore, in the absence of other evidence on the circumstances under which or by whom these houses were set on fire, the Trial Chamber considers the possibility that these civilians set the houses on fire. According to John Hill, on 10 August 1995 he observed that some houses in Gračac were still burning and described the town as destroyed. UNCIVPOL and UNMO reports also indicate that by 27 August 1995, 170 out of 200 buildings in Gračac had been destroyed, that one house was burning on that day, and that one house was burning on 29 August 1995. According to an HRAT report, on 30 August 1995 there were five buses full of persons referred to as Croatian soldiers in Gračac at a time when one house was burning. However, there is insufficient evidence as to the circumstances under which, or by whom, these houses and buildings

were set on fire or destroyed. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 5 of the Indictment.

Mala Popina

699. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Mala Popina in Gračac municipality primarily through the testimonies of Laila Malm and UNCIVPOL reports.

700. **Laila Malm**, a UNCIVPOL member working in Knin, Benkovac, Gračac, and Obrovac municipalities between 26 August and December 1995,²⁹⁶¹ testified that on 16 September 1995, she visited Radojka Šujica, a Serb, in the village of Mala Popina, who told her that approximately 30 Croatian soldiers had visited the village on 7 August 1995. Šujica told the witness that the soldiers had coffee with the inhabitants and then they left.²⁹⁶² Another villager, Jovan Macula, also told UNCIVPOL that approximately 30 soldiers from the 4th Split Brigade had visited the village on the same day. Macula stated, however, that the soldiers burnt 15 houses in the village and that one of the soldiers stole his son's private car.²⁹⁶³ Šujica told the UNCIVPOL that after the soldiers had left two of the men returned dressed in National Guard uniform, and threatened Radojka Šujica with machine guns and took her television.²⁹⁶⁴ Malm also testified that she had seen that some villages around Gračac had been totally burnt.²⁹⁶⁵

701. On 19 September 1995, UNCIVPOL arrived at the home of Milan Marčetić, born 1913, in Mala Popina. Marčetić was at that time talking to police officers from Gračac, telling them that on 18 September 1995 three armed HV military policemen had come to his home and questioned him. After the questioning, one of the men went down to Marčetić's basement and took some ham. The police officers from Gračac told Marčetić that they would perform patrols in the area every day because people in the area had been intimidated, robbed, and raped several times since 4 August 1995.²⁹⁶⁶ On 20 September 1995, a UNCIVPOL team planned to patrol Mala Popina but were stopped by Croatian military police and civilian police at a check-point in Otrić in

²⁹⁶¹ P774 (Laila Malm, witness statement, 30 July 2008, corrected 4 September 2008), paras 1, 13; Laila Malm, T. 8147; P775 (Map of Gračac area, marked by Laila Malm).

²⁹⁶² Laila Malm, T. 8174; P792 (UNCIVPOL incident report, S05-95-153, 16 September 1995).

²⁹⁶³ P791 (UNCIVPOL incident report, S05-95-151, 16 September 1995).

²⁹⁶⁴ Laila Malm, T. 8174-8177; P792 (UNCIVPOL incident report, S05-95-153, 16 September 1995).

²⁹⁶⁵ P774 (Laila Malm, witness statement, 30 July 2008, corrected 4 September 2008), para. 18.

Gračac municipality. The people at the check-point informed UNCIVPOL that they were not allowed to proceed without special permission from “Knin Military Authorities”.²⁹⁶⁷

702. The Trial Chamber has received evidence that on 7 August 1995, approximately 30 persons referred to by Radojka Šujica as Croatian soldiers, visited Mala Popina. According to Šujica, a Serb, these persons had coffee with the inhabitants and then left. However, subsequently, two of these men returned dressed in National Guard uniform, threatened Šujica with machine guns and took her television. On the same day, according to another villager, Jovan Macula, approximately 30 persons referred to as soldiers from the 4th Split Brigade were in Mala Popina. Macula stated that the soldiers burnt 15 houses in the village and stole his son’s private car. Based on the description of the 30 persons reported by UNCIVPOL as given by Šujica and Macula, the Trial Chamber finds, despite discrepancies between the events described that firstly, both refer to the same group of persons and secondly, that these persons wore military-type uniforms. Neither Šujica nor Macula provided further details as to the factual basis for their qualifications of these persons as being Croatian or belonging to the National Guard, the latter which the Trial Chamber notes was no longer in existence at the time (see in this regard the evidence of Theunens reviewed in chapter 3.1.1), or the 4th Split Brigade. Although the villager Jovan Macula specified the unit the persons were allegedly affiliated with, the evidence does not establish that he saw the persons in the village thereby not providing sufficient details as to what led him to make this qualification. Consequently, the Trial Chamber cannot assess whether these qualifications were made on a proper factual basis. Nevertheless, considering the date and location of these events and the number of persons in military-type uniforms on this date, the Trial Chamber finds that these persons were members of Croatian military forces or Special Police. In relation to the burning of 15 houses and the taking of Macula’s son’s private car, the evidence does not establish whether Macula witnessed these events and without any further corroboration the Trial Chamber considers this evidence insufficiently reliable and therefore will not further consider this incident in relation to Counts 1, 4, and 5 of the Indictment. In relation to the removal of Radojka Šujica’s television, the evidence indicates that the victim was present when the television was removed. The Trial Chamber therefore finds that the members of

²⁹⁶⁶ P264 (UNCIVPOL incident report, 19 September 1995).

Croatian military forces or Special Police took Radojka Šujica's television on 7 August 1995. The Trial Chamber will therefore further consider this incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

703. The Trial Chamber has further received evidence that on 18 September 1995, three persons referred to as HV military policemen came to the home of Milan Marčetić in Mala Popina to question him, after which one of the men took some ham from Marčetić's basement. Based on the victim's description of these persons as HV military policemen the Trial Chamber is satisfied that they wore military-type uniforms. However, the UNCIVPOL report does not provide further details as to the factual basis for the victim's qualification of the perpetrators as belonging to the VP. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The above evidence does not establish to which armed forces, if any, the perpetrators belonged. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Mala Popina at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 4 of the Indictment.

Mazin

704. The Trial Chamber has received relevant evidence with regard to alleged plunder in Mazin, Gračac municipality, primarily through a UNCIVPOL report. According to the 1991 Population Census, the population of Mazin consisted of 356 Serbs out of a total of 362 persons in 1991.²⁹⁶⁸

705. According to a UNCIVPOL incident report, dated 8 September 1995, three women (born 1915, 1925, and 1929) who lived together in Mazin, Gračac municipality, stated that soldiers were visiting their house several times a week and had stolen their telephone, radio, and all their agricultural machinery. Two military policemen also visited them several times, threatened to kill them, and stole their tractor.²⁹⁶⁹

²⁹⁶⁷ P265 (UNCIVPOL memo, signed by Laila Malm, 20 September 1995).

²⁹⁶⁸ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 94.

²⁹⁶⁹ P790 (UNCIVPOL incident report, S05-95/101, 8 September 1995).

706. The evidence indicates that sometime before 8 September 1995, persons referred to as soldiers took a telephone, radio, and all the agricultural machinery of three females who lived together in Mazin. The evidence further indicates that before 8 September 1995, two persons referred to as military policeman took a tractor from the same three females in Mazin. Based on the description of the former group of persons as soldiers and of the two latter persons as military policeman, the Trial Chamber is satisfied that these persons wore military-type uniforms. However, as the evidence neither establishes to which armed forces, if any, the alleged perpetrators belonged, nor the date on which the incidents occurred, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

Medaća

707. The Trial Chamber has received relevant evidence with regard to alleged plunder in Medaća in Gračac municipality through one UNCIVPOL report. According to a UNCIVPOL incident report, dated 22 September 1995, Dane Radeća a Serb from of the hamlet of Radeća in Medaća village stated that in early August 1995, he was visited by soldiers who took a tractor, a trailer, six sheep, and two cows from him.²⁹⁷⁰

708. The evidence indicates that in early August 1995, Dane Radeća, a Serb from the hamlet Radeća in Medaća village, was visited by a number of persons referred to as soldiers, who took a tractor, a trailer, six sheep, and two cows from him. Based on the description of these persons as soldiers, the Trial Chamber is satisfied that these persons wore military-type uniforms. However, as the evidence neither establishes to which armed forces, if any, the alleged perpetrators belonged, nor the date on which the incident occurred, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

²⁹⁷⁰ P794 (UNCIVPOL incident report, S05-95/185, 22 September 1995).

Palanka

709. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Palanka in Gračac municipality primarily through the testimony of Bogdan Brkić. According to the 1991 Population Census, the population of Palanka consisted of 82 Serbs out of a total of 84 persons in 1991.²⁹⁷¹

710. **Bogdan Brkić**, a Serb from Palanka in Gračac municipality who was born in 1926,²⁹⁷² stated that at approximately 5-6 p.m. on 12 August 1995 he saw smoke rising from Palanka while he was in Kusac hamlet, located one kilometre from Palanka. Using binoculars, Brkić watched his home and other houses burn. When Brkić arrived at his home, he discovered three bullet marks on the walls, fire damage to his house, and three of his haystacks burnt. The homes of Milan Vojnović, Branko Škorić, and Branko Mrdalj were also burned.²⁹⁷³ Brkić further stated that one time, probably in September 1995, three Croatian soldiers came to his home and slaughtered 14 of his sheep in his garden. The soldiers loaded the sheep into a truck and took them away along with 36 other sheep. When Brkić reported the incident to the police, they just asked why he had not taken down the licence plate number of the vehicle.²⁹⁷⁴

711. **Kari Anttila**, an UNMO in Sector South from 14 August 1995 until 27 November 1995,²⁹⁷⁵ testified that at 3 p.m. on 18 August 1995, he saw two HV soldiers in camouflage uniforms carrying goods out of a house in Palanka in Gračac municipality.²⁹⁷⁶ Anttila specified that at the time he was able to distinguish between Croatian military and Croatian police uniforms.²⁹⁷⁷ **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,²⁹⁷⁸ testified that on 19 August 1995, she drove through Palanka in Gračac municipality and saw that almost everything was burnt, and only two elderly people remained in the village.²⁹⁷⁹ At 3:30 a.m. on 20 August 1995, UNMO

²⁹⁷¹ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 94.

²⁹⁷² P2506 (Bogdan Brkić, witness statement, 21 January 1999), pp. 1-2, 4.

²⁹⁷³ P2506 (Bogdan Brkić, witness statement, 21 January 1999), p. 4.

²⁹⁷⁴ P2506 (Bogdan Brkić, witness statement, 21 January 1999), p. 5.

²⁹⁷⁵ P171 (Kari Anttila, witness statement, 8 January 1996), p. 1; P172 (Kari Anttila, witness statement, 16 October 1997), pp. 1-2; P173 (Kari Anttila, witness statement, 12 December 2007), p. 1, para. 2; Kari Anttila, T. 2508.

²⁹⁷⁶ P173 (Kari Anttila, witness statement, 12 December 2007), paras 31, 33; P67 (UNMO Team Podkonje report, 27 August 1995), para. 10.

²⁹⁷⁷ P173 (Kari Anttila, witness statement, 12 December 2007), para. 33.

²⁹⁷⁸ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

²⁹⁷⁹ P2 (Witness 136, witness statement, 4 July 1996), p. 9.

observed two burning houses at Palanka in Gračac municipality.²⁹⁸⁰ On the same day, UNMO also observed ten HV soldiers with a minibus looting in Palanka.²⁹⁸¹

712. The Trial Chamber has reviewed other relevant evidence in 4.2.7 (Zrmanja and Zrmanja Vrelo).

713. The evidence indicates that in or around September 1995 three persons referred to as Croatian soldiers arrived at the house of Bogdan Brkić, in the village of Palanka. These three persons slaughtered 14 of Brkić's sheep and loaded them into a truck, along with 36 of his other sheep. Based on Brkić's description of the perpetrators as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. However, the evidence does not provide further details as to the factual basis for the qualification of the uniformed men as Croatian soldiers. The Trial Chamber has previously found that persons whom Brkić had characterized as Croatian soldiers were members of the HV 15th Home Guards Regiment (see chapter 4.3.7 Bogdan Brkić). In that instance Brkić also did not provide further details as to the factual basis for his characterization, but the Trial Chamber was able to conclude that the perpetrators were members of the HV based on the testimony of Pero Perković. In the present instance the Trial Chamber did not receive evidence corroborating Brkić's characterization of the perpetrators as HV members, and therefore cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber considers that one correct identification does not imply that the witness would always correctly identify HV soldiers, as opposed to other persons wearing uniforms. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Palanka at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Finally, the Trial Chamber cannot exclude that the incident may have occurred after the Indictment period. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

714. The evidence indicates that, on 18 August 1995 in the village of Palanka, two persons in camouflage uniforms referred to as HV soldiers were taking goods from one

²⁹⁸⁰ P67 (UNMO Team Podkonje report, 27 August 1995), para. 12; P124 (UNMO Sector South daily situation report, 7 p.m., 20 August 1995), p. 4.

²⁹⁸¹ P67 (UNMO Team Podkonje report, 27 August 1995), para. 12.

house. The evidence further indicates that on 20 August 1995 in Palanka, ten persons referred to as HV soldiers were looting with a minibus, which the Chamber understands to mean that they were taking unspecified items away. Based on the description of the perpetrators as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. However, the evidence does not, in either case, provide further details as to the factual basis for the qualification of the perpetrators as HV soldiers. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. Therefore, the above evidence does not establish to which armed forces, if any, the alleged perpetrators belonged. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Palanka at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

715. The evidence indicates that at least four houses and three haystacks were burnt in Palanka on 12 August 1995. The evidence further indicates that on 18 August 1995 there were twenty burnt houses in Palanka, on 19 August 1995 almost everything was burnt, and that two houses were burning on 20 August 1995. As mentioned above, the evidence indicates the presence of persons referred to as HV soldiers in Palanka on 18 and 20 August 1995. However, the evidence does not establish how and by whom these haystacks and houses were burnt. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to counts 1 and 5 of the Indictment.

Velika Popina

716. The Trial Chamber has received relevant evidence with regard to alleged destruction in Velika Popina in Gračac municipality primarily through the testimony of Steenbergen and UNMO reports. The evidence of Steenbergen is reviewed in chapter 4.2.7 (Gračac town). In addition, the Trial Chamber has considered evidence of Munkelien reviewed in chapter 4.2.7 (Zrmanja and Zrmanja Vrelo), Edward Flynn reviewed in chapter 5.2.2, and P265 reviewed in chapter 4.2.7 (Mala Popina). The Trial Chamber has further considered a report to, among others, the Split MD dated 23 August 1995, according to which Commander Colonel Josip Čerina of the 134th Home Guard Regiment stated that at dawn on 18 August 1995, Čerina's regiment deployed

two infantry companies to the area of Velika Popina, in Gračac municipality.²⁹⁸² Also, according to an operational diary of the Split MD, on 18 August 1995 a VP check-point had been established in the Otrić area.²⁹⁸³

717. The evidence indicates that at 2:30 p.m. on 18 August 1995 in Velika Popina approximately ten houses were burning. Approximately 20 persons in camouflage uniforms were present at Otrić, which is located about five kilometres from Velika Popina.²⁹⁸⁴ When an UNMO patrol approached, the persons in camouflage uniforms started banging their rifle butts against the patrol's vehicle and showed their hand grenades to its occupants. Considering the evidence on the presence of HV and VP at Otrić in August 1995, the high number of uniformed men who stopped the UNMO patrol and the fact that they were armed with rifles and hand grenades, the Trial Chamber is satisfied that they were members of the HV. The threatening behaviour of the 20 HV soldiers toward the UNMOs indicates that they did not want the UNMOs in the area, but does not establish that they had participated in setting the houses on fire. The evidence according to which two infantry companies of the 134th Home Guard Regiment were deployed to the area of Velika Popina at dawn on 18 August 1995 indicates neither that they were present in Velika Popina itself at the time the houses started burning, nor that they set those houses on fire. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

Vrace

718. The Trial Chamber has received relevant evidence with regard to alleged destruction in Vrace in Gračac municipality through one UNMO report and two UNCIVPOL reports. According to the reports, at 4 p.m. on 30 August 1995, UNMO and UNCIVPOL heard an explosion and observed five burning houses in Vrace. They found two rifle grenades next to the houses. A fire brigade was present at the scene, but

²⁹⁸² P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), pp. 1, 6, 8.

²⁹⁸³ P71 (Split MD operational diary for 25 July – 14 September 1995), pp. 115-116. See also D802 (Varivode Operative Action performance report for 6-10 October 1995 from Damir Kozić to Mate Laušić, 11 October 1995), p. 2.

²⁹⁸⁴ P2432 (Map of Knin and surrounding area), WJ 8599, WK 8204.

did nothing. VP arrived and asked UNMO why they were there.²⁹⁸⁵ **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,²⁹⁸⁶ testified that the Croatian police following the UNCIVPOL team to the village stated that the Serbs themselves had burned down their own houses by leaving a candle burning.²⁹⁸⁷

719. The evidence indicates that around 4 p.m. on 30 August 1995, there was an explosion and four or five houses burned in Vrace. The evidence further indicates that a fire brigade within the vicinity of the burning houses took no action to put the fires out. The UNMO patrol found two rifle grenades next to the houses. However, it is unclear whether these grenades were linked to the explosion heard by the UNMO and UNCIVPOL since the reports do not specify if the grenades were empty grenade shells or if they were still equipped with an explosive charge. In addition, the evidence does not indicate who fired the grenades or how the grenades were positioned next to the burning houses. Based on this evidence, the Trial Chamber is unable to establish by whom and with which modalities the houses were set alight. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

Zrmanja and Zrmanja Vrelo

720. The Trial Chamber has received relevant evidence with regard to alleged plunder and destruction primarily through the testimonies of Kari Anttila and Tor Munkelien, as well as various UNMO reports. According to the 1991 Population Census, Zrmanja was an entirely Serb village, counting 69 inhabitants in 1991.²⁹⁸⁸ According to the same document, the population of Zrmanja Vrelo consisted of 175 Serbs out of a total of 180 persons in 1991.²⁹⁸⁹

²⁹⁸⁵ P133 (UNMO Sector South daily situation report, 8 p.m., 30 August 1995), p. 5; P13 (UNCIVPOL incident report, 30 August 1995).

²⁹⁸⁶ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782. See also P241 (UNCIVPOL weekly report 27 August-3 September 1995, 3 September 1995), p. 6.

²⁹⁸⁷ P3 (Witness 136, witness statement, 11 June 2007), para. 27.

²⁹⁸⁸ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 94.

²⁹⁸⁹ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 94.

721. **Vladimir Gojanović**, a former HV soldier,²⁹⁹⁰ stated that on 7 August 1995, he and fellow soldiers were moved by three or four buses into Zrmanja, Gračac municipality, which appeared to him to be undamaged, although he saw that the main store had been broken into and that some houses had been partly looted and damaged.²⁹⁹¹ Gojanović stated that he also saw some Serbs, including young women, who had stayed in the village. He mentioned that he knew that the Fourth HV Guards Brigade had moved through Zrmanja before his unit.²⁹⁹² Gojanović stated that while the 113th Šibenik Reserve Brigade was resting in Zrmanja, he heard from soldiers that some of their colleagues had gone off to rape women and that none of the Brigade's platoon commanders were perturbed by this.²⁹⁹³ On hearing this, Gojanović went to a nearby hamlet as he knew that there were some women there.²⁹⁹⁴ There, he went to a house and in the living room, he found three or four soldiers of the 113th Šibenik Reserve Brigade, one of whom he knew by sight, telling a mother and her daughter how they would rape them.²⁹⁹⁵ Gojanović stated that the women were crying in the corner of the room and that they appeared frightened to him. Gojanović stated that he shouted at the soldiers and chased them out of the house.²⁹⁹⁶ He then went to another house where he heard that other members of the 113th Šibenik Reserve Brigade were planning to rape a middle-aged woman in the house.²⁹⁹⁷ He stated that he told the soldiers he would kill them if they did anything to the woman and at that moment, someone outside shouted that the unit was moving on and that they should go to the buses, which they did.²⁹⁹⁸ Gojanović stated that upon order of his battalion commander he left at about 2-4 p.m. on 7 August 1995, and that at that time the village was partly looted but had not been burnt down. Gojanović stated that later he heard the area of Zrmanja had been

²⁹⁹⁰ P194 (Vladimir Gojanović, witness statement, 20 January 2005), paras 2-3; Vladimir Gojanović, T. 2973, 2983, 2987, 3010-3011, 3015, 3018-3019, 3039, 3119, 3121-3122, 3131-3133, 3138; C2 (Gojanović's military record), pp. 1, 3-4, 19; P198 (Further record of Gojanović's military service), pp. 1-2; P200 (Letter of Daniel Kotlar terminating the mobilization of Vladimir Gojanović, 30 August 1995), p. 1.

²⁹⁹¹ P194 (Vladimir Gojanović, witness statement, 20 January 2005), paras 14-15, 17; P196 (Vladimir Gojanović, supplemental information sheet, 14 May 2008), paras 1(vii), 4-6; Vladimir Gojanović, T. 2928-2929, 2933-2934, 2960-2961; P197 (Map of Gojanović's movement during Operation Storm, marked by Gojanović).

²⁹⁹² P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 15.

²⁹⁹³ P194 (Vladimir Gojanović, witness statement, 20 January 2005), paras 3, 14-16; Vladimir Gojanović, T. 2972.

²⁹⁹⁴ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 16.

²⁹⁹⁵ P194 (Vladimir Gojanović, witness statement, 20 January 2005), paras 3,16; P195 (Vladimir Gojanović, witness statement, 25 January 2008), para. 7; Vladimir Gojanović, T. 2993-2994.

²⁹⁹⁶ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 16.

²⁹⁹⁷ P194 (Vladimir Gojanović, witness statement, 20 January 2005), paras 3, 16.

²⁹⁹⁸ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 16.

looted and that the houses there had been burned. He stated that at that time there were about 150 members of the 113th brigade in that village.²⁹⁹⁹

722. On 8 August 1995, at 9 a.m., the 113th Guards Brigade was relocating from Pađani towards Zrmanja Vrelo, in Gračac municipality.³⁰⁰⁰

723. **Pero Perković**, a Croat from the village of Vodice and a member of the HV 15th Home Guards Regiment prior to, during, and after Operation Storm,³⁰⁰¹ stated that one day when he and Petrić, a member of the 15th Home Guard Regiment, 2nd battalion, 2nd Company, came back from the field in Zrmanja, Gračac municipality, they took some sheep, which according to Perković were abandoned livestock, and sold them to a butcher named Branko from the area of Vodice who had requested those sheep from Petrić.³⁰⁰² Perković stated that, on his way through Zrmanja, he saw burned houses and quite a few civilians looting the village.³⁰⁰³ Stipe Gojević, the company deputy commander of the 15th Home Guard Regiment, stated that he and others saw houses being set on fire but he never received or provided orders to do so.³⁰⁰⁴ Milenko Hrستیć, a member of the 15th Home Guard Regiment, 2nd Brigade, 1st Company, stated before the Croatian police that he took a television set from a house that had just started burning in Kistanje, upon entering the town on 6 August 1995 around 1 p.m. Later, he took a stereo system from an elderly man called Pupovac who lived in Zrmanja and a small chainsaw from a house in Zrmanja, which according to him was abandoned.³⁰⁰⁵ Perković stated that, when they were at Zrmanja and were going back, he saw military units supplying food and water to the civilians in an organised manner and that they were followed by Red Cross officials offering food to Serb civilians.³⁰⁰⁶

724. **Kari Anttila**, an UNMO in Sector South from 14 August 1995 until 27 November 1995,³⁰⁰⁷ testified that from his arrival in Knin until the end of August 1995, there were occasional restrictions of movement and that the Croats explained that such

²⁹⁹⁹ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 17.

³⁰⁰⁰ P2343 (Operative logbook of the 4th Guards Brigade, July and August 1995), pp. 41, 43, 45.

³⁰⁰¹ Pero Perković, T. 19448, 19451, 19470, 19511, 19527, 19546-19547.

³⁰⁰² Pero Perković, T. 19497-19498; D1542 (MUP official note re Milenko Hrستیć, 18 October 1995), pp. 2-3.

³⁰⁰³ Pero Perković, T. 19542.

³⁰⁰⁴ P2560 (Transcript of a Zadar Court hearing, 25 June 1996), pp. 8, 10.

³⁰⁰⁵ D1542 (MUP official note of interview with Milenko Hrستیć, 18 October 1995), pp. 1, 4.

³⁰⁰⁶ Pero Perković, T. 19541.

³⁰⁰⁷ P171 (Kari Anttila, witness statement, 8 January 1996), p. 1; P172 (Kari Anttila, witness statement, 16 October 1997), pp. 1-2; P173 (Kari Anttila, witness statement, 12 December 2007), p. 1, para. 2; Kari Anttila, T. 2508.

restrictions were necessary because of mopping up operations carried out to locate “rebels”.³⁰⁰⁸ An example of such a restriction was observed by the witness on 15 August 1995, while patrolling on the road from Knin to the Otrić junction, Gračac municipality. When the patrol returned from Otrić at about 3:30 p.m., they saw smoke coming from the Zrmanja area, Gračac municipality. The team attempted to approach the area but were barred by men in military uniform.³⁰⁰⁹ The witness testified however that they were able to observe nine houses on fire in the Zrmanja area and observed men in military uniform in the same area close to the burning houses.³⁰¹⁰ According to an UNMO report, at 3:30 p.m. on 15 August 1995, UNMO observed nine burning houses in the general area of Zrmanja Vrelo in Gračac municipality.³⁰¹¹

725. **Tor Munkelien**, an UNMO based in Knin from 14 August 1995 to 1 December 1995,³⁰¹² testified that on 15 August 1995, the UNMO team he was part of observed nine burning houses in Zrmanja Vrelo, Gračac municipality, and one house burning in Vugonje, Gračac municipality.³⁰¹³ A daily UNMO Sector South situation report of 18 August 1995 records that an UNMO team, at 2:30 p.m. on 18 August 1995, observed approximately ten burning houses at Velika Popina, Gračac municipality. According to the report, HV troops at the site were acting in a hostile manner by banging their weapons against the UNMO vehicles.³⁰¹⁴ At 3 p.m. on 18 August 1995, in Palanka, Gračac municipality, Munkelien saw 20 burned houses, 15 looted houses, and two HV soldiers looting.³⁰¹⁵ In the morning of 22 August 1995, UNMO observed two houses burning in the area of Mandića Draga, Gračac municipality. Also on 22 August 1995, UNMO observed three houses on fire at Kovačevići, Gračac municipality.³⁰¹⁶

³⁰⁰⁸ P172 (Kari Anttila, witness statement, 16 October 1997), p. 4.

³⁰⁰⁹ P172 (Kari Anttila, witness statement, 16 October 1997), pp. 4-5; P173 (Kari Anttila, witness statement, 12 December 2007), para. 29.

³⁰¹⁰ P172 (Kari Anttila, witness statement, 16 October 1997), pp. 4-5; P173 (Kari Anttila, witness statement, 12 December 2007), paras 29, 34.

³⁰¹¹ P120 (UNMO Sector South daily situation report, 7 p.m., 15 August 1995), p. 4.

³⁰¹² P60 (Tor Munkelien, witness statement, 18 December 1995, co-signed by Kari Anttila), p. 1; P61 (Tor Munkelien, witness statement, 10 January 2008), paras 1, 3; Tor Munkelien, T. 1514, 1546; D91 (Tor Munkelien, witness statement, 4 September 1999), p. 3.

³⁰¹³ P61 (Tor Munkelien, witness statement, 10 January 2008), para. 24; P67 (UNMO Team Podkonje report, 27 August 1995), para. 7.

³⁰¹⁴ D92 (UNMO Sector South daily situation report, 7 p.m., 18 August 1995), p. 2.

³⁰¹⁵ P61 (Tor Munkelien, witness statement, 10 January 2008), paras 23, 27; P67 (UNMO Team Podkonje report, 27 August 1995), para. 10.

³⁰¹⁶ D95 (UNMO Sector South daily situation report, 7 p.m., 22 August 1995), p. 5.

726. On 19 August 1995, UNMO saw in Zrmanja 16 houses burned and at Zrmanja Vrelo 15 houses burned, five houses looted and many dead cows.³⁰¹⁷

727. In addition to the above evidence, the Trial Chamber has considered the evidence of Konstantin Drča reviewed in chapter 4.2.8 (Parčić).

728. Konstantin Drča's testimony indicates that on 7 August 1995, after 7 p.m., the village of Zrmanja Vrelo in Gračac municipality was in flames. His testimony further indicates that the road to Srb was cut off by the HV at Zrmanja Vrelo and that three tanks carrying the checkerboard insignia and a number of trucks with HV licence plates drove towards Gračac. There is insufficient evidence as to the circumstances under which or by whom the houses were set on fire.

729. Gojanović's testimony indicates that on the same date, he and fellow HV soldiers arrived in Zrmanja, Gračac municipality. Gojanović's testimony further indicates that he left Zrmanja at about 2-4 p.m. on 7 August 1995, and that at that time some houses were partly looted and damaged, and the main store broken into, but that the village had not been burnt down. The evidence referenced is not sufficient to establish under which circumstances and by whom some houses and the main store in Zrmanja were damaged and looted before 2-4 p.m. on 7 August 1995. Under these circumstances, the Trial Chamber will not further consider these incidents in Zrmanja and Zrmanja Vrelo on 7 August 1995 in relation to Counts 1, 4, and 5 of the Indictment.

730. The evidence indicates that on 15 August 1995, at about 3:30 p.m., nine houses were burning in Zrmanja Vrelo while men in military uniform were present in the same area close to the burning houses. When a UNMO patrol attempted to approach the area, other uniformed men prevented it from doing so. Based on this evidence, the Trial Chamber is satisfied that the uniformed persons in the area close to the burning houses set them alight. However, the above evidence does not establish to which armed forces, if any, the perpetrators belonged. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Zrmanja Vrelo at that time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

³⁰¹⁷ P67 (UNMO Team Podkonje Report, 27 August 1995), para. 11.

731. With regard to the sheep that the HV members Perković and Petrić took coming back from the field in Zrmanja, the Chamber finds it established with sufficient certainty that the sheep belonged to someone, but does not find it established with sufficient certainty that these sheep were Krajina Serb property. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment.

732. With regard to the stereo system that Milenko Hrستیć, an HV member, allegedly took from an elderly man called Pupovac in Zrmanja, and with regard to a small chainsaw that he allegedly took from a house in Zrmanja, the Trial Chamber notes that the only evidence it received in this regard is an uncorroborated official note of an interview with Milenko Hrستیć. The Trial Chamber refers to its discussion of sources of evidence in chapter 2. The Trial Chamber is therefore not able to assess whether this evidence is sufficiently probative and therefore will not further consider these incidents in relation to Counts 1 and 4 of the Indictment.

4.2.8 Kistanje municipality

Biovičino Selo, Macure, and Kolašac

733. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Biovičino Selo, Macure, and Kolašac in Kistanje municipality through the testimonies of Maria Teresa Mauro, Edward Flynn, and Søren Liborius as well as UNCIVPOL and UNMO reports.

734. **Søren Liborius**, an ECMM Operations Officer and team leader based in Knin from 28 July 1995 until 27 November 1995,³⁰¹⁸ testified that on 15 August 1995, he saw a few houses on fire in Macure, in Kistanje municipality. Another few houses had already burnt down. According to Liborius, uniformed HV soldiers were in the vicinity of Macure village and Macure suffered burnings and destruction in the second half of August 1995. Liborius testified that old “Krajina” signs on the walls were smashed and that a new “Ustasha” sign was painted after 15 August 1995.³⁰¹⁹

³⁰¹⁸ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 1, 3; P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; P801 (Søren Liborius, witness statement, 12 October 2005), p. 2; P803 (Søren Liborius, witness statement, 6 September 2008), para. 6; Søren Liborius, T. 8229; D741 (Diary of Liborius), p. 3.

³⁰¹⁹ P842 (Video of villages in Sector South with commentary by Liborius, 17, 20-21 May 1997), p. 4.

735. According to a UNCIVPOL incident report, dated 15 August 1995, UNCIVPOL observed that the HV was burning “all the houses” in Biovičino Selo, Kolašac, and Macure, all in Kistanje municipality.³⁰²⁰ At 8:30 a.m. on 30 August 1995, UNMO observed one burning house near Macure and Torbice, both in Kistanje municipality.³⁰²¹

736. **Maria Teresa Mauro**, a UN civil affairs officer and HRAT member in the former Sector South based in Knin from March to December 1995,³⁰²² testified that on 5 September 1995 she visited the village of Biovičino Selo, in Kistanje municipality, and confirmed that she saw four cars parked in front of some houses which were being looted, as described in an HRAT report of 5 September 1995.³⁰²³ She further confirmed that when they asked the persons who were looting what they were doing, they produced a document issued by the office for trade in Šibenik authorizing them to collect cattle, as described in an HRAT report of 5 September 1995.³⁰²⁴ She added that these people were soldiers and they were obviously not looking for cattle.³⁰²⁵ She further confirmed that people in that region complained of harassment and being threatened by HV soldiers and civilians, as described in an HRAT report of 5 September 1995.³⁰²⁶

737. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,³⁰²⁷ testified that on 5 September 1995, he visited – alongside four deserted villages in the area – Biovičino Selo, in Kistanje municipality, where a few remaining local residents told him that they continued to face harassment by HV soldiers and Croatian civilians and that they felt very insecure.³⁰²⁸ Flynn observed that four cars were parked in front of neighbouring houses, which were being ransacked by

³⁰²⁰ P224 (UNCIVPOL incident report, 15 August 1995), p. 1.

³⁰²¹ P133 (UNMO Sector South daily situation report, 8 p.m., 30 August 1995), p. 4.

³⁰²² P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

³⁰²³ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 6.

³⁰²⁴ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 6; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 46.

³⁰²⁵ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 6.

³⁰²⁶ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 6; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 42.

³⁰²⁷ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

³⁰²⁸ P20 (Edward Flynn, witness statement, 29 June 1997), p. 33; P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 30; P38 (Weekly report from Hussein Al-Alfi, 2-8 September 1995), p. 4; P50 (HRAT daily report, 5 September 1995), p. 1.

some persons.³⁰²⁹ He approached some men inside a house, and one of them showed him a document issued by the “office for trade” in Šibenik, authorizing them to collect cattle.³⁰³⁰ The witness observed dead animals, including a donkey on a road and a horse that had recently been shot dead.³⁰³¹ Flynn stated that Biovičino Selo was among the places most affected by burning.³⁰³²

738. In addition to the above evidence, the Trial Chamber has also considered the evidence of Rajko Guša and Edward Flynn reviewed in chapter 4.2.8 (Kistanje town).

739. With regard to military presence in the villages, the Trial Chamber has considered HV documentation. On 6 August 1995, on the basis of a verbal order by the commander of the Split MD, Colonel Ivan Vukić ordered the 113th Infantry Brigade to deploy their troops in the wider area of Biovičino Selo in Kistanje municipality, with the Brigade Forward Command Post in the village of Macure, in Kistanje municipality.³⁰³³ He further ordered the 142nd Home Guards Regiment to deploy its troops in the wider area of Oklaj village keeping the Regiment Forward Command Post in Oklaj village, as well as the 15th Home Guards Brigade to deploy its troop in the wider area of Ivoševci village keeping the Regiment Forward Command Post in Kistanje village. He also ordered the joint VP company to deploy its troops in Drniš. Finally, he ordered that the final deadline for this troop deployment was 4 a.m. on 7 August 1995.³⁰³⁴ In this respect, the Trial Chamber has further considered P1200, reviewed in chapter 4.2.8 (Parčić).

740. The evidence indicates that on or before 15 August 1995, persons referred to as “HV” burned houses in Biovičino Selo, Kolašac, and Macure. On the basis of this, the Trial Chamber is satisfied that these persons wore military-type uniforms. However, the evidence does not provide any factual basis for the qualification of them being HV. Consequently, the Trial Chamber cannot assess whether this qualification was made on

³⁰²⁹ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 30; P38 (Weekly report from Hussein Al-Alfi, 2-8 September 1995), p. 4; P50 (HRAT daily report, 5 September 1995), p. 1.

³⁰³⁰ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 30; P50 (HRAT daily report, 5 September 1995), p. 1.

³⁰³¹ P20 (Edward Flynn, witness statement, 29 June 1997), p. 33; P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 30; P38 (Weekly report from Hussein Al-Alfi, 2-8 September 1995), p. 4; P50 (HRAT daily report, 5 September 1995), p. 1.

³⁰³² P20 (Edward Flynn, witness statement, 29 June 1997), p. 37; P38 (Weekly report from Hussein Al-Alfi, 2-8 September 1995), p. 4.

³⁰³³ P1128 (Order of Ivan Vukić on regrouping of OG Šibenik troops, 6 August 1995), pp. 1-2.

³⁰³⁴ P1128 (Order of Ivan Vukić on regrouping of OG Šibenik troops, 6 August 1995), p. 1.

a proper factual basis. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Biovičino Selo, Kolašac, or Macure at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider the above incidents in relation to Counts 1 and 5 of the Indictment.

741. The evidence further indicates that on 5 September 1995, in Biovičino Selo, in Kistanje municipality, persons referred to as soldiers were ransacking houses. In this regard, the Trial Chamber relies on the contemporaneous description of "ransacking" and the testimony of Flynn, as opposed to Maria Teresa Mauro's qualification of "looting". Based on Maria Teresa Mauro's description of these persons as soldiers, the Trial Chamber is satisfied that the persons wore military-type uniforms. The Chamber notes that they had a document issued by the office for trade in Šibenik authorizing them to collect cattle. The above evidence does not establish to which armed forces, if any, the alleged perpetrators belonged. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Biovičino Selo at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators.

742. In relation to Edward Flynn and Rajko Guša's evidence about the burning of Biovičino Selo and Edward Flynn's evidence of dead animals, the Trial Chamber has received insufficient evidence as to when, the circumstances under which and by whom, houses were set on fire and animals were killed. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment.

Gošić

743. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Gošić in Kistanje municipality primarily through the testimony of Milan Letunica.

744. **Milan Letunica**, a Serb inhabitant of the Serb village of Gošić in Kistanje municipality,³⁰³⁵ testified that on 7 August 1995 he witnessed from the forest where he

³⁰³⁵ P635 (Milan Letunica, witness statement, 22 April 1998), pp. 1-2.

was hiding, approximately 30 armed persons in military uniforms enter the houses in his village. Later, Letunica saw groups of three to five such persons, unknown to him, enter the village on a daily basis. The witness saw houses burning, always during the day, with seven houses burnt between 7 and 27 August 1995. These houses belonged to Dušan Borak, Milan Borak, Sava Borak, Simo Borak, Sveto Borak, Miloš Žeželj, and Rajko Žeželj. Letunica saw these persons in military uniform remove livestock and items from houses, load them into “personal” cars and take them away. Letunica stated that these persons never came to the village after 2 p.m., and as a result he would return to his property for some time during the afternoons but he would not stay at the house at night. Whilst he was hiding in the forest, all of his livestock (80 sheep, one cow, one calf, two pigs and poultry), two tractors, and a trailer disappeared.³⁰³⁶ In early September 1995, the ICRC helped the witness get to Serbia. Letunica returned to Gošić on 8 July 1997 where he found his house completely empty.³⁰³⁷

745. On 11 August 1995, Captain Matko Kurtović reported to the Commander of the OG Šibenik that on 6 August 1995 the 113th Infantry Brigade liberated the villages of Đevrske, Dobropoljci and all the villages in the vicinity, in the direction of Đevrske.³⁰³⁸ He further reported that on 7 August 1995, no combat operations were carried out, and that on 8 August 1995, a reinforced battalion of the 113th Infantry Brigade was deployed in the region of Srb, Donji Lapac municipality.³⁰³⁹

746. In addition to the above evidence, the Trial Chamber has considered P1128 reviewed in chapter 4.2.8 (Biovičino Selo, Macure, and Kolašac) and P1200 reviewed in chapter, reviewed in chapter 4.2.8 (Parčić).

747. On 6 August 1995, the 113th Infantry Brigade took control of the villages between Đevrske and Dobropoljci. Also on 6 August 1995, the 113th Infantry Brigade received an order to deploy its troops in the wider area of Biovičino Selo in Kistanje municipality, by no later than 4 a.m. on 7 August 1995. On 7 August 1995, the 1st Infantry Battalion was deployed in the area of Modrino Selo in Kistanje municipality and the 134th Home Guard Regiment was erecting check-points on the cross-roads near Parčić and Kolašac, in Kistanje municipality. Considering this and Milan Letunica’s evidence that on 7 August 1995, approximately 30 persons in military uniforms were

³⁰³⁶ P635 (Milan Letunica, witness statement, 22 April 1998), p. 2.

³⁰³⁷ P635 (Milan Letunica, witness statement, 22 April 1998), p. 3.

³⁰³⁸ P2349 (Report on security in OG Šibenik, 11 August 1995), pp. 1-2, 6.

³⁰³⁹ P2349 (Report on security in OG Šibenik, 11 August 1995), pp. 1, 3.

entering houses in Gošić, the evidence indicates that members of the HV were present in the village of Gošić on 7 August 1995.

748. The evidence indicates that sometime between 7 August 1995 and early September 1995, groups of three to five persons who were armed and wore military uniforms, came to Gošić before 2 p.m. on a daily basis. The evidence further indicates that at least on some occasions, these persons would remove livestock and items from houses, load them into “personal” cars and take them away. The evidence also indicates that during this time, persons took items from the house of Milan Letunica, a Serb, including all his livestock, two tractors and a trailer. However, the above evidence does not establish to which armed forces, if any, these persons belonged. Further, the Trial Chamber has received no other reliable evidence specifying the dates on which these incidents occurred. Consequently evidence of troop presence in the area during parts of August or September 1995 cannot assist the Trial Chamber to determine the affiliation of the alleged perpetrators. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

749. The evidence also indicates that between 7 and 27 August 1995, seven houses were set on fire in Gošić during daylight hours. However, there is insufficient reliable evidence as to the circumstances under which or by whom these houses were set on fire. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 5 of the Indictment.

Ivoševci

750. The Trial Chamber has received relevant evidence with regard to alleged plunder in Ivoševci in Kistanje municipality primarily through the testimony of Laila Malm and a UNCIVPOL incident report. According to the 1991 Population Census, the population of Ivoševci consisted of 956 Serbs out of a total of 977 persons in 1991.³⁰⁴⁰

³⁰⁴⁰ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

751. **Laila Malm**, a UNCIVPOL member working in Knin, Benkovac, Gračac, and Obrovac municipalities between 26 August and December 1995,³⁰⁴¹ testified that on 30 August 1995, in the village of Ivoševci, she observed many men dressed in military uniform looting household goods from houses and loading the items into a truck and a car which had registration plates from Zadar municipality.³⁰⁴² The people in military uniform told the witness that they were protecting the civilians but it did not appear to the witness that this was the case.³⁰⁴³ According to a UNCIVPOL incident report relating to this incident, villagers informed UNCIVPOL that these soldiers were burning houses and stealing.³⁰⁴⁴ When they were driving away from the scene, one of the soldiers shouted at them what was interpreted as, “we will come after you”. The witness also believed that the individuals in military uniform were openly looting and not trying to hide what they were doing.³⁰⁴⁵

752. The evidence indicates that on 30 August 1995, in Ivoševci, a number of men wearing military uniforms were taking unspecified household goods from houses, and loading them into a truck and a car, both carrying registration plates from Zadar municipality. The above evidence does not establish to which armed forces, if any, the perpetrators belonged. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Ivoševci at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 4 of the Indictment.

Kakanj

753. The Trial Chamber has received relevant evidence with regard to the alleged destruction and looting of Kakanj primarily through the testimonies of Radoslav and Mirko Ognjenović. According to the 1991 Population Census, the population of Kakanj,

³⁰⁴¹ P774 (Laila Malm, witness statement, 30 July 2008, corrected 4 September 2008), paras 1, 13; Laila Malm, T. 8147; P775 (Map of Gračac area, marked by Laila Malm).

³⁰⁴² P774 (Laila Malm, witness statement, 30 July 2008, corrected 4 September 2008), para. 11; Laila Malm, T. 8158, 8170; P779 (UNCIVPOL incident report, S2-95-531, 30 August 1995).

³⁰⁴³ Laila Malm, T. 8158-8159; P779 (UNCIVPOL incident report, S2-95-531, 30 August 1995).

³⁰⁴⁴ P779 (UNCIVPOL incident report, S2-95-531, 30 August 1995).

³⁰⁴⁵ P774 (Laila Malm, witness statement, 30 July 2008, corrected 4 September 2008), para. 11.

in Kistanje municipality, consisted of 191 Serbs out of a total of 192 persons in 1991.³⁰⁴⁶

754. **Radoslav Ognjenović**, a Serb born in 1908 from the Serb village of Kakanj in Kistanje municipality,³⁰⁴⁷ stated that in the evening of 4 August 1995 he saw approximately 50 soldiers and a howitzer in the village.³⁰⁴⁸ By that time, the Serb soldiers had already fled the village without firing a shot, and only the witness and ten other villagers remained in Kakanj: Mirko Ognjenović (born in 1921), Uroš Ognjenović (born in 1926), Uroš Šarić (born 1919), Vojin Šarić (born 1911), Danica Šarić (born 1936-1937), Dušan Šarić (born 1921), Rajko Gajica (born 1932), Ljubica Ognjenović (born 1911), Ljubica Ognjenović (wife of Ilija, born 1910), and Luka Pekić (born 1925-1926).³⁰⁴⁹ The witness stated that on the evening of 4 August 1995, ten soldiers came to the front yard of his house and that one of them asked him if he had anything military – to which the witness answered no – and warned him that if they would find anything military they would destroy his house. The soldiers searched his house and before they left gave him two plastic bags of food and ten kunas, and told him that no harm would come to him.³⁰⁵⁰ According to the witness, all the soldiers spoke with a local accent. Shortly thereafter, the witness saw soldiers enter the house of Nikola Ognjenović. A Croatian soldier asked Radoslav Ognjenović whether he owned the haystacks situated about 60-70 metres behind his and Nikola Ognjenović's houses. Later that evening the witness saw the haystacks burning. The soldiers left Kakanj heading towards Đevrske village in Kistanje municipality.³⁰⁵¹ Later that evening the witness heard a car stopping outside his house and heard somebody entering the house. The person told him, with a local accent, to lay still, and in the dark the witness recognized him as the soldier who had asked him if he had anything military. The next morning the witness saw that his television was missing.³⁰⁵²

755. On 5 and 6 August 1995, the witness saw from his yard - situated close to the main road with a good view over the village - people dressed in military camouflage

³⁰⁴⁶ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

³⁰⁴⁷ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), p. 1, paras 1, 5.

³⁰⁴⁸ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 8.

³⁰⁴⁹ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 6.

³⁰⁵⁰ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 8.

³⁰⁵¹ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 9.

³⁰⁵² P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 10.

uniforms enter Kakanj in civilian cars.³⁰⁵³ The witness stated that while these people were in the village five houses started burning and items disappeared from other houses.³⁰⁵⁴ The houses that burned belonged to Mirko Ognjenović, Slobodan Ognjenović (son of Špiro), Kata Ognjenović (daughter of Bogdan), Nikola Ognjenović (son of Obrad), Dragan Šarić (son of Bogdan), and Nikola Šarić (son of Nikola).³⁰⁵⁵ According to the witness, Mirko, Slobodan, and Nikola, as well as Kata Ognjenović's son, Jovan, and Mirko Ognjenović's sons, Željko and Zdenko, were members of the Serbian Army.³⁰⁵⁶

756. The witness further stated that on 16 August 1995, he saw from his yard people in military camouflage uniform enter Kakanj. While these individuals were in the village the witness's stable and six houses started burning. The burnt houses belonged to Nikola Ognjenović (born approximately in 1943), Ljubica Ognjenović (born in 1911), Milan Ognjenović (born approximately in 1942-1943), Neven Ognjenović (born in 1945), Stevan Ognjenović (born approximately in 1942-1943), and Zdravko Ognjenović (born approximately in 1942-1943).³⁰⁵⁷ The witness stated that all of these persons were members of the Serbian Army, except Ljubica who was the mother of Milan and Neven.³⁰⁵⁸ Between 10 a.m. and 3 p.m. from 10 to 18 August 1995 the witness could see from his front yard people in civilian cars with registration plates from Split, Zadar, Šibenik, and Rijeka, driving into the village mainly from the directions of Split and Šibenik. He saw them taking chairs, beds, televisions, wire fences, and floor coverings from houses.³⁰⁵⁹

757. **Mirko Ognjenović**, a Serb born in 1921 from the village of Kakanj in Kistanje municipality,³⁰⁶⁰ testified that on 4 or 5 August 1995 he could hear the sound of shells falling from the direction of Knin and felt the earth shake.³⁰⁶¹ The witness also saw from his house shells, coming from the direction of Šibenik, fall the whole day and the next day about eight to ten kilometres from his village, along, it seemed to him, a corridor

³⁰⁵³ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), paras 2-3, 11.

³⁰⁵⁴ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 11.

³⁰⁵⁵ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), paras 4, 11.

³⁰⁵⁶ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), paras 4, 11, 13.

³⁰⁵⁷ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 13.

³⁰⁵⁸ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), paras 4, 11, 13.

³⁰⁵⁹ P2511 (Radoslav Ognjenović, witness statement, 23 January 1999), para. 12.

³⁰⁶⁰ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 1-2; P990 (Mirko Ognjenović, witness statement, 12 July 2004), p. 1; Mirko Ognjenović, T. 10701; D873 (MUP official note of interview with Mirko Ognjenović, 6 May 2004), p. 1; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 6.

where he saw some SVK soldiers retreating in the evening of 4 August or morning of 5 August 1995.³⁰⁶² The witness heard on 4 August 1995 shells falling on Đevrske, located about five kilometres away in Kistanje municipality, where a cooperative building was used by the SVK.³⁰⁶³ About a year later a Croat, called Pulic, told the witness that he had directed the firing of the shells to a building in Đevrske, believing that it contained troops, but according to the witness nobody was in it when it was destroyed.³⁰⁶⁴ By 5 August 1995, about 25 men from the village, who were in the SVK, including the son of the witness, had left.³⁰⁶⁵ In one or more of the neighbouring villages of Smrdelje and Varivode, both in Kistanje municipality, and Bratiškovci, Plastovo, Rupe and Laskovica, all in Skradin municipality, there was a presence of the SVK prior to or during Operation Storm.³⁰⁶⁶ After 5 August 1995 there was no power in Kakanj.³⁰⁶⁷ People had started to panic and most people had left in tractors and cars to find safety, because they feared that Kakanj would be overrun and shelled.³⁰⁶⁸ The witness heard from people that the local committee, of which Dragan Šarić was a member, had told villagers to leave and that fuel would be distributed, but according to the witness it was not.³⁰⁶⁹ A lot of people just went with their clothing as they thought they would be coming back.³⁰⁷⁰ There were only ten people remaining: Radoslav Ognjenović, Uroš Ognjenović, Ljubica Ognjenović (born in 1910, daughter of Ivan), Ljubica Ognjenović (born 1910, daughter of Pilip), Uroš Šarić, Vojin Šarić, Dušan Šarić, Danica Šarić, and Rajko Gajica.³⁰⁷¹ The witness stayed home and listened to the radio, which broadcast every hour President Tuđman's statement that whoever was not guilty needed not leave.³⁰⁷² At that point, no houses were damaged in the village.³⁰⁷³

758. In the evening of 5 August 1995 while it was still light, the witness, hiding in some bushes in his front yard, heard tanks and loud voices along the road coming from

³⁰⁶¹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 2; Mirko Ognjenović, T. 10707.

³⁰⁶² Mirko Ognjenović, T. 10708, 10725-10727.

³⁰⁶³ Mirko Ognjenović, T. 10722-10723.

³⁰⁶⁴ Mirko Ognjenović, T. 10724-10725, 10747-10748.

³⁰⁶⁵ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 3, 5-6, 9; Mirko Ognjenović, T. 10715.

³⁰⁶⁶ Mirko Ognjenović, T. 10725.

³⁰⁶⁷ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 2.

³⁰⁶⁸ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 2; Mirko Ognjenović, T. 10715, 10720.

³⁰⁶⁹ Mirko Ognjenović, T. 10720-10721.

³⁰⁷⁰ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 2.

³⁰⁷¹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 2-3; Mirko Ognjenović, T. 10733.

³⁰⁷² Mirko Ognjenović, T. 10715.

³⁰⁷³ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 3.

the direction of Šibenik.³⁰⁷⁴ At a distance of 300 metres, the witness saw a tank and soldiers in a field near the edge of Kakanj.³⁰⁷⁵ He saw five to six soldiers in uniform close to the house of Marko Ognjenović, which then started to burn.³⁰⁷⁶ After that, at a distance of 350 metres, he saw the same soldiers go to the haystacks of Nikola Ognjenović, located 50 metres from Marko Ognjenović's house, which also started to burn, as did Nikola Ognjenović's house.³⁰⁷⁷ The witness stated that he had a clear view and good eyesight.³⁰⁷⁸ Both Marko Ognjenović and Nikola Ognjenović were civilians who had left Kakanj.³⁰⁷⁹ The witness heard soldiers singing HV songs, shouting and laughing, and the sound of guns being fired.³⁰⁸⁰ During the night of 5 August 1995, the witness hid in his plum orchard about 100 metres away from his house.³⁰⁸¹ He continued to hear the soldiers singing and it sounded as if they were having a party in the village and sometime after midnight on 6 August 1995, the witness heard what appeared to be the soldiers leaving the village.³⁰⁸² When daylight had returned, the witness met Uroš Ognjenović and they walked through the village.³⁰⁸³ The witness saw many houses with windows and doors smashed, food lying in the road, and three dogs and a sheep shot dead in the road.³⁰⁸⁴ He saw that the two shops in the village had been broken into and food and drink had been stolen.³⁰⁸⁵ In the road there were many containers.³⁰⁸⁶ The stable belonging to Dragan Šarić had burned to the ground.³⁰⁸⁷ The witness and Uroš Ognjenović set some animals free and killed four dangerous dogs.³⁰⁸⁸ On three or four occasions on 6 or 7 August 1995 police from Šibenik in blue uniforms, with the word Policija on the sleeves, came to the village, bringing food, and at those

³⁰⁷⁴ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 3; Mirko Ognjenović, T. 10721, 10749.

³⁰⁷⁵ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 3; Mirko Ognjenović, T. 10721.

³⁰⁷⁶ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 3; Mirko Ognjenović, T. 10721, 10730-10731, 10735, 10747.

³⁰⁷⁷ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 3; Mirko Ognjenović, T. 10721, 10730-10731, 10735, 10747.

³⁰⁷⁸ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 3; Mirko Ognjenović, T. 10730-10731.

³⁰⁷⁹ Mirko Ognjenović, T. 10747.

³⁰⁸⁰ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 3; Mirko Ognjenović, T. 10721, 10749.

³⁰⁸¹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 3; Mirko Ognjenović, T. 10749.

³⁰⁸² P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 3; Mirko Ognjenović, T. 10721, 10749.

³⁰⁸³ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 3-4.

³⁰⁸⁴ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4.

³⁰⁸⁵ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4; Mirko Ognjenović, T. 10749.

³⁰⁸⁶ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4.

³⁰⁸⁷ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4; Mirko Ognjenović, T. 10720-10722, 10730-10731.

times no soldiers would come stealing and looting.³⁰⁸⁹ The witness told the police that soldiers were burning their houses and looting, but the police said they could not do anything about it.³⁰⁹⁰

759. On 8 August 1995 at about 9 a.m. two soldiers, carrying automatic rifles, came up to the witness in the village.³⁰⁹¹ The soldiers, who came by car, were dressed in army camouflage uniform with the HV coat of arms on the sleeves of their jackets.³⁰⁹² One of them asked why the witness had stayed behind and said that he would have done better to have left with the other people.³⁰⁹³ They asked the witness whether a certain car was his and whether he had the keys to it, and one of them said they were liberators while the other said that they were Ustashi.³⁰⁹⁴ According to the latter, this was the name the Serbs had given to the HV. He also said that he was from the neighbouring village of Laškovića.³⁰⁹⁵ One of the soldiers said to the witness words to the effect of “no one will be held accountable for you”, and that they did not wish to harm him, but that all kinds of things could happen to him in the hands of others.³⁰⁹⁶ The soldiers told the witness, who was about to feed his pigs, not to stray away from home and to look after himself instead of his pigs.³⁰⁹⁷

760. On 9 August 1995 at approximately 2 p.m. the witness was in the front yard of his house with his aunt Ljubica Ognjenović and Radoslav Ognjenović.³⁰⁹⁸ Two soldiers in HV uniforms, with automatic rifles and hand guns and arriving in a grey vehicle, came into the front yard of the witness.³⁰⁹⁹ When his dog, which was near him, started barking, one of the soldiers shot the dog.³¹⁰⁰ The same soldier entered the witness's house, which contained the hunting gun of the witness's son, while the other pointed his

³⁰⁸⁸ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4.

³⁰⁸⁹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 5; Mirko Ognjenović, T. 10731-10732.

³⁰⁹⁰ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 5.

³⁰⁹¹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4.

³⁰⁹² P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4; Mirko Ognjenović, T. 10750-10751.

³⁰⁹³ Mirko Ognjenović, T. 10716, 10738.

³⁰⁹⁴ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4; Mirko Ognjenović, T. 10750.

³⁰⁹⁵ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4.

³⁰⁹⁶ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4; Mirko Ognjenović, T. 10708-10709, 10716, 10738, 10750.

³⁰⁹⁷ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4; Mirko Ognjenović, T. 10709, 10716, 10750.

³⁰⁹⁸ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4.

³⁰⁹⁹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4; Mirko Ognjenović, T. 10751-10752.

³¹⁰⁰ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4; Mirko Ognjenović, T. 10751.

rifle at the chest of the witness.³¹⁰¹ When the witness told him there was no need to do so since he was not putting up any resistance, the soldier said that their Serbian children had waged war on Croatia and robbed and murdered, and that Croatian fathers taught their children to be a good example to others.³¹⁰² The soldier came out of the house and went to the garage, which almost immediately started to burn.³¹⁰³ When the witness tried to save his cultivator from the garage, the soldiers warned him against going near the fire, which the witness understood as a threat to push him into the fire.³¹⁰⁴ After saving his cultivator, he saw that his five haystacks, his house and his stable were on fire.³¹⁰⁵ He heard a vehicle start up.³¹⁰⁶ Everything was burnt to the ground, including a tractor.³¹⁰⁷ On 10 August 1995, the witness saw that ten out of a total of about 100 houses and stables in the village had been burnt very badly as well as thirty goats and sheep, along with two lambs that were not yet dead.³¹⁰⁸

761. The witness testified that soldiers, dressed in HV uniform with the Croatian coat of arms on the sleeves, and civilians, women and men, on their own or in groups of two or three, came to the village most days, most of the times in civilian cars, looting at first new electrical goods, and later everything of value.³¹⁰⁹ Sometimes the soldiers came with large cattle trucks on which they loaded the villagers' sheep and cattle and took them away.³¹¹⁰

762. The witness testified that on 14 August 1995 Uroš Ognjenović came to his house and told him that a soldier had killed two lambs and that he wanted the lambs skinned. The witness went to the house of Uroš Ognjenović and skinned the lambs. The soldier, wearing a camouflage uniform with HV coat of arms on the sleeve, ordered the witness to kill another lamb and skin it. By order of the soldier the witness put the three skinned lambs in the boot of the soldier's car, which looked like a civilian car. Other soldiers

³¹⁰¹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 4-5; Mirko Ognjenović, T. 10717, 10751.

³¹⁰² P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 4; Mirko Ognjenović, T. 10717.

³¹⁰³ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 5.

³¹⁰⁴ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 5; Mirko Ognjenović, T. 10751.

³¹⁰⁵ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 5; Mirko Ognjenović, T. 10709, 10751.

³¹⁰⁶ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 5.

³¹⁰⁷ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 5; Mirko Ognjenović, T. 10728-10729; D872 (UNMO report, 27 August 1995), p. 2.

³¹⁰⁸ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 5; Mirko Ognjenović, T. 10709, 10752-10753; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 3.

³¹⁰⁹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 5; Mirko Ognjenović, T. 10736, 10752-10753.

³¹¹⁰ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 5.

were in the village that day taking live lambs away with them.³¹¹¹ On 17 and 18 August 1995 soldiers continued to come to the village looting.³¹¹² The witness testified that after 24 August 1995 soldiers were still coming to the village everyday looting and that some other houses burned. A total of 19 stables and 23 houses were burnt in Kakanj. Eventually, when the other villagers had left out of fear, only the witness, his aunt Ljubica Ognjenović, and Vojin Šarić remained in the village. On 26 August 1995 the witness and his aunt left the village by car.³¹¹³ After a visit to his wife in the hospital in Knin, the witness and his aunt went to the UN compound, where he was registered.³¹¹⁴ He left from there on 15 September 1995 in a convoy under UN escort to Serbia, where he stayed until September 1997.³¹¹⁵ In September 1997 the witness returned to his village.³¹¹⁶ He noticed that several stables and houses had burned after he had left, so that approximately half of the houses in the village were now burned.³¹¹⁷

763. The Trial Chamber has further considered exhibit D93 reviewed in chapter 4.1.8 (Uroš Šarić and Uroš Ognjenović - Schedule no. 8).

764. Before 8 p.m. on 26 August 1995, UNMO observed four Croatian soldiers loading livestock onto a truck in Kakanj in Kistanje municipality.³¹¹⁸

765. **Laila Malm**, a UNCIVPOL member working in Knin, Benkovac, Gračac, and Obrovac municipalities between 26 August and December 1995,³¹¹⁹ testified that in villages and hamlets visited on 28 August 1995 in Knin and surrounding municipalities, all houses in Bribir, Đevrske, Kistanje, and Žažvić, all in Kistanje municipality, were burned; most of the houses in Varivode, Kistanje municipality, were burned; most houses were intact in Kakanj, Kistanje municipality; a few houses were burnt in Bratiskovići, Kistanje municipality; 95 per cent of houses in Cicvare, Kistanje municipality, were burnt; and 90 per cent of houses in Smrdelje, Kistanje municipality,

³¹¹¹ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 6.

³¹¹² P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 6-7.

³¹¹³ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 8.

³¹¹⁴ P989 (Mirko Ognjenović, witness statement, 24 January 1999), pp. 8-9; D874 (Letters from the Police Administration of Šibenik-Knin with official notes), p. 7.

³¹¹⁵ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 9.

³¹¹⁶ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 9; D873 (MUP official note of interview with Mirko Ognjenović, 6 May 2004), p. 2.

³¹¹⁷ P989 (Mirko Ognjenović, witness statement, 24 January 1999), p. 9; Mirko Ognjenović, T. 10752-10753.

³¹¹⁸ P128 (UNMO Sector South daily situation report, 8 p.m., 26 August 1995), pp. 1, 4.

³¹¹⁹ P774 (Laila Malm, witness statement, 30 July 2008, corrected 4 September 2008), paras 1, 13; Laila Malm, T. 8147; P775 (Map of Gračac area, marked by Laila Malm).

were burnt.³¹²⁰ Malm further testified that in the villages and hamlets of Bribir, Cicvare, Devrske, Kakanj, Kistanje, Varivode, Žažvić, and Čakići in Kistanje municipality, they did not see any people and there were only 20 Serbs left in Bratiskovići and two people left in Smrdelje, Kistanje municipality.³¹²¹ Malm testified that although she had never personally witnessed anyone setting fire to houses, she had been told by people in villages and hamlets that Croatian soldiers burnt houses. Malm stated that the houses had been burned down recently since if the burning had been old she would have seen vegetation growing in and around the houses.³¹²²

766. On 2 August 1995, Ante Gotovina issued an attack operation order for operation Kozjak.³¹²³ Gotovina ordered the 15th Home Guard Regiment, within the 1st combat echelon, to attack on the front line, from its current defence positions, to the right, at the Krka River, and to the left, along the axis of Debela Punta-Kakanj in Kistanje municipality-Krnete in Donji Lapac municipality. Similarly, Gotovina ordered the 113th Infantry Brigade, also within the 1st combat echelon, to attack along the front line, to the right at Debela Punta-village of Kakanj, and to the left, at the village of Velim in Benkovac municipality-Orlovača, trigger point 405. Both the 15th Home Guard Regiment and the 113th Infantry Brigade were ordered to be at attack readiness at 4 a.m. on 4 August 1995, for the attack to commence at 5 a.m. on the same day.³¹²⁴

767. In addition to the evidence above, the Trial Chamber has considered P2559 (pp. 3-5) and P1128 reviewed in chapter 4.2.8 (Biovičino Selo, Macure, and Kolašac).

768. Based on the evidence of Radoslav Ognjenović, a Serb from the village of Kakanj, the Trial Chamber finds that in the evening of 4 August 1995 ten persons referred to as Croatian soldiers came to Radoslav Ognjenović's front yard. One of these persons asked Ognjenović if he had any military equipment. The group then searched his house and upon departure, reassured him that he would not be harmed. Based on the description of these persons as soldiers, the Trial Chamber finds that they wore military-type uniforms. The Trial Chamber further finds that, later that evening, a person entered Radoslav Ognjenović's home, told him to lay still, and removed his television.

³¹²⁰ Laila Malm, T. 8204-8205; P784 (List of villages and hamlets visited in Knin municipality by Laila Malm, 28 August 1995).

³¹²¹ Laila Malm, T. 8204-8205; P784 (List of villages and hamlets visited in Knin municipality by Laila Malm, 28 August 1995).

³¹²² P774 (Laila Malm, witness statement, 30 July 2008, corrected 4 September 2008), para. 8.

³¹²³ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995).

³¹²⁴ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 11.

Ognjenović recognized this person to be the same person who had earlier enquired about whether he possessed military equipment. During that same evening, Ognjenović saw approximately 50 persons, whom he referred to as soldiers, armed with a howitzer in Kakanj. Based on the description of these persons as soldiers, the Trial Chamber finds that they wore military-type uniforms. The Trial Chamber further notes that HV troops had been ordered to commence military operations in the vicinity of Kakanj on 4 August 1995, and that by that evening, Serbian soldiers had left the village. Based on this evidence, and given the high number of uniformed men and the presence of a howitzer, the Trial Chamber finds that the 50 uniformed persons were members of the HV. Further, given the presence of the 50 HV soldiers in Kakanj on the evening of 4 August 1995, and the behaviour of the ten uniformed persons who searched Radoslav Ognjenović's house, the Trial Chamber finds that these ten persons were members of the HV. Accordingly, based on Radoslav Ognjenović's recognition, the Trial Chamber finds that the person who removed Ognjenović's television was also a member of the HV. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

769. The Trial Chamber finds that in the evening of 4 August 1995, a person referred to as a Croatian soldier asked Radoslav Ognjenović whether he owned the haystacks behind his house and that of Nikola Ognjenović, and that later that evening, Ognjenović saw the haystacks on fire. Although the Trial Chamber has not received direct evidence on who burnt the haystacks, it has considered that, according to Radoslav Ognjenović, at the time the only people present in Kakanj, aside from him, were ten elderly villagers and about 50 uniformed persons, whom the Trial Chamber has found were members of the HV. On this basis, and considering the interest shown in the haystack by one of the HV soldiers present in Kakanj on 4 August 1995, the Trial Chamber finds that one of these HV soldiers set the haystacks on fire. Based on the ethnical composition of Kakanj in 1991, the Trial Chamber finds that the burnt haystacks belonged to Krajina Serbs. Therefore, the Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

770. Based on the evidence of Mirko and Radoslav Ognjenović, the Trial Chamber finds that during the evening of 5 August 1995, five to six persons described as uniformed soldiers set fire to Marko Ognjenović's house and subsequently to at least two houses and a haystack. Based on the ethnic composition of Kakanj in 1991, the

Trial Chamber finds that the destroyed property was owned or inhabited by Krajina Serbs. The Trial Chamber has considered the evidence that Kakanj was on the attack axis of the 15th Home Guards Regiment and the 113th Infantry Brigade on 4 August 1995, as well as Mirko Ognjenović's evidence that in the evening of 5 August 1995 persons described as soldiers arrived in Kakanj with a tank and were singing HV songs. Based on the description of these persons as soldiers, the Trial Chamber finds that they wore military-type uniforms. Given the presence of a tank and the fact that they were singing songs described as "HV songs", the Trial Chamber finds that they were members of the HV. On this basis, the Trial Chamber also finds that the five to six uniformed persons who torched properties in Kakanj were members of the HV. The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

771. During the night between 5 and 6 August 1995, Mirko Ognjenović kept hearing the Croatian soldiers in Kakanj singing HV songs, shouting and laughing. Early in the morning on 6 August 1995, Mirko Ognjenović walked through Kakanj and saw many houses with windows and doors broken, two shops from which food and drink had been removed, three dogs and a sheep that had been shot dead and the stable belonging to Dragan Šarić which had been burnt. The disappearance of items from houses between 5 and 6 August 1995 is also confirmed by Radoslav Ognjenović. The Trial Chamber has considered the behaviour of the Croatian soldiers in Kakanj in the evening and night between 5 and 6 August 1995, and that Mirko Ognjenović noticed the removed and destroyed property early in the morning on 6 August 1995, shortly after the soldiers had left the village. On this basis, the Trial Chamber finds that these Croatian soldiers removed and destroyed property in Kakanj between 5 and 6 August 1995. Based on the ethnic composition of Kakanj in 1991, the Trial Chamber finds that the removed and destroyed property was owned by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1, 4 and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

772. The evidence of Radoslav Ognjenović indicates that on 16 August 1995, people wearing military camouflage uniforms entered Kakanj and Radoslav Ognjenović's stable, a tractor and six other houses caught fire. The Trial Chamber further notes the evidence from UNMO that on 16 August 1995 a villager's house was burned by two persons referred to as HV soldiers and that other persons referred to as HV soldiers stole

everything from another villager's house, including a tractor. However, Radoslav Ognjenović did not specify to which armed forces, if any, these alleged perpetrators belonged, and the UNMO report does not provide any factual basis for the characterization of the alleged perpetrators as "HV soldiers". Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Kakanj at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider these incident in relation to Counts 1, 4 and 5 of the Indictment.

773. Radoslav Ognjenović further stated that between 10 a.m. and 3 p.m. from 10 to 18 August 1995, he saw people in civilian cars with registration plates from Split, Zadar, Šibenik, and Rijeka, driving into Kakanj and taking chairs, beds, televisions, wire fences, and floor coverings from houses. On the basis of this evidence, the Trial Chamber is unable to draw any conclusions regarding the identity or possible affiliation of the perpetrators with any armed forces. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 4 of the Indictment.

774. Based on the evidence of Mirko Ognjenović, the Trial Chamber finds that on 9 August 1995, two armed persons in HV uniforms arrived at Mirko Ognjenović's house in a grey vehicle. One of these persons shot his dog while the other pointed his rifle at his chest and told him that Serbian children had waged war on Croatia and robbed and murdered, and that Croatian fathers taught their children to be a good example to others. Following this, one of the uniformed armed persons set fire to Mirko Ognjenović's garage and subsequently his haystacks, house and stable. Given Mirko Ognjenović's account of the uniformed men's statements about the actions of Serbs, the Trial Chamber is satisfied that they were of Croatian ethnicity. However, Mirko Ognjenović did not provide any factual basis for his characterization of the uniforms worn by these men as HV uniforms. The Trial Chamber considered the presence in Kakanj of persons in camouflage uniform with the HV coat of arms on the sleeves of their jackets on the previous day, and recalling its finding below with regard to 14 August 1995. Based on the foregoing, the Trial Chamber finds that the persons in uniform were HV soldiers. The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

775. The Trial Chamber finds that on unspecified dates in August 1995, persons dressed in HV uniform with the Croatian coat of arms on the sleeves, and civilians, both male and female, came to Kakanj most days in civilian cars. They first looted electrical goods and later looted everything of value, which the Trial Chamber understands to mean they took these items away. In addition, these persons sometimes loaded the villagers' sheep and cattle onto large cattle trucks and took them away. Based on the Croatian coat of arms on the uniforms, the Trial Chamber finds that some of the men who took electrical goods and other valuables away were members of the HV. Based on the ethnic composition of Kakanj, the Trial Chamber finds that the vast majority of the removed property belonged to Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

776. Based on Mirko Ognjenović's evidence, the Trial Chamber finds that on 14 August 1995, a soldier who was wearing a camouflage uniform with the HV coat of arms on the sleeve killed two of Uroš Ognjenović's lambs which were subsequently skinned by Mirko Ognjenović. After the lambs were skinned, the same soldier ordered Mirko Ognjenović to kill and skin another lamb. The soldier then ordered Mirko Ognjenović to load the three skinned lambs into the boot of a civilian car. Given Mirko Ognjenović's description of the camouflage uniform worn by the soldier, with the HV coat of arms on the sleeve, the Trial Chamber finds that this person was a member of the HV. Considering that Kakanj in 1991 was almost exclusively inhabited by Serbs and the Trial Chamber's finding that other persons in the village named Ognjenović were Serbs, the Trial Chamber finds that also Uroš Ognjenović was of Serbian ethnicity. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

777. The evidence further indicates that on 17 and 18 August 1995 and "everyday" after 24 August 1995, persons referred to as soldiers continued to burn and remove unspecified items from houses in Kakanj and a total of 19 stables and 23 houses were burnt. According to UNMO reports, two HV soldiers were in the village on 18 August 1995, and four persons described as Croatian soldiers were loading livestock into a truck in Kakanj on 26 August 1995. Based on the description of the alleged perpetrators in the above mentioned incidents as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. However, the Trial Chamber has received no evidence

about to which armed forces, if any, the alleged perpetrators belonged; nor, with regard to 18 and 26 August 1995, does the UNMO report provide any factual basis for the qualification of the alleged perpetrators as HV soldiers. Further, the Trial Chamber has not received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Kakanj at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. The Trial Chamber further considers that some of the mentioned evidence is in contradiction with the evidence of Laila Malm who testified that most of the houses in Kakanj were intact on 28 August 1995. Under these circumstances, the Trial Chamber will not further consider the above incidents incident in relation to Counts 1, 4 and 5 of the Indictment.

Kistanje town

778. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Kistanje town through the testimonies of, among many others, Murray Dawes, John Hill, Philip Berikoff, Veselko Bilić, and Rajko Guša. According to the 1991 Population Census, Kistanje consisted of 1,980 Serbs out of a total of 2,021 persons in 1991.³¹²⁵

779. **Marko Rajčić**, the chief of artillery of the Split MD from April 1993 to June 1996,³¹²⁶ testified that on 6 August 1995, in Kistanje, he saw a soldier attempt to take an item from a house. Rajčić ordered the soldier to leave the item, took him out of the combat establishment and sent him back to his command post.³¹²⁷ Other than this incident, Rajčić did not see any torching or looting on 5 and 6 August 1995 in the newly liberated areas.³¹²⁸

780. On 6 August 1995, several members of the VP were sent to Kistanje namely Alen Samohod, Robert Nimac, Jere Silov, Petar Burilović, Ivica Burilović, Zdenko Lucić, Željko Gal, Krunoslav Sabljčić, Mladen Boričić.³¹²⁹

³¹²⁵ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

³¹²⁶ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 1; Marko Rajčić, T. 16236, 16275; P2323 (Military Police official note of Rajčić interview, 11 July 2008), p. 1.

³¹²⁷ Marko Rajčić, T. 16507.

³¹²⁸ Marko Rajčić, T. 16495, 16501, 16503.

³¹²⁹ P973 (Logbook 4th company, 72nd VP battalion, 4-11 August 1995), pp. 6-7.

781. The Trial Chamber has further considered relevant evidence from P1128, reviewed in chapter 4.2.8 (Biovičino Selo, Macure, and Kolašac).

782. **Murray Dawes**, a former civilian UN accommodation officer stationed in Knin municipality from May 1994 to October 1995,³¹³⁰ testified that he and Dreyer went to Kistanje municipality on 6 August 1995 and arrived around 10 a.m.³¹³¹ While they were stopped at a check-point on the Knin-side of Kistanje, a soldier at the check-point told them that he was from Zadar. The witness did not see a single civilian in Kistanje while he and Dreyer were there. All of the cars he saw were either abandoned Serb cars or HV army vehicles.³¹³² However, in town, there were about 200 to 300 persons wearing normal HV combat uniforms.³¹³³ Although Dawes only remained in the town of Kistanje for approximately 15 minutes, he saw HV soldiers blow up at least two houses.³¹³⁴ He noticed that several houses were marked “Hrvatska kuca”.³¹³⁵ These marked houses did not appear to be targeted or destroyed.³¹³⁶ The HV soldiers were taking personal items—TV sets, stereos, small tractors—out of the houses along the main road, and either loading these items into HV army trucks or personal vehicles parked on the main road or in the driveways, or storing them on the side of the road, though they did not place the items in separate piles.³¹³⁷ The HV soldiers were also loading farm animals onto the army trucks. Dawes and Dreyer drove straight through the town of Kistanje, then turned around and took the main road back to Knin.³¹³⁸

783. On 11 August 1995, Captain Matko Kurtović reported to the Commander of the OG Šibenik that on 6 August 1995, the 15th Home Guard Regiment “liberated” the Kistanje area.³¹³⁹ He further reported that once the operation was over in the liberated areas, discipline decreased amongst quite a number of HV members, who consumed alcohol and looted houses.³¹⁴⁰ Kurtović also reported that once the settlements were occupied, the Commanders lost control over the HV members, who torched a number of houses and committed robbery, particularly in places inhabited by Serbs and in the area

³¹³⁰ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 1-2.

³¹³¹ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 8-9; Murray Dawes, T. 10401, 10414.

³¹³² P980 (Murray Dawes, witness statement, 22 August 1996), p. 9.

³¹³³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9; Murray Dawes, T. 10401.

³¹³⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9.

³¹³⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9; Murray Dawes, T. 10402, 10541.

³¹³⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9; Murray Dawes, T. 10402.

³¹³⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9; Murray Dawes, T. 10401, 10405.

³¹³⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9.

³¹³⁹ P2349 (Report on security in OG Šibenik, 11 August 1995), pp. 1-2, 6.

³¹⁴⁰ P2349 (Report on security in OG Šibenik, 11 August 1995), pp. 4-5.

of Devrska, Kistanje and Drniš, and that there were a few cases of illegal activities with the war booty, the perpetrators of which the Service recorded and intended to deal with after high priority activities were finished.³¹⁴¹

784. In his analysis of Operation Kozjak-95 of 15 August 1995, Gotovina wrote to Červenko that on the second day of the operation the Kistanje area was liberated by the 15th Home Guard Regiment.³¹⁴² On 16 September 1995, in his Analysis of Conducted Operation Storm, Gotovina wrote to Červenko that Kistanje was liberated on 6 August 1995.³¹⁴³

785. **Vladimir Gojanović**, a former HV soldier,³¹⁴⁴ stated that on 6 August 1995, with a group of six or seven volunteers, he went through Kistanje where he was told by the Croatian military that the Fourth Guards Brigade had already passed through.³¹⁴⁵ According to the witness, there were no military police in the town, and the military unit present there might have been the 142nd Zadar Brigade.³¹⁴⁶ He stated that some soldiers were checking the houses whereas others were looting them by, for example, taking television sets from them.³¹⁴⁷ He saw burning and burned down houses which he thought were not burning because of artillery fire but that they had been torched.³¹⁴⁸ He estimated that around 35-40% of the houses in Kistanje were burning.³¹⁴⁹ On or about 16 August 1995, Gojanović stated that he travelled through Kistanje and saw more damage and destruction there.³¹⁵⁰

³¹⁴¹ P2349 (Report on security in OG Šibenik, 11 August 1995), pp. 5-6.

³¹⁴² P2559 (General Gotovina's analysis of Operation Kozjak, 15 August 1995), pp. 3-4.

³¹⁴³ P2585 (Analysis of conducted Operation Storm, Ante Gotovina, 16 September 1995), pp. 1-2, 10.

³¹⁴⁴ P194 (Vladimir Gojanović, witness statement, 20 January 2005), paras 2-3; Vladimir Gojanović, T. 2973, 2983, 2987, 3010-3011, 3015, 3018-3019, 3039, 3119, 3121-3122, 3131-3133, 3138; C2 (Gojanović's military record), pp. 1, 3-4, 19; P198 (Further record of Gojanović's military service), pp. 1-2; P200 (Letter of Daniel Kotlar terminating the mobilization of Vladimir Gojanović, 30 August 1995), p. 1.

³¹⁴⁵ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 13; Vladimir Gojanović, T. 2928-2929, 2933, 2960-2961, 3085-3086; P197 (Map of Gojanović's movement during Operation Storm, marked by Gojanović).

³¹⁴⁶ P194 (Vladimir Gojanović, witness statement, 20 January 2005), paras 12-13; P196 (Vladimir Gojanović, supplemental information sheet, 14 May 2008), para. 1(v); Vladimir Gojanović, T. 2958, 2966.

³¹⁴⁷ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 13; Vladimir Gojanović, T. 2954.

³¹⁴⁸ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 13; Vladimir Gojanović, T. 2954-2955.

³¹⁴⁹ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 13; Vladimir Gojanović, T. 2959.

³¹⁵⁰ P194 (Vladimir Gojanović, witness statement, 20 January 2005), para. 21.

786. The Trial Chamber has further considered evidence from D1542 reviewed in chapter 4.2.7 (Zrmanja and Zrmanja Vrelo).

787. **Veselko Bilić**, a Croatian volunteer with the 15th Home Guard Regiment until 18 August 1995,³¹⁵¹ testified that he rejoined the 15th Regiment as a volunteer once his cousin, a communications sergeant, informed him of expected SVK counter-shelling and that the unit was gathering.³¹⁵² At noon on 5 August 1995, the witness's squad, with artillery support, advanced through a village named Lazanice or Travice, and Pamučari, Gvardijani, and Bratiškovci, all in Skradin municipality.³¹⁵³ After resting in Bratiškovci, they moved towards Kistanje, where they arrived on 6 or 7 August 1995.³¹⁵⁴ The witness testified that there was no visible sign of damage to the houses in Kistanje.³¹⁵⁵ While in Kistanje, Bilić took a handgun and a briefcase containing military documents from the house of a Serb whom he believed to be a military officer; he handed the documents over to the HV command in Kistanje while keeping the other items.³¹⁵⁶ The squad then moved towards Ivoševci, 8.5 kilometres from Kistanje, on 7 or 8 August 1995, facing no resistance but hearing occasional shots fired.³¹⁵⁷ In Ivoševci, they captured one injured SVK soldier and turned him over to the Medical Corps, and also turned about 10 armed people dressed in civilian clothes over to the military police.³¹⁵⁸ The squad then met members of the 4th Guards Brigade north of Knin. The witness spent that night in Vodice, and the following day drove back through Knin, where the only damage he saw was a house at the base of the fort that was damaged by shelling. Bilić returned to Ivoševci, where the 15th Homeguard Regiment was then located.³¹⁵⁹ On 18 August 1995, the witness turned in his automatic rifle at the warehouse in

³¹⁵¹ D1547 (Veselko Bilić, witness statement, 18 June 2009), p. 1, paras 1, 4; Veselko Bilić, T. 19556, 19560, 19615, 19615; P2562 (Record of interrogation of Veselko Bilić, 8 October 1995), p. 3; D1548 (Veselko Bilić, official note of interview with Veselko Bilić, 11 September 1995), p. 1.

³¹⁵² D1547 (Veselko Bilić, witness statement, 18 June 2009), paras 1, 3; Veselko Bilić, T. 19559, 19600-19601; D1548 (Veselko Bilić, official note of interview with Veselko Bilić, 11 September 1995), p. 1.

³¹⁵³ D1547 (Veselko Bilić, witness statement, 18 June 2009), para. 4; Veselko Bilić, T. 19561.

³¹⁵⁴ D1547 (Veselko Bilić, witness statement, 18 June 2009), para. 4; Veselko Bilić, T. 19561, 19609; P2562 (Record of interrogation of Veselko Bilić, 8 October 1995), p. 3.

³¹⁵⁵ D1547 (Veselko Bilić, witness statement, 18 June 2009), para. 4; Veselko Bilić, T. 19609, 19634.

³¹⁵⁶ Veselko Bilić, T. 19565-19566; D1548 (Veselko Bilić, official note of interview with Veselko Bilić, 11 September 1995), p. 1; P2562 (Record of interrogation of Veselko Bilić, 8 October 1995), p. 3.

³¹⁵⁷ D1547 (Veselko Bilić, witness statement, 18 June 2009), para. 4.

³¹⁵⁸ D1547 (Veselko Bilić, witness statement, 18 June 2009), para. 4; Veselko Bilić, T. 19635.

³¹⁵⁹ D1547 (Veselko Bilić, witness statement, 18 June 2009), para. 4.

Skradin, at which point he considered himself demobilized, but he kept the handgun he had picked up in Kistanje, as well as the grenades he had been issued.³¹⁶⁰

788. **Pero Perković**, a Croat from the village of Vodice and a member of the HV 15th Home Guards Regiment prior to, during, and after Operation Storm,³¹⁶¹ stated that on 4 August 1995, he participated in an operation to liberate the villages of Ljubičići and Tepići.³¹⁶² His unit fought the whole day and night until the next morning, on 5 August 1995, at 10 a.m., when they were replaced by troops who had penetrated the front lines and went home for a few hours to come back to spend the night in the field.³¹⁶³ He noticed that, when they arrived in Kistanje on 6 August 1995, the people had just left the village because “the food on their tables was still warm”.³¹⁶⁴ They searched houses in Kistanje, looking for remaining enemy soldiers or weapons, and found several weapons amongst which a “Ciganka AP”, a Winchester rifle, and a Scorpion automatic weapon.³¹⁶⁵ Perković stated that he did not witness any looting and only one or two houses burning.³¹⁶⁶ On 7 August 1995 around 10 or 11 a.m., after having spent the night in one of the houses in Kistanje, Perković got a ride back to his home in Vodice from a truck which was loaded with mostly electronic goods (cement mixer, TV set and similar items).³¹⁶⁷ Perković testified that he did not see any HV soldiers or anyone else loading up goods on that truck which had come by.³¹⁶⁸ He stated that he heard someone shouting, and was told that it was an HV general shouting at the people from the truck for taking away items, asking them what soldiers they were to loot.³¹⁶⁹ The truck was however not prevented from continuing on its route and passed through two or three check-points, manned by military and civilian police without being stopped.³¹⁷⁰ When Perković came back to Kistanje after 7 August 1995, he saw more houses on fire than he had seen when his unit first arrived in Kistanje.³¹⁷¹

³¹⁶⁰ D1547 (Veselko Bilić, witness statement, 18 June 2009), paras 1, 4; Veselko Bilić, T. 19560, 19566, 19615; P2562 (Record of interrogation of Veselko Bilić, 8 October 1995), p. 3.

³¹⁶¹ Pero Perković, T. 19448, 19451, 19470, 19511, 19527, 19546-19547.

³¹⁶² Pero Perković, T. 19529, 19531-19533.

³¹⁶³ Pero Perković, T. 19529, 19531-19533.

³¹⁶⁴ Pero Perković, T. 19529, 19531-19533; P2559 (General Gotovina’s analysis of Operation Kozjak, 15 August 1995), pp. 2-4.

³¹⁶⁵ Pero Perković, T. 19457-19459, 19538.

³¹⁶⁶ Pero Perković, T. 19459, 19534, 19538-19539.

³¹⁶⁷ Pero Perković, T. 19534-19535, 19538-19540, 19545-19546.

³¹⁶⁸ Pero Perković, T. 19534-19535.

³¹⁶⁹ Pero Perković, T. 19534-19535, 19546.

³¹⁷⁰ Pero Perković, T. 19535, 19545.

³¹⁷¹ Pero Perković, T. 19540.

789. **Ivica Luković**, the Chief of the Croatian Department for Cooperation with the UN and EC for Sector South from 1992 and during 1995,³¹⁷² testified that on 7 August 1995 he saw houses that had been broken into in Kistanje, but noted that there were no military units based there.³¹⁷³

790. **Rajko Guša**, a Serb from the village of Zemunik Gornji in Zadar municipality,³¹⁷⁴ testified that from approximately 5 August until 9 October 1995, he hid in the forest on Zmištak mountain, near Ervenik.³¹⁷⁵ He testified that within a few days of arriving he noticed smoke coming from the direction of Kistanje, about 15 kilometres away. At night he could see the glow of fires in the sky.³¹⁷⁶ After climbing higher up the mountain, he saw that the entire village of Kistanje was burning and while Kistanje was burning, the two smaller villages of Biovičino Selo and Kolašac in Kistanje municipality, were also burnt.³¹⁷⁷ Despite being some distance from the village, Guša was able to state that there had been a heavy military presence in the village for the entire 20 days that it burned because he saw heavy military traffic on the road that led to Kistanje.³¹⁷⁸

791. **Ivan Jurić**, a Major in the VP Administration in August 1995 who was sent by General Laušić to coordinate the work of the 72nd and 73rd VP Battalions and the military and civilian police in the former Sector South between 3 and 13 August 1995,³¹⁷⁹ testified that he went to Kistanje on either 8, 9, or 10 August 1995 to inspect a small group of VP sent there to provide security for an Orthodox monastery and a factory of military equipment.³¹⁸⁰ The VP group was also accountable for securing public peace and order in the area of responsibility assigned to them.³¹⁸¹ Jurić testified that, while in Kistanje, he did not see a single house burning.³¹⁸² He saw, however, four or five buildings which had been destroyed.³¹⁸³

³¹⁷² D1687 (Ivica Luković, witness statement, 1 October 2004), p. 1, paras 8, 13, 17; D1688 (Ivica Luković, witness statement, 13 August 2009), p. 1, paras 4, 6; Ivica Luković, T. 22385.

³¹⁷³ D1687 (Ivica Luković, witness statement, 1 October 2004), para. 42.

³¹⁷⁴ P959 (Rajko Guša, witness statement, 28 May 1997), para. 1.

³¹⁷⁵ P959 (Rajko Guša, witness statement, 28 May 1997), paras 9, 21, 42; P960 (Rajko Guša, witness statement, 19 February 2008), para. 6.

³¹⁷⁶ P959 (Rajko Guša, witness statement, 28 May 1997), para. 22.

³¹⁷⁷ P959 (Rajko Guša, witness statement, 28 May 1997), paras 22-23; Rajko Guša, T. 9885; P961 (Orientation map for Rajko Guša's witness statement).

³¹⁷⁸ P959 (Rajko Guša, witness statement, 28 May 1997), paras 24-25, 33.

³¹⁷⁹ Ivan Jurić, T. 27407, 27412-27417, 27426-27428, 27481, 27534.

³¹⁸⁰ Ivan Jurić, T. 27440, 27442-27443, 27445-27446.

³¹⁸¹ Ivan Jurić, T. 27442.

³¹⁸² Ivan Jurić, T. 27440, 27443-27445, 27520.

³¹⁸³ Ivan Jurić, T. 27440-27441, 27520.

792. On 8 August 1995, Colonel Ante Gugić, Chief of the SIS, informed the Croatian Minister of Defence Gojko Šušak and Miroslav Tuđman of SIS that in Bribirske Mostine, in Stankovci municipality, and Kistanje and Đevrske, in Kistanje municipality, there were incidents of mass burning of houses, plundering, alcohol consumption and that there was a lack of organization within units, which according to him was the result of weak command.³¹⁸⁴

793. **John Hill**, Commanding Officer of the International Military Police in Sector South from early June 1995 to 8 December 1995,³¹⁸⁵ stated that he travelled from Knin to Kistanje on 9 August 1995.³¹⁸⁶ On the road to Kistanje he saw burning and destroyed houses, vehicles run over by tanks and burned, and fields of killed cows and horses.³¹⁸⁷ Hill stated that Kistanje was “totally destroyed” as he saw that every house in the town had been destroyed or burnt, no buildings had windows or roofs, and a war memorial had been destroyed as well.³¹⁸⁸ Hill also saw houses still burning.³¹⁸⁹ He saw HV combat troops in the town who were resting by the factory area in the east of Kistanje, having a full view of the town, and later in the day about twelve VP in a factory in the same area of Kistanje.³¹⁹⁰ He said the HV were the only inhabitants of that town at that time.³¹⁹¹

794. The Trial Chamber has further considered the testimony of Berikoff, reviewed under 4.2.1.

795. **Roland Dangerfield**, a British army sector liaison officer stationed in Knin in August 1995,³¹⁹² testified that in the two weeks following 9 August 1995, he daily observed HV soldiers standing around in towns and villages in Sector South where houses and crops were burning and saw Croatian Special Police officers in a number of

³¹⁸⁴ P203 (Information by Ante Gugić, 8 August 1995), pp. 1-2.

³¹⁸⁵ P291 (John Hill, witness statement, 23 August 1996), p. 2; P292 (John Hill, witness statement, 21 January 1998), pp. 3, 93; P293 (John Hill, witness statement, 2 November 1999), p. 3.

³¹⁸⁶ P292 (John Hill, witness statement, 21 January 1998), p. 52; John Hill, T. 3782-3783; P301 (UNCRO Military Police report 4-7 August 1995), p. 5; P307 (Map of routes taken by John Hill on his travels after Operation Storm); D274 (John Hill's diary, entries from 5-13 August 1995), p. 4.

³¹⁸⁷ P292 (John Hill, witness statement, 21 January 1998), p. 54.

³¹⁸⁸ P292 (John Hill, witness statement, 21 January 1998), pp. 3, 52-54, 102; John Hill, T. 3767-3768, 3780-3781, 3895-3897; P306 (Report by John Hill on HV activities from 4-11 August 1995), p. 1; D274 (John Hill's diary, entries from 5-13 August 1995), p. 4.

³¹⁸⁹ P292 (John Hill, witness statement, 21 January 1998), pp. 53-54; John Hill, T. 3768-3769.

³¹⁹⁰ P292 (John Hill, witness statement, 21 January 1998), p. 53; John Hill, T. 3767-3769; D274 (John Hill's diary, entries from 5-13 August 1995), p. 4.

³¹⁹¹ John Hill, T. 3769.

³¹⁹² P695 (Roland Dangerfield, witness statement, 21 December 1995), paras 1-2; Roland Dangerfield, T. 7132.

places preventing access to the areas that were burning.³¹⁹³ One such village was Kistanje, which Dangerfield patrolled on 9 August 1995.³¹⁹⁴ Although there were no signs of damage to buildings from tank or artillery fire in Kistanje, the vast majority of the village was on fire.³¹⁹⁵ He observed the presence of approximately 150 to 200 individuals in Croatian military uniforms in the village with small arms and M60 hand held rocket launchers who were looting and discharging celebratory fire into the air.³¹⁹⁶ He did not see any civilians or officers in Kistanje, and testified that there seemed to be a complete lack of control over what was going on.³¹⁹⁷

796. **Stig Marker Hansen**, an ECMM monitor in Knin from June to September 1995 and head of ECMM Knin from approximately 5 September to 23 September 1995,³¹⁹⁸ testified that on 10 August 1995 while driving towards Benkovac, he passed Kistanje village and saw that the whole town, apart from the school and the town's three factories which were guarded, had burnt down.³¹⁹⁹ At 11 a.m. the witness saw a military truck parked in front of a grocery store and a uniformed man without unit insignia inside the store carrying a jerrycan who then disappeared in a military truck.³²⁰⁰ Fifteen minutes later the grocery store was in flames.³²⁰¹

797. **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,³²⁰² testified that on 10 August 1995, while driving through Kistanje, he saw men in Croatian uniforms standing outside burning houses.³²⁰³ Marti

³¹⁹³ P696 (Roland Dangerfield, supplemental witness statement, 9 January 2008), para. 8; Roland Dangerfield, T. 7161, 7276-7278.

³¹⁹⁴ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 10; Roland Dangerfield, T. 7159-7160.

³¹⁹⁵ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 10; Roland Dangerfield, T. 7160.

³¹⁹⁶ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 10; Roland Dangerfield, T. 7160.

³¹⁹⁷ Roland Dangerfield, T. 7160.

³¹⁹⁸ P1283 (Stig Marker Hansen, witness statement, 18 December 1995) p. 2; P1284 (Stig Marker Hansen, witness statement, 22 August 1997), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 3.

³¹⁹⁹ P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 23; P1290 (Survey report by Marker Hansen, 20 September 1995), p. 6; P1292 (Stig Marker Hansen, personal diary), p. 9.

³²⁰⁰ P1290 (Survey report by Marker Hansen, 20 September 1995), p. 6; Stig Marker Hansen, T. 14936.

³²⁰¹ Stig Marker Hansen, T. 14936.

³²⁰² P415 (Peter Marti, witness statement, 13 February 1996), pp. 1-2; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17.

³²⁰³ P415 (Peter Marti, witness statement, 13 February 1996), p. 3; P416 (Peter Marti, witness statement, 29 June 1997), pp. 9-10; Peter Marti, T. 4586; P114, p. 3; D391 (Summary of humanitarian violations from HQ Sector South daily situation reports, 7 August-8 September 1995), p. 3.

testified that he had no doubt that these soldiers had set the village on fire.³²⁰⁴ He described Kistanje as one of the worst affected villages, and testified that it was totally destroyed.³²⁰⁵ Marti also saw a destroyed church in Kistanje.³²⁰⁶

798. According to an UNCRO report of 9 August 1995, the majority of the houses in Kistanje were destroyed and uninhabitable.³²⁰⁷ **Alain Forand**, UNCRO Sector South Commander from 8 July 1995 to 10 October 1995,³²⁰⁸ testified that at some point after Operation Storm, possibly on 11 August 1995, he was on patrol in Kistanje town where he saw people looting in broad daylight.³²⁰⁹ Military police and soldiers were at the scene but did not react.³²¹⁰

799. **Boris Milas**, (acting) Head of the Crime Prevention Service of the 72nd Battalion for the VP from about mid-September 1992 to the end of 1996,³²¹¹ travelled through Kistanje sometime between 10 and 12 of August 1995 with members of the VP Police Administration Glavan, Cicvarić, and Maduna.³²¹² The witness testified that he stopped in the centre of Kistanje next to a destroyed statue, for about seven or eight minutes.³²¹³ At this location he saw between four and six houses that he concluded had been torched and were not burned from combat damage or by shelling.³²¹⁴ The witness did not tour Kistanje further, but went to Obrovac.³²¹⁵ Taking a road other than the central road, the witness saw one or two torched houses in another part of Kistanje.³²¹⁶ Two or three days later in Otrić, the witness saw two or three houses that had been torched.³²¹⁷ Milas later went back through Kistanje around 15 or 20 August 1995 on the way to Šibenik, but did not see any additional burnt houses.³²¹⁸ According to a UN daily report dated 16 August 1995, an arson campaign had been underway in Sector South

³²⁰⁴ P415 (Peter Marti, witness statement, 13 February 1996), p. 3; P416 (Peter Marti, witness statement, 29 June 1997), pp. 9-10; Peter Marti, T. 4586.

³²⁰⁵ P416 (Peter Marti, witness statement, 29 June 1997), p. 7.

³²⁰⁶ P416 (Peter Marti, witness statement, 29 June 1997), p. 11.

³²⁰⁷ P361 (UNCRO Sector South daily situation report, 8:30 p.m., 9 August 1995), p. 4.

³²⁰⁸ P330 (Alain Forand, witness statement, 20 August 1996), pp. 2, 15; P333 (Alain Forand, witness statement, 25 January 2008), para. 2; Alain Forand, T. 4098-4099, 4180, 4186.

³²⁰⁹ P331 (Alain Forand, witness statement, 29 September 1997), p. 14; Alain Forand, T. 4100-4101.

³²¹⁰ P331 (Alain Forand, witness statement, 29 September 1997), p. 14.

³²¹¹ D1532 (Boris Milas, witness statement, 19 May 2009), p. 1, paras 1-4, 6, 8, 11, 31; D1533 (Boris Milas, witness statement, 22 June 2009), p. 1; Boris Milas, T. 19158, 19168-19169, 19227-19230, 19322; P2548 (Official note of MUP crime police interview with Boris Milas), p. 1.

³²¹² D1533 (Boris Milas, witness statement, 22 June 2009), para. 4; Boris Milas, T. 19192-19193, 19348.

³²¹³ Boris Milas, T. 19193, 19348, 19350-19353.

³²¹⁴ D1533 (Boris Milas, witness statement, 22 June 2009), para. 4; Boris Milas, T. 19193-19194.

³²¹⁵ Boris Milas, T. 19348, 19353.

³²¹⁶ Boris Milas, T. 19193-19194.

³²¹⁷ Boris Milas, T. 19192, 19194.

³²¹⁸ Boris Milas, T. 19217-19218.

since 8 August 1995, burning an estimated 200 houses, including the entire towns of Kistanje, Đevrske, and Otrić.³²¹⁹ The witness testified that the estimate of 200 burnt houses in Sector South as of 16 August 1995 was correct, although he did not see by 16 August 1995 quite that many burned houses during his trips in certain limited parts of the former Sector South.³²²⁰

800. **Ivan Galović**, District Public Prosecutor in Zadar since 1990,³²²¹ testified that the Official Note related to the burning of Kistanje was the only evidence to support a charge against Nedeljko Mijić. He added that this note is inadmissible in Croatian criminal procedure.³²²² While he was not charged with arson, Mijić was charged with nine murders.³²²³ After Operation Storm, Galović drove through Kistanje on several occasions between 10 and 15 August 1995 in conjunction with his prosecutorial duties.³²²⁴ He described the landscape of Kistanje as characteristic of what one would expect in the wake of such an operation.³²²⁵ Galović testified that not a single report was received in his office in relation to arson in Kistanje.³²²⁶ While he remembered having seen at least one burnt house in Kistanje, his general impression was that nothing out of the ordinary had happened; otherwise, he would have instructed the police to investigate.³²²⁷ Even when confronted with several exhibits which indicated extensive burning, plunder, and destruction in Kistanje, Galović reconfirmed his impression that nothing unusual had occurred.³²²⁸

801. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,³²²⁹ visited Kistanje in the weeks following Operation Storm and found that the majority of houses had been either been

³²¹⁹ D1534 (UNPF-HQ coded cable daily report from Akashi to Annan, 16 August 1995), pp. 1-2, 5.

³²²⁰ D1533 (Boris Milas, witness statement, 22 June 2009), para. 3; Boris Milas, T. 19191-19192, 19217-19219; D1534 (UNPF-HQ coded cable daily report from Akashi to Annan, 16 August 1995), pp. 1-2.

³²²¹ D1553 (Ivan Galović, witness statement, 18 May 2009), pp. 1-2, 5; Ivan Galović, T. 19666-19669.

³²²² D1553 (Ivan Galović, witness statement, 18 May 2009), p. 8.

³²²³ D1553 (Ivan Galović, witness statement, 18 May 2009), pp. 8-9.

³²²⁴ Ivan Galović, T. 19688.

³²²⁵ Ivan Galović, T. 19688-19689.

³²²⁶ Ivan Galović, T. 19689.

³²²⁷ Ivan Galović, T. 19689-19691, 19846.

³²²⁸ Ivan Galović, T. 19843-19846; P203 (Security Information Service Informational Memo, 8 August 1995), p. 1; P830 (Team Knin report to ECMM HQ, 10 August 1995), p. 2; P2349 (Summary Report on the Security in the OG Šibenik, 11 August 1995), p. 5.

³²²⁹ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

burnt or heavily damaged and looted.³²³⁰ On a visit to Kistanje on 13 August 1995, Roberts found only one elderly male Serbian inhabitant left and found the village completely burnt down.³²³¹ Roberts reported that Kistanje had a population of 8,000 inhabitants before the Croatian offensive.³²³² In late August 1995, he came across a destroyed war memorial in Kistanje.³²³³ From his many visits, Roberts testified that there was no SVK military equipment or personnel stationed in Kistanje.³²³⁴

802. **Witness 86**³²³⁵ testified that there were about 2,000 houses in Kistanje before Operation Storm.³²³⁶ When the witness visited Kistanje, approximately five or six days after the civilian police had taken over police affairs there he observed that the entire centre of town had been burned down and that a large number of houses in other neighbourhoods had been burned down as well.³²³⁷ The houses that had not been burned down, had been looted, with the doors broken down, and the property taken out.³²³⁸

803. On 11 August 1995, HRAT reported that Kistanje was almost completely destroyed and almost all of Đevrske, in Kistanje municipality, was burning.³²³⁹ **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,³²⁴⁰ travelled on 13 August 1995 with Alun Roberts and others to Kistanje, Đevrske and Benkovac, and saw dozens of burning houses, burning fields everywhere and at least ten

³²³⁰ P677 (Alun Roberts, witness statement, 28 February 2007), p. 12, no. 1; P678 (Alun Roberts, witness statement, 7 February 2008), para 34, nos 1, 3; P707 (Photographs destruction in Knin and villages and DPs in UN compound), second row right picture; P709 (Photographs destruction in Knin and countryside and DPs in UN compound), fourth row, both pictures.

³²³¹ P677 (Alun Roberts, witness statement, 28 February 2007), p. 12, no. 1; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P684 (Alun Roberts's report to the press on HV's human rights violations in Sector South, 12 October 1995), p. 1.

³²³² P684 (Alun Roberts's report to the press on HV's human rights violations in Sector South, 12 October 1995), p. 1.

³²³³ P678 (Alun Roberts, witness statement, 7 February 2008), para. 34, no. 2; P708 (Photographs destruction in villages and DPs in UN compound and on convoy), first row, left picture.

³²³⁴ P677 (Alun Roberts, witness statement, 28 February 2007), p. 12.

³²³⁵ P487 (Witness 86, witness statement, 19 September 2001), p. 1, paras 26, 28, 32-33; P490 (Decision by Mladen Lacković to return Witness 86 to his previous position, 27 September 1995).

³²³⁶ P487 (Witness 86, witness statement, 19 September 2001), para. 75; Witness 86, T. 5340.

³²³⁷ Witness 86, T. 5338, 5340, 5347

³²³⁸ Witness 86, T. 5338, 5347.

³²³⁹ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 9; P41 (HRAT daily report, 11 August 1995), p. 2.

³²⁴⁰ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

huge plumes of smoke over the Benkovac valley.³²⁴¹ In Kistanje, Flynn saw a few vehicles, persons in military uniform and at least seven buildings in flames, which he considered was not caused by shelling, as there was hardly any damage to the walls.³²⁴² Flynn interviewed four out of 18 remaining elderly villagers in Rudele, in Kistanje municipality, who reported extensive looting and one murder around 6 August of a 39-year-old man by the first wave of soldiers to arrive in their area following Operation Storm, but that they had now been replaced by other soldiers who treated them well and gave them food.³²⁴³ Flynn gained for the first time access to Benkovac, which was almost deserted but relatively undamaged compared to other places.³²⁴⁴ Flynn stated that in the weeks after 13 August 1995, he drove through Kistanje on several occasions, that the town was totally deserted by the end of August and that most buildings there had burned, particularly in the centre of town.³²⁴⁵ He saw a World War II memorial that had been vandalized or destroyed.³²⁴⁶ Similarly, most buildings in Đevrske had burned.³²⁴⁷ In Macure, Kistanje municipality, a house was burning.³²⁴⁸

804. Sometime between 1 and 5 p.m. on 10 August 1995, UNMO observed Croatian troops looting and burning houses in Kistanje.³²⁴⁹ At 10:20 a.m. on 14 August 1995, UNMO observed that approximately 90 per cent of the houses in Kistanje had burned down and that the Croatian army occupied the remaining ones.³²⁵⁰ At 4:30 p.m. on 14 August 1995, UNMO observed in Kistanje persons who looked like civilian officials looking at maps and pointing to houses. Around 7:30 p.m. that day, UNMO observed several houses on fire in Kistanje.³²⁵¹ At 3:30 p.m. on 16 August 1995, UNMO

³²⁴¹ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 18, 21; P21 (Edward Flynn, witness statement, 26-27 February 2008), paras 11-12; Edward Flynn, T. 1051-1052, 1054-1058; P25 (HRAT daily report, 13 August 1995), p. 1; P26 (UN TV footage, 13 August 1995).

³²⁴² P20 (Edward Flynn, witness statement, 29 June 1997), pp. 18, 21, 32, 35; P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 41; Edward Flynn, T. 1056-1059.

³²⁴³ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 11; Edward Flynn, T. 1118-1120; P24 (Map of Sector South with marked locations); P25 (HRAT daily report, 13 August 1995), p. 1.

³²⁴⁴ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 17, 19-20; P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 11; Edward Flynn, T. 1086, 1088; P25 (HRAT daily report, 13 August 1995), p. 2.

³²⁴⁵ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 32-33, 37.

³²⁴⁶ P20 (Edward Flynn, witness statement, 29 June 1997), p. 33.

³²⁴⁷ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 32, 37.

³²⁴⁸ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 30; P38 (Weekly report from Hussein Al-Alfi, 2-8 September 1995), pp. 4-5; P50 (HRAT daily report, 5 September 1995), p. 1.

³²⁴⁹ P114 (UNMO Sector South daily situation report, 8 p.m., 10 August 1995), pp. 1, 3.

³²⁵⁰ P119 (UNMO Sector South daily situation report, 9 p.m., 14 August 1995), p. 3.

³²⁵¹ P119 (UNMO Sector South daily situation report, 9 p.m., 14 August 1995), p. 4.

observed three burning houses in Kistanje.³²⁵² At 11:35 a.m. on 19 August 1995, UNMO observed one burning house in Kistanje.³²⁵³

805. **Ivica Cetina**, the Chief of the Zadar-Knin Police Administration throughout 1995,³²⁵⁴ testified, based on what he was able to observe as he passed through one street in the centre of Kistanje, that the majority of the houses of the town had been burnt by the time he first visited Kistanje in the first ten or fifteen days after the area was liberated and before a police station was set up there.³²⁵⁵ Based on the three or four times Cetina passed through Kistanje, he testified that the rest of the destruction in Kistanje did not occur all at once, but rather over a period of time.³²⁵⁶ According to Cetina, as there were no eye-witnesses, it was very difficult to find the perpetrators.³²⁵⁷ At a meeting on 11 October 1995, Cetina and Ivan Nađ requested UNCIVPOL to provide them with any information on the incidents, including looting, intimidation or arson, registered in the Kistanje area.³²⁵⁸

806. **William Hayden**, a researcher for the IHF who was on mission in the Krajina between 15 and 20 August 1995,³²⁵⁹ testified that on 17 August 1995, while in the village of Kistanje he saw four men in combat fatigues moving in and out of buildings along the main road.³²⁶⁰ He went on to testify that while walking back to his vehicle in a different part of Kistanje village, he observed black smoke coming from the buildings in the area where he had seen the men.³²⁶¹

807. According to an IHF report dated 25 August 1995, detailing an IHF mission of 17 August 1995 to 19 August 1995, UN observers had informed the IHF mission that civilian-dressed “officials” were seen in the Kistanje area with maps pointing at houses

³²⁵² P121 (UNMO Sector South daily situation report, 7 p.m., 16 August 1995), p. 2.

³²⁵³ P123 (UNMO Sector South daily situation report, 7 p.m., 19 August 1995), p. 4.

³²⁵⁴ D1743 (Ivica Cetina, witness statement, 26 August 2009), p. 1; D1745 (Ivica Cetina, witness statement, 26 February 2002), pp. 3-4; Ivica Cetina, T. 23396, 23486, 23517.

³²⁵⁵ D1745 (Ivica Cetina, witness statement, 26 February 2002), p. 14; Ivica Cetina, T. 23577-23578, 23580-23582, 23584, 23641-23642.

³²⁵⁶ Ivica Cetina, T. 23578, 23581.

³²⁵⁷ D1745 (Ivica Cetina, witness statement, 26 February 2002), p. 14; Ivica Cetina, T. 23581.

³²⁵⁸ D1746 (Minutes of meeting between UNCIVPOL and Zadar-Knin regional police department authorities, 12 October 1995), pp. 1-2.

³²⁵⁹ P986 (William Hayden, witness statement, 15 May 1996), para. 1; P987 (William Hayden, witness statement, 15 March 2004), paras 1-3.

³²⁶⁰ P986 (William Hayden, witness statement, 15 May 1996), para. 3; P987 (William Hayden, witness statement, 15 March 2004), para. 10; P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 1.1.

³²⁶¹ P986 (William Hayden, witness statement, 15 May 1996), para. 3; P987 (William Hayden, witness statement, 15 March 2004), para. 10; P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 1.1.

after which the UN observers saw buildings burning.³²⁶² The IHF report also stated that Ivoševći village in Kistanje municipality was significantly damaged.³²⁶³ However, it also documented that the Orthodox Church in Kistanje had not been damaged. When the IHF mission asked the HV information officer about it, he responded that they did not want to be seen like the Serbs.³²⁶⁴

808. On 10 August 1995 at 11 a.m., ECMM witnessed how a single person without unit insignia set fire to the main shop in Kistanje, after which he disappeared in an army truck.³²⁶⁵ Also on 10 August 1995, ECMM reported that Kistanje had been completely burnt and destroyed, except for the school, textile, and TVIK factories which were intact and guarded.³²⁶⁶ **Søren Liborius**, an ECMM Operations Officer and team leader based in Knin from 28 July 1995 until 27 November 1995,³²⁶⁷ stated that on 23 August 1995 he observed a bus with Šibenik license plates and full of HV soldiers enter Kistanje.³²⁶⁸ At 11:04 a.m., a group of soldiers got off the bus and with the help of diesel fuel canisters set an auto workshop across from the “INA” station on fire.³²⁶⁹ According to Liborius, the soldiers wore normal HV uniforms and were of various ranks.³²⁷⁰ Liborius testified that the bus carried 20-25 soldiers.³²⁷¹

809. **Eric Hendriks**, an ECMM monitor in Knin from 21 July 1995 until 30 October 1995,³²⁷² testified that on 23 August 1995 at 11:04 a.m. in Kistanje, he saw an auto

³²⁶² P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), p. 2, para. 1.1.

³²⁶³ William Hayden, T. 10596; P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 1.2.

³²⁶⁴ William Hayden, T. 10595-10596; P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 1.6.

³²⁶⁵ P815 (ECMM report by Liborius, 26 August 1995), p. 5; P830 (ECMM Knin daily report, 10 August 1995), p. 2.

³²⁶⁶ P830 (ECMM Knin daily report, 10 August 1995), p. 2.

³²⁶⁷ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 1, 3; P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; P801 (Søren Liborius, witness statement, 12 October 2005), p. 2; P803 (Søren Liborius, witness statement, 6 September 2008), para. 6; Søren Liborius, T. 8229; D741 (Diary of Liborius), p. 3.

³²⁶⁸ P800 (Søren Liborius, witness statement, 11 November 1997), pp. 5-6; D743 (Notebook of Liborius, part I), p. 49.

³²⁶⁹ P800 (Søren Liborius, witness statement, 11 November 1997), p. 6; P842 (Video of villages in Sector South with commentary by Liborius, 17, 20-21 May 1997), pp. 1-2; Søren Liborius, T. 8290-8291; P812 (ECMM Knin daily report, 23 August 1995), p. 2; P815 (ECMM report by Liborius, 26 August 1995), p. 10; D743 (Notebook of Liborius, part I), p. 49.

³²⁷⁰ Søren Liborius, T. 8292.

³²⁷¹ P800 (Søren Liborius, witness statement, 11 November 1997), p. 6; D743 (Notebook of Liborius, part I), p. 49.

³²⁷² P931 (Eric Hendriks, witness statement, 4 April 2008), para. 3; D820 (Eric Hendriks, witness statement, 18 April 1996), pp. 1-2; Eric Hendriks, T. 9734-9735, 9755-9756.

workshop/INA” gas station on fire, while a bus with civilian license plates and filled with HV soldiers and a Renault with civilian license plates left the scene.³²⁷³

810. According to a UNCIVPOL weekly report, dated 27 August 1995, Kistanje was completely ruined as a result of arson.³²⁷⁴ **Jan Elleby**, Deputy Chief and Chief of UNCIVPOL Sector South in Knin between 15 May and 1 or 2 October 1995,³²⁷⁵ visited Kistanje and saw that all the buildings in the main part of the main street were completely destroyed and it was “obvious” to the witness that they were burnt down and not shelled.³²⁷⁶

811. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,³²⁷⁷ testified that on 28 August 1995, the witness accompanied an UNCIVPOL patrol to Kistanje town and observed that it had completely burnt down.³²⁷⁸

812. The Trial Chamber has further considered the evidence of Laila Malm reviewed in chapter 4.2.8 (Kakanj).

813. Journalist Robert Fisk wrote an article stating that he visited Kistanje with Roberts on 4 September 1995, and found that every house and the war memorial had been destroyed.³²⁷⁹

814. **Witness 84**, a police officer in Knin,³²⁸⁰ testified that he saw the towns of Kistanje and Đevrske completely burnt to the ground.³²⁸¹ The witness further testified that he had heard that some Serb civilians had been killed in Kistanje and in order to protect the Serb population remaining in Kistanje and to protect the Arandjelovac monastery in a locality three kilometres from Kistanje, the coordinators ordered the

³²⁷³ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 29; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 5; Eric Hendriks, T. 9677-9678; P932 (ECMM daily report, 23 August 1995), p. 2.

³²⁷⁴ P230 (UNCIVPOL weekly report 21-26 August 1995, 27 August 1995), p. 5.

³²⁷⁵ P214 (Jan Elleby, witness statement, 17 September 1995), p. 1; P215 (Jan Elleby, witness statement, 14 September 1997), pp. 1-3; P216 (Jan Elleby, witness statement, 10 October 2005), pp. 1-2; Jan Elleby, T. 3361-3362, 3469.

³²⁷⁶ P216 (Jan Elleby, witness statement, 10 October 2005), p. 5; P217 (Jan Elleby, witness statement, 20 February 2008), paras 19, 24 (p. 7).

³²⁷⁷ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

³²⁷⁸ P2 (Witness 136, witness statement, 4 July 1996), p. 12; Witness 136, T. 641-642; P5 (Map of Sector South marked by Witness 136).

³²⁷⁹ Alun Roberts, T. 6840; P686 (The Independent, 4 September 1995), p. 1.

³²⁸⁰ P1035 (Witness 84, pseudonym sheet); P2393 (Witness 84, witness statement, 20 November 2007), p. 1; P2394 (Witness 84, witness statement, 11 July 2004), p. 1; P2395 (Witness 84, witness statement 9 March 2002), pp. 1-3; Witness 84, T. 11061, 11073, 11094, 11101, 11358, 11360.

³²⁸¹ P2393 (Witness 84, witness statement, 20 November 2007), para. 21.

witness to set up a police office in the primary school in Kistanje.³²⁸² Witness 84 stated that the police learnt that the road between Knin and Šibenik which went via Kistanje and Skradin was used extensively to transport looted goods and therefore a check-point was set up on the road in Kistanje.³²⁸³

815. On 31 August 1995, at 5:25 p.m., at the Kistanje barrier check-point a VW van was stopped with undocumented goods.³²⁸⁴ Knin VP members brought the HV member in, who gave a statement and was allowed to leave. On the same day, at 7:27 p.m., HV members were found taking items in Kistanje. The MUP let them go before a patrol arrived.³²⁸⁵ On 2 September 1995, at 12:15 p.m., MUP officers stopped two soldiers transporting items without papers; a patrol was sent.³²⁸⁶ On 3 September 1995, at 2:10 p.m. the VP reported from the ground that at the Kistanje roadblock, HV soldiers were stopped with stolen goods. After this, a patrol brought the HV soldiers in, handed them over to a crime inspector, after this they were released.³²⁸⁷

816. As set out above, the Trial Chamber has received much evidence on the alleged destruction and plunder in Kistanje in August and September 1995. First, the Trial Chamber will turn to the events in Kistanje in the period from the beginning of Operation Storm until and including 6 August 1995. The Trial Chamber notes at the outset that the evidence of certain witnesses, who were present in Kistanje on 6 August 1995, like Rajčić or Perković, reported that they did not see any or only very isolated incidents of looting or burning. The Trial Chamber considered these accounts, and that they may have been influenced by ulterior motives, against the backdrop of other concordant accounts of eye-witnesses of different backgrounds, and of contemporaneous Croatian documentation, like the SIS report of 8 August 1995 (P203).

817. The Trial Chamber finds, based on Dawes's testimony, that in Kistanje, on 6 August 1995, after 10 a.m., persons referred to as HV soldiers blew up at least two houses. Considering the testimonies of Dawes and Gojanović, the Trial Chamber finds that persons referred to as soldiers or HV soldiers took personal items - TV sets, stereos,

³²⁸² P2393 (Witness 84, witness statement, 20 November 2007), para. 21; P2395 (Witness 84, witness statement, 9 March 2002), para. 15; Witness 84, T. 11317, 11430.

³²⁸³ Witness 84, T. 11317.

³²⁸⁴ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), p. 31 The translation of this document is split up in several parts in e-court. Also when opening one part of the translation, the sequence of the page numbers in the drop down menu is messed up. This needs to be fixed.

³²⁸⁵ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), p. 31.

³²⁸⁶ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), p. 37.

small tractors - out of the houses along the main road, and loaded these items either into HV army trucks or personal vehicles or stored them on the side of the road. The Trial Chamber further finds, based on Dawes's testimony, that these persons also loaded farm animals onto army trucks. The Trial Chamber understands the description of these persons as HV soldiers to mean that they wore military-type uniform. On the basis of this evidence, the Trial Chamber is unable to verify the factual basis for this qualification as HV soldiers. The Trial Chamber, however, considers the evidence that report of HV presence in Kistanje town on 6 August 1995 (Marko Rajčić, Ivan Vukić's order P1128, Matko Kurtović's report P2349, Ante Gotovina's analysis P2585, Vladimir Gojanović, Milenko Hrستیć's interview, Pero Perković), as well as Dawes's testimony that he saw 200-300 uniformed persons. Based on this evidence, the Trial Chamber finds that the uniformed persons that Dawes and Gojanović saw were members of the HV. The Trial Chamber finds that Milenko Hrستیć, a member of the HV 15th Home Guard Regiment took a television set from a house that had just started burning in Kistanje upon entering the town around 1 p.m. on 6 August 1995.

818. The Trial Chamber further finds, based on the evidence of Gojanović, Perković, and D1547 that on 6 August 1995, a considerable number of the houses in Kistanje were burning. In this respect, the Trial Chamber has also considered the evidence of Guša who testified that a few days after approximately 5 August 1995, he saw a great part of Kistanje burning. The evidence does not link any perpetrators to the observed burnings. However, the Trial Chamber notes that Gojanović testified that he saw houses in Kistanje that he believed were burning or had burnt down due to torching, and not due to artillery fire. The Trial Chamber recalls the evidence underlying its findings with regard to the observations of Dawes and Gojanović above, and considering Dawes's and Perković's observations that on 6 August 1995 there were no civilians left in the town, the Trial Chamber finds that the burnings observed were caused by members of the HV. This is further corroborated by the SIS report of 8 August 1995 (P203), that references incidents of mass burning of houses and lack of organization within the HV units, and Kurtović's report of 11 August 1995 (P2349), which described that once the settlements were occupied, the commanders lost control over the HV members, who torched a number of houses, particularly in Kistanje and other places inhabited by Serbs.

³²⁸⁷ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), p. 39.

819. Considering that the population of Kistanje was almost completely Serb in 1991, the Trial Chamber finds that a vast majority, if not all, of the objects that it found above to be burnt or taken by HV soldiers were owned or inhabited by Krajina Serbs. The Trial Chamber will further consider the mentioned incidents of 6 August 1995 in relation to Counts 1, 4, and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

820. The Trial Chamber will now turn to the events in Kistanje in the period from 7 until and including 12 August 1995.

821. With regard to the truck loaded with goods on which Perković, a member of the HV 15th Home Guards Regiment, got a ride back to his home in Vodice on 7 August 1995, the Trial Chamber notes that although Perković did not specify the identity of the persons on the truck, he was told that they were addressed by a passing HV general as soldiers. Based on this evidence, the Trial Chamber finds that at least some of the persons on the truck were members of Croatian military forces. The Trial Chamber notes that Perković testified that he had not seen whether and where the persons had taken the items on the truck from. In view of the type of goods taken (mostly electronic goods, a cement mixer, or a TV set) and the circumstances, the Trial Chamber accepts that the persons took the goods. As the evidence does not show from where the persons took the items, it does not establish whether the objects that were taken were owned by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

822. Considering the evidence of Berikoff, Hill, and Dangerfield, the Trial Chamber finds that on 9 August 1995 in Kistanje a large number of buildings were burning or burnt. The Trial Chamber further finds, based on Berikoff's evidence, that approximately 25-30 persons referred to as HV soldiers wearing camouflage moved from house to house or directed traffic around parked vehicles, and that each house went up in flames a few minutes after they left it. The Trial Chamber also considers Dangerfield's observations that there were no signs of damage from tank or artillery fire to the buildings in Kistanje. Based on this evidence, the Trial Chamber finds that the persons wearing camouflage set the houses alight, but is unable to verify the factual basis for this qualification as HV soldiers. However, the Trial Chamber recalls the evidence underlying its finding with regard to 6 August 1995, and that some of this evidence speak of the capturing of that area by the HV on that day and of further HV

deployment in the area (Vukić's order P1128, Matko Kurtović's report P2349, Ante Gotovina's analysis P2585). The Trial Chamber further considers the evidence of Hill, Berikoff, and Dangerfield that they saw no civilians in Kistanje on that day and that Dangerfield observed the presence 150-200 individuals in military uniform. Based on this evidence, the Trial Chamber finds that the persons who burned houses in Kistanje on 9 August 1995 were members of the HV.

823. Based on Dangerfield's evidence, who reported of approximately 150-200 individuals in military uniforms looting in Kistanje on 9 August 1995, the Trial Chamber finds that these persons took unspecified items away. Based on this and recalling the evidence underlying its finding with regard to the burning of houses in Kistanje on 9 August 1995, the Trial Chamber finds that these persons were members of the HV.

824. Considering that the population of Kistanje was almost entirely Serb in 1991, the Trial Chamber finds that the vast majority if not all of the objects that it found above to be burnt or taken by HV soldiers were owned or inhabited by Krajina Serbs. The Trial Chamber will further consider the mentioned incidents of 9 August 1995 in relation to Counts 1, 4, and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

825. Based on Stig Marker Hansen's evidence and ECMM reports (P815 and P830) concerning 10 August 1995, the Chamber finds that in Kistanje, about 11 a.m., a man in military uniform without unit insignia set alight the grocery store, in which Marker Hansen had seen him 15 minutes earlier carrying a jerry can. The Trial Chamber considers the person's military uniform and that he left in an army truck, and recalls the evidence underlying its findings with regard to 6 and 9 August 1995. Based on this, the Trial Chamber finds that the person setting the store alight was a member of Croatian military forces. Considering that that the population of Kistanje was almost entirely Serb in 1991, the Trial Chamber finds that the grocery store was owned by Krajina Serbs. The Trial Chamber will further consider this incident of 10 August 1995 in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

826. Based on Marti's evidence concerning the same day, the Trial Chamber finds that there were men in uniforms that Marti described as Croatian uniforms standing outside burning houses. However, this evidence in itself is insufficient to establish the circumstances under which and by whom the houses were set on fire. An UNMO daily report (P114), reports that sometime between 1 and 5 p.m. on the same day, troops

referred to as Croatian burned houses and looted in Kistanje. The Trial Chamber understands this to mean that persons dressed in military-type uniform burned houses and took unspecified items away. This evidence does not provide further details as to the factual basis for the qualification as Croatian troops. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis on the basis of this report alone. However, the Trial Chamber recalls the evidence underlying its findings with regard to 6 and 9 August 1995. Based on that same evidence, the Trial Chamber finds that the persons were members of Croatian military forces. Considering that the population of Kistanje was almost entirely Serb in 1991, the Trial Chamber finds that the vast majority if not all of the buildings that it found to be burnt or objects that it found to be taken by HV troops were owned or inhabited by Krajina Serbs. The Trial Chamber will further consider these incidents of 10 August 1995 in relation to Counts 1, 4, and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

827. With regard to Forand's evidence that he saw people looting in Kistanje in broad daylight possibly on 11 August 1995, there is no indicator that these persons were affiliated with any army. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

828. The Trial Chamber will now turn to the events in Kistanje in the period from 13 August 1995 onwards.

829. Based on Flynn's evidence concerning 13 August 1995, the Trial Chamber is satisfied that there were at least seven buildings burning and persons in military uniform present in Kistanje. This evidence is insufficient as to the circumstances under which and by whom the houses were set on fire. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

830. Based on an UNMO report (P119), the Trial Chamber is satisfied that on 14 August 1995, at 4:30 p.m., persons who looked like civilian officials looked at maps and pointed at houses, and that around 7:30 p.m. that day several houses in Kistanje were on fire. The Trial Chamber has considered a possible connection between the civilian officials' actions and the ensuing burning. However, this evidence is insufficient as to the circumstances under which and by whom the houses were set on fire. Under these circumstances, the Trial Chamber will also not further consider this incident in relation to Counts 1 and 5 of the Indictment.

831. Based on Hayden's testimony, the Trial Chamber finds that on 17 August 1995 in Kistanje four men in combat fatigues moved in and out of buildings along the main road, and that from a different part of town Hayden observed black smoke coming from the buildings in the area where he had seen the men. The Trial Chamber finds that these men had set the smoking buildings alight. This evidence does not allow to conclude these men's affiliation to an army, if any. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Kistanje at the time. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

832. Based on Liborius and Hendriks's evidence, the Trial Chamber finds that on 23 August 1995 at about 11 a.m., a bus with civilian licence plates carrying about 20-25 persons in uniform described as HV entered Kistanje. It further finds that some of these persons disembarked the bus and with the help of diesel fuel canisters set an auto workshop across from the "INA" station on fire, after which the bus with the persons inside and a civilian car with civilian licence plates left the scene. Based on Liborius' testimony that describes the persons as wearing normal HV uniforms and being of various ranks, and the considerable number of persons on the bus, the Trial Chamber finds that the group of persons who set the workshop alight and the other approximately 20-25 persons on the bus were members of Croatian military forces or Special Police. Considering that that the population of Kistanje was almost entirely Serb in 1991, the Trial Chamber finds that the auto workshop was owned by Krajina Serbs. The Trial Chamber will further consider this incident of 23 August 1995 in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

833. The Trial Chamber notes several entries in the Duty Log of the Joint VP Company for the period from 31 August to 3 September 1995 which report about persons referred to as HV or soldiers that were transporting goods were stopped and in some cases handed over to the VP. The Trial Chamber finds that these persons took the goods away. One entry of 31 August 1995 speaks of persons referred to as HV members that were found taking items in Kistanje, which the Trial Chamber finds thus established. The Trial Chamber further notes that there were law enforcement agencies involved and finds it established that the persons' identity and affiliation was checked. It

therefore finds that these persons were members of Croatian military forces. For all these cases except for the one of 31 August 1995 mentioned above, the evidence does not show from where the persons took the items, and therefore does not establish whether the objects that were taken were owned by Krajina Serbs. For the latter case that reports of HV members taking items in Kistanje, the Trial Chamber considers the 1991 population census in relation to Kistanje as referred to above, and finds that the vast majority if not all of these items taken from Kistanje were owned by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

Korde

834. The Trial Chamber has received relevant evidence with regard to alleged destruction in Korde in Kistanje municipality through an ECMM report. According to this report, ECMM observed in Korde at 10:05 a.m. on 11 September 1995 two houses on fire and a military truck without license plates coming from the direction of the hamlet.³²⁸⁸

835. The evidence indicates that in the morning of 11 September 1995 two houses were burning in Korde while a military truck was coming from the direction of the hamlet. The Trial Chamber cannot draw any inference from the sole circumstance that the truck was seen coming from the direction of Korde while the two houses were burning. The Trial Chamber has not received any other evidence indicating when, by whom and under which circumstances the houses were set alight. Therefore, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

Parčić

836. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Parčić in Kistanje municipality primarily through the testimony of Konstantin Drča.

³²⁸⁸ P950 (ECMM Team Knin daily report, 11 September 1995), p. 1.

837. **Konstantin Drča**, a Serb SVK reservist from Parčić in Kistanje municipality,³²⁸⁹ stated that Parčić was an entirely Serb village. On 4 August 1995 the shelling of Benkovac and the surrounding area began. Around 11 a.m. -12 p.m. on that day, Drča was told by his command that the civilian population was being evacuated and he left the barracks and went to Parčić where he arrived on 5 August 1995 around 11 a.m. There, he saw approximately 100 people fleeing from the Zadar area intending to go to Lika. On 6 August 1995 at around 10 a.m., Drča observed men in camouflage uniforms entering Parčić but he could not see any insignia on their uniforms. The witness was positioned about one kilometre from the village in a nearby forest in the hills from where he observed the camouflaged men entering houses of the village after which they immediately were in flames. In the part of the village visible to the witness, all seven to eight houses were on fire. The witness testified that he believed that some of the men were from the neighbouring village of Medviđa in Lisičić municipality. The witness fled Parčić together with six other people in an attempt to reach Srb in Donji Lapac municipality. On 7 August 1995 at 7 p.m., the witness approached the village of Vrelo Zrmanja in Gračac municipality. Upon arriving in the village he saw that it was in flames although he did not see who had set fire to the houses. The road to Srb was cut off by the HV at Vrelo Zrmanja and the witness saw three tanks carrying the checkerboard insignia and a number of trucks with HV licence plates driving towards Gračac.³²⁹⁰

838. After having failed to reach Srb, Drča returned to Parčić on 8 August 1995 and observed that all of the approximately 50 abandoned houses in the village had been burnt.³²⁹¹ From his hiding place in the hills around 300-400 metres from the village he saw civilian trucks and tractors loaded with cattle, furniture, and other valuable items, as well as tractors and passenger cars belonging to villagers, being driven off by men in camouflage uniforms and men in civilian clothing. The witness testified that his mother's house had been emptied of everything of value, even electric sockets and window frames, and burnt down already on 5 August 1995. The witness stated that he heard from Uroš Vojnović's wife, who had stayed in the village, that Croatian soldiers from Medviđa had killed her dog and threatened to kill her and burn down her house.

³²⁸⁹ P2509 (Konstantin Drča, witness statement, 26 May 1997), pp. 1-2.

³²⁹⁰ P2509 (Konstantin Drča, witness statement, 26 May 1997), p. 2.

³²⁹¹ P2509 (Konstantin Drča, witness statement, 26 May 1997), pp. 2-3.

The witness also recalled that Vojnović's wife said she had been beaten and pressured for money.³²⁹²

839. Drča further stated that on 11 August 1995 he decided to return to Benkovac and that he on the way passed through several villages: Bjelina, in Lišane Ostrovičke municipality, Brgud in Lisičić municipality, Kalanjeva Draga in Lišane Ostrovičke municipality, in which about half of the houses, including the primary school in Brgud, had been burnt. When he came to his house in Benkovac around 4 p.m. he saw that his TV set, video recorder, video camera, radio, kitchen utensils including silver cutlery, chandeliers, shot gun, and pistol were missing.³²⁹³

840. On 12 September 1995, Duka and Uroš Vojvodić, both born in 1919, from Parčić in Kistanje municipality informed UNCIVPOL that "a few days after the Croatian attack" some soldiers came to their house and stole livestock.³²⁹⁴ The couple, and two other persons named Stevan and Pava Vojvodić informed UNCIVPOL that they wanted the UN's help to move to Belgrade.³²⁹⁵ They stated that they were afraid to stay in Croatia and that Croatian soldiers came to the area almost every day.³²⁹⁶

841. In a report to, among others, the Split MD dated 23 August 1995, Commander Colonel Josip Čerina of the 134th Home Guard Regiment stated that in the afternoon of 6 August 1995, he received a report that part of the 1st Infantry Battalion had reached the village of Parčić, in Kistanje municipality.³²⁹⁷ Shortly thereafter, Čerina ordered the 1st Infantry Battalion command to leave one infantry company in Parčić.³²⁹⁸ When the 3rd Infantry Battalion arrived at the cross-roads near Parčić, Čerina ordered them to conduct reconnaissance in the area of Kolašac, Biovičino Selo, both in Kistanje municipality, and Ervenik.³²⁹⁹ By 6 p.m. on 6 August 1995, a forward command post was established in Biovičino Selo in Kistanje municipality and at approximately 7 p.m. the 1st Infantry Battalion came to that area.³³⁰⁰ Very soon after this, parts of the 15th Home Guard Regiment and the 113th HV Brigade were in the area of the villages of Kolašac in Kistanje municipality and Bjelina in Lišane Ostrovičke municipality forming

³²⁹² P2509 (Konstantin Drča, witness statement, 26 May 1997), p. 3.

³²⁹³ P2509 (Konstantin Drča, witness statement, 26 May 1997), p. 3.

³²⁹⁴ P256 (UNCIVPOL incident report, S05-95/120, 12 September 1995).

³²⁹⁵ P256 (UNCIVPOL incident report, S05-95/120, 12 September 1995); P259 (UNCIVPOL incident report, S05-95/121, 12 September 1995).

³²⁹⁶ P259 (UNCIVPOL incident report, S05-95/121, 12 September 1995).

³²⁹⁷ P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), pp. 3, 8.

³²⁹⁸ P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), pp. 3-4.

³²⁹⁹ P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), p. 4.

a big group of units in the small area. That evening, the road between Parčić and Macure was secured.³³⁰¹ On 7 August 1995, the 1st Infantry Battalion was deployed in the area of Modrino Selo, in Kistanje municipality, and the 134th Home Guard Regiment erected check-points on the cross-roads near Parčić and Kolašac, aiming to prevent misappropriation of the spoils of war.³³⁰² On 8 August 1995, Čerina sent the 1st Battalion on leave for three days, and the 3rd Infantry Battalion established a defence line in the direction of the village of Kaštel Žegarski in Nadvoda municipality to the village of Ervenik.³³⁰³ On 9 August 1995, the regiment was reinforced with the 2nd Infantry Battalion, and a new defence line was established in the direction of the village of Muškovci to the villages of Kaštel Žegarski and Ervenik. Also on 9 August 1995, the artillery took over positions in the area of the village of Komazeci, and the regiment forward command post and forward section of the logistic base took over the village of Kaštel Žegarski. On 11 August 1995 the 3rd Infantry Battalion was sent on leave for five days, and the 1st Infantry Battalion took over their area of responsibility. During 12 and 13 August 1995, the unit carried out regular daily tasks and on 14 August 1995 they were ordered to search the terrain and secure facilities of vital interest. On 15 August 1995 at around 1 p.m., the 1st Infantry Battalion started marching to Velika Popina in Gračac municipality.³³⁰⁴

842. Based on the evidence received, the Trial Chamber finds that around 10 a.m. on 6 August 1995, men in camouflage uniforms entered Parčić, in Kistanje municipality and set fire to at least seven or eight houses there. By 8 August 1995, all of the approximately 50 abandoned houses in Parčić, including Drča's mother's house, had been burnt. Between approximately 6 and 8 August 1995, men in camouflage uniforms came to Duka and Uroš Vojvodić's house and took their livestock. On 8 August 1995, men in camouflage uniforms and men in civilian clothing drove civilian trucks and tractors, as well as tractors and passenger cars which had belonged to persons from Parčić, away from the village. These vehicles were loaded with valuable items, including cattle and furniture. Drča's mother's house had been emptied of all items of value. Considering that Drča stated that Parčić was an entirely Serb village, the Trial

³³⁰⁰ P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), pp. 1, 4.

³³⁰¹ P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), p. 4.

³³⁰² P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), p. 4.

The report says "Rarčići" and "Kolašec", which the Trial Chamber understands to be spelling errors.

³³⁰³ P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), p. 4.

³³⁰⁴ P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), p. 5.

Chamber finds that the houses destroyed in and objects taken from Parčić were inhabited or owned by Krajina Serbs.

843. Based on Čerina's report, the Trial Chamber finds that the 1st and the 3rd Battalion of the 134th Home Guard Regiment of the HV arrived in Parčić on 6 August 1995. The 1st Battalion was ordered to leave an infantry company there. On 7 August 1995, the 134th Home Guard Regiment erected check-points on the cross-roads near Parčić, with the stated aim of preventing misappropriation of the spoils of war. On 8 August 1995, the 1st Battalion was sent on leave. Based on the foregoing, the Trial Chamber finds that between 6 and 8 August 1995, members of the 134th Home Guard Regiment participated in the burning of approximately 50 houses in Parčić and the taking away from Parčić of the objects mentioned above. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

4.2.9 Knin municipality

Golubić area

844. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in the Golubić area, Knin municipality, primarily through the testimonies of Kari Anttila and Peter Marti. According to the 1991 Population Census, the population of Golubić, in Knin municipality, consisted of 1,389 Serbs out of a total of 1,424 persons in 1991.³³⁰⁵

845. According to an ECMM report, at 2:25 p.m. on 11 August 1995 ECMM found that all houses in Golubić in Knin municipality were looted, though none were burned, and the village was deserted and devoid of troops.³³⁰⁶ On 12 August 1995, an UNMO patrol saw one house burning near Golubić, Knin municipality.³³⁰⁷ **Tor Munkelien**, an UNMO based in Knin from 14 August 1995 to 1 December 1995,³³⁰⁸ and **Kari Anttila**,

³³⁰⁵ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

³³⁰⁶ P810 (ECMM list of villages with level of destruction, 22 August 1995), p. 4; P815 (ECMM report by Liborius, 26 August 1995), p. 6; P829 (ECMM special report, 14 September 1995), p. 3; D741 (Diary of Liborius), p. 10.

³³⁰⁷ Tor Munkelien, T. 1520-1521; P67 (UNMO Team Podkonje report, 27 August 1995), para. 5.

³³⁰⁸ P60 (Tor Munkelien, witness statement, 18 December 1995, co-signed by Kari Anttila), p. 1; P61 (Tor Munkelien, witness statement, 10 January 2008), paras 1, 3; Tor Munkelien, T. 1514, 1546; D91 (Tor Munkelien, witness statement, 4 September 1999), p. 3.

an UNMO in Sector South from 14 August 1995 until 27 November 1995,³³⁰⁹ saw on 17 August 1995 about 20 burning houses in the Golubić area in Knin municipality.³³¹⁰

846. **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,³³¹¹ testified that on 26 August 1995, he went on patrol with Major Michie to several villages, including Golubić, Očestovo and Malianovići, all in Knin municipality.³³¹² In Golubić, he saw five houses burned, three houses partly burned and 35 houses looted.³³¹³ In Očestovo, Knin municipality, he saw seven houses burned, 20 houses partly burned and 56 houses looted.³³¹⁴ In Malianovići he saw that one house was looted.³³¹⁵ According to an UNMO report, before 8 p.m. on 26 August 1995, UNMO observed that most houses “were looted” and many were burned in Golubić, Očestovo, Marjanovići, in Knin municipality, and Vrbnik, Biskupija and Popovići, in Orlić municipality.³³¹⁶

847. On 27 August 1995, Markač reported to the Chief of the HV Main Staff, General Červenko, about the tasks which were completed on 27 August 1995. The report states that 470 members of the Special Police units from joint forces (between 7 a.m. and 7 p.m.) searched the area of Podinarje, Knin municipality, (including the villages of Polače, Vrpolje, Golubić and the eastern hinterland of the Strmica village) with the aim

³³⁰⁹ P171 (Kari Anttila, witness statement, 8 January 1996), p. 1; P172 (Kari Anttila, witness statement, 16 October 1997), pp. 1-2; P173 (Kari Anttila, witness statement, 12 December 2007), p. 1, para. 2; Kari Anttila, T. 2508.

³³¹⁰ P61 (Tor Munkelien, witness statement, 10 January 2008), paras 23, 26; P173 (Kari Anttila, witness statement, 12 December 2007), para. 32; P67 (UNMO Team Podkonje report, 27 August 1995), para. 9; P122 (UNMO Sector South daily situation report, 7 p.m., 17 August 1995), p. 4.

³³¹¹ P415 (Peter Marti, witness statement, 13 February 1996), p. 1; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17
³³¹² P416 (Peter Marti, witness statement, 29 June 1997), pp. 12-13; P417 (Peter Marti, witness statement, 14 December 2007), paras 61, 75; Peter Marti, T. 4615-4617; P67 (Report of UNMO team Podkonje on Human Rights Violations since the start of Operation Storm, dated 27 August 1995), pp. 4-5; D391 (Summary of humanitarian violations from HQ Sector South daily situation reports, 7 August-8 September 1995), p. 18.

³³¹³ P416 (Peter Marti, witness statement, 29 June 1997), pp. 12-13; P417 (Peter Marti, witness statement, 14 December 2007), paras 61, 75; Peter Marti, T. 4615-4617; P67 (Report of UNMO team Podkonje on Human Rights Violations since the start of Operation Storm, dated 27 August 1995), pp. 4-5; D391 (Summary of humanitarian violations from HQ Sector South daily situation reports, 7 August-8 September 1995), p. 18.

³³¹⁴ P416 (Peter Marti, witness statement, 29 June 1997), pp. 12-13; P417 (Peter Marti, witness statement, 14 December 2007), paras 61, 75; Peter Marti, T. 4615-4617; P67 (Report of UNMO team Podkonje on Human Rights Violations since the start of Operation Storm, dated 27 August 1995), pp. 4-5; D391 (Summary of humanitarian violations from HQ Sector South daily situation reports, 7 August-8 September 1995), p. 18.

³³¹⁵ P417 (Peter Marti, witness statement, 14 December 2007), paras 61, 75; Peter Marti, T. 4615-4617; P67 (Report of UNMO team Podkonje on Human Rights Violations since the start of Operation Storm, dated 27 August 1995), p. 5; D391 (Summary of humanitarian violations from HQ Sector South daily situation reports, 7 August-8 September 1995), p. 18.

³³¹⁶ P128 (UNMO Sector South daily situation report, 8 p.m., 26 August 1995), pp. 1, 5.

of discovering and destroying routed sabotage-terrorist groups and finding material and technical equipment.³³¹⁷ During this operation, approximately one dozen civilians were discovered, while a variety of weapons were seized including: a 40-millimetre anti-aircraft gun with 500 rounds of ammunition; one “Kalashnikov” rifle; one “Thompson” submachine gun; one 7.64 calibre carbine; one 7.62-millimetre automatic rifle; two “Magnum” rifles; one Italian carbine; one M-48 rifle; four hunting rifles; one “Osa” handheld rocket launcher with three rockets; one optical sight “Osa” with about ten rockets; ten rifle launched grenades; ten anti-personnel mines; three compasses; binoculars; one bullet-proof vest; and four grenades.³³¹⁸

848. In two hamlets of Golubić, Flynn observed on 27 August 1995 burned houses and one burning house.³³¹⁹ On 28 August 1995, HRAT reported that soldiers or Special Police had stopped a team of representatives of human-rights NGOs, searched their vehicle and confiscated their film in the vicinity of Golubić in Knin municipality, telling them not to return to the area or they would not be treated so courteously the next time.³³²⁰ On 29 August 1995, an HRAT from Knin visited the Golubić area in Knin municipality and observed six HV soldiers coming from the hamlet of Borović where several houses were newly ablaze. According to the HRAT report, when the soldiers saw the team, they turned back and dispersed.³³²¹

849. According to the duty log of the Joint VP Company in Knin, on 1 September 1995, at 4:30 p.m., Knin police station reported to the Knin VP Duty Service that some houses were burning in Golubić where some people in VP cars with license plates “HV 283 VP” and “HV 719 VP” had been observed.³³²² According to the log it was established that these VP vehicles (sic.) had accidentally come across the burning houses and were looking for perpetrators.³³²³

³³¹⁷ P2379 (Report by Markač on completion of assignment on 27 August 1995, 27 August 1995), p. 1.

³³¹⁸ P2379 (Report by Markač on completion of assignment on 27 August 1995, 27 August 1995), pp. 1-3.

³³¹⁹ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 22; P27 (HRAT cumulative daily report, 24-27 August 1995), pp. 2-3.

³³²⁰ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 26; P48 (HRAT daily report, 28 August 1995), pp. 1, 3.

³³²¹ D631 (HRAT daily report, 29 August 1995), p. 2.

³³²² P886 (Duty log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 1 September 1995.

³³²³ P886 (Duty log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 1 September 1995.

850. **Maria Teresa Mauro**, a UN civil affairs officer and HRAT member in the former Sector South based in Knin from March to December 1995,³³²⁴ testified that on 5 September 1995 was in the Golubić area, in Knin municipality, and witnessed Croatian military looting, which was also reported by the remaining residents.³³²⁵ HRAT reported that on 5 September 1995 the approximately 40 persons still living in Golubić told HRAT that they were very concerned for their security.³³²⁶

851. Davor Zdrilić, Ivo Oštrić, Željko Guzić, Mario Paleka, and Vlado Lukić (indicted by the military prosecutor, all HV members whose command was based in the Golubić area) were convicted by the Municipal Court in Knin on 5 November 1998 for aggravated theft committed in Golubić, Knin municipality, on 8 September 1995.³³²⁷ The Municipal Court found that, for their personal gain, they had taken from houses in Golubić a large number of items (listed on pages 7-8 of P2610).³³²⁸ They were aware that after the military operations, houses in the area had been abandoned by their owners. They loaded the items onto a truck and drove towards Zadar. However, VP members stopped them at a check-point near Knin, and seized the items in exchange for a receipt on temporary seizure.³³²⁹ The Municipal Court decided that the proceeds of the crime be confiscated from the convicts.³³³⁰

852. At 9 a.m. on 25 September 1995, UNMO observed a burning house near Golubić.³³³¹

853. The Trial Chamber has further received evidence about the military presence in Golubić in August 1995. According to the operative logbook of the 4th Guards Brigade, on 5 August 1995, at 8:45 a.m., reconnaissance troops had descended to Golubić.³³³² According to the Split MD's Operational Diary, at 8:50 a.m. on 5 August 1995 the 4th

³³²⁴ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

³³²⁵ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 6.

³³²⁶ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 30; P38 (Weekly report from Hussein Al-Alfi, 2-8 September 1995), p. 5; P50 (HRAT daily report, 5 September 1995), pp. 1-2.

³³²⁷ Mladen Bajić, T. 20821-20823, 20857-20860; P2610 (Documentation on legal proceedings against Zdrilić, Zubičić, Oštrić, Guzić, Paleka and Lukić for aggravated theft), pp. 1-8, 10-18.

³³²⁸ P2610 (Documentation on legal proceedings against Zdrilić, Zubčić, Oštrić, Guzić, Paleka and Lukić for aggravated theft), pp. 7-8, 15-16.

³³²⁹ P2610 (Documentation on legal proceedings against Zdrilić, Zubčić, Oštrić, Guzić, Paleka and Lukić for aggravated theft), p. 15.

³³³⁰ P2610 (Documentation on legal proceedings against Zdrilić, Zubčić, Oštrić, Guzić, Paleka and Lukić for aggravated theft), p. 8.

³³³¹ P157 (UNMO Sector South daily situation report, 8 p.m., 25 September 1995), p. 4.

³³³² P2343 (Operative logbook of the 4th Guards Brigade, July and August 1995), p. 35.

Guards Brigade entered Golubić and reached the entrance of Vrpolje.³³³³ According to the operative logbook of the 4th Guards Brigade, on 9 August 1995, at 5 p.m., the 2nd infantry brigade relocated away from the area of Golubić.³³³⁴ According to the Split MD's Operational Diary, on 11 August 1995 twenty members of the 72nd VP Battalion of the HV were securing the warehouse in Golubić.³³³⁵ According to the 6th Home Guard Regiment War Journal, the 6th Regiment's command post was being set up in Golubić on 12 August 1995. On 14 August 1995 the commanding officer of the 6th Regiment's 2nd Battalion deployed with 80 men in the area of Golubić.³³³⁶ On 15 August 1995 a warehouse in Golubić was assigned to the 73rd VP Battalion.³³³⁷ On 16 August 1995 the battalion in the area of Knin and Golubić was searching the area.³³³⁸ On 29 August 1995, the Golubić warehouse was guarded and used by the 300th Logistic Base.³³³⁹ In addition to the evidence above, the Trial Chamber has considered exhibit P2559, P2379, and D180, pp. 6-7, 14-15.

854. The Trial Chamber finds that the HV was present in the Golubić area starting on 5 August 1995 until, at least, 8 September 1995. The evidence also indicates that houses in the Golubić area started burning as early as 12 August 1995, with two witnesses observing approximately 20 houses burn on 17 August 1995. However, there is insufficient evidence as to the circumstances under which the houses were set on fire. The evidence further indicates that by 26 August 1995, many houses in and around Golubić had been "looted". However, the evidence does not establish whether, when, or by whom items were taken from these houses. On 27 August 1995, Flynn observed a burning house in a hamlet of Golubić. The evidence indicates that Special Police searched on that day the area of Golubić. However, the evidence is insufficient to establish a link between the Special Police and the burning house. An HRAT report further indicates that on 29 August 1995, HRAT observed in the Golubić area six persons referred to as HV soldiers leaving the hamlet of Golubić, where several houses had recently begun to burn, and turning back and dispersing upon seeing HRAT. Without further information as to why these persons turned back and dispersed, the

³³³³ P71 (Split MD operational diary for 25 July – 14 September 1995), pp. 83-84.

³³³⁴ P2343 (Operative logbook of the 4th Guards Brigade, July and August 1995), p. 48.

³³³⁵ P71 (Split MD operational diary for 25 July – 14 September 1995), pp. 100-101.

³³³⁶ P2586 (Regiment Command War Journal Extract, 6th Home Guard Regiment), pp. 5, 7.

³³³⁷ P71 (Split MD operational diary for 25 July – 14 September 1995), pp. 108-109.

³³³⁸ P71 (Split MD operational diary for 25 July – 14 September 1995), pp. 110, 112.

³³³⁹ D990 (HV Main Staff report on military facilities in the area of responsibility of the Split MD, 29 August 1995), pp. 1, 3.

evidence is not sufficient to establish that these persons set fire to the houses. According to a VP log book, on 1 September 1995 someone saw several persons in VP cars with license plates “HV 283 VP” and “HV 719 VP” close to some burning houses in Golubić, and according to the same log book it was later established that the VP members had discovered the burning houses and were looking for the perpetrators. The proximity between the VP members and the fires is not sufficient to establish that these persons set fire to the houses. Finally, the evidence indicates that a house near Golubić was burning on 25 September 1995. However, there is insufficient evidence as to the circumstances under which the house was set on fire. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment.

855. On the basis of P2610, the Trial Chamber finds that on 8 September 1995 five members of the HV based in the Golubić area took, for their personal gain, a large number of items (listed on pages 7-8 of P2610) from houses in Golubić, loaded them onto a truck and drove towards Zadar. The Trial Chamber notes in this regard that the Municipal Court in Knin convicted them of aggravated theft, and that there is no indication in the evidence that this judgement did not become final under Croatian law. Based on evidence from Mauro, the Trial Chamber further finds that on 5 September 1995 persons referred to as Croatian military were looting in the Golubić area, which the Trial Chamber understands to mean that they took unspecified items away. Mauro did not provide further details as to the factual basis for her qualification of these persons as Croatian military. However, considering the presence of the HV in the area of Golubić at the time, the Trial Chamber finds that these persons were members of the HV. Considering the ethnic composition of Golubić in 1991, the Chamber finds that most if not all of these items were owned by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1 and 4 of the Indictment in chapters 5.5.2 5.6.2 and 5.8.2 (f) below.

Knin town

856. The Trial Chamber has received large amounts of evidence relevant to the alleged destruction and plunder in Knin. The Trial Chamber has considered all of this evidence, but only reviews and discusses parts of it below, focusing on the best

available evidence.³³⁴⁰ As a rule, the Trial Chamber will in this chapter not explicitly consider evidence that is undated, prospective, vague, general, un-sourced or otherwise without a proper factual basis, not clearly related to Knin, not clearly related to property within the scope of the Indictment,³³⁴¹ or evidence of destruction that is clearly combat-related. According to the 1991 Population Census, the population of Knin consisted of 9,867 Serbs out of a total of 12,331 persons in 1991.³³⁴² **Pašić** testified that the demographics of Knin had changed substantially, and that at the start of Operation Storm there were some 250 Croats in Knin.³³⁴³

857. An overview over destruction and plunder in Knin during the Indictment period was provided by **Witness 84**, a police officer in Knin.³³⁴⁴ He testified that the looting and the burning of the houses were done in stages.³³⁴⁵ The first stage of looting and destruction was carried out by professional soldiers of the Croatian Army who had participated in Operation Storm and remained in Knin for three to four days after the liberation of Knin.³³⁴⁶ Witness 84 stated that he recognized the members of the Croatian Army that had participated in Operation Storm by the armbands that they were wearing.³³⁴⁷ The second stage of looting and destruction was carried out by the home guard units that returned to the area approximately five to ten days after Operation Storm.³³⁴⁸ The witness stated that there were also at this stage demobilized soldiers, who had kept their Croatian uniforms, military ID cards and weapons, coming back to Knin pretending to be active members of the HV.³³⁴⁹ The third stage of looting and destruction was carried out by civilians returning to the area on or around 15 August

³³⁴⁰ See Chapter 2.

³³⁴¹ The Trial Chamber received much evidence regarding the property of international observers. Since the Indictment charges plunder of the property owned or inhabited by Krajina Serbs, the Trial Chamber will not explicitly discuss such evidence unless it serves some other purpose such as establishing troop presence. See also Chapter 2.

³³⁴² C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), pp. 110-111.

³³⁴³ D1707 (Petar Pašić, witness statement, 23 April 2009), para. 4; Petar Pašić, T. 22914-22915, 23035-23036.

³³⁴⁴ P1035 (Witness 84, pseudonym sheet); P2393 (Witness 84, witness statement, 20 November 2007), p. 1; P2394 (Witness 84, witness statement, 11 July 2004), p. 1; P2395 (Witness 84, witness statement 9 March 2002), pp. 1-3; Witness 84, T. 11061, 11073, 11094, 11101, 11358, 11360.

³³⁴⁵ P2393 (Witness 84, witness statement, 20 November 2007), para. 27; P2395 (Witness 84, witness statement, 9 March 2002), para. 30.

³³⁴⁶ P2393 (Witness 84, witness statement, 20 November 2007), para. 27; P2395 (Witness 84, witness statement, 9 March 2002), para. 30; Witness 84, T. 11097-11100.

³³⁴⁷ Witness 84, T. 11100.

³³⁴⁸ P2393 (Witness 84, witness statement, 20 November 2007), para. 27; P2395 (Witness 84, witness statement, 9 March 2002), para. 30; Witness 84, T. 11101, 11387.

³³⁴⁹ Witness 84, T. 11104, 11411-11412, 11414.

1995.³³⁵⁰ Witness 84 stated that within 10-20 days after the liberation of Knin, the city and the surrounding area was completely looted and burnt.³³⁵¹ According to the witness, over 70 per cent of the houses were destroyed in the first stage and after the first 15 days the destruction slowed down but did not come to a complete halt.³³⁵² The witness further stated that property belonging to both ethnic communities, Croats and Serbs, was being looted.³³⁵³ The Trial Chamber will examine whether the overview provided by Witness 84 finds support in more specific evidence, and has identified two distinct periods, with which it will deal successively. The first period covers 5-8 August, and the second period covers 9 August until the end of the Indictment period.

858. Most of the relevant evidence concerns the first period, from 5 to 8 August 1995. The Trial Chamber will examine the evidence day by day, to the extent possible, before making its findings on the entire first period.

859. The Trial Chamber first turns to the arrival of Croatian forces in the town of Knin. The Trial Chamber has received relevant documentary evidence from Croatian sources. According to the Split MD's Operational Diary, at 11:07 a.m. on 5 August 1995 the Commander of the 7th Guards Brigade of the HV reported that he had entered Knin.³³⁵⁴ At 11:30 a.m. it was reported from intelligence sources that the 7th Guards Brigade was on the bridge in Knin, and had seized all of Knin.³³⁵⁵ At 11:25 a.m., Zebić reported from the 7th Guards Brigade command post that they were around the barracks in Knin, and were pulling out some of the motor vehicles.³³⁵⁶ At 12:50 p.m., the 1st pb reported that they were at the centre of Knin.³³⁵⁷ The Trial Chamber has considered further relevant evidence from P2343, reviewed in chapter 4.1.9 (Nikola Dragičević and others - Schedule no. 1). In a daily report addressed to Major General Ivan Tolj sent at 1 p.m. on 5 August 1995, Colonel Ivan Zelić, Coordinator of the Political Administration at the Ministry of Defence for Political Affairs, stated that Croatian forces had taken control of Knin by noon.³³⁵⁸ According to Ante Gotovina's analysis of Operation Storm,

³³⁵⁰ P2393 (Witness 84, witness statement, 20 November 2007), para. 27; P2395 (Witness 84, witness statement, 9 March 2002), para. 30; Witness 84, T. 11105, 11387.

³³⁵¹ P2395 (Witness 84, witness statement, 9 March 2002), para. 24.

³³⁵² P2393 (Witness 84, witness statement, 20 November 2007), para. 24.

³³⁵³ Witness 84, T. 11410.

³³⁵⁴ P71 (Split MD operational diary for 25 July – 14 September 1995), pp. 83-84.

³³⁵⁵ P71 (Split MD operational diary for 25 July – 14 September 1995), p. 84.

³³⁵⁶ P2343 (Operative logbook of the 4th Guards Brigade, July and August 1995), p. 36.

³³⁵⁷ P2343 (Operative logbook of the 4th Guards Brigade, July and August 1995), p. 37.

³³⁵⁸ D180 (Documentation of Croatian authorities of investigation of murders of Ilija and Milka Petko, and Dmitar and Đuro Rašuo), pp. 14-15.

the 4th and 7th Guards Brigades had liberated Knin by 11 a.m. on 5 August 1995.³³⁵⁹ In this respect, the Trial Chamber has further considered evidence from exhibit P2559.

860. The arrival of Croatian forces in Knin is also reflected in evidence received from international observers. **Eric Hendriks**, an ECMM monitor in Knin from 21 July 1995 until 30 October 1995,³³⁶⁰ testified that on 5 August 1995 at 10 or 11 a.m., the 4th and 7th (Puma) HV Brigade entered Knin without resistance.³³⁶¹ According to an ECMM report, HV soldiers reached the ECMM RC building on midday on 5 August 1995.³³⁶² **Alain Forand**, UNCRO Sector South Commander from 8 July 1995 to 10 October 1995,³³⁶³ testified that at about 10:30-11 a.m., he saw HV troops at the hospital as he approached it.³³⁶⁴ On his return to the UN compound, he was stopped a number of times by Croatian troops.³³⁶⁵ Forand testified that just before noon on 5 August 1995, HV troops advancing from the south-east arrived at the front gate of the UN compound and that at that time Knin was completely in the hands of the HV.³³⁶⁶ According to **Robert Williams**, an intelligence officer for the Canadian contingent of UNPROFOR,³³⁶⁷ at 12:05 p.m., the HV 7th Guards Brigade arrived at the UN compound's main gate with three T-55 tanks, one APC, and some infantry.³³⁶⁸ Williams identified the soldiers by their uniform insignia, which was a Puma.³³⁶⁹ The HV tanks had their barrels turned in

³³⁵⁹ P2585 (Ante Gotovina's analysis of Operation Storm, 16 September 1995), pp. 1-2, 9-10.

³³⁶⁰ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 3; D820 (Eric Hendriks, witness statement, 18 April 1996), pp. 1-2; Eric Hendriks, T. 9734-9735, 9755-9756.

³³⁶¹ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 18; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 4; P1300 (ECMM daily monitoring report, 7 August 1995), p. 2; D334 (ECMM report, 12:45 a.m., 5 August 1995), para. 2. See also P345 (UNCRO Sector South update situation report, 12 p.m., 5 August 1995), p. 2.

³³⁶² P1299 (ECMM special report, 7 August 1995).

³³⁶³ P330 (Alain Forand, witness statement, 20 August 1996), pp. 2, 15; P333 (Alain Forand, witness statement, 25 January 2008), para. 2; Alain Forand, T. 4098-4099, 4180, 4186.

³³⁶⁴ P330 (Alain Forand, witness statement, 20 August 1996), p. 8; P331 (Alain Forand, witness statement, 29 September 1997), p. 13; Alain Forand, T. 4122; P398 (Video interview of Alain Forand), p. 1; P399 (Video and transcript of an interview with Alain Forand), p. 3; P401 (Presentation by Alain Forand, 24 June 1996), p. 29. See also P54 (Mira Grubor, witness statement, 3 April 1998), p. 4; Mira Grubor, T. 1393, 1459-1460, 1478-1479.

³³⁶⁵ P331 (Alain Forand, witness statement, 29 September 1997), p. 13; P345 (UNCRO Sector South update situation report, 12 p.m., 5 August 1995), p. 2; P398 (Video interview of Alain Forand), p. 1.

³³⁶⁶ P330 (Alain Forand, witness statement, 20 August 1996), p. 8; Alain Forand, T. 4123; P345 (UNCRO Sector South update situation report, 12 p.m., 5 August 1995), pp. 1-2; P398 (Video interview of Alain Forand), p. 1; P401 (Presentation by Alain Forand, 24 June 1996), p. 29.

³³⁶⁷ P924 (Robert Williams, witness statement, 5 November 1995), p. 1; P925 (Robert Williams, witness statement, 22 August 1996), p. 2.

³³⁶⁸ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P925 (Robert Williams, witness statement, 22 August 1996), p. 6; P926 (Robert Williams, witness statement, 14 November 2007), para. 4; Robert Williams, T. 9546; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 2.

³³⁶⁹ Robert Williams, T. 9545.

the direction of the UN compound.³³⁷⁰ **John Hill**, Commanding Officer of the International Military Police in Sector South from early June 1995 to 8 December 1995,³³⁷¹ testified that around noon on 5 August 1995 a convoy of six HV tanks, three APCs, and some infantry arrived in a column from Drniš.³³⁷² He further stated that some of the vehicles came to the main entrance of the UN compound and others continued towards the town.³³⁷³ According to Hill, Leslie negotiated an agreement that the Croats stay outside and the UN stays inside the UN compound.³³⁷⁴ Hill talked to two HV members, whom he believed belonged to the Pumas because of their patches.³³⁷⁵ **Andrew Leslie**, Chief of Staff of UNCRO Sector South in Knin from 1 March to 7 August 1995 and a military officer with extensive experience in artillery,³³⁷⁶ testified that HV soldiers from the Puma Brigade arrived at the front gates of the UN compound and refused to let the UN leave.³³⁷⁷ An HV tank, flanked by a significant number of infantry, was placed in front of the gate.³³⁷⁸ Leslie demanded from an HV colonel from the Puma Brigade that UNCRO should be let through.³³⁷⁹ The colonel informed Leslie that he, under the command of Ante Gotovina, was responsible for the attack and that the UN would not be allowed to leave the camp until he received orders to the contrary from his commander.³³⁸⁰ The explicit reason was the concern for the safety of the UNCRO soldiers.³³⁸¹ The witness was able to observe from the UN compound how HV forces streamed into Knin on the road outside the compound.³³⁸² **Philip Berikoff**, UN

³³⁷⁰ P925 (Robert Williams, witness statement, 22 August 1996), pp. 6-7.

³³⁷¹ P291 (John Hill, witness statement, 23 August 1996), p. 2; P292 (John Hill, witness statement, 21 January 1998), pp. 3, 93; P293 (John Hill, witness statement, 2 November 1999), p. 3.

³³⁷² P291 (John Hill, witness statement, 23 August 1996), p. 5; P292 (John Hill, witness statement, 21 January 1998), pp. 17-18; John Hill, T. 3750; P301 (UNCRO Military Police report, 4-7 August 1995), p. 3; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

³³⁷³ P291 (John Hill, witness statement, 23 August 1996), p. 5.

³³⁷⁴ P291 (John Hill, witness statement, 23 August 1996), p. 5; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

³³⁷⁵ John Hill, T. 3750-3751; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

³³⁷⁶ Andrew Leslie, T. 1930-1931, 1933-1936, 2099, 2189, 2195-2196; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 1.

³³⁷⁷ Andrew Leslie, T. 1971, 2175, 2183; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), pp. 2-3; D124 (UNMO Sector South daily situation report, 7 p.m., 5 August 1995), p. 1.

³³⁷⁸ Andrew Leslie, T. 1971-1973, 2094; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), pp. 2-3; D127 (Video of Hill about the tank in front of the UN headquarters in Knin).

³³⁷⁹ Andrew Leslie, T. 1972, 2084-2090, 2183; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 3; D126 (Video of Andrew Leslie at the front gate of the UN headquarters in Knin).

³³⁸⁰ P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 3; D126 (Video of Andrew Leslie at the front gate of the UN headquarters in Knin).

³³⁸¹ D126 (Video of Andrew Leslie at the front gate of the UN headquarters in Knin).

³³⁸² Andrew Leslie, T. 1973.

Military Information Officer for UN Sector South who was based in Knin between 21 July and 5 September 1995,³³⁸³ testified that at 12:05-12:10 p.m. armed members of the 7th Guards Brigade (“Puma”) arrived in tanks at the front gate of the UN compound.³³⁸⁴ Berikoff explained that he identified them with the help of a book published by the Croatian Government which included all the shoulder patches of the Croatian Army.³³⁸⁵ Further corroboration of the arrival of HV forces in Knin was received from **Bellerose**,³³⁸⁶ **Boucher**,³³⁸⁷ **Dangerfield**,³³⁸⁸ **Dijkstra**,³³⁸⁹ **Liborius**,³³⁹⁰ **Marker Hansen**,³³⁹¹ **Marti**,³³⁹² and **Mauro**.³³⁹³

861. On the basis of the evidence in the two preceding paragraphs, the Trial Chamber finds that the 7th and the 4th Guards Brigades of the HV entered Knin between approximately 10 a.m. and noon on 5 August 1995.

862. The Trial Chamber now turns to examine the alleged destruction and plunder in Knin by the Croatian forces on 5 August 1995. Numerous international witnesses provided relevant evidence, mostly with regard to plunder. **Forand** testified that sometime in the late morning of 5 August 1995, he saw HV soldiers going in and out of stores on the main street, engaged in looting.³³⁹⁴ Forand told an HV lieutenant-colonel, who informed Forand that he was in charge, that some of his troops had started to loot

³³⁸³ P739 (Philip Berikoff, witness statement, 24 August 1996), pp. 1-2; P740 (Philip Berikoff, witness statement, 21 May 1997), p. 1, paras 1-2; P741 (Philip Berikoff, witness statement, 11 December 2007), p. 1; D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 1-2, 45; Philip Berikoff, T. 7589, 7655-7656, 7734-7735, 7759-7760, 7768, 7776, 7813, 7823; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), pp. 2, 16.

³³⁸⁴ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (k); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 14; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7613, 7643, 7695, 7715, 7717, 7721, 7820; P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 4; P745 (Chart drawn by Berikoff); P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 7.

³³⁸⁵ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 16, 20.

³³⁸⁶ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 5.

³³⁸⁷ P1177 (Normand Boucher, witness statement, 12 November 1999), para. 48.

³³⁸⁸ P695 (Roland Dangerfield, witness statement, 21 December 1995), paras 4-5, 33; Roland Dangerfield, T. 7151, 7218-7219, 7274-7276; P699 (The Fall of the Republic of Serb Krajina, authored by Roland Dangerfield, undated), p. 5.

³³⁸⁹ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 3; P429 (Bert Dijkstra, witness statement, 12 March 2008), paras 14, 28.

³³⁹⁰ P799 (Søren Liborius, witness statement, 2 November 1995), p. 4; Søren Liborius, T. 8264.

³³⁹¹ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3; P1292 (Stig Marker Hansen, personal diary), pp. 2-3.

³³⁹² P415 (Peter Marti, witness statement, 13 February 1996), p. 1; P416 (Peter Marti, witness statement, 29 June 1997), p. 3; P417 (Peter Marti, witness statement, 14 December 2007), paras 37-38.

³³⁹³ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 3.

³³⁹⁴ Alain Forand, T. 4121-4122, 4492-4493; P348 (UNCRO Sector South report, 7 a.m., 6 August 1995), pp. 1-2; P399 (Video and transcript of an interview with Alain Forand), p. 4; D317 (UNCRO Sector South update situation report, 5 August 1995), p. 2.

stores and houses.³³⁹⁵ Despite a language problem in the communication with the HV officer, Forand understood him to say that the looting would be stopped.³³⁹⁶ Forand stated that it did not stop.³³⁹⁷ On the way back to the UN compound, Forand and his personnel picked up refugees, civilians, and hospital staff.³³⁹⁸ They also picked up ECMM members.³³⁹⁹ On their way to the UN compound, they were stopped in the middle of Knin by HV tanks, which allowed them to pass after some negotiations, and found more tanks surrounding the UN compound.³⁴⁰⁰ According to an ECMM report, the HV soldiers appeared to be professional and treated the civilian population fairly.³⁴⁰¹ Forand reported on 5 August 1995 that Knin was full of tanks and APCs and that the HV soldiers were not seen abusing civilians or military and that they were “fairly friendly”.³⁴⁰² Forand testified that in the early afternoon of 5 August 1995 he and others observed looting in and of vehicles, parked just outside the UN compound in Knin, by the HV 7th Brigade (Puma), which was the first to arrive in Knin (Forand noted in Court that he saw persons taking things from only one car).³⁴⁰³ The vehicles belonged to the refugees who were sheltered at the compound on that day.³⁴⁰⁴ At the same time, the leaders of the looting soldiers stood at the gate of the UN compound telling Forand’s Chief of Staff, Colonel Leslie, that they were disciplined professionals whose troops were under tight control.³⁴⁰⁵ Later, Forand saw an influx of civilian cars with plates from Split, Zadar, and other places passing beside the UN compound on the route from

³³⁹⁵ P331 (Alain Forand, witness statement, 29 September 1997), p. 13; Alain Forand, T. 4122, 4143.

³³⁹⁶ P331 (Alain Forand, witness statement, 29 September 1997), p. 13; Alain Forand, T. 4122.

³³⁹⁷ P331 (Alain Forand, witness statement, 29 September 1997), p. 13.

³³⁹⁸ P330 (Alain Forand, witness statement, 20 August 1996), p. 8; P331 (Alain Forand, witness statement, 29 September 1997), p. 13; Alain Forand, T. 4122; P399 (Video and transcript of an interview with Alain Forand), p. 3; P401 (Presentation by Alain Forand, 24 June 1996), p. 29; D334 (ECMM report, 12:45 a.m., 5 August 1995), para. 3.

³³⁹⁹ Alain Forand, T. 4122, 4489; P399 (Video and transcript of an interview with Alain Forand), p. 3; D334 (ECMM report, 12:45 a.m., 5 August 1995), para. 3.

³⁴⁰⁰ Alain Forand, T. 4489-4490; P399 (Video and transcript of an interview with Alain Forand), pp. 3-4; D334 (ECMM report, 12:45 a.m., 5 August 1995), para. 4.

³⁴⁰¹ D334 (ECMM report, 12:45 a.m., 5 August 1995), para. 6.

³⁴⁰² P345 (UNCRO Sector South update situation report, 12 p.m., 5 August 1995), p. 2; P398 (Video interview of Alain Forand), p. 1.

³⁴⁰³ P330 (Alain Forand, witness statement, 20 August 1996), p. 10; P331 (Alain Forand, witness statement, 29 September 1997), pp. 12-14; Alain Forand, T. 4143, 4495; P399 (Video and transcript of an interview with Alain Forand), p. 4; P406 (UNCRO Sector South update situation report, 10 p.m., 5 August 1995), p. 2; D317 (UNCRO Sector South update situation report, 5 August 1995), p. 2.

³⁴⁰⁴ P331 (Alain Forand, witness statement, 29 September 1997), p. 14; Alain Forand, T. 4143.

³⁴⁰⁵ P330 (Alain Forand, witness statement, 20 August 1996), p. 10; P401 (Presentation by Alain Forand, 24 June 1996), p. 32.

Drniš to Knin. He saw that the cars were empty on their way but fully loaded on their way back.³⁴⁰⁶

863. **Murray Dawes**, a former civilian UN accommodation officer stationed in Knin municipality from May 1994 to October 1995,³⁴⁰⁷ testified that the looting of Serb property by HV soldiers began on 5 August 1995, around noon, just after the HV arrived at the main gate of the UN compound, though they had already been in town for a while.³⁴⁰⁸ According to the witness, who had a bird's eye view of the main gate of the UN compound, none of the soldiers appeared to be hiding the fact that they were taking items.³⁴⁰⁹ The witness could see that the road in front of the main gate was full, and that the parking lot across from the main gate was filled with personal belongings like TV sets and dining room tables being handled by HV soldiers.³⁴¹⁰ HV soldiers also searched abandoned cars with Knin license plates in front of the main gate and took items of value.³⁴¹¹ From what the witness remembered, the HV soldiers carrying these items were wearing regular camouflage uniforms, and many of them were clearly drunk.³⁴¹² The witness described the mood among the HV soldiers as quite festive.³⁴¹³ Dawes also saw local cars with Knin license plates pass by the UN compound, loaded with valuable items, such as TV sets, dining room tables, fridges, and freezers. These cars were occupied and driven by persons wearing HV uniforms and shoulder badges with chequerboards on them.³⁴¹⁴ Throughout the entire day and evening, Croats brought individuals—mainly females, children and old men—to the UN compound. These individuals told Dawes and others that HV soldiers had stripped them of all their valuables. The Croats guarded the main gate from the outside, and would not let anyone out of the UN compound. T-72 tanks and APC's were positioned just outside with their barrels pointed into the UN compound.³⁴¹⁵ According to the witness, nobody from any of the civilian organizations left the UN compound that day.³⁴¹⁶ By the end of the day,

³⁴⁰⁶ P331 (Alain Forand, witness statement, 29 September 1997), p. 14.

³⁴⁰⁷ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 1-2.

³⁴⁰⁸ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 7-8; Murray Dawes, T. 10395-10396, 10399.

³⁴⁰⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7; Murray Dawes, T. 10395-10396, 10399.

³⁴¹⁰ Murray Dawes, T. 10395-10396, 10399.

³⁴¹¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8.

³⁴¹² P981 (Murray Dawes, witness statement, 2 April 2008), para. 29; Murray Dawes, T. 10396.

³⁴¹³ Murray Dawes, T. 10396.

³⁴¹⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10396.

³⁴¹⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8.

³⁴¹⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7; P981 (Murray Dawes, witness statement, 2 April 2008), para. 25.

there were approximately 600 people inside the UN compound; this figure increased the following day.³⁴¹⁷

864. From his observation post at the UN compound, **Liborius**, an ECMM Operations Officer and team leader based in Knin from 28 July 1995 until 27 November 1995,³⁴¹⁸ observed on 5 August 1995 how looting of TV sets, small electrical appliances, and liquor bottles by soldiers from the 7th Puma Brigade, whom Liborius identified by their insignia on uniforms and cars, began instantly.³⁴¹⁹ Goods were openly transported to a collection point just outside the gates of the UN compound, with HV trucks and private vehicles constantly coming and going.³⁴²⁰ Liborius stated that soldiers from different units assembled at the collection point and inspected the loot.³⁴²¹ He stated that the collection point stayed there for a few days.³⁴²²

865. At 1:30 p.m. on 5 August 1995, **Williams** went to the balcony of the main building and witnessed HV soldiers outside the UN compound drinking in celebration of their victory.³⁴²³ They then began looting abandoned cars, television sets, radios, and other valuable items.³⁴²⁴ The looting he saw did not appear organized to him. It was mostly carried out by the Home Guards, with some of the looters wearing uniforms and others not.³⁴²⁵ At 7 p.m. on the same day, the witness, together with other UN personnel, was tasked with going into downtown Knin to pick up refugees. However, at the junction outside the UN compound they came under small arms fire and their way was blocked by 13 T-55 HV tanks from the HV 7th Puma Brigade. They were told to return to the UN compound.³⁴²⁶ After the UN personnel returned to the UN compound, the HV deployed a T-55 tank in front of the main gate, preventing them to go out again.³⁴²⁷

³⁴¹⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8.

³⁴¹⁸ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 1, 3; P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; P801 (Søren Liborius, witness statement, 12 October 2005), p. 2; P803 (Søren Liborius, witness statement, 6 September 2008), para. 6; Søren Liborius, T. 8229; D741 (Diary of Liborius), p. 3.

³⁴¹⁹ P799 (Søren Liborius, witness statement, 2 November 1995), p. 4; Søren Liborius, T. 8261-8262, 8522, 8527-8528.

³⁴²⁰ P801 (Søren Liborius, witness statement, 12 October 2005), p. 3; Søren Liborius, T. 8261-8263, 8527.

³⁴²¹ Søren Liborius, T. 8263.

³⁴²² Søren Liborius, T. 8528.

³⁴²³ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P925 (Robert Williams, witness statement, 22 August 1996), p. 7; Robert Williams, T. 9548; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 3.

³⁴²⁴ P925 (Robert Williams, witness statement, 22 August 1996), p. 7; Robert Williams, T. 9548.

³⁴²⁵ Robert Williams, T. 9628-9629.

³⁴²⁶ P925 (Robert Williams, witness statement, 22 August 1996), p. 7; Robert Williams, T. 9549.

³⁴²⁷ P925 (Robert Williams, witness statement, 22 August 1996), p. 7.

866. Shortly after noon on 5 August 1995, **Stig Marker Hansen**, an ECMM monitor in Knin from June to September 1995 and head of ECMM Knin from approximately 5 September to 23 September 1995,³⁴²⁸ saw the HV 4th Brigade, which he recognized by the insignia painted on one of their vehicles, using Serb vans, cars, tractors, and bikes to collect valuables from apartments and houses that had been abandoned.³⁴²⁹ He saw what appeared to be a parking area for trucks just outside the perimeter of the UN barracks with a big garage being guarded by HV soldiers.³⁴³⁰ Uniformed personnel brought in and off-loaded goods, such as TV sets, stereos, and refrigerators, at this site.³⁴³¹ Similarly, according to the diary of Marker Hansen, on 5 August 1995 “Croats” were “clearing” Knin and taking computers, radios, TVs, and alcohol, using civilian vehicles to move valuable goods, firing “liberation” salvos, and vandalizing Knin.³⁴³² On 6 August 1995, the goods were loaded onto military trucks and taken away in the direction of Drniš.³⁴³³ Marker Hansen saw similar storage sites at other places in Knin and also saw goods loaded onto civilian trucks.³⁴³⁴

867. Evidence relevant to the alleged destruction in Knin on 5 August 1995 was sparse in comparison. **Jan Elleby**, Deputy Chief and later Chief of UNCIVPOL Sector South in Knin between 15 May and 1 or 2 October 1995,³⁴³⁵ testified that on 5 August 1995, after the shelling stopped, he observed from the UN headquarters houses in Knin beginning to burn, which he recognized as arson by the smoke pattern.³⁴³⁶ **Hill** testified that on the evening of 5 August 1995, he tried going into Knin but was not allowed to pass an intersection by a Croatian officer.³⁴³⁷ Hill saw that the road from the UN

³⁴²⁸ P1283 (Stig Marker Hansen, witness statement, 18 December 1995) p. 2; P1284 (Stig Marker Hansen, witness statement, 22 August 1997), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 3.

³⁴²⁹ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3; Stig Marker Hansen, T. 14914-14915.

³⁴³⁰ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3; Stig Marker Hansen, T. 14914-14915; P1301 (Map of UN compound marked by Witness Marker Hansen).

³⁴³¹ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3; Stig Marker Hansen, T. 14914-14915.

³⁴³² P1292 (Stig Marker Hansen, personal diary), p. 4.

³⁴³³ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3; Stig Marker Hansen, T. 14914-14915.

³⁴³⁴ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3.

³⁴³⁵ P214 (Jan Elleby, witness statement, 17 September 1995), p. 1; P215 (Jan Elleby, witness statement, 14 September 1997), pp. 1-3; P216 (Jan Elleby, witness statement, 10 October 2005), pp. 1-2; Jan Elleby, T. 3361-3362, 3469.

³⁴³⁶ P214 (Jan Elleby, witness statement, 17 September 1995), p. 2; P217 (Jan Elleby, witness statement, 20 February 2008), para. 13.

³⁴³⁷ John Hill, T. 3751-3752; P301 (UNCRO Military Police report, 4-7 August 1995), p. 4.

compound to a nearby hill was lined up with HV tanks and APCs.³⁴³⁸ Hill further testified that an HV officer placed a tank in front of the UN compound and that Hill and others were told that they could not go into Knin that night.³⁴³⁹ According to Hill, the Croats went into Knin with tanks and APCs on the evening of 5 August 1995.³⁴⁴⁰ He could hear machine gun fire and tank fire in the town in the evening of that day.³⁴⁴¹ According to an UNCRO Military Police report, it was observed at 11 p.m. on 5 August 1995 from the UN compound that four houses in Knin had been set on fire and were burning.³⁴⁴² **Berikoff** testified that in the evening of 5 August 1995, numerous fires were burning in and around Knin, there was the sound of gunfire throughout the city and tracers were going up over the compound.³⁴⁴³

868. Croatian witnesses provided a somewhat different account of the relevant events in Knin on 5 August 1995. **Ljiljana Botteri**, Assistant Commander for Legal Affairs of the Split MD during and after Operation Storm,³⁴⁴⁴ testified that, at about 11 a.m. on 5 August 1995, she left Split in her official vehicle with a military driver and three colleagues from the legal department, and travelled to the Knin castle where Croatian political representatives were gathered.³⁴⁴⁵ On this first visit, the witness stated that she also saw a lot of shop windows that were broken and noticed that items were missing from some of the stores.³⁴⁴⁶

869. **Boško Džolić**, a former Company Commander of the 72nd VP Battalion who was the Commander of the Joint VP Company in Knin from 5 to 12 August 1995,³⁴⁴⁷ testified that when he entered Knin on the evening of 5 August 1995, he saw that about

³⁴³⁸ John Hill, T. 3751-3752; P301 (UNCRO Military Police report, 4-7 August 1995), p. 4; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

³⁴³⁹ John Hill, T. 3751-3752; P301 (UNCRO Military Police report, 4-7 August 1995), p. 4; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

³⁴⁴⁰ P292 (John Hill, witness statement, 21 January 1998), p. 29; P294 (John Hill, witness statement, 6 March 2008), para. 3.

³⁴⁴¹ P292 (John Hill, witness statement, 21 January 1998), p. 29; P294 (John Hill, witness statement, 6 March 2008), para. 3; P301 (UNCRO Military Police report, 4-7 August 1995), p. 4.

³⁴⁴² P301 (UNCRO Military Police report, 4-7 August 1995), p. 4.

³⁴⁴³ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 13-15.

³⁴⁴⁴ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), paras 11, 30-31; P1006 (Ljiljana Botteri, witness statement, 8 November 2007), para. 15; P1017 (Report on disciplinary measures and penalties for the third quarter of 1995, signed by Ljiljana Botteri) p. 1.

³⁴⁴⁵ P1005 (Ljiljana Botteri, witness statement, 20 January 2004), paras 31, 38.

³⁴⁴⁶ Ljiljana Botteri, T. 10924-10925.

³⁴⁴⁷ P875 (Boško Džolić, witness statement, 18 May 2004), p. 1, paras 3, 4, 20, 21, 53; P876 (Boško Džolić, witness statement, 20 August 2008), p. 1, paras 27, 32, 33; Boško Džolić, T. 8888, 8906, 8916, 8922, 8968, 8987, 8999, 9068; P882 (Report by Major General Mate Laušić on the use of VP units in Operation Storm, 6 August 1995); D786 (Organigram of the 72nd VP Battalion from August to October

one third of the shop windows were smashed but that there was still property on display in them.³⁴⁴⁸ Although he did not witness any looting in the subsequent days, Džolić noticed that the goods in the shops were slowly disappearing.³⁴⁴⁹

870. **Ivica Luković**, the Chief of the Department for Cooperation with the UN and EC for Sector South from 1992 and during 1995,³⁴⁵⁰ testified that on 5 August 1995 he flew into Knin by helicopter from the direction of the river Krka and saw some buildings in the southern part of Knin that looked as if they had been broken into or people had left in a hurry, as there were private possessions strewn about outside the houses.³⁴⁵¹ According to Luković, the Croatian military had not yet reached that part of Knin at that time, and the 7th Guards Brigade subsequently entered that area from the north.³⁴⁵² Luković walked around Knin that day and noticed that the bank's windows had been broken, property in some shops was strewn about, a small kiosk with cosmetics had been broken into and that the door of a department store near the railway station was open and some of the goods had been taken from there. Luković did not see anyone looting.³⁴⁵³ In the eastern and north-eastern parts of Knin, Luković saw several small groups of Croatian soldiers, who were euphoric and some of whom were shooting in the air in celebration.³⁴⁵⁴

871. **Karolj Dondo**, HV Liaison Officer with the UN and EC in Sector South in 1995,³⁴⁵⁵ testified that he and Ivica Luković travelled to Knin on 5 August 1995 to establish contact with UN representatives and Čermak, and to offer them assistance with regard to the large number of refugees at the UN compound.³⁴⁵⁶ Dondo's impression was that Knin was under the complete control of the HV. In Knin town Dondo saw quite a number of HV soldiers clearing the area and checking buildings. Dondo did not see any signs of destruction in town. Dondo testified that he did not see any looting or

1995); D787 (Daily Order of the Joint VP Company in Knin from 5 August to 23 September 1995), pp. 7, 10, 17, 21.

³⁴⁴⁸ P875 (Boško Džolić, witness statement, 18 May 2004), para. 26; P876 (Boško Džolić, witness statement, 20 August 2008), para. 10.

³⁴⁴⁹ P875 (Boško Džolić, witness statement, 18 May 2004), paras 29, 34, 49.

³⁴⁵⁰ D1687 (Ivica Luković, witness statement, 1 October 2004), p. 1, paras 8, 13, 17; D1688 (Ivica Luković, witness statement, 13 August 2009), p. 1, paras 4, 6; Ivica Luković, T. 22385.

³⁴⁵¹ D1687 (Ivica Luković, witness statement, 1 October 2004), para. 25; Ivica Luković, T. 22418-22420.

³⁴⁵² D1687 (Ivica Luković, witness statement, 1 October 2004), para. 25.

³⁴⁵³ D1687 (Ivica Luković, witness statement, 1 October 2004), para. 26.

³⁴⁵⁴ D1687 (Ivica Luković, witness statement, 1 October 2004), para. 27; D1688 (Ivica Luković, witness statement, 13 August 2009), paras 11-12; Ivica Luković, T. 22418, 22421, 22439-22440.

³⁴⁵⁵ D1695 (Karolj Dondo, witness statement, 9 March 2005), p. 1, paras 1-2; D1696 (Karolj Dondo, witness statement, 18 August 2009), p. 1, para. 2.

³⁴⁵⁶ D1695 (Karolj Dondo, witness statement, 9 March 2005), paras 5, 7.

any signs of looting after the evening of 5 August 1995. Dondo spent the night in Knin.³⁴⁵⁷

872. The Trial Chamber has further considered evidence from P1133 and P1134 reviewed in chapter 6.2.5.

873. The Trial Chamber notes that there is evidence that the VP arrived, started functioning and set up check-points in Knin on 5 August 1995. According to a report by Laušić, a VP company of the 72nd VP battalion was formed in Knin at noon on 5 August 1995.³⁴⁵⁸ **Džolić** testified that on 5 August 1995, on order by Budimir, he led his Company of 73 VP members (58 from the 72nd and 15 from the 66th VP Battalion) into Knin and, upon arrival at 7 to 8 p.m., established a VP command post in the former SVK Military Corps Building.³⁴⁵⁹ On the same day, Major Ivan Jurić reported to the Ministry of Defence and the VP Administration that a VP company in Knin, led by company commander Boško Džolić, had formed a supervisory and control post at the town entry and exit, securing all facilities of special importance, receiving prisoners of war, and preventing violations of law and order.³⁴⁶⁰ Džolić testified that on the evening of 5 August 1995, he further set up four check-points at the main entrances into Knin, each consisting of about three to four men and a vehicle and sent out a patrol of about three to four men that went back and forth between the check-points.³⁴⁶¹ Nobody was allowed into Knin until 5 August 1995, but Džolić stated that the 4th and 7th Guards Brigades and the civilian police were also in Knin when he arrived.³⁴⁶²

874. The Trial Chamber now turns to the events of 6 August 1995, as relevant to the alleged destruction and plunder in Knin.

875. **Hussein Al-Alfi**, the UN Civil Affairs Coordinator, later renamed Political and Human Affairs Coordinator, for Sector South in Knin from June 1995 to January

³⁴⁵⁷ D1695 (Karolj Dondo, witness statement, 9 March 2005), para. 7.

³⁴⁵⁸ D567 (Report from Mate Laušić to Gojko Šušak and Zvonimir Červenko, 16 September 1995), pp. 1, 4, 12; P71 (Split MD operational diary for 25 July – 14 September 1995), p. 91.

³⁴⁵⁹ P875 (Boško Džolić, witness statement, 18 May 2004), paras 19-22; P876 (Boško Džolić, witness statement, 20 August 2008), para. 27; Boško Džolić, T. 8974, 8998-9000, 9005, 9067-9068, 9085; P879 (Report on the execution of tasks by Major Ivan Jurić to the VP Administration, 5 August 1995), para. 1.4; P882 (Report by Major General Mate Laušić on the use of VP units in Operation Storm, 6 August 1995), paras 1, 2.1.

³⁴⁶⁰ P879 (Report on the execution of tasks by Major Ivan Jurić to the VP Administration, 5 August 1995), para. 1.4.

³⁴⁶¹ P875 (Boško Džolić, witness statement, 18 May 2004), paras 20, 22; Boško Džolić, T. 9067; P882 (Report by Major General Mate Laušić on the use of VP units in Operation Storm, 6 August 1995), paras 1, 2.1.

³⁴⁶² P875 (Boško Džolić, witness statement, 18 May 2004), paras 27, 61.

1996,³⁴⁶³ testified that on 6 August 1995 two HV tanks blocked the entrance to the UN compound.³⁴⁶⁴ UN staff were not allowed to leave the compound.³⁴⁶⁵ **Forand** testified that from the moment the HV forces arrived at the UN compound until 8 August 1995, nobody except his military police commander, Captain John Hill, was allowed to leave the compound by the HV forces.³⁴⁶⁶ Forand reported that on 6 August 1995 at 9 a.m., Hill was taken for a two hour tour of Knin by the VP and that he saw lots of military and civilian police but no fighting.³⁴⁶⁷ According to the report, Hill entered several buildings but did not see much evidence of ransacking or wanton destruction, and reported that looting was limited to beer and portable radios, etc. He further reported that he saw 20-25 civilians who carried on with their lives without being bothered by the HV soldiers and that Knin was otherwise deserted.³⁴⁶⁸

876. **Hill** testified that early in the morning of 6 August 1995, he and Corporal Tremblay went to Knin with a Croatian soldier, who was a member of the SIS.³⁴⁶⁹ The Croatian soldier drove them in a car that Hill thought was picked up in Knin as it had Knin license plates.³⁴⁷⁰ Hill had expected the town to be flattened, but was surprised that he did not see much damage.³⁴⁷¹ Hill testified that the soldier was willing to show whatever he wanted to see in town and they had access through all check-points at which the soldier would just show his HV badge.³⁴⁷² Hill went into houses and they were all looted with some looting still in progress.³⁴⁷³ He stated that a few houses along the main road were burning.³⁴⁷⁴ Everywhere in Knin, Hill saw Croatian soldiers looting

³⁴⁶³ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 5; Hussein Al-Alfi, T. 13805-13806, 13932-13933.

³⁴⁶⁴ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 32-34; Hussein Al-Alfi, T. 13809.

³⁴⁶⁵ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 32-35; Hussein Al-Alfi, T. 13809, 13856.

³⁴⁶⁶ P330 (Alain Forand, witness statement, 20 August 1996), p. 8; P331 (Alain Forand, witness statement, 29 September 1997), pp. 13-14, 17; Alain Forand, T. 4123, 4129, 4198-4199; P401 (Presentation by Alain Forand, 24 June 1996), p. 29; D317 (UNCRO Sector South update situation report, 5 August 1995), p. 1; D346 (Alain Forand's interview in Globus newspaper, 12 March 2004), p. 2.

³⁴⁶⁷ Alain Forand, T. 4129; P351 (UNCRO Sector South daily situation report, 1 p.m., 6 August 1995), pp. 1, 4.

³⁴⁶⁸ P351 (UNCRO Sector South daily situation report, 1 p.m., 6 August 1995), p. 4.

³⁴⁶⁹ P291 (John Hill, witness statement, 23 August 1996), pp. 5-6; P292 (John Hill, witness statement, 21 January 1998), p. 21; John Hill, T. 3753, 3840-3841; P301 (UNCRO Military Police report, 4-7 August 1995), p. 4; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

³⁴⁷⁰ P292 (John Hill, witness statement, 21 January 1998), p. 21; John Hill, T. 3753.

³⁴⁷¹ P291 (John Hill, witness statement, 23 August 1996), p. 6; P292 (John Hill, witness statement, 21 January 1998), p. 25; John Hill, T. 3841; P301 (UNCRO Military Police report, 4-7 August 1995), p. 4.

³⁴⁷² P291 (John Hill, witness statement, 23 August 1996), p. 6; P292 (John Hill, witness statement, 21 January 1998), p. 21.

³⁴⁷³ P291 (John Hill, witness statement, 23 August 1996), p. 6.

³⁴⁷⁴ P291 (John Hill, witness statement, 23 August 1996), p. 6; John Hill, T. 3843-3844.

and stealing cars which they were loading up with stereos, TVs, and other things.³⁴⁷⁵ These soldiers were also drinking, firing guns and sitting in front of a smashed bar.³⁴⁷⁶ Hill stated that the soldiers belonged to either the Pumas or the Tiger's Brigade, which were the only two brigades in Knin at the time according to him.³⁴⁷⁷ Hill also saw burning buildings.³⁴⁷⁸ He did see a lot of papers being taken away from the former SVK headquarters in the centre of Knin by trucks.³⁴⁷⁹ At a house close to the hospital, Hill and the SIS officer encountered a woman who told them that she was concerned about her neighbour. Hill and the SIS officer went to check the neighbour's house.³⁴⁸⁰ Near it, they saw a man stealing a car, whom the SIS officer told to go away which he did.³⁴⁸¹ Nobody was in the house and the SIS officer put up a piece of paper on the door on which he wrote that under the authority of the SIS no soldiers were to touch the contents of that house.³⁴⁸² He told Hill that when a piece of paper like that is on a house the soldiers will not enter it.³⁴⁸³ Hill described that later on he saw more houses with similar signs in Knin.³⁴⁸⁴ On one road all houses were burned down except two which had signs on them.³⁴⁸⁵ Hill stated that the houses with such signs in Sector South were not looted or burned.³⁴⁸⁶ They tried getting to the castle, but 100 metres from the castle they were stopped by men, some of whom were from the VP.³⁴⁸⁷ The SIS man talked to them and was told that there was a big meeting going on and that they should come back later.³⁴⁸⁸ Hill testified that in the evening, around 6:30 p.m., he and Corporal Tremblay went into town again.³⁴⁸⁹ They were stopped at check-points but were allowed to pass as the VP

³⁴⁷⁵ P292 (John Hill, witness statement, 21 January 1998), pp. 22-23, 51, 101; John Hill, T. 3756-3757; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

³⁴⁷⁶ P292 (John Hill, witness statement, 21 January 1998), pp. 22-23; John Hill, T. 3756; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

³⁴⁷⁷ P292 (John Hill, witness statement, 21 January 1998), pp. 3, 23-24. John Hill, T. 3780-3781, 3895-3897; P306 (Report by John Hill on HV activities from 4-11 August 1995), p. 1.

³⁴⁷⁸ John Hill, T. 3756; P306 (Report by John Hill on HV activities from 4-11 August 1995), p. 1.

³⁴⁷⁹ P291 (John Hill, witness statement, 23 August 1996), p. 6.

³⁴⁸⁰ P292 (John Hill, witness statement, 21 January 1998), p. 24.

³⁴⁸¹ P292 (John Hill, witness statement, 21 January 1998), p. 24; John Hill, T. 3758-3759.

³⁴⁸² P292 (John Hill, witness statement, 21 January 1998), p. 24; P293 (John Hill, witness statement, 2 November 1999), p. 4; John Hill, T. 3758-3759.

³⁴⁸³ John Hill, T. 3758-3759.

³⁴⁸⁴ P292 (John Hill, witness statement, 21 January 1998), pp. 24, 33; John Hill, T. 3758-3759.

³⁴⁸⁵ P292 (John Hill, witness statement, 21 January 1998), pp. 24-25.

³⁴⁸⁶ P293 (John Hill, witness statement, 2 November 1999), p. 4.

³⁴⁸⁷ P292 (John Hill, witness statement, 21 January 1998), p. 25; D274 (John Hill's diary, entries from 5-13 August 1995), p. 3.

³⁴⁸⁸ P292 (John Hill, witness statement, 21 January 1998), pp. 21-25; D274 (John Hill's diary, entries from 5-13 August 1995), p. 3.

³⁴⁸⁹ P291 (John Hill, witness statement, 23 August 1996), p. 6; P292 (John Hill, witness statement, 21 January 1998), pp. 21, 25.

manning the check-points now knew them.³⁴⁹⁰ They went to the police station in Knin and noticed that the old SVK headquarters building adjacent to the parliament was now a new headquarters. Hill went inside and saw that the Croats were going through the documents left behind by the Serbs and that they were loading trucks with the discovered documentation.³⁴⁹¹ They again tried to reach the castle but were unsuccessful. They saw that Croats with “special uniforms” had started cleaning up the streets in Knin.³⁴⁹²

877. In the morning of 6 August 1995, **Dawes** and Andries Dreyer succeeded in getting their UN mini-van out through the main gate.³⁴⁹³ Dawes and Dreyer first tried to drive into downtown Knin, but had to turn back at the bridge where a VP check-point had been erected.³⁴⁹⁴ Later in the morning of 6 August 1995, Dawes and Dreyer returned to Knin.³⁴⁹⁵ The VP, whom the witness recognized from the insignia they wore, stopped them approximately three kilometres west of the outskirts of Knin, checked their identification for about 15 minutes, and allowed them to proceed through downtown Knin.³⁴⁹⁶ They drove down the main street, directly into downtown Knin and back toward the UN compound.³⁴⁹⁷ Dawes testified that all over the town there was an unforgettably rotten smell.³⁴⁹⁸ Throughout Knin, Croatian government and military personnel were cleaning the town and separating garbage and personal belongings into piles.³⁴⁹⁹ Some of items were thrown out of balconies and piled on the street below; valuable items were carried down and separated into different piles.³⁵⁰⁰ According to the witness, there were mountains of personal items on the sides of the road—a pile of television sets, a pile of stereos, a pile of refrigerators, and so forth.³⁵⁰¹ Garbage and other non-valuable items were then placed in the backs of trucks and taken away, while

³⁴⁹⁰ P291 (John Hill, witness statement, 23 August 1996), p. 6.

³⁴⁹¹ P292 (John Hill, witness statement, 21 January 1998), p. 25.

³⁴⁹² P291 (John Hill, witness statement, 23 August 1996), p. 6.

³⁴⁹³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10413-10414, 10536, 10541, 10544-10546.

³⁴⁹⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8.

³⁴⁹⁵ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 8-10; Murray Dawes, T. 10414.

³⁴⁹⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9; P981 (Murray Dawes, witness statement, 2 April 2008), para. 31; Murray Dawes, T. 10404; P984 (Map of Knin with various locations marked by Murray Dawes).

³⁴⁹⁷ Murray Dawes, T. 10404.

³⁴⁹⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9; Murray Dawes, T. 10405.

³⁴⁹⁹ Murray Dawes, T. 10404, 10518; D865 (Map marked by Murray Dawes of route in downtown Knin where he saw soldiers removing and systematically separating items).

³⁵⁰⁰ Murray Dawes, T. 10405-10406, 10557.

³⁵⁰¹ Murray Dawes, T. 10404-10405.

valuable items were placed in the backs of other trucks.³⁵⁰² Dawes observed that groups of people behaved as if they had been assigned different tasks.³⁵⁰³ There were a lot of HV soldiers in the streets.³⁵⁰⁴ From what the witness could see, all of them were fully occupied with the looting of houses. Dawes also saw civilian police officers patrolling the streets by car and by foot, and engaging in looting.³⁵⁰⁵ Both the soldiers and the civilian police officers appeared to the witness to be looting openly.³⁵⁰⁶ The Croatian soldiers and civilian police emptied apartments and houses of personal items.³⁵⁰⁷ The soldiers also took items from official buildings.³⁵⁰⁸ He also noticed individuals wearing orange uniforms or overalls with a distinctive signature on their breast cleaning the streets, guarded by the civilian police. A couple of civilian police officers he spoke to shortly thereafter, who said they were originally from Knin, informed him that the individuals in orange uniforms were prisoners of war.³⁵⁰⁹ Dawes also observed people wearing protective coveralls, cleaning out the refrigerators and removing perishable items and garbage from inside the looted houses.³⁵¹⁰ The witness testified that the people in protective outfits were removing dead bodies from the houses.³⁵¹¹ The witness returned to the UN compound at noon.³⁵¹²

878. **Andries Dreyer**, UN Security Coordinator for Sector South in 1995,³⁵¹³ stated that on 6 August 1995 he saw drunken soldiers looting food, liquor, and other items all over Knin, and he was surprised by the lack of discipline and structure of these forces. It was his impression that the soldiers were free to do whatever they wanted, as though Knin was their prize for victory.³⁵¹⁴ The Trial Chamber has further considered evidence regarding Knin on 6 August 1995 from Berikoff, reviewed in chapter 4.2.1.

³⁵⁰² Murray Dawes, T. 10405.

³⁵⁰³ Murray Dawes, T. 10405-10406.

³⁵⁰⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9; Murray Dawes, T. 10404.

³⁵⁰⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9.

³⁵⁰⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 10.

³⁵⁰⁷ Murray Dawes, T. 10404-10405, 10555.

³⁵⁰⁸ Murray Dawes, T. 10556.

³⁵⁰⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9.

³⁵¹⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9; P981 (Murray Dawes, witness statement, 2 April 2008), para. 32; Murray Dawes, T. 10405.

³⁵¹¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 9; Murray Dawes, T. 10405.

³⁵¹² P980 (Murray Dawes, witness statement, 22 August 1996), p. 10.

³⁵¹³ P72 (Andries Dreyer, witness statement, 22 February 2008), p. 1, para. 1; D109 (Andries Dreyer, witness statement, 4 February 1996), p.1; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 1; Andries Dreyer, T. 1710, 1745-1746, 1748, 1812, 1831.

³⁵¹⁴ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 20.

879. **Lennart Widén**, a UNCIVPOL member stationed in Knin in the beginning of August 1995,³⁵¹⁵ testified that around 10 a.m. on 6 August 1995 he and UNCIVPOL chief Normand Boucher went on a foot patrol in Knin but were stopped at a check-point, by the river Krka, manned by soldiers, military police, and Croatian civilian police whom the witness identified by their uniforms and insignia.³⁵¹⁶ The two men were standing there for about an hour and observed at least ten military trucks with soldiers leaving Knin.³⁵¹⁷ The trucks were fully loaded with TVs, videos, and furniture.³⁵¹⁸ The soldiers and police at the check-point did not stop or search any of the vehicles.³⁵¹⁹ After leaving the check-point, the witness and Boucher arrived at the main street where the witness saw that all the shop windows were broken and that things were missing from the shops.³⁵²⁰ The witness also saw at least 50 soldiers, almost all of whom were carrying things like TVs, videos, and furniture.³⁵²¹ They did so openly.³⁵²² The things were put onto trucks.³⁵²³ All the civilian and some of the military vehicles the witness saw were carrying goods.³⁵²⁴ According to the witness the soldiers were from the Puma brigade, judging from their insignia and the signs on their vehicles.³⁵²⁵ The witness did not observe any civilians looting.³⁵²⁶ A block of flats and an office block were on fire.³⁵²⁷ The witness and Boucher then went to the railway bridge where

³⁵¹⁵ P721 (Lennart Widén, witness statement, 14 December 1995), paras 2-3; P722 (Lennart Widén, witness statement, 27 February 2008), p. 1, para. 4.

³⁵¹⁶ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), paras 21, 47-48, p. 10 (Aerial photograph of Knin, marked by Lennart Widén); Lennart Widén, T. 7320, 7324, 7375; D718 (Aerial photograph of Knin, with Lennart Widén's marking), p. 1; D719 (Lennart Widén, supplemental information sheet, 23 August 2008), p. 2.

³⁵¹⁷ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), para. 22; Lennart Widén, T. 7320, 7328-7329, 7399; D719 (Lennart Widén, supplemental information sheet, 23 August 2008), p. 2.

³⁵¹⁸ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; Lennart Widén, T. 7320, 7329, 7398-7399; D719 (Lennart Widén, supplemental information sheet, 23 August 2008), p. 2.

³⁵¹⁹ P721 (Lennart Widén, witness statement, 14 December 1995), paras 3, 11.

³⁵²⁰ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), paras 19, 22.

³⁵²¹ P721 (Lennart Widén, witness statement, 14 December 1995), paras 3, 7, 11; P722 (Lennart Widén, witness statement, 27 February 2008), para. 22; Lennart Widén, T. 7320-7321, 7398.

³⁵²² Lennart Widén, T. 7321.

³⁵²³ Lennart Widén, T. 7321.

³⁵²⁴ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), para. 22.

³⁵²⁵ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), para. 22; P281 (Insignia of the Puma brigade); D719 (Lennart Widén, supplemental information sheet, 23 August 2008), p. 2.

³⁵²⁶ P722 (Lennart Widén, witness statement, 27 February 2008), para. 36.

³⁵²⁷ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; Lennart Widén, T. 7393-7394.

they entered one block of flats.³⁵²⁸ All the doors to the apartments were broken and there was chaos inside the apartments.³⁵²⁹ Outside Boucher's home the two men saw two civilian policemen in dark blue uniforms carrying a TV and a video.³⁵³⁰ They observed that Boucher's house was completely destroyed.³⁵³¹ A uniformed man claiming to be the chief of the military police then told the two men that UN personnel were not allowed to be outside the UN headquarters and he drove them back there in a civilian car.³⁵³² When the witness was on duty at the main entrance of the UN headquarters later on the same day, he observed soldiers taking cars which people had used in order to get to the UN headquarters to take shelter.³⁵³³ He also observed 50-100 loads of goods, including furniture, TVs, and videos, being taken past the UN headquarters in military vehicles, along the road to Drniš.³⁵³⁴ These vehicles were manned by soldiers.³⁵³⁵

880. **Normand Boucher**, UNCIVPOL's Sector South Chief from 30 April 1995 until 22 August 1995,³⁵³⁶ testified that on 6 or 7 August 1995, he and a Swedish UNCIVPOL called Lennart were allowed to leave the UN compound for a patrol, but only on foot.³⁵³⁷ In the street where the Swedish UNCIVPOL lived, Boucher saw that all front doors were broken.³⁵³⁸ He saw laughing soldiers openly coming out of houses carrying clothes and household goods.³⁵³⁹ Other soldiers appeared drunk and out of control,

³⁵²⁸ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), para. 23, p. 10 (Aerial photograph of Knin, marked by Lennart Widén); D718 (Aerial photograph of Knin, with Lennart Widén's marking), p. 1.

³⁵²⁹ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), para. 23.

³⁵³⁰ P721 (Lennart Widén, witness statement, 14 December 1995), paras 3, 11; P722 (Lennart Widén, witness statement, 27 February 2008), para. 32; Lennart Widén, T. 7393.

³⁵³¹ Lennart Widén, T. 7375.

³⁵³² P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; Lennart Widén, T. 7321-7322, 7375-7376.

³⁵³³ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; Lennart Widén, T. 7322-7323.

³⁵³⁴ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), para. 33; Lennart Widén, T. 7324-7325, 7374, 7398, 7400; D719 (Lennart Widén, supplemental information sheet, 23 August 2008), p. 2.

³⁵³⁵ Lennart Widén, T. 7324, 7399; D719 (Lennart Widén, supplemental information sheet, 23 August 2008), p. 2.

³⁵³⁶ P1176 (Normand Boucher, witness statement, 20 February 1996), paras 1, 13; P1177 (Normand Boucher, witness statement, 12 November 1999), paras 5, 81; P1178 (Normand Boucher, witness statement, 24 November 2008), para. 51; D1217 (Normand Boucher, witness statement, 17 December 2008), para. 27; Normand Boucher, T. 14036, 14063-14064.

³⁵³⁷ P1177 (Normand Boucher, witness statement, 12 November 1999), para. 55; P1178 (Normand Boucher, witness statement, 24 November 2008), para. 21.

³⁵³⁸ P1177 (Normand Boucher, witness statement, 12 November 1999), para. 55; P1179 (Map of Knin marked by Normand Boucher), pp. 1-3; D1218 (Map of Knin marked by Normand Boucher).

³⁵³⁹ P1177 (Normand Boucher, witness statement, 12 November 1999), para. 55; Normand Boucher, T. 13972.

yelling, swearing, and whistling at Boucher.³⁵⁴⁰ Boucher saw three uniformed members of the HV Puma Brigade, which he identified by a “Puma” sticker or the letters “Puma” on their truck, openly loading a truck, which already contained 50-60 appliances, with TVs, radios, and video recorders on Četinska street where he lived.³⁵⁴¹ Boucher noticed that all doors in this street had been kicked in.³⁵⁴² In downtown Knin Boucher saw a burning building, which looked like a store to him, and soldiers throwing something into the fire.³⁵⁴³

881. On 6 August 1995, Boucher met a Croatian officer, Colonel Zelić, at the gate of the UN compound who introduced himself as the commander of the army.³⁵⁴⁴ Boucher complained to Zelić about the behavior of Zelić’s soldiers, who had previously been shooting and drinking outside the gate, to which Zelić responded that they were just celebrating.³⁵⁴⁵ At one time, Boucher noticed that this kind of behavior outside the UN compound was occurring in the presence of a sergeant.³⁵⁴⁶

882. On 6 August 1995, **Stig Marker Hansen** along with Søren Liborius went up to a balcony on the 4th floor of the UN compound and looked out over Knin. From there, the witness could hear shooting in Knin, see houses ablaze, and smoke hanging over the town. He saw private vehicles without number plates being used to carry goods.³⁵⁴⁷ **Liborius** also observed the ongoing looting on 6 August 1995 from the balcony of the UN compound. He observed a few houses set ablaze in downtown Knin. Liborius stated that there were many VP units from the 72nd Battalion as well as Croatian civilian police in town.³⁵⁴⁸ According to an ECMM daily report, on 6 August 1995 there were many soldiers, VP and civilian police in Knin, as well as several civilians.³⁵⁴⁹ Soldiers were using local cars that had been left behind, siphoning fuel from damaged cars, and

³⁵⁴⁰ Normand Boucher, T. 13972, 14042

³⁵⁴¹ P1176 (Normand Boucher, witness statement, 20 February 1996), para. 6; P1177 (Normand Boucher, witness statement, 12 November 1999), para. 56; P1178 (Normand Boucher, witness statement, 24 November 2008), para. 23; Normand Boucher, T. 13973, 13977, 14044; P1179 (Map of Knin marked by Normand Boucher), pp. 1-3; D1218 (Map of Knin marked by Normand Boucher).

³⁵⁴² P1176 (Normand Boucher, witness statement, 20 February 1996), para. 6.

³⁵⁴³ P1178 (Normand Boucher, witness statement, 24 November 2008), para. 25; P1179 (Map of Knin marked by Normand Boucher), pp. 1-3; D1218 (Map of Knin marked by Normand Boucher).

³⁵⁴⁴ P1177 (Normand Boucher, witness statement, 12 November 1999), para. 53; P1178 (Normand Boucher, witness statement, 24 November 2008), para. 18.

³⁵⁴⁵ P1178 (Normand Boucher, witness statement, 24 November 2008), para. 18; Normand Boucher, T. 13992-13993, 14042.

³⁵⁴⁶ Normand Boucher, T. 14106.

³⁵⁴⁷ P1292 (Stig Marker Hansen, personal diary), p. 5.

³⁵⁴⁸ P799 (Søren Liborius, witness statement, 2 November 1995), p. 4.

³⁵⁴⁹ P827 (ECMM Knin daily report, 6 August 1995), pp. 1-2.

taking TVs and electronic equipment.³⁵⁵⁰ Major Balfour reported that at 8:20 a.m. on 6 August 1995, two fires were observed in Knin.³⁵⁵¹ On 6 August 1995, an UNMO patrol observed four houses in Knin burning throughout the day.³⁵⁵² **Dangerfield**, a British army sector liaison officer stationed in Knin in August 1995,³⁵⁵³ testified that by 11 p.m. on 6 August 1995 all HV tanks and APCs had left the Knin area, but that his and others' freedom of movement was heavily restricted. He further testified that several houses in Knin caught fire, and that small detonations were heard throughout the day.³⁵⁵⁴

883. Croatian witnesses provided a somewhat different account of the relevant events in Knin on 6 August 1995.

884. **Zdenko Rinčić**, the Croatian Assistant Minister of Economy for the manufacturing industry of ammunition, grenade, and machine gun production from 1993 to 1996,³⁵⁵⁵ testified that when he entered Knin on the morning of 6 August 1995, he saw smoke and heard sporadic gunfire at a distance of a kilometre from Knin. Only one or two buildings had damaged roofs, and Rinčić did not see destroyed or burned houses in Knin.³⁵⁵⁶

885. **Branko Sruk**, Chief of the Health Department in Operation Group Sinj from the end of 1994 and in Operation Group North from at least August 1995,³⁵⁵⁷ arrived in Knin around 8 a.m. on 6 August 1995, and immediately went to the hospital.³⁵⁵⁸ That morning, while walking around Knin, he noticed that the town was deserted and saw several broken shop windows.³⁵⁵⁹

886. **Borislav Škegro**, Deputy Prime Minister of the Republic of Croatia for the Economy from April 1993 until 2000,³⁵⁶⁰ stated that he arrived in Knin by helicopter between 3 p.m. and 3:45 p.m. on 6 August 1995 and, after lunch, walked around Knin,

³⁵⁵⁰ P827 (ECMM Knin daily report, 6 August 1995), p. 2.

³⁵⁵¹ P350 (UNCRO Sector South daily situation report, 9:30 a.m., 6 August 1995), pp. 1-2.

³⁵⁵² P417 (Peter Marti, witness statement, 14 December 2007), para. 60; Tor Munkelien, T. 1520-1521; P67 (UNMO Team Podkonje report, 27 August 1995), para. 1.

³⁵⁵³ P695 (Roland Dangerfield, witness statement, 21 December 1995), paras 1-2; Roland Dangerfield, T. 7132.

³⁵⁵⁴ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 8.

³⁵⁵⁵ D1680 (Zdenko Rinčić, witness statement, 16 May 2009), p. 1, paras 1, 3-5; Zdenko Rinčić, T. 22341.

³⁵⁵⁶ D1680 (Zdenko Rinčić, witness statement, 16 May 2009), para. 10.

³⁵⁵⁷ D1737 (Branko Sruk, witness statement, 7 October 2009), p. 1, paras 1-2; Branko Sruk, T. 23300, 23309.

³⁵⁵⁸ D1737 (Branko Sruk, witness statement, 7 October 2009), para. 4; Branko Sruk, T. 23297-23298, 23368-23369.

³⁵⁵⁹ D1737 (Branko Sruk, witness statement, 7 October 2009), para. 5; Branko Sruk, T. 23299.

³⁵⁶⁰ D1679 (Borislav Škegro, witness statement, 21 April 2009), p. 1, paras 1-2; Borislav Škegro, T. 22219.

where he saw several members of the HV but no destruction, destroyed houses, or fire.³⁵⁶¹

887. **Petar Pašić**, a Croatian Serb and the Croatian Government Commissioner for Knin from January 1992 to April 1996,³⁵⁶² testified that on 6 August 1995 he travelled to Knin.³⁵⁶³ When Pašić entered the main street of Knin he saw very few civilians and did not see much damage.³⁵⁶⁴ He saw many military people in Knin, including men from the 4th Split Brigade or Pumas, who appeared to be celebrating.³⁵⁶⁵

888. On 6 August 1995, **Luković** walked around Knin and saw that the VP had set up check-points and patrols.³⁵⁶⁶ According to Luković, there was unnecessary damage to property in the shops and other buildings, and there were military person “behaving badly”.³⁵⁶⁷ Luković described having seen a man in a red shirt and camouflage trousers driving a small tractor with goods in the trailer; according to Luković, the man was not a member of the military.³⁵⁶⁸ Luković saw only ten non-military people in Knin while the other people in Knin were all military personnel.³⁵⁶⁹

889. On 6 August 1995, **Dondo** noticed a shop with a broken door. On the subsequent days he noticed that some buildings and shops had been looted.³⁵⁷⁰ According to Dondo, civilians started to arrive in town already in the morning of 6 August 1995.³⁵⁷¹

890. **Džolić** testified that on 6 August 1995, about 70 to 80 additional VP men from various units of the 72nd VP Battalion arrived in Knin, which gave the newly established VP Company some 140 to 150 men.³⁵⁷² The Joint VP Company stayed in the former SVK Military Corps Building for two days, and then moved its command to the Senjak barracks in Knin.³⁵⁷³ According to a report by Boris Milas, VP crime police

³⁵⁶¹ D1679 (Borislav Škegro, witness statement, 21 April 2009), paras 10-11.

³⁵⁶² D1706 (Petar Pašić, witness statement, 3 March 2002), pp. 1-2; D1707 (Petar Pašić, witness statement, 23 April 2009), paras 2, 4, 13, 15, 32; D1709 (Petar Pašić, supplemental information sheet, 6 October 2009), para. 10; Petar Pašić, T. 22740, 22778, 22844, 22847, 22858, 23026, 23053.

³⁵⁶³ D1706 (Petar Pašić, witness statement, 3 March 2002), p. 3.

³⁵⁶⁴ D1706 (Petar Pašić, witness statement, 3 March 2002), p. 3; D1709 (Petar Pašić, supplemental information sheet, 6 October 2009), para. 1; Petar Pašić, T. 22939.

³⁵⁶⁵ D1706 (Petar Pašić, witness statement, 3 March 2002), p. 3.

³⁵⁶⁶ D1687 (Ivica Luković, witness statement, 1 October 2004), para. 31, D1688 (Ivica Luković, witness statement, 13 August 2009), para. 12.

³⁵⁶⁷ D1687 (Ivica Luković, witness statement, 1 October 2004), para. 31.

³⁵⁶⁸ D1687 (Ivica Luković, witness statement, 1 October 2004), para. 31.

³⁵⁶⁹ D1687 (Ivica Luković, witness statement, 1 October 2004), para. 32.

³⁵⁷⁰ D1695 (Karolj Dondo, witness statement, 9 March 2005), para. 11.

³⁵⁷¹ D1695 (Karolj Dondo, witness statement, 9 March 2005), para. 12.

³⁵⁷² P875 (Boško Džolić, witness statement, 18 May 2004), para. 32; Boško Džolić, T. 8987, 8999, 9125-9126.

³⁵⁷³ P875 (Boško Džolić, witness statement, 18 May 2004), paras 20-22, 63; Boško Džolić, T. 8961.

were formed for various areas, including Knin, and were functioning as of 6 August 1995.³⁵⁷⁴ **Witness 84** testified that after a day or two and in response to the looting, the police set up check-points on all main roads leading in and out of Knin.³⁵⁷⁵ The Trial Chamber has also considered evidence from Berikoff regarding check-points, reviewed in chapter 4.2.1.

891. The Trial Chamber now turns to the events of 7 August 1995, as relevant to the alleged destruction and plunder in Knin.

892. **Stig Marker Hansen** testified that on 7 August 1995 he left the UN compound along with ECMM colleagues including Søren Liborius and Eric Hendriks.³⁵⁷⁶ The main road through Knin had been destroyed, shop windows were blown out, and houses were fire damaged or in flames.³⁵⁷⁷ Also on 7 August 1995, he saw a hearse being used to transport goods.³⁵⁷⁸ On 7 August 1995, **Hendriks**, together with Liborius and Marker-Hansen, was allowed to leave the UN compound and noticed, among other things, that his landlady's dog had been shot.³⁵⁷⁹ **Liborius** stated that on 7 August 1995 check-points manned by VP and Croatian civilian police were everywhere.³⁵⁸⁰ On a visit to the ECMM RC building, Liborius and some colleagues came across HV soldiers who were removing ECMM computers.³⁵⁸¹ There, Liborius from the Home Guards, who told Liborius that he was a member of the Home Guards and whom Liborius recognized as such by his insignia.³⁵⁸² There were also two 7th Guards soldiers present.³⁵⁸³ Liborius and his colleagues also went to their houses to recover personal belongings, but found houses ransacked and valuables, for example TV sets, removed.³⁵⁸⁴ Liborius went to the house he used to live in, the Urukalo house, and five minutes later three HV soldiers with 7th Puma Brigade insignia arrived in a civilian Fiat

³⁵⁷⁴ P2398 (Report from Boris Milas to Mihael Budimir, 22 September 1995).

³⁵⁷⁵ P2395 (Witness 84, witness statement, 9 March 2002), para. 14; Witness 84, T. 11179, 11320.

³⁵⁷⁶ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 20; Stig Marker Hansen, T. 14916; P1292 (Stig Marker Hansen, personal diary), p. 5.

³⁵⁷⁷ P1292 (Stig Marker Hansen, personal diary), p. 5.

³⁵⁷⁸ P1292 (Stig Marker Hansen, personal diary), pp. 6-7.

³⁵⁷⁹ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 18; Eric Hendriks, T. 9698.

³⁵⁸⁰ P799 (Søren Liborius, witness statement, 2 November 1995), p. 5.

³⁵⁸¹ P799 (Søren Liborius, witness statement, 2 November 1995), p. 5; Søren Liborius, T. 8228; P805 (ECMM Knin daily report, 7 August 1995), p. 3; D741 (Diary of Liborius), p. 8.

³⁵⁸² P801 (Søren Liborius, witness statement, 12 October 2005), p. 5; P802 (Søren Liborius, witness statement, 20 June 2008), para. 29; Søren Liborius, T. 8412-8413.

³⁵⁸³ P802 (Søren Liborius, witness statement, 20 June 2008), para. 29.

³⁵⁸⁴ P799 (Søren Liborius, witness statement, 2 November 1995), p. 5; Søren Liborius, T. 8264; D741 (Diary of Liborius), p. 8.

car without registration plates.³⁵⁸⁵ Liborius stated that they seemed surprised to find an ECMM monitor in the house and they said that they had come to remove valuables. Liborius explained to the soldiers that these were his personal belongings and that the house belonged to civilians by the name of Urukalo. The soldiers then left the house and went to collect items from the neighbouring house.³⁵⁸⁶ Liborius also testified that he encountered three soldiers from the 4th Guards Brigade at his accommodation, one of whom said that it was their right to collect things they wanted.³⁵⁸⁷

893. **Dangerfield** testified that on 7 August 1995 he went on patrol in Knin and observed military and civilian trucks arriving at houses and persons wearing HV uniforms loading various electrical items into cars.³⁵⁸⁸ Dangerfield saw no police trying to stop this.³⁵⁸⁹ The vehicles that were used in the looting were the same kind of vehicles the witness had seen on the HV side of the Zone of Separation and their licence plates consistently included the letters HV.³⁵⁹⁰ There was a large number of HV soldiers in Knin, but Dangerfield did not see any officers or commanders while the looting in Knin took place, and it was evident to him that there was no one in a position of authority controlling what was going on.³⁵⁹¹

894. **Hill** testified that on 7 August 1995 he saw soldiers stealing cars, alcohol, TVs, stereos, clothes, and food all over Knin.³⁵⁹² The Trial Chamber has in this regard also considered evidence from Berikoff, reviewed in chapter 4.2.1. On 7 August 1995, **Al-Alfi** left the compound and met Akashi in Knin.³⁵⁹³ The witness saw at least ten or eleven houses on fire in Knin and saw civilian vehicles with Croatian license plates, as well as military vehicles, loaded with personal belongings, including televisions, radios, and clothes.³⁵⁹⁴ On 7 August 1995, at 8:30 a.m., an UNMO patrol observed two houses

³⁵⁸⁵ P799 (Søren Liborius, witness statement, 2 November 1995), p. 5; P801 (Søren Liborius, witness statement, 12 October 2005), p. 3; Søren Liborius, T. 8265; D741 (Diary of Liborius), pp. 4, 8.

³⁵⁸⁶ P799 (Søren Liborius, witness statement, 2 November 1995), p. 5.

³⁵⁸⁷ P802 (Søren Liborius, witness statement, 20 June 2008), para. 29; Søren Liborius, T. 8411.

³⁵⁸⁸ P695 (Roland Dangerfield, witness statement, 21 December 1995), paras 9-10, 34; Roland Dangerfield, T. 7152-7154.

³⁵⁸⁹ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 34; Roland Dangerfield, T. 7153-7154.

³⁵⁹⁰ Roland Dangerfield, T. 7157.

³⁵⁹¹ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 34; Roland Dangerfield, T. 7153-7154.

³⁵⁹² P292 (John Hill, witness statement, 21 January 1998), pp. 3, 101; John Hill, T. 3780-3781, 3895-3897; P306 (Report by John Hill on HV activities from 4-11 August 1995), p. 1.

³⁵⁹³ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 38-39; Hussein Al-Alfi, T. 13809, 13902-13905.

³⁵⁹⁴ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 39-40; Hussein Al-Alfi, T. 13809-13810, 13910.

burning in Knin town.³⁵⁹⁵ Beginning at 1:45 p.m. on 7 August 1995, UNMO observed Croatian soldiers carrying valuable items from houses.³⁵⁹⁶

895. Two international witnesses, Flynn and Akashi, who arrived in Knin on 7 August 1995 provided a somewhat different account of the relevant events. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,³⁵⁹⁷ arrived in Knin by helicopter with Akashi and others on 7 August 1995 and saw smoke rising in a couple of places in Knin.³⁵⁹⁸ Very shortly thereafter, they drove down the main street of Knin, where Flynn saw shattered shop windows, buildings with signs of ballistics impacts and a lot of persons in military uniform.³⁵⁹⁹ **Yasushi Akashi**, Special Representative of the Secretary-General to the former Yugoslavia and Chief of UNPROFOR/UNCRO from January 1994 to October 1995,³⁶⁰⁰ testified that on 7 August 1995, the streets of Knin were littered with pieces of buildings, stores had their windows broken, and there were many internally displaced persons.³⁶⁰¹ The witness further testified that some of the houses that looked like civilian residences were also damaged.³⁶⁰² Akashi also testified that the amount of destruction and damage he encountered in Knin was not as great as he had anticipated and that the amount of destruction was not of the same level as the witness had seen in Sarajevo.³⁶⁰³ The Trial Chamber has further considered evidence by Edward Flynn, reviewed in chapter 4.4.3.

896. Accounts similar to those of Flynn and Akashi were provided by Croatian witnesses. **Ive Kardum**, Chief of the crime police department for the Zadar-Knin police administration in 1995,³⁶⁰⁴ testified that he first came to Knin on 7 August 1995, where he had a meeting in Knin Police station and found Čedo Romanić and Stjepan Buhin

³⁵⁹⁵ Tor Munkelien, T. 1520-1521; P67 (UNMO Team Podkonje report, 27 August 1995), para. 2.

³⁵⁹⁶ P111 (UNMO Sector South daily situation report, 8 p.m., 7 August 1995), p. 7.

³⁵⁹⁷ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

³⁵⁹⁸ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 2-3, 5, 16, 25; Edward Flynn, T. 1109, 1141, 1298, 1301, 1303; D29 (Cable from Akashi to Annan regarding his trip to Knin, 7 August 1995), para. 1.

³⁵⁹⁹ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 3, 19; Edward Flynn, T. 1307; D29 (Cable from Akashi to Annan regarding his trip to Knin, 7 August 1995), paras 1-2.

³⁶⁰⁰ D1646 (Yasushi Akashi, witness statement, 20 July 2009), para. 1; Yasushi Akashi, T. 21621.

³⁶⁰¹ Yasushi Akashi, T. 21671-21672.

³⁶⁰² Yasushi Akashi, T. 21672.

³⁶⁰³ Yasushi Akashi, T. 21673-21674, 21741.

³⁶⁰⁴ P2396 (Ive Kardum, witness statement, 3-4 May 2007), p. 1, paras 2-3; P2397 (Ive Kardum, witness statement, 22-23 March 2004), p. 1, paras 1-3, 12, 15, 17; Ive Kardum, T. 9231, 9251-9252, 9398, 9498-9499.

there.³⁶⁰⁵ In Knin, Kardum saw some burning houses and clothing and other property in the road, and heard shots being fired.³⁶⁰⁶ In court, Kardum testified that Knin was 90 per cent intact, adding that nothing had been devastated except the Catholic Church of St. Anthony, the roof of which had burned.³⁶⁰⁷ He saw tanks in the street, and otherwise only soldiers, some of whom had bandanas around their heads and camouflage paint on their faces, and police.³⁶⁰⁸ **Goran Dodig**, Head of the Office for Interethnic Relations of the Croatian Government from 6 April 1995 to 5 March 1998,³⁶⁰⁹ testified that he arrived in Knin around 7 August 1995.³⁶¹⁰ In Knin, there was a joyous atmosphere in the streets, however, there was much disorder and the streets were full of garbage.³⁶¹¹ The witness, who was mainly walking on the main street, observed broken shop windows and a large number of persons in uniform, but he saw no arson or severe damage caused to buildings, nor did he see anyone looting.³⁶¹²

897. The Trial Chamber now turns to the events of 8 August 1995, as relevant to the alleged destruction and plunder in Knin.

898. **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,³⁶¹³ testified that on 8 August 1995, he and others had been refused entry to Knin by Croatian soldiers.³⁶¹⁴ On the same day, an UNMO HQ patrol managed to enter Knin town centre.³⁶¹⁵ UNMO saw that some houses were completely destroyed, some cars had their engines missing, and some had been run over by what appeared to be heavy machinery.³⁶¹⁶ UNMOs also observed three houses with gas bottles in front of the doors and evidence of vandalism inside the houses.³⁶¹⁷ Approximately between 3 and 4 p.m., UNMO observed in Knin a few elderly civilians, many military police (72nd battalion), civil police, and HV soldiers of the 1st (“Tiger”),

³⁶⁰⁵ P2397 (Ive Kardum, witness statement, 22-23 March 2004), para. 47; Ive Kardum, T. 9508.

³⁶⁰⁶ P2397 (Ive Kardum, witness statement, 22-23 March 2004), para. 48.

³⁶⁰⁷ Ive Kardum, T. 9508.

³⁶⁰⁸ P2397 (Ive Kardum, witness statement, 22-23 March 2004), para. 48.

³⁶⁰⁹ D1705 (Goran Dodig, witness statement, 16 May 2009), pp. 1-3, 14; Goran Dodig, T. 22628.

³⁶¹⁰ D1705 (Goran Dodig, witness statement, 16 May 2009), p. 5; Goran Dodig, T. 22643.

³⁶¹¹ D1705 (Goran Dodig, witness statement, 16 May 2009), p. 5.

³⁶¹² Goran Dodig, T. 22643-22644, 22655-22656.

³⁶¹³ P415 (Peter Marti, witness statement, 13 February 1996), p. 1; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17

³⁶¹⁴ P416 (Peter Marti, witness statement, 29 June 1997), p. 4; P417 (Peter Marti, witness statement, 14 December 2007), paras 40, 66, 69; Peter Marti, T. 4640.

³⁶¹⁵ P417 (Peter Marti, witness statement, 14 December 2007), paras 66-68.

³⁶¹⁶ P417 (Peter Marti, witness statement, 14 December 2007), paras 66, 70; P112 (UNMO Sector South daily situation report, 8 p.m., 8 August 1995), p. 4.

³⁶¹⁷ P417 (Peter Marti, witness statement, 14 December 2007), paras 66, 71; P112 (UNMO Sector South daily situation report, 8 p.m., 8 August 1995), p. 4.

4th and 7th (“Puma”) Brigades. In the “local workshop” outside Knin, UNMO saw several stripped civilian and UN vehicles, and met two soldiers of the 4th Brigade.³⁶¹⁸ Regarding the events in Knin on 8 August 1995, the Trial Chamber has also considered evidence from Berikoff, reviewed in chapter 4.2.1.

899. **Alexander Tchernetsky**, an UNMO in Croatia from 20 June 1995 until December 1995,³⁶¹⁹ observed refugees at the UN compound in Knin on 8 August 1995. The refugees had been forced to leave their vehicles on the road, and the witness observed Croatian soldiers looting cars, destroying many of them, while other vehicles were taken by Croatian military representatives.³⁶²⁰ Similar evidence was provided by **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,³⁶²¹ who testified that in the first two or three days after Operation Storm she was on duty at the main gate of the UN compound in Knin and took down the names of people coming in.³⁶²² She testified that sometimes HV soldiers escorted people in their own cars to the compound, after which the soldiers demanded the car keys and registration papers from them, drove away the cars, and replaced the licence plates with plates bearing the letters “HV”.³⁶²³

900. On 8 August 1995, **Stig Marker Hansen** went on patrol in Knin with his interpreter and went to collect some of his interpreter’s belongings from her house, which was located in the residential area north of the TVIK factory.³⁶²⁴ The main entrance door of his interpreter’s house was broken and the house appeared as though it had been ransacked, with a number of valuable items, such as the TV set, missing.³⁶²⁵ Upon driving through Knin that day, the witness observed that every house and apartment had been broken into, and saw people collecting items in the streets.³⁶²⁶ He also saw a property where the garden had been flattened by bulldozers, which were still there, and referred the matter to UNCIVPOL for investigation.³⁶²⁷ Until around 8 August 1995, he saw combat troops involved in looting just outside the UN

³⁶¹⁸ P112 (UNMO Sector South daily situation report, 8 p.m., 8 August 1995), p. 5.

³⁶¹⁹ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), pp. 1-2; Alexander Tchernetsky, T. 3204, 3221.

³⁶²⁰ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 3.

³⁶²¹ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

³⁶²² P2 (Witness 136, witness statement, 4 July 1996), p. 4.

³⁶²³ P2 (Witness 136, witness statement, 4 July 1996), p. 4; P3 (Witness 136, witness statement, 11 June 2007), para. 8.

³⁶²⁴ P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 20; Stig Marker Hansen, T. 14917; P1292 (Stig Marker Hansen, personal diary), pp. 6-7.

³⁶²⁵ P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 20.

³⁶²⁶ Stig Marker Hansen, T. 14917.

compound.³⁶²⁸ Also on 8 August 1995, the witness noted that most of the soldiers had left Knin the night before and were replaced by civilian and military police, who were going through every house and removing the last traces of valuables.³⁶²⁹ He saw a civilian ambulance with a red cross being used to transport goods.³⁶³⁰

901. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,³⁶³¹ testified that on 8 August 1995 he and other UN personnel found that almost all houses and apartment buildings outside Knin centre appeared to have been broken into, plundered, and had their windows smashed.³⁶³²

902. **Mira Grubor**, a Serb who was working as a laboratory assistant in a hospital in Knin on and before 4 August 1995,³⁶³³ testified that approximately three days after the Croatian troops had entered Knin, she observed from the UN camp a house burning in Knin which she testified belonged to Petar Popović.³⁶³⁴

903. On 8 August 1995, Čermak informed **Al-Alfi** that the Croatian army had started to pull out of the main cities, including Knin.³⁶³⁵ According to Al-Alfi, military and civilian police gradually replaced military personnel in the streets of Knin and other main cities.³⁶³⁶ According to an ECMM daily report, on 8 August 1995 soldiers were looting in Knin, but the number of troops in town was still decreasing.³⁶³⁷ In a report dated 8 August 1995, the 5th Company of the VP in Sinj detailed the items temporarily

³⁶²⁷ P1292 (Stig Marker Hansen, personal diary), p. 7.

³⁶²⁸ P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 10; Stig Marker Hansen, T. 14923.

³⁶²⁹ Stig Marker Hansen, T. 15077-15078; P1292 (Stig Marker Hansen, personal diary), p. 7.

³⁶³⁰ P1292 (Stig Marker Hansen, personal diary), p. 7.

³⁶³¹ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

³⁶³² P678 (Alun Roberts, witness statement, 7 February 2008), paras 30, 33; P680 (Alun Roberts, witness statement, 1 July 2008), paras 6, 30; Alun Roberts, T. 7050-7051; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), introduction, paras 1-4, 8; P711 (Roberts press statement in Tanjug, 14 August 1995).

³⁶³³ P54 (Mira Grubor, witness statement, 3 April 1998), pp. 1-2.

³⁶³⁴ P54 (Mira Grubor, witness statement, 3 April 1998), p. 5; P58 (Map of Knin, with markings by Mira Grubor), no. 19.

³⁶³⁵ P1161 (UN Sector South report, by Hussein Al-Alfi, 8 August 1995), p. 1; D1210 (UN Sector South report, by Hussein Al-Alfi, 11 August 1995), p. 1; D1211 (UN Sector South report, by Hussein Al-Alfi, 12 August 1995), p. 3.

³⁶³⁶ P1161 (UN Sector South report, by Hussein Al-Alfi, 8 August 1995), p. 1; P1162 (UN Sector South report, by Hussein Al-Alfi, 18 August 1995), p. 1; D1210 (UN Sector South report, by Hussein Al-Alfi, 11 August 1995), p. 1.

³⁶³⁷ P806 (ECMM Knin daily report, 8 August 1995), p. 1.

confiscated at check-points, along with the locations of where they were seized within its zone of responsibility, such as Knin.³⁶³⁸ The confiscated items included television sets, VCRs, stereos, telephones, tools, musical instruments, vehicles, weapons, etc.³⁶³⁹ **Murray Dawes** testified that he never saw military police, only HV soldiers, stopping vehicles at check-points and confiscating such items.³⁶⁴⁰ According to an ECMM report, the Orthodox church in Knin was undamaged and guarded by the VP on 8 August 1995.³⁶⁴¹ **Džolić** testified that on 8 August 1995, three to five members of the Crime VP from the 72nd Battalion were attached to the Joint Knin Company.³⁶⁴²

904. The Trial Chamber finds, based on the evidence above, that between approximately noon on 5 August 1995 and 8 August 1995 soldiers of the 4th and 7th (“Puma”) Guards Brigades of the HV took from various houses, shops and other locations throughout Knin, and in the immediate vicinity of Knin, huge amounts of items, including television sets, stereos, radios, video recorders, refrigerators, other electric/electronic appliances, furniture, clothes, food, bottles of alcohol, and civilian vehicles. The evidence of certain witnesses, mainly Croatian, who travelled to Knin on 5, 6 or 7 August 1995 and testified that they did not witness HV soldiers perpetrating such acts, cannot overcome the concordant eye-witness testimonies of numerous credible international witnesses who were stationed in or in the immediate vicinity of Knin at the time, and whose observations are recorded in part in contemporaneous documents. The Trial Chamber notes some evidence suggesting that the removal of items was organized and might not have been done merely by individuals for their personal gain. However, the Trial Chamber finds that this evidence was relatively marginal, and does not prevail over the dominant picture of disorganization in which items were taken for personal gain. As for the affiliation of the perpetrators, the Trial Chamber relies in particular on its finding above on the arrival in Knin of the 7th and the 4th Guards Brigades of the HV, as well as the perpetrator identification evidence of Liborius and Marker Hansen on 5 August 1995, Widén and Boucher on 6 August 1995, Liborius and Dangerfield on 7 August 1995, and UNMO report P112 according to

³⁶³⁸ D868 (Report on items temporarily confiscated at check-points in the zone of responsibility of the 5th Company of the Military Police, Sinj, 8 August 1995).

³⁶³⁹ D868 (Report on items temporarily confiscated at check-points in the zone of responsibility of the 5th Company of the Military Police, Sinj, 8 August 1995).

³⁶⁴⁰ Murray Dawes, T. 10524-10525.

³⁶⁴¹ P806 (ECMM Knin daily report, 8 August 1995), p. 3.

³⁶⁴² P876 (Boško Džolić, witness statement, 20 August 2008), para. 32; Boško Džolić, T. 8961, 8989-8990, 9010.

which HV soldiers of the 7th and the 4th Guards Brigades were still in Knin on 8 August 1995. Considering the evidence on the ethnic composition of Knin received through C5 and Pašić, and that significant numbers of non-Serbs left the former Sector South between 1991 and 1995 (see chapter 5.1.2), the Trial Chamber finds that a significant number of the items taken were owned by Krajina Serbs.

905. According to Widén and Dawes, persons referred to as Croatian civilian police also engaged in such acts on 6 August 1995. Based on the evidence of Widén, the Trial Chamber finds that two persons referred to as civilian policemen in dark blue uniforms were taking away a TV and a video, which the Trial Chamber understands to refer to a video cassette recorder. The Trial Chamber finds, based in particular on the evidence of Džolić that the civilian police were in Knin when he arrived there on 5 August 1995, and the evidence of Witness 84 that he was working as a police officer at the police station in Knin as of 6 August, that the Croatian civilian police were present in Knin by 6 August 1995. Considering also Widén's testimony that he identified Croatian civilian police by their uniforms and insignia, and the evidence of Joško Morić on the uniforms of the Croatian Civilian Police,³⁶⁴³ the Trial Chamber finds that, on 6 August 1995, some civilian police also engaged in the acts mentioned in the preceding paragraph. The Trial Chamber will further consider the above-mentioned incidents of 5-8 August 1995 in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

906. The Trial Chamber now turns to evidence of destruction in Knin between 5 and 8 August 1995. In light of its findings on the shelling of Knin on 4 and 5 August 1995 (see chapter 4.4.3), the Trial Chamber will here only consider evidence of destruction that occurred after noon on 5 August 1995. The evidence indicates that houses were burning in Knin on each day of the period between 5 and 8 August 1995. There is however no direct evidence as to how the houses caught fire. Elleby testified that on 5 August 1995, after the shelling stopped, he observed from the UN compound houses in Knin beginning to burn, which he recognized as arson by the smoke pattern. It is insufficiently clear for the Trial Chamber by what method Elleby established that from the smoke pattern. The Trial Chamber will therefore not adopt his conclusion on the basis of his observations. Consequently, for this incident, as for all other incidents under consideration, there is insufficient evidence as to the circumstances under which the

³⁶⁴³ Reviewed in chapter 4.2.7 (Gračac town).

houses were set on fire. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 5 of the Indictment.

907. Tchernetsky testified that he observed on 8 August 1995 Croatian soldiers destroying many cars left on the road by persons who took refuge at the UN compound. This evidence lacks detail as to how these cars were destroyed. However, Marti testified that on 8 August 1995 he entered Knin and saw that some cars had been run over by what appeared to be heavy machinery. On one of the preceding days Witness IC-16 saw that some cars in the streets appeared to have been damaged when tanks had passed through the town. According to SIS report P1134, dated 10 August 1995, when members of the 4th and 7th Guards Brigades entered Knin, some HV members ran tanks over cars. Based on this evidence, the Trial Chamber finds that HV members destroyed cars by driving tanks over them sometime between 5 and 10 August 1995. Considering the above-mentioned evidence on the ethnic composition of Knin, the Trial Chamber finds that a significant number of the cars destroyed were owned by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

908. The Trial Chamber now turns to examine the second period, ranging from 9 August 1995 to the end of September 1995, regarding the evidence relevant to the allegations of plunder and destruction in Knin.

909. On 9 August 1995, **Dreyer** and other UN personnel were able to leave the UN compound, and saw houses burnt, looted, and vandalized.³⁶⁴⁴ On 9 August 1995, **Roberts** drove through Knin, particularly its residential streets, and found that the front door of almost every house had been forced open and many windows smashed. On this occasion, he saw no civilians, only HV soldiers and some UN vehicles.³⁶⁴⁵ According to **Marker Hansen's** diary, on 9 August 1995 there was still some petty theft occurring in Knin, but there were not many things left to steal and vandalism was occurring instead.³⁶⁴⁶ Many civilians were arriving in the area and the witness saw many civilians in the streets of Knin and "shopping" in the shops.³⁶⁴⁷ The witness saw houses and apartments which appeared to have been broken into and had household items

³⁶⁴⁴ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 21; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 3.

³⁶⁴⁵ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7.

³⁶⁴⁶ P1292 (Stig Marker Hansen, personal diary), p. 7.

³⁶⁴⁷ Stig Marker Hansen, T. 15080; P1292 (Stig Marker Hansen, personal diary), p. 8.

removed.³⁶⁴⁸ The witness testified that Saint Anthony's church in the middle of Knin was significantly damaged before he was in Knin.³⁶⁴⁹ The Trial Chamber has also considered evidence from Teskeredžić, reviewed in chapter 6.4.6.

910. On 9 August 1995, Akashi wrote to Annan that the military situation in Sector South had begun to stabilize and that UNCRO in Sector South reported that the HV had started to withdraw from Knin, having been replaced by military and civilian police.³⁶⁵⁰ According to an ECMM report of 9 August 1995, the HV was continually withdrawing from Knin.³⁶⁵¹ According to an HRAT report of 9 August 1995, a significant though reduced army presence remained in and around Knin.³⁶⁵² According to **Hill**, on 9 August 1995 the Pumas had left and the Tigers were in Knin.³⁶⁵³ **Dangerfield** testified that the Puma Brigade moved out of Knin on 9 August 1995 and was replaced by elements of the Tiger Brigade.³⁶⁵⁴ **Džolić** testified that at least as of 9 August 1995, the train from Split arrived in Knin on a daily basis and brought many civilians into Knin.³⁶⁵⁵ He also testified that by that day, the Joint VP Company in Knin had established a Duty Service, which recorded the details of incidents reported to them in a duty log and further submitted daily reports to the Battalion command.³⁶⁵⁶

911. During her patrol with the UN in Knin town on 10 August 1995, **Witness 136** observed soldiers looting houses.³⁶⁵⁷ During one of the first patrols that were conducted about five days after Operation Storm, Witness 136 saw that two residential buildings on the main road had been completely destroyed by fire, and stated that afterwards she saw a total of around 20 houses destroyed by fire in Knin town.³⁶⁵⁸ **Džolić** testified that on two instances, on 10 or 11 August 1995, Knin VP members at a check-point stopped a military convoy which was transporting military goods and found some electrical

³⁶⁴⁸ Stig Marker Hansen, T. 15081.

³⁶⁴⁹ Stig Marker Hansen, T. 15004.

³⁶⁵⁰ D619 (Letter from Yasushi Akashi to Kofi Annan, 9 August 1995), p. 1.

³⁶⁵¹ P2150 (ECMM daily report, 9 August 1995), p. 2.

³⁶⁵² P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 7; P30 (HRAT daily report, 9 August 1995), p. 2.

³⁶⁵³ P292 (John Hill, witness statement, 21 January 1998), pp. 51-52; D274 (John Hill's diary, entries from 5-13 August 1995), p. 4.

³⁶⁵⁴ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 33.

³⁶⁵⁵ P875 (Boško Džolić, witness statement, 18 May 2004), para. 49.

³⁶⁵⁶ P875 (Boško Džolić, witness statement, 17-18 August 2004), paras 33, 50; P876 (Boško Džolić, witness statement, 20 August 2008), para. 13.

³⁶⁵⁷ P2 (Witness 136, witness statement, 4 July 1996), p. 6; P3 (Witness 136, witness statement, 11 June 2007), para. 11; Witness 136, T. 641.

³⁶⁵⁸ P2 (Witness 136, witness statement, 4 July 1996), p. 6; P5 (Map of Sector South marked by Witness 136).

goods including stoves, televisions, and refrigerators.³⁶⁵⁹ **Flynn** observed on 10 August 1995 a large number of military persons in Knin.³⁶⁶⁰ In those days, he also observed the Puma brigade in Knin.³⁶⁶¹ According to a daily operations report, dated 10 August 1995 and sent by Gotovina to the HV Main Staff, one battalion of the HV 4th Guards Brigade was in Knin as a reserve “for possible intervention”.³⁶⁶² The Trial Chamber has also considered the evidence of Berikoff regarding the 7th Guards Brigade departing from Knin on 10 August 1995, reviewed in chapter 4.2.1.

912. On 11 August 1995, **Boucher** noticed Croatian police coming out of residences in Knin, carrying radios and TVs.³⁶⁶³ On 12 August 1995, **Marker Hansen** visited the ECMM RC and encountered a man in what looked like a military uniform scouring the building.³⁶⁶⁴ The man had vandalized the building with a hammer and said that he had fled Knin four years earlier, was back for personal revenge, and wanted to burn the building down.³⁶⁶⁵ According to the witness, the man was clearly not operating under orders at that time.³⁶⁶⁶ According to a Duty Log of the Joint VP Company in Knin, at 10:15 a.m. on 12 August 1995, a Senior Lieutenant informed the Knin VP Duty Service that the building next to the barracks was on fire. It was recorded in the Knin duty log that the MUP was informed, which sent fire brigades.³⁶⁶⁷

913. On 13 August 1995, at 3:20 a.m., Cobra 40 patrol informed the Knin VP Duty Service that a fire had broken out in a facility below the fortress. It was recorded in the Knin duty log that the MUP had been informed, and would inform firemen.³⁶⁶⁸ On 13 August 1995, at 6:30 p.m., a VP informed the Knin VP Duty Service that a fire had broken out in a building opposite the Senjak barracks. It was recorded in the Knin duty log that the Knin MUP had been informed.³⁶⁶⁹ On 13 August 1995, ECMM reported that the HV 4th Brigade had set up its headquarters in the Northern Barracks, while the

³⁶⁵⁹ P875 (Boško Džolić, witness statement, 18 May 2004), para. 61; P876 (Boško Džolić, witness statement, 20 August 2008), para. 22; Boško Džolić, T. 9120, 9141.

³⁶⁶⁰ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 8; P31 (HRAT daily report, 10 August 1995), p. 1.

³⁶⁶¹ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 9.

³⁶⁶² D282 (Report by Ante Gotovina to HV Main Staff, 10 August 1995), p. 3.

³⁶⁶³ P1176 (Normand Boucher, witness statement, 20 February 1996), para. 6.

³⁶⁶⁴ Stig Marker Hansen, T. 15051; P1292 (Stig Marker Hansen, personal diary), pp. 10-11.

³⁶⁶⁵ P1292 (Stig Marker Hansen, personal diary), p. 11.

³⁶⁶⁶ Stig Marker Hansen, T. 15051-15052.

³⁶⁶⁷ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 12 August 1995.

³⁶⁶⁸ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 12/13 August 1995.

large majority of HV troops had left Knin, and had been replaced by VP and civilian police.³⁶⁷⁰

914. **Ivo Cipci**, Chief of the Split-Dalmatia Police Administration from 1993 to 1997,³⁶⁷¹ testified that on 15 August 1995, police officers from his administration stationed in Knin told him civilians were looting in Knin.³⁶⁷² According to HRAT, on 15 August 1995, members of the Puma Brigade were observed in Knin, and on 16 August 1995 there were still many soldiers in and around Knin.³⁶⁷³ **Elleby** testified that on 16 August 1995, he observed on the main street of Knin one soldier carrying a stereo out of an apartment, passing a police officer who did not intervene.³⁶⁷⁴ In the same place the witness saw two young men entering a shop through a broken window and come out with a number of small items and a guitar. The witness observed several incidents like this on the same street; soldiers filling plastic bags with shampoo, oil, and snacks, and civilians stealing shoes and clothes.³⁶⁷⁵ The witness testified that at this time most of the soldiers had been sent out of Knin and more police officers, conducting foot patrols and patrols by car, were seen in town.³⁶⁷⁶

915. One day around 10-16 August 1995, **Tchernetsky** observed a block of not less than ten houses burning in Knin.³⁶⁷⁷ On his first attempt to reach the site, he, Tor Munkelien and Alun Roberts were stopped by either military or civilian police at a check-point located in town near the railway bridge, after which two Croatian police vehicles escorted them back to the UN compound.³⁶⁷⁸ On his second attempt, Tchernetsky, along with Munkelien, observed the burning houses surrounded by

³⁶⁶⁹ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 13 August 1995.

³⁶⁷⁰ P935 (ECMM weekly assessment, 13 August 1995), pp. 1-2. See also P2156 (ECMM daily report, 14 August 1995), pp. 1-2.

³⁶⁷¹ D1723 (Ivo Cipci, witness statement, 12 June 2009), para. 1; Ivo Cipci, T. 23147.

³⁶⁷² D1723 (Ivo Cipci, witness statement, 12 June 2009), para. 25; Ivo Cipci, T. 23119-23120.

³⁶⁷³ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 16; D3 (HRAT daily report, 17 August 1995), pp. 1, 3.

³⁶⁷⁴ P215 (Jan Elleby, witness statement, 14 September 1997), p. 3; P217 (Jan Elleby, witness statement, 20 February 2008), para. 18; Jan Elleby, T. 3371-3372; P225 (UNCIVPOL assessment of the situation in Knin, signed by Jan Elleby, 16 August 1995).

³⁶⁷⁵ Jan Elleby, T. 3371-3372; P225 (UNCIVPOL assessment of the situation in Knin, signed by Jan Elleby, 16 August 1995).

³⁶⁷⁶ Jan Elleby, T. 3371; P225 (UNCIVPOL assessment of the situation in Knin, signed by Jan Elleby, 16 August 1995).

³⁶⁷⁷ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 3; P205 (Alexander Tchernetsky, witness statement, 6 December 2007), paras 3, 16; Alexander Tchernetsky, T. 3193-3195, 3245, 3249-3252, 3255-3256; P210 (Map of Knin, marked by Alexander Tchernetsky), location of fire at marking 3.

soldiers, police officers, and several firemen and fire engines, none of whom were doing anything to extinguish the fire.³⁶⁷⁹

916. **Kari Anttila**, an UNMO in Sector South from 14 August 1995 until 27 November 1995,³⁶⁸⁰ **Tor Munkelien** and **Alexander Tchernetsky** observed at 1:45 p.m. on 17 August 1995 a burning house about 200 metres from the Knin team office while on patrol in Knin.³⁶⁸¹ According to a Duty Log of the Joint VP Company in Knin, on 17 August 1995, at 4 p.m., an individual informed the Knin VP Duty Service that a house was on fire on the outskirts of town in the direction of Sinj. It was recorded in the Knin duty log that VP had informed MUP, whose duty it was to inform the firemen.³⁶⁸² According to a SIS report dated 18 August 1995, a battalion of the 4th HV Brigade was deployed in Knin.³⁶⁸³

917. According to a UNCIVPOL memo, dated 18 August 1995, two UNCIVPOL officers observed that almost every window and door in bars, shops, restaurants, private and public enterprises in Knin was broken.³⁶⁸⁴ Almost every building, according to the memo, had been looted. To avoid further looting, the Croatian inhabitants had marked their houses and apartments with Croatian flags and notes saying "Croatian house".³⁶⁸⁵ Several international witnesses provided evidence corroborating the presence of such notes. **Elleby** testified that he observed such notes on Croatian houses.³⁶⁸⁶ **Marker Hansen** testified that he regularly saw houses in Knin bearing signs saying something like "Croat houses, do not touch".³⁶⁸⁷ He estimated that he saw between 20 and 50 such

³⁶⁷⁸ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 3; P205 (Alexander Tchernetsky, witness statement, 6 December 2007), para. 16; Alexander Tchernetsky, T. 3192-3193, 3195, 3249-3251; P210 (Map of Knin, marked by Alexander Tchernetsky), location of check-point at marking 2.

³⁶⁷⁹ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 3; Alexander Tchernetsky, T. 3194, 3256.

³⁶⁸⁰ P171 (Kari Anttila, witness statement, 8 January 1996), p. 1; P172 (Kari Anttila, witness statement, 16 October 1997), pp. 1-2; P173 (Kari Anttila, witness statement, 12 December 2007), p. 1, para. 2; Kari Anttila, T. 2508.

³⁶⁸¹ P61 (Tor Munkelien, witness statement, 10 January 2008), paras 23, 26; P173 (Kari Anttila, witness statement, 12 December 2007), para. 32; P205 (Alexander Tchernetsky, witness statement, 6 December 2007), para. 18; P67 (UNMO Team Podkonje report, 27 August 1995), para. 9; P122 (UNMO Sector South daily situation report, 7 p.m., 17 August 1995), p. 4.

³⁶⁸² P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 17 August 1995.

³⁶⁸³ D984 (SIS report, 18 August 1995).

³⁶⁸⁴ P228 (UNCIVPOL memo from Steinar Hagvag to UNCIVPOL chief of Sector South, 18 August 1995), p. 1.

³⁶⁸⁵ P228 (UNCIVPOL memo from Steinar Hagvag to UNCIVPOL chief of Sector South, 18 August 1995), p. 2.

³⁶⁸⁶ P217 (Jan Elleby, witness statement, 20 February 2008), para. 24 (p. 8).

³⁶⁸⁷ P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 10; Stig Marker Hansen, T. 14922.

houses.³⁶⁸⁸ **Dangerfield** saw that houses marked with “Croatian house” had not been looted.³⁶⁸⁹ **Boucher** testified that he sometimes saw “Hrvatska Kuća” or “Don’t touch” written on houses, but that it did not always make a difference for what then happened to the house. Boucher later noticed people from outside Sector South coming in, checking on their houses, and painting words in different colors on the houses.³⁶⁹⁰ The Trial Chamber has also considered evidence regarding markings on houses from Berikoff, reviewed in chapter 4.2.1, and Marti, reviewed in chapter 5.2.2.

918. **Grubor** went to her apartment to get some cold-weather clothing about two weeks after the 4 and 5 August 1995 shelling of Knin, and she observed that her living room window and her front-door lock were broken, and that some of her possessions had been taken.³⁶⁹¹ She observed a civilian truck parked in front of a neighbour’s house and a man wearing a camouflage army jacket and civilian trousers standing outside of that house. She heard noises indicating that furniture was being moved in her neighbour’s house, and noted that the man she observed was not a friend of her neighbour’s. Her neighbour’s window was broken.³⁶⁹² She and a friend went to her friend’s home where the witness observed a notice on the house that it was occupied by a member of the HVO. She stated that similar notices were posted on many residences in Knin. The witness and her friend observed her friend’s possessions and a group of civilians, two females and three or four males, in front of her friend’s home.³⁶⁹³ The friend protested against the situation, and the group threatened the witness and her friend, who had to leave without her belongings.³⁶⁹⁴

919. **William Hayden**, a researcher for the IHF who was on mission in the Krajina between 15 and 20 August 1995,³⁶⁹⁵ testified that at the time of his visit to Knin, a large number of houses, apartments, and businesses had been burned.³⁶⁹⁶ **Tor Munkelien**, an

³⁶⁸⁸ Stig Marker Hansen, T. 14923.

³⁶⁸⁹ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 13; Roland Dangerfield, T. 7158.

³⁶⁹⁰ Normand Boucher, T. 14047.

³⁶⁹¹ P54 (Mira Grubor, witness statement, 3 April 1998), p. 4; Mira Grubor, T. 1475.

³⁶⁹² P54 (Mira Grubor, witness statement, 3 April 1998), p. 4.

³⁶⁹³ P54 (Mira Grubor, witness statement, 3 April 1998), p. 4; Mira Grubor, T. 1395.

³⁶⁹⁴ P54 (Mira Grubor, witness statement, 3 April 1998), pp. 4-5; Mira Grubor, T. 1395.

³⁶⁹⁵ P986 (William Hayden, witness statement, 15 May 1996), para. 1; P987 (William Hayden, witness statement, 15 March 2004), paras 1-3.

³⁶⁹⁶ P986 (William Hayden, witness statement, 15 May 1996), para. 3.

UNMO based in Knin from 14 August 1995 to 1 December 1995,³⁶⁹⁷ saw one house burning in Knin town on 23 August 1995.³⁶⁹⁸ UNMO reported a detonation at 11 p.m. on 23 August 1995, after which a house close to UNMO's headquarters in Knin caught fire.³⁶⁹⁹ According to a UNCIVPOL incident report, dated 23 August 1995, three houses in a row located opposite the Northern Barracks in Knin were on fire on 23 August 1995. UNCIVPOL informed the commander of Knin police station, Miloš Mihić, on the same day.³⁷⁰⁰

920. **Hill** testified that on 24 August 1995, he gave a tour of Knin to the Canadian ambassador to Croatia at the time, who wanted to, amongst other things, see a looted house.³⁷⁰¹ Hill told him to point at any house in Knin, which the ambassador did, and the house they entered was completely ransacked with all the expensive items missing. Hill further stated that they also randomly went into another house and found it to be looted as well.³⁷⁰² Before 7 p.m. on 24 August 1995, UNMO observed a burning house 200 metres south of its team accommodation in Knin.³⁷⁰³ **Tchernetsky** observed on 25 August 1995 in the south-west of Knin nine burned houses, and 65 looted shops and 241 looted houses, as well as looting in progress.³⁷⁰⁴ HRAT reported that on 27 August 1995, dozens of soldiers including some Brigade members continued to roam the streets of Knin at all hours of the day.³⁷⁰⁵ According to a report of Ante Gotovina dated 29 August 1995, the northern barracks in Knin were guarded by the 4th Guards Brigade.³⁷⁰⁶

921. According to a Duty Log of the Joint VP Company in Knin, on 31 August 1995, at 4:55 p.m., private Jerko Tošić informed the Knin VP Duty Service that he had found in front of his sister's house in the Breskvik neighbourhood of Knin three HV members with a lorry (licence plate ST 267 DH), who had appropriated goods from the house and

³⁶⁹⁷ P60 (Tor Munkelien, witness statement, 18 December 1995, co-signed by Kari Anttila), p. 1; P61 (Tor Munkelien, witness statement, 10 January 2008), paras 1, 3; Tor Munkelien, T. 1514, 1546; D91 (Tor Munkelien, witness statement, 4 September 1999), p. 3.

³⁶⁹⁸ P61 (Tor Munkelien, witness statement, 10 January 2008), paras 23, 29; P67 (UNMO Team Podkonje report, 27 August 1995), para. 15.

³⁶⁹⁹ P126 (UNMO Sector South daily situation report, 7 p.m., 24 August 1995), p. 4.

³⁷⁰⁰ P232 (UNCIVPOL incident report, S2-95-473, 23 August 1995).

³⁷⁰¹ P292 (John Hill, witness statement, 21 January 1998), pp. 90-91.

³⁷⁰² P292 (John Hill, witness statement, 21 January 1998), p. 91.

³⁷⁰³ P126 (UNMO Sector South daily situation report, 7 p.m., 24 August 1995), pp. 1, 4.

³⁷⁰⁴ P205 (Alexander Tchernetsky, witness statement, 6 December 2007), para. 18; P67 (UNMO Team Podkonje report, 27 August 1995), para. 17.

³⁷⁰⁵ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 22; P27 (HRAT cumulative daily report, 24-27 August 1995), pp. 1, 4.

³⁷⁰⁶ D990 (Report from Ante Gotovina to the HV Main Staff, 29 August 1995), pp. 1, 8.

left.³⁷⁰⁷ It was recorded in the Knin duty log that a patrol had been informed, the lorry had been found in front of a forward command post, and the vehicle was driven to the unit.³⁷⁰⁸ In a daily report of the 72nd VP Battalion dated 31 August 1995, Lieutenant Darko Batinić, reported that at 16:55 p.m. on the same day, Jerko Tošić, a member of VP in Drniš, had informed the VP in Knin that at 16:40 p.m. three members of the HV, driving a Fiat of the Iveco type with license plate number ST 267-DH, had taken a large amount of furniture from the house of his sister, Zorka Tošić, in the Breskvik neighbourhood of Knin.³⁷⁰⁹ A patrol of the VP in Knin went to investigate. The vehicle was found in front of the Split garrison. The vehicle and the persons inside it were brought to the premises of the VP in Knin. It was subsequently established that the vehicle was the property of the Red Cross in Split and that the driver was a member of the Military Post in Split and the two passengers were both members of the Military Post in Zadar. One sofa, four chairs, a table, a cabinet, a toilet bowl and approximately ten iron water pipes were confiscated from the vehicle and a receipt was issued for it.³⁷¹⁰ At the time the report was drafted, it was not yet established who the goods belonged to.³⁷¹¹ The persons were released and a disciplinary report was to be filed against them.³⁷¹² The Municipal Court in Knin convicted Marinko Sabljčić and Damir Grubišić, both HV members indicted by the military prosecutor, on 23 January 1996, based in part on their admissions, for aggravated theft committed on 31 August 1995 in Knin.³⁷¹³ The Municipal Court found that they, for their personal gain and while wearing HV uniforms, had taken from in front of one or more houses in Knin a large number of items (listed on page 5 of P2608).³⁷¹⁴ They took advantage of the town being scarcely populated at the time.³⁷¹⁵ They loaded the items onto a truck and drove away. However, VP members stopped them at the railway station, and seized the items.³⁷¹⁶

³⁷⁰⁷ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 31 August 1995.

³⁷⁰⁸ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 31 August 1995.

³⁷⁰⁹ D1068 (Daily Report of the 72nd VP Battalion, 31 August 1995), pp. 1, 4.

³⁷¹⁰ D1068 (Daily Report of the 72nd VP Battalion, 31 August 1995), p. 1.

³⁷¹¹ D1068 (Daily Report of the 72nd VP Battalion, 31 August 1995), pp. 1-2.

³⁷¹² D1068 (Daily Report of the 72nd VP Battalion, 31 August 1995), p. 2.

³⁷¹³ Mladen Bajić, T. 20819-20820; P2608 (Documentation on legal proceedings against Sabljčić, Vujnovac, and Grubišić for aggravated theft), pp. 1, 4-6, 8-10, 12-13.

³⁷¹⁴ P2608 (Documentation on legal proceedings against Sabljčić, Vujnovac, and Grubišić for aggravated theft), pp. 5, 8-11.

³⁷¹⁵ P2608 (Documentation on legal proceedings against Sabljčić, Vujnovac, and Grubišić for aggravated theft), p. 11.

³⁷¹⁶ P2608 (Documentation on legal proceedings against Sabljčić, Vujnovac, and Grubišić for aggravated theft), pp. 8-11.

922. According to a Duty Log of the Joint VP Company in Knin, on 1 September 1995, at 5:10 p.m., Mosor 31 informed the Knin VP Duty Service that a news kiosk was burning near the office of the defence. It was recorded in the Knin duty log that the Knin MUP had been informed, and would inform the fire brigade.³⁷¹⁷ According to a report from Ante Gotovina to the Chief of the HV Main Staff, General Zvonimir Červenko, on 1 September 1995, the 4th Guards Brigade of the HV was deployed in Knin.³⁷¹⁸

923. According to **Stig Marker Hansen's** diary, on 5 September 1995 burning of houses and theft was continuing to the same degree as before, however civilians from the coast were taking the remains of Serb houses or belongings, removing all parts of houses including kitchens, bathrooms, and sockets from walls.³⁷¹⁹ Marker Hansen, Søren Liborius, and the HV Liaison Officer took a trip around Knin and in one house found a family who was stealing goods from the house and had loaded a trailer with tables and chairs.³⁷²⁰ According to a Duty Log of the Joint VP Company in Knin, on 5 September 1995, at 4:25 p.m., Knin police station informed the Knin VP Duty Service that the old hospital was on fire and that HV members were not letting firemen extinguish the fire. It was recorded in the Knin duty log that Mosor 1 went to intervene, but did not encounter the HV soldiers.³⁷²¹ ECMM reported on 5 September 1995 that the HV 4th Brigade was the only permanently located brigade in Knin.³⁷²²

924. **Roberts** testified that he saw an office block on fire in the centre of Knin on the first Sunday in September 1995.³⁷²³ He testified that the block was close to the railway bridge and about 300 metres from Knin police station.³⁷²⁴ On 6 September 1995, **Elleby** also observed four armed HV soldiers with an animal insignia on the sleeve, which the witness believed was the insignia of the 7th Guard Brigade (Puma), stealing his

³⁷¹⁷ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 1 September 1995.

³⁷¹⁸ P2566 (Report from Ante Gotovina to General Zvonimir Červenko, 1 September 1995), pp. 1, 4.

³⁷¹⁹ P1292 (Stig Marker Hansen, personal diary), pp. 15-16.

³⁷²⁰ P1292 (Stig Marker Hansen, personal diary), p. 16.

³⁷²¹ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 5 September 1995.

³⁷²² P944 (ECMM daily report, 5 September 1995), p. 1.

³⁷²³ P679 (Alun Roberts, witness statement, 4 March 2008), para. 10; P680 (Alun Roberts, witness statement, 1 July 2008), para. 20; P681 (Aerial map marking civilian buildings hit by shells).

³⁷²⁴ P679 (Alun Roberts, witness statement, 4 March 2008), para. 10; P680 (Alun Roberts, witness statement, 1 July 2008), paras 20, 32, nos 6-7; P683 (Various photographs of destruction, looting and killing in Knin and in villages taken between 10 August and mid-October 1995), pp. 11-14; P681 (Aerial map marking civilian buildings hit by shells).

landlady's car.³⁷²⁵ HRAT reported that on 10 September 1995 HRAT went to investigate a burning house 500 metres from the UN compound in Knin, and met an angry Croatian soldier who said the Serb owners were only getting the kind of treatment they had given to Croats.³⁷²⁶ At 8:20 a.m. on 19 September 1995, UNMO observed a burning house in Knin.³⁷²⁷

925. The evidence above indicates that by the beginning of the period under consideration, 9 August to the end of September 1995, more civilians were arriving in Knin, and that some of them were taking items away from buildings in Knin. The evidence further indicates that many HV soldiers had left or were in the process of leaving Knin by 9 August 1995. However, the Trial Chamber finds, on the basis of the evidence of Hill, Flynn, Gotovina's reports D990, D282 and P2566, ECMM reports P935 and P944, SIS report D984, HRAT report P27, and P2608, that members of the HV, in particular of the 4th Guards Brigade, remained in Knin throughout August and at least into early September 1995. Based on the evidence of Witness 136 that on 10 August 1995 she observed soldiers looting houses in Knin, the Trial Chamber finds that persons referred to as soldiers took unspecified items away from houses in Knin. The Trial Chamber further finds, based on the evidence of Elleby, that on 16 August 1995 on the main street of Knin one person referred to as a soldier was carrying a stereo out of an apartment, and other persons referred to as soldiers were filling plastic bags with shampoo, oil, and snacks. Based on the witnesses' descriptions of these persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. The Trial Chamber finds, on the basis in particular of the evidence of Džolić and P886, that the VP was in Knin throughout the period under consideration. Considering also the Trial Chamber's finding above that HV members were still in Knin throughout August 1995, the Trial Chamber finds that the persons in military-type uniforms were members of the HV or VP. On the basis of P2608, and considering P886 and D1068, the Trial Chamber further finds that on 31 August 1995 two members of the HV took, for their personal gain, a large number of items (listed on page 5 of P2608) from one or more houses in Knin, loaded them onto a truck and drove away. The Trial Chamber notes in this regard

³⁷²⁵ P215 (Jan Elleby, witness statement, 14 September 1997), p. 3; P216 (Jan Elleby, witness statement, 10 October 2005), p. 4; P217 (Jan Elleby, witness statement, 20 February 2008), para. 17; Jan Elleby, T. 3372-3373, 3491-3492; P281 (Insignia of the Puma brigade).

³⁷²⁶ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 34; P35 (HRAT daily report, 8-11 September 1995), p. 2.

³⁷²⁷ P154 (UNMO Sector South daily situation report, 8 p.m., 19 September 1995), p. 4.

that the Municipal Court in Knin convicted them of aggravated theft, and that there is no indication in the evidence that this judgement did not become final under Croatian law. Finally, based on the evidence of Elleby, the Trial Chamber finds that on 6 September 1995 four HV soldiers wearing insignia took the car of Elleby's landlady in Knin. The evidence does not establish whether the objects that were taken were owned by Krajina Serbs.

926. The Trial Chamber further finds, based on evidence from Boucher, that on 11 August 1995 persons referred to as Croatian police were taking radios and TVs from residences in Knin. Based on the witness's description of these persons as Croatian police, the Trial Chamber finds that they wore police-type uniforms. Considering the Trial Chamber's finding above that Croatian civilian police had arrived in Knin prior to 11 August 1995, the Trial Chamber finds that the persons observed by Boucher were members of the Croatian civilian police. The evidence does not establish whether the objects that were taken were owned by Krajina Serbs.

927. The Trial Chamber now turns to evidence of destruction in Knin between 9 August and the end of September 1995. The evidence indicates that buildings were burning in Knin on several days during the period under consideration, including 12, 13, 17, 23, and 24 August, as well as 1, 5, 6, 10 and 19 September 1995. However, the evidence does not establish how the fires started. Tchernetsky testified that one day between 10 and 16 August 1995 he and Munkelien observed burning houses surrounded by soldiers, police officers, and several firemen and fire engines, none of whom were doing anything to extinguish the fire. This evidence is not corroborated by Munkelien, and in any event does not establish that these persons set fire to the houses. VP Duty Log P886 contains a somewhat similar story, dated 5 September 1995, according to which the Knin police station had reported that HV members were not allowing firemen to extinguish a fire. However, according to the Duty Log, the HV members were not found. According to HRAT report P35, on 10 September 1995 HRAT went to investigate a burning house in Knin, and met an angry Croatian soldier who said the Serb owners were only getting the kind of treatment they had given to Croats. In all of these cases, there is insufficient evidence as to the circumstances under which the buildings caught fire.

928. For the aforementioned reasons, the Trial Chamber will further consider the above incidents in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below, but not in relation to Count 5.

Ljubač

929. According to ECMM reports, on 6 September 1995 at 11:20 a.m., ECMM saw four soldiers with a car with license plate SI 828-K setting a house on fire in Ljubač in Knin municipality.³⁷²⁸

930. This evidence indicates that at 11:20 a.m. on 6 September 1995, four persons referred to as soldiers set fire to a house in Ljubač in Knin municipality. Based on the description of the persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. The evidence does not establish which armed forces, if any, the persons belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in the vicinity of Ljubač at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

Plavno Valley

931. The Trial Chamber has received evidence with regard to the alleged destruction and looting of the Plavno Valley primarily through the testimonies of Kari Anttila, Alun Roberts, Eric Hendriks, Edward Flynn, Jovan Grubor, Petro Romassev, Tor Munkelien, Søren Liborius, Witness 136, and Maria Teresa Mauro, as well as UNCIVPOL, ECMM, and HRAT reports. According to the 1991 Population Census, the population of Plavno consisted of 1,708 Serbs out of a total of 1,720 persons in 1991.³⁷²⁹

932. According to a UNCIVPOL incident report, dated 18 September 1995, Spaše Dubajić informed UNCIVPOL that the HV had burnt six houses in the hamlet of

³⁷²⁸ D820 (Eric Hendriks, witness statement, 18 April 1996), p. 6; P810 (ECMM list of villages with level of destruction, 22 August 1995), p. 5; P945 (ECMM daily report, 6 September 1995), p. 1.

³⁷²⁹ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

Torbice, Plavno village in Knin municipality sometime between 15 and 18 August 1995.³⁷³⁰

933. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,³⁷³¹ testified that on 20 August 1995, she observed that the hamlet before Zorići in Knin municipality, which the witness thinks was called Torbice had been completely burnt down.³⁷³²

934. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,³⁷³³ testified that he visited Plavno in Knin municipality on 24 August 1995, saw that 12 per cent of the inhabitants remained, and found the village badly burnt.³⁷³⁴ He noted that 3,000 inhabitants lived in Plavno before the Croatian offensive.³⁷³⁵

935. **Eric Hendriks**, an ECMM monitor in Knin from 21 July 1995 until 30 October 1995,³⁷³⁶ testified that on 29 August 1995, he observed uniformed HV soldiers looting and walking around in Plavno Valley in Knin municipality, after which houses would light up with fire.³⁷³⁷

936. **Søren Liborius**, an ECMM Operations Officer and team leader based in Knin from 28 July 1995 until 27 November 1995,³⁷³⁸ testified that on 29 August 1995 he

³⁷³⁰ P263 (UNCIVPOL incident report, 18 September 1995).

³⁷³¹ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

³⁷³² P2 (Witness 136, witness statement, 4 July 1996), p. 9; Witness 136, T. 641-642; P5 (Map of Sector South marked by Witness 136).

³⁷³³ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

³⁷³⁴ P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P684 (Alun Roberts's report to the press on HV's human rights violations in Sector South, 12 October 1995), p. 1.

³⁷³⁵ P684 (Alun Roberts's report to the press on HV's human rights violations in Sector South, 12 October 1995), p. 1. The Trial Chamber understands this estimate to refer to a larger area than the village itself and notes in this respect that the evidence did not establish clear boundaries to what was referred to as "Plavno" or the "Plavno Valley".

³⁷³⁶ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 3; D820 (Eric Hendriks, witness statement, 18 April 1996), pp. 1-2; Eric Hendriks, T. 9734-9735, 9755-9756.

³⁷³⁷ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 34; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 5; Eric Hendriks, T. 9683-9684.

³⁷³⁸ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 1, 3; P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; P801 (Søren Liborius, witness statement, 12 October 2005), p. 2; P803 (Søren Liborius, witness statement, 6 September 2008), para. 6; Søren Liborius, T. 8229; D741 (Diary of Liborius), p. 3.

witnessed HV soldiers shooting animals and burning houses in Bašinci in Knin municipality.³⁷³⁹

937. According to a UNCIVPOL report, dated 16 October 1995, a Serb called Nađa Kusanović informed UNCIVPOL that in the beginning of September 1995 she had observed two men in two cars without registration plates going to the village of Plavno, Knin municipality, and stealing a tractor from her mother's house. She had reported the incident to the Croatian police in Knin on 18 September 1995 and tried several times following that to contact them regarding the incident but without success. Kusanović also stated that she had been able to locate the tractor in Vrlika and informed the Croatian police there but that they had taken no action.³⁷⁴⁰

938. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,³⁷⁴¹ testified that on 4 September 1995, he visited the hamlets of Tintori, Petrovići and Cvijanovići in Plavno Valley, Knin municipality, in all of which residents reported having been visited by uniformed Croatian soldiers over the weekend.³⁷⁴² In Petrovići, residents reported that soldiers had come in three vehicles, loaded them with property and 20-30 sheep while firing some shots, and Flynn saw one sheep that had been shot dead.³⁷⁴³ In Cvijanovići, Flynn met a couple of soldiers who were relaxing next to a burning barn.³⁷⁴⁴ Flynn's local interpreter told him that their insignia were those of the 4th Brigade from Split.³⁷⁴⁵ The witness noticed that up the road, another building was on fire.³⁷⁴⁶ Neither building had collapsed from the fire.³⁷⁴⁷ When the witness enquired about the fires, one of the soldiers smiled and somewhat

³⁷³⁹ P801 (Søren Liborius, witness statement, 12 October 2005), p. 12; D741 (Diary of Liborius), p. 19.

³⁷⁴⁰ D740 (Collection of UNCIVPOL documents), p. 20 (UNCIVPOL incident report, S2-95-790, 16 October 1995).

³⁷⁴¹ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

³⁷⁴² P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 29; P36 (HRAT daily report, 2-4 September 1995), p. 2.

³⁷⁴³ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 29; P36 (HRAT daily report, 2-4 September 1995), p. 2.

³⁷⁴⁴ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 33-34; P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 29; Edward Flynn, T. 1096-1097, 1321; P36 (HRAT daily report, 2-4 September 1995), p. 2; P38 (Weekly report from Hussein Al-Alfi, 2-8 September 1995), p. 5.

³⁷⁴⁵ P20 (Edward Flynn, witness statement, 29 June 1997), p. 33; P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 29; Edward Flynn, T. 1097; P36 (HRAT daily report, 2-4 September 1995), p. 2.

³⁷⁴⁶ P20 (Edward Flynn, witness statement, 29 June 1997), p. 33; P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 29; P36 (HRAT daily report, 2-4 September 1995), p. 2.

³⁷⁴⁷ P20 (Edward Flynn, witness statement, 29 June 1997), p. 34.

sheepishly said that some other soldiers had started the fires.³⁷⁴⁸ Flynn and his companions reported the case to the Croatian authorities; he believed it was to someone in the office of General Čermak.³⁷⁴⁹

939. **Kari Anttila**, an UNMO in Sector South from 14 August 1995 until 27 November 1995,³⁷⁵⁰ went on patrol on 4 September 1995 to the hamlet of Petrovići in Plavno village, Knin municipality, where the Serb residents complained of looting by Croatian soldiers. The residents told the team that the soldiers visited the hamlet often, loading valuable items as well as cattle and sheep onto trucks.³⁷⁵¹

940. According to an ECMM report, on 5 September 1995 ECMM observed four HV soldiers and one member of the VP burning houses in Plavno, in Knin municipality.³⁷⁵²

941. On 10 September 1995, UNCIVPOL observed one house which had just been burnt in Zorići hamlet in Plavno village, Knin municipality. Neighbours told UNCIVPOL that they had seen two HV soldiers entering the house on the same day and that when the soldiers found Serb uniforms in the house they had set the home on fire.³⁷⁵³

942. **Jovan Grubor**, a Serb from Grubori hamlet in Plavno village in Knin municipality,³⁷⁵⁴ testified that on 10 September 1995, he saw two pairs of armed soldiers patrolling and entering houses in Plavno village.³⁷⁵⁵ The witness noticed a military truck on the road loaded with different items and some soldiers pushing furniture into the truck. On 11 September 1995, he witnessed similar behaviour in Raškovići in Knin municipality.³⁷⁵⁶ According to the witness, the inhabitants of Plavno were 750 Serb families.³⁷⁵⁷

943. HRAT reported that on 12 or 13 September 1995 it observed in Zorići, Knin municipality, persons appearing to be looting who covered the licence plates of their

³⁷⁴⁸ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 33-34; P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 29; P36 (HRAT daily report, 2-4 September 1995), p. 2.

³⁷⁴⁹ P20 (Edward Flynn, witness statement, 29 June 1997), p. 34; Edward Flynn, T. 1098-1099, 1324.

³⁷⁵⁰ P171 (Kari Anttila, witness statement, 8 January 1996), p. 1; P172 (Kari Anttila, witness statement, 16 October 1997), pp. 1-2; P173 (Kari Anttila, witness statement, 12 December 2007), p. 1, para. 2; Kari Anttila, T. 2508.

³⁷⁵¹ P172 (Kari Anttila, witness statement, 16 October 1997), p. 3; P173 (Kari Anttila, witness statement, 12 December 2007), para. 35.

³⁷⁵² P1286 (ECMM daily monitoring activity report, 5 September 1995), pp. 1-2.

³⁷⁵³ P255 (UNCIVPOL incident report, S2-95-603, 10 September 1995).

³⁷⁵⁴ P633 (Jovan Grubor, witness statement, 12 May 1997), pp. 1-2.

³⁷⁵⁵ P633 (Jovan Grubor, witness statement, 12 May 1997), pp. 4-5.

³⁷⁵⁶ P633 (Jovan Grubor, witness statement, 12 May 1997), p. 5.

cars when HRAT passed. The few remaining residents of Zorići told HRAT that they urgently wanted to be transported to Serbia, but that they did not want to go to Knin school.³⁷⁵⁸

944. According to an ECMM report, on 13 September 1995 ECMM observed looting by HV soldiers and civilians in the Plavno area driving cars with plates HV 294 MM, ST 386 QJ, ST 107 DV, and two trucks and one tractor without plates.³⁷⁵⁹

945. According to an ECMM report, on 23 September 1995 in Bašinci, in Knin municipality, ECMM witnessed looting by uniformed soldiers with plates ZG 571 EG (truck) and a yellow Opel Kadett without plates. ECMM reported this to the VP, who was patrolling in Plavno and who stated that the check-point was informed about this incident, but as far as the witness was aware nothing was ever done about these soldiers.³⁷⁶⁰

946. On 30 September 1995, ECMM observed looting of horses, furniture, and other household items by civilians and uniformed VP soldiers from the 72nd battalion and soldiers from the 4th Guards Brigade in the Plavno Valley in Knin municipality.³⁷⁶¹ The soldiers were in civilian cars.³⁷⁶²

947. **Petro Romassev**, Monitor and Station Commander at UNCIVPOL Sector South in Knin municipality between January 1995 and December 1995,³⁷⁶³ stated that at an unspecified time he found that Croats had burned many houses in the Zorići hamlet of Plavno village in Knin municipality. Residents told him that the Croats had used targeted tactics of burning any house where they found something indicating military service or found that a young man of military age lived in. Prior to Operation Storm about 2,000 people had lived in the valley. However, at the time of Romassev's visit there were only about 120 Serbs remaining.³⁷⁶⁴

³⁷⁵⁷ P633 (Jovan Grubor, witness statement, 12 May 1997), p. 2.

³⁷⁵⁸ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 35; P39 (HRAT daily report, 12-13 September 1995), p. 1.

³⁷⁵⁹ P2148 (ECMM daily report, 13 September 1995), pp. 1-2.

³⁷⁶⁰ P2149 (ECMM daily report, 23 September 1995), p. 1; Stig Marker Hansen, T. 14931.

³⁷⁶¹ P801 (Søren Liborius, witness statement, 12 October 2005), p. 7; P819 (ECMM Knin daily report, 2 October 1995), p. 2.

³⁷⁶² P801 (Søren Liborius, witness statement, 12 October 2005), p. 7.

³⁷⁶³ P2513 (Petro Romassev, two witness statements), pp. 2 (Petro Romassev, witness statement, 14 February 1996), 6-7 (Petro Romassev, witness statement, 8 June 1997).

³⁷⁶⁴ P2513 (Petro Romassev, two witness statements), p. 9 (Petro Romassev, witness statement, 8 June 1997).

948. **Tor Munkelien**, an UNMO based in Knin from 14 August 1995 to 1 December 1995,³⁷⁶⁵ saw on 21 August 1995 two houses burned in Markelo, six houses burned and five looted in Stojakovići, and about ten houses burned and 70 looted in the Plavno Valley, all in Knin municipality.³⁷⁶⁶ Towards the end of August and beginning of September 1995, Munkelien went on patrol to the Plavno Valley, and noticed military trucks and vans on the road in one of the hamlets, and several armed and uniformed HV soldiers entering and exiting houses. He observed electronic equipment in the cars, which according to the witness was looted. There were only three elderly Serbs left in the hamlet, who told the witness that looters often came to the area.³⁷⁶⁷ The witness testified that he spoke to the soldiers through his interpreter, after which the soldiers left the hamlet. Based on this, the witness assessed that the soldiers were looting on their own initiative.³⁷⁶⁸

949. **Maria Teresa Mauro**, a UN civil affairs officer and HRAT member in the former Sector South based in Knin from March to December 1995,³⁷⁶⁹ visited on 4 September 1995 the hamlets of Tintori, Petrovići and Cvijanovići in Plavno valley, in Knin municipality, and confirmed that residents reported that uniformed Croat soldiers had looted their property, including 20-30 sheep, as described in an HRAT report of 2-4 September 1995.³⁷⁷⁰ She confirmed that while she was in Petrovići she saw smoke coming from Cvijanovići, which they had just visited, and upon returning saw two uniformed soldiers whom she was told were from the 4th Guards Brigade, lounging next to a burning house, and another burning house just up the hill, as described in the HRAT report of 2-4 September 1995.³⁷⁷¹

950. In relation to Torbice, the Trial Chamber has received evidence that the HV burnt at least six houses between 15 and 18 August 1995 and that by 20 August 1995 Torbice had completely burnt down. The evidence does not, however, provide a factual

³⁷⁶⁵ P60 (Tor Munkelien, witness statement, 18 December 1995, co-signed by Kari Anttila), p. 1; P61 (Tor Munkelien, witness statement, 10 January 2008), paras 1, 3; Tor Munkelien, T. 1514, 1546; D91 (Tor Munkelien, witness statement, 4 September 1999), p. 3.

³⁷⁶⁶ P61 (Tor Munkelien, witness statement, 10 January 2008), paras 23, 28; P67 (UNMO Team Podkonje report, 27 August 1995), para. 13.

³⁷⁶⁷ D91 (Tor Munkelien, witness statement, 4 September 1999), p. 2; Tor Munkelien, T. 1598-1599.

³⁷⁶⁸ Tor Munkelien, T. 1598-1600.

³⁷⁶⁹ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

³⁷⁷⁰ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 6.

³⁷⁷¹ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 6; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 41.

basis for the qualification of the alleged perpetrators as belonging to the HV. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Torbice at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators.

951. Furthermore, the Trial Chamber has not received sufficient evidence regarding the circumstances under which houses burnt down and items were allegedly looted in the Plavno Valley on 21 August and in Plavno on 24 August 1995.

952. The Trial Chamber considers Eric Hendriks's account of destruction and alleged looting in Plavno Valley on 29 August 1995 to refer to the same incident described by Søren Liborius in Bašinci. The evidence indicates that persons referred to as uniformed HV soldiers set fire to houses, shot animals, and looted, which the Trial Chamber understands to mean they took unspecified items away. While the Trial Chamber is satisfied that the perpetrators wore military-type uniforms, the evidence does not provide a factual basis for the qualification of them as belonging to the HV. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of the Plavno Valley at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider these incidents between 15 and 29 August 1995 in the Plavno Valley in relation to Counts 1, 4, and 5 of the Indictment.

953. In relation to the incident in Petrovići, the Trial Chamber considered that the information relayed to Antila by the villagers of Petrovići insufficiently establishes when the described events occurred. The Trial Chamber finds that on 2 or 3 September 1995, persons referred to as uniformed Croatian soldiers came in three vehicles and took 20-30 sheep and other unspecified property from villagers in Petrovići hamlet. While the Trial Chamber is satisfied that the perpetrators wore military-type uniforms, the evidence does not provide a factual basis for the qualification of them being Croatian.

Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber recalls its findings with regard to the hamlet of Cvijanovići. Based on the foregoing, the Trial Chamber finds that members of the HV 4th Guards Brigade took the items away. Considering the ethnic composition of Plavno in 1991 and Jovan Grubor's evidence on the amount of Serb families in Plavno, the Trial Chamber finds that the vast majority, if not all, of the items taken was owned by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment.

954. The Trial Chamber considered whether Tor Munkelien's account of alleged looting in an unnamed hamlet in the Plavno Valley around the end of August or beginning of September 1995 could corroborate evidence about named incidents. While there are certain similarities to the incident in Petrovići on 2 or 3 September 1995, reasonable doubt remained as to whether Munkelien referred to this incident. Nevertheless, Munkelien observed military trucks and vans on the road, several armed and uniformed persons referred to as HV soldiers entering and exiting houses, and electronic equipment in the cars. Based on this evidence and considering the time and place of the incident, the Trial Chamber finds that around the end of August or beginning of September 1995, members of Croatian military forces or Special Police took away electronic equipment from houses in a hamlet in the Plavno Valley. Considering the ethnic composition of Plavno in 1991 and Jovan Grubor's evidence on the amount of Serb families in Plavno, the Trial Chamber finds that the vast majority, if not all, of the electronic equipment was owned by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2, and 5.8.2 (f) below.

955. In relation to Cvijanovići, based on the evidence received, the Trial Chamber finds that on 4 September 1995 one building and a barn were on fire. Next to the barn, Edward Flynn and Maria Teresa Mauro encountered two uniformed persons referred to as soldiers, relaxing. Given the description of these persons as soldiers, the Trial Chamber is satisfied they wore military-type uniforms. According to Flynn's local interpreter, the persons wore insignia of the 4th Guards Brigade from Split. When Flynn inquired about the fires, one of the persons smiled and said that some other soldiers had started the fires. Considering the persons' behaviour and statement at the scene, the Trial Chamber finds that these persons set the building and the barn on fire. Given the

persons' apparel and insignia, the Trial Chamber further finds that they were members of the HV 4th Guards Brigade. Considering the ethnic composition of Plavno in 1991 and Jovan Grubor's evidence on the amount of Serb families in Plavno, the Trial Chamber finds that the building and the barn were owned by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1, and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

956. In relation to Plavno on 5 September 1995, the Trial Chamber finds that an unspecified number of houses were burnt by four persons referred to as HV soldiers and one person referred to as a VP. Given the descriptions of these persons as soldiers, the Trial Chamber is satisfied they wore military-type uniforms. The evidence does not, however, provide a factual basis for the qualification of them as belonging to the HV or VP. Consequently, the Trial Chamber cannot assess whether these qualifications were made on a proper factual basis. The Trial Chamber recalls its findings with regard to the hamlet of Cvijanovići. Based on the foregoing, the Trial Chamber finds that members of the HV 4th Guards Brigade burnt the houses. Considering the ethnic composition of Plavno in 1991 and Jovan Grubor's evidence on the amount of Serb families in Plavno, the Trial Chamber finds that the vast majority, if not all, of the houses burnt were owned or inhabited by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1 and 5 of the Indictment.

957. In relation to the incident in Plavno at the beginning of September 1995, the evidence indicates that two men in two cars without registration plates took a tractor from Nađa Kusanović's mother. The Trial Chamber has however not received any evidence about the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

958. In relation to Zorići hamlet on 10 September 1995, the Trial Chamber finds that one house was burnt by two persons referred to as HV soldiers, after having found Serb uniforms in the house. Given the descriptions of these persons as soldiers, the Trial Chamber is satisfied they wore military-type uniforms. Further considering that the persons set fire to the house after having found Serb uniforms and that armed forces were present in Plavno on 10 September 1995,³⁷⁷² the Trial Chamber finds that the perpetrators were members of Croatian military forces or Special Police. The Trial

Chamber further finds that based on the Serb uniforms found in the house, the house was owned or inhabited by (a) Serb(s).

959. In relation to the incident in Plavno on 10 September 1995, the Trial Chamber finds that four persons referred to as armed soldiers entered houses and loaded a military truck with furniture. Based on the witness's description of these persons as soldiers, the Trial Chamber is satisfied they wore military-type uniforms. Considering the persons' behaviour of entering houses and the fact that they had a military truck, the Trial Chamber finds that the perpetrators were members of armed forces. Further considering that Croatian persons in military-type uniforms were in Zorići hamlet in Plavno on 10 September 1995,³⁷⁷³ the Trial Chamber finds that the perpetrators were members of Croatian military forces or Special Police. Considering the ethnic composition of Plavno in 1991 and Jovan Grubor's evidence on the amount of Serb families in Plavno, the Trial Chamber finds that the vast majority, if not all, of the furniture taken was owned by Krajina Serbs.

960. The Trial Chamber has further received evidence about alleged looting in the Plavno area on 12 or 13 September 1995. The Trial Chamber considers that the ECMM and the HRAT report refer to the same incident. Based on the evidence received, the Trial Chamber finds that persons referred to as HV soldiers and civilians looted unspecified items, which the Trial Chamber understands to mean they took these items away, from Zorići. Given the descriptions of some of these persons as soldiers, the Trial Chamber is satisfied they wore military-type uniforms. Further considering that some of the persons drove a vehicle with HV licence plates, the Trial Chamber finds that some of the perpetrators were members of the HV. Considering the ethnic composition of Plavno in 1991 and Jovan Grubor's evidence on the amount of Serb families in Plavno, the Trial Chamber finds that the vast majority, if not all, of the items taken was owned by Krajina Serbs. The Trial Chamber will further consider the incidents of 10 and 12 or 13 September 1995 in Plavno in relation to Counts 1, 4, and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

961. In relation to the incident in Bašinci on 23 September 1995, the evidence indicates that uniformed persons referred to as soldiers and with a truck and a civilian car looted unspecified items, which the Trial Chamber understands to mean they took

³⁷⁷² See following paragraph.

³⁷⁷³ See previous paragraph.

these items away from homes. Based on the ECMM report's description of these persons as soldiers, the Trial Chamber is satisfied they wore military-type uniforms. However, the stated evidence does not establish to which armed forces, if any, the perpetrators belonged. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of the Plavno Valley at the time. While the evidence indicates that VP were patrolling Plavno on this date, the Trial Chamber cannot determine with sufficient certainty whether the persons referred to as soldiers belonged to the VP patrols present in the area. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

962. With regard to the incident in the Plavno Valley on 30 September 1995, the evidence indicates that civilians and persons referred to as HV and VP soldiers in civilian cars looted horses, furniture, and household items, which the Trial Chamber understands to mean they took these items away. Based on the ECMM report's description of some of the perpetrators as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. While the evidence does not provide a factual basis for the qualification of them as belonging to the HV or VP, the ECMM report describes some of the perpetrators with a high degree of specificity by identifying their unit. Under these circumstances, the Trial Chamber does not require further evidence of a factual basis for the given qualifications. Consequently, the Trial Chamber finds that some of the perpetrators belonged to the 72nd VP battalion and the 4th Guards Brigade. Considering the ethnic composition of Plavno in 1991 and Jovan Grubor's evidence on the amount of Serb families in Plavno, the Trial Chamber finds that the vast majority, if not all, of the items taken was owned by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

Podkonje

963. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Podkonje in Knin municipality primarily through the testimony of Witness 136 and an UNMO report.

964. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,³⁷⁷⁴ testified that on 11 August 1995, she observed that houses in Podkonje in Knin municipality had been burned.³⁷⁷⁵ On 19 August 1995, an UNMO team saw three burning houses in Podkonje, Knin municipality, and 94 houses slightly damaged and looted in the north-western part of the town of Knin.³⁷⁷⁶ On 20 August 1995, at 9:30 a.m., UNMO observed four HV soldiers looting near the former UNMO team Podkonje office (WJ9777).³⁷⁷⁷

965. The evidence indicates that on 11 August 1995, houses in Podkonje had been burned, and that on 19 August 1995 three houses were burning. There is insufficient evidence as to the circumstances under which or by whom the houses were set on fire. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 5 of the Indictment.

966. The Trial Chamber finds that on 20 August 1995, at 9:30 a.m., four HV soldiers looted near the former UNMO team Podkonje office, which the Trial Chamber understands to mean they took unspecified objects away. Based on UNMO's description of these persons as HV soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. The evidence does not provide further details as to the factual basis for the qualification of these persons as being HV members. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber recalls its findings in chapter 4.2.9 (Knin town). Based on the foregoing, the Trial Chamber finds that the HV or VP took the objects away. According to the 1991 Population Census, the population of Podkonje consisted of 31 Serbs out of a total of 198 persons in 1991.³⁷⁷⁸ The Trial Chamber is therefore unable to conclude that the objects belonged to Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment.

³⁷⁷⁴ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

³⁷⁷⁵ P2 (Witness 136, witness statement, 4 July 1996), pp. 6-7; Witness 136, T. 641-642; P5 (Map of Sector South marked by Witness 136).

³⁷⁷⁶ Tor Munkelien, T. 1520-1521; P67 (UNMO Team Podkonje report, 27 August 1995), para. 11.

³⁷⁷⁷ P67 (UNMO Team Podkonje Report, 27 August 1995), para. 12 (A).

³⁷⁷⁸ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

Polača

967. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Polača in Knin municipality through the testimonies of Witness 136 and Peter Marti and ECMM, UNMO, and HRAT reports.

968. On 11 August 1995 at 9:25 a.m., ECMM observed around ten burnt houses and four HV soldiers without unit insignia looting in Polača. At 12:30 p.m., in the same village, ECMM observed eight houses on fire and saw that the four soldiers were still present. At both times, the village was deserted.³⁷⁷⁹

969. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,³⁷⁸⁰ testified that on 15 August 1995, she and the UN patrol she was with passed through Kovačić, Podinarje, Suvo Polje, and Polača all located in Knin municipality, observing no civilians.³⁷⁸¹ Most houses she saw had been plundered, items of furniture and clothing lay scattered outside the houses, and many of the doors had been broken open.³⁷⁸² The witness added that all the houses along the road in Polača had been burnt.³⁷⁸³ On 3 September 1995, Witness 136 saw that most of the houses in Crnogorci and Radulovići hamlets in Mala Polača village, Knin municipality had been looted and burnt, and there were a lot of dead farm animals around.³⁷⁸⁴ Witness 136 also testified that several houses were burnt down in Mala Polača, Velika Polača, and Palanka on the Knin-Gračac road.³⁷⁸⁵

970. **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,³⁷⁸⁶ testified that on 27 August 1995, together with Major Tchernetsky and Lieutenant Commander Mensah, he saw 18 houses burned, three partly burned and 15 houses looted in Mala Polača, five houses burned and 15 houses looted in

³⁷⁷⁹ P810 (ECMM list of villages with level of destruction, 22 August 1995), p. 7; P815 (ECMM report by Liborius, 26 August 1995), p. 6.

³⁷⁸⁰ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

³⁷⁸¹ P2 (Witness 136, witness statement, 4 July 1996), p. 7; Witness 136, T. 641-642; P5 (Map of Sector South marked by Witness 136).

³⁷⁸² P2 (Witness 136, witness statement, 4 July 1996), p. 7; Witness 136, T. 641-642; P5 (Map of Sector South marked by Witness 136); P3 (Witness 136, witness statement, 11 June 2007), para. 13.

³⁷⁸³ P2 (Witness 136, witness statement, 4 July 1996), p. 7; Witness 136, T. 641-642; P5 (Map of Sector South marked by Witness 136).

³⁷⁸⁴ P2 (Witness 136, witness statement, 4 July 1996), p. 13; Witness 136, T. 641-642; P5 (Map of Sector South marked by Witness 136).

³⁷⁸⁵ P2 (Witness 136, witness statement, 4 July 1996), p. 14; Witness 136, T. 641-642, 764-765; P5 (Map of Sector South marked by Witness 136).

³⁷⁸⁶ P415 (Peter Marti, witness statement, 13 February 1996), p. 1; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17

Bosnić, and four houses burned and nine houses looted in Vučkovići, all in Knin municipality.³⁷⁸⁷ In Mala Polača Marti saw a group of soldiers coming down the hillside some 200 metres away, going from house to house searching as they went.³⁷⁸⁸ HRAT reported that on 4 September 1995 it saw HV soldiers looting in Mala Polača, Knin municipality.³⁷⁸⁹

971. In addition to the evidence above, the Trial Chamber has considered evidence by Smiljana Mirković, reviewed in chapter 4.1.9 – *Đurđija Mirković*.

972. The evidence indicates that on 7 or 8 August 1995, three persons referred to as Croatian soldiers set fire to a number of houses in Polača, in Knin municipality. Based on Smiljana Mirković's description of these persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. The evidence further indicates that in Polača on 11 August 1995, at 9:25 a.m., there were ten burnt houses and four persons referred to as HV soldiers without unit insignia looting, which the Trial Chamber understands to mean they were taking unspecified items away. At 12:30 p.m., there were eight houses on fire and the four persons were still present in Polača. As the village was otherwise deserted, this evidence indicates that the four persons set the eight burning houses observed at 12:30 p.m. on fire. Based on the description of these persons as HV soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. However, the evidence does not provide further details as to the factual basis for their qualification as HV soldiers. Consequently, and considering also the reported absence of unit insignia, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. Regarding the incidents in Polača on 7 or 8 and on 11 August 1995, the Trial Chamber has received no other reliable evidence about which armed forces, if any, the perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Polača at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators.

973. Witness 136 testified that on 15 August 1995, travelling through Polača, she saw plundered houses, with doors broken open and items of furniture and clothing lying

³⁷⁸⁷ P417 (Peter Marti, witness statement, 14 December 2007), para. 62; P67 (Report of UNMO team Podkonje on Human Rights Violations since the start of Operation Storm, dated 27 August 1995), p. 5.

³⁷⁸⁸ P417 (Peter Marti, witness statement, 14 December 2007), para. 47.

³⁷⁸⁹ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 29; P36 (HRAT daily report, 2-4 September 1995), p. 3.

outside, and that all the houses along the road in Polača were burnt. Peter Marti testified that on 27 August 1995, he saw 18 burnt houses, three partly burnt houses, and 15 looted houses in Mala Polača. The evidence does not establish when or by whom the houses observed on 15 and 27 August 1995 were set on fire nor whether, when, or by whom items were taken from the houses. The evidence indicates that on 27 August 1995, in Mala Polača, a group of persons referred to as soldiers searched several houses. However, the evidence does not establish what these persons were searching for, nor that they took any items from houses or set fire to houses in Mala Polača on that day.

974. Witness 136 testified that on 3 September 1995, she saw that most of the houses in Crnogorci and Radulovići hamlets in Mala Polača village were looted and burnt and a number of farm animals were killed and several houses in Velika Polača were also burnt down. The evidence does not establish when or by whom the animals were killed and these houses were set on fire, nor whether, when or by whom, items were taken from the houses.

975. The evidence further indicates that on 4 September 1995 persons described as HV soldiers were looting in Mala Polača, which the Trial Chamber understands to mean they took unspecified items away. Based on HRAT's description of these persons as HV soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. The evidence does not provide further details as to the factual basis for their qualification as belonging to the HV. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Mala Polača at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider any of the above incidents in relation to Counts 1, 4, and 5 of the Indictment.

Raškovići

976. The Trial Chamber has received relevant evidence with regard to alleged plunder in Raškovići in Knin municipality through an ECMM report. According to this report,

on 1 September 1995 after receiving complaints by civilians about Croatian soldiers looting and threatening to kill them in Raškovići, ECMM stopped a police patrol and asked them if they were aware of such complaints, to which they said that they were but could not do anything about it as the alleged perpetrators were civilians wearing uniforms and it was therefore the military police's responsibility. When ECMM suggested that civilians were their responsibility, they responded that it was war time and they had to wait until there was a "normal situation". That same day, at 3:30 p.m., in Raškovići, ECMM saw a car with license plate ST 656-EC and three Croatian soldiers, one of whom had a badge on his shoulder saying "ZNG-3-SPEARHEAD". The soldiers took some sheep for "army purpose".³⁷⁹⁰

977. The Trial Chamber notes that ECMM received complaints from civilians about persons, described as Croatian soldiers, looting and threatening to kill them in Raškovići. However, the evidence does not establish whether, when, and the circumstances under which this looting and threatening behaviour took place. The Trial Chamber further considers that the ECMM report in this respect contains hearsay evidence from unnamed and unspecified "civilians". The evidence also indicates that on 1 September 1995 at 3:30 p.m., three persons described as Croatian soldiers took sheep for what was described as "army purpose". Based on the description of these persons as Croatian soldiers, the Trial Chamber is satisfied they wore military-type uniforms. The ECMM report also notes that one of these individuals had a badge on his shoulder saying "ZNG-3-SPEARHEAD", which indicates it was a National Guard uniform. While this badge indicates that the individuals were Croatian it does not provide the Trial Chamber with a sufficient basis to conclude that ECMM's qualification of the individuals as soldiers was made on a proper factual basis. The Trial Chamber notes in this respect the evidence of Theunens reviewed in chapter 3.1.1, according to which the National Guards Corps existed prior to the establishment of the HV and was replaced by the HV. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Raškovići at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these

³⁷⁹⁰ P2154 (ECMM daily report, 1 September 1995), p. 1.

circumstances the Trial Chamber will not further consider these incidents in relation to Counts 1, 4, 8 and 9 of the Indictment.

Strmica

978. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Strmica in Knin municipality primarily through the testimonies of Manda Rodić, Philip Berikoff, and Witness 136.

979. **Manda Rodić**, a Serb from the hamlet of Mizdrakovac in the village of Strmica, in Knin municipality who was 73 years old in 1995,³⁷⁹¹ testified that approximately half an hour after the first HV convoy had passed through her hamlet in August 1995,³⁷⁹² a second HV convoy, which she identified by the letter “H” on the vehicles, passed her house and stopped in Strmica.³⁷⁹³ Following that, the witness stated that the HV returned to her hamlet and set up two command posts.³⁷⁹⁴ Eight to ten days later, the HV moved the command posts from Mizdrakovac, after which she saw men, women, and children, in both civilian and military clothing, entering houses and removing items.³⁷⁹⁵ The witness stated that these men, women, and children were not from her hamlet and that people from the hamlet reported the looting to the police.³⁷⁹⁶ On one occasion upon returning home, the witness found that her television, two radios, refrigerator, and washing machine had disappeared, and later that her four lambs, calf, and three sheep had disappeared from her shed.³⁷⁹⁷ The witness never reported this to the police as they were too far away from her home.³⁷⁹⁸ The witness testified that before Operation Storm, there were approximately 40 houses in her hamlet, and that during and just after Operation Storm, approximately 15 of those houses were burned. During and just after Operation Storm, the witness saw smoke and occasionally houses collapsing.³⁷⁹⁹

³⁷⁹¹ P637 (Manda Rodić, witness statement, 22 April 1998), p. 1, para. 1.

³⁷⁹² See chapter 4.1.9 – Jovanka and Stevan Mizdrak (Further Clarification nos 180-181).

³⁷⁹³ P637 (Manda Rodić, witness statement, 22 April 1998), paras 3-4, 10.

³⁷⁹⁴ P637 (Manda Rodić, witness statement, 22 April 1998), para. 11.

³⁷⁹⁵ P637 (Manda Rodić, witness statement, 22 April 1998), paras 11-12.

³⁷⁹⁶ P637 (Manda Rodić, witness statement, 22 April 1998), para. 12.

³⁷⁹⁷ P637 (Manda Rodić, witness statement, 22 April 1998), para. 13.

³⁷⁹⁸ P637 (Manda Rodić, witness statement, 22 April 1998), para. 13.

³⁷⁹⁹ P637 (Manda Rodić, witness statement, 22 April 1998), para. 17.

980. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,³⁸⁰⁰ testified that on 12 August 1995, she observed that Strmica village in Knin municipality was deserted, houses were burnt, and several dead livestock lay on the road, along with a pile of around 80-100 SVK uniforms.³⁸⁰¹ **Tor Munkelien**, an UNMO based in Knin from 14 August 1995 to 1 December 1995,³⁸⁰² observed, on 23 August 1995, 80 looted houses in Strmica, Knin municipality.³⁸⁰³

981. On 3 September 1995, UNCIVPOL observed ongoing arson in Strmica in Knin municipality. At the scene of a burning house, UNCIVPOL met two policemen and one HV soldier who stated that they had arrived after the fire's onset to investigate its cause.³⁸⁰⁴ At 4 p.m. on 25 September 1995, UNMO observed a burning house near Strmica.³⁸⁰⁵ Before 8 p.m. on 30 September 1995, UNMO observed two burning houses in Strmica, where a family informed them that no one lived in those houses.³⁸⁰⁶

982. According to the Duty Log of the Joint VP Company in Knin, on 7 September 1995, at 5:20 p.m., an unspecified individual from Mosor 95 informed the Knin VP Duty Service that 4-5 houses were on fire in Strmica and HV were seen moving around those houses. According to the log Mosor 51 was sent to notify the fire brigade, but the terrain made it impossible to extinguish the fire.³⁸⁰⁷

983. In addition to the above evidence, the Trial Chamber has considered evidence from Philip Berikoff, reviewed in chapter 4.2.1, and Witness 136, reviewed in chapter 4.1.9 – Ilinka Crnogorac (Further Clarification no. 156), as well as P2379, P2559, p. 5, and P2586, p. 5.

984. The evidence of Manda Rodić, a villager of a hamlet of Strmica, indicates that during and just after what she perceived to be Operation Storm, approximately 15 houses were burnt in her hamlet. Strmica was shelled on 30 July 1995 and during

³⁸⁰⁰ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

³⁸⁰¹ P2 (Witness 136, witness statement, 4 July 1996), p. 7; Witness 136, T. 641-642, 707-708; P5 (Map of Sector South marked by Witness 136).

³⁸⁰² P60 (Tor Munkelien, witness statement, 18 December 1995, co-signed by Kari Anttila), p. 1; P61 (Tor Munkelien, witness statement, 10 January 2008), paras 1, 3; Tor Munkelien, T. 1514, 1546; D91 (Tor Munkelien, witness statement, 4 September 1999), p. 3.

³⁸⁰³ P61 (Tor Munkelien, witness statement, 10 January 2008), paras 23, 29; Tor Munkelien, T. 1624-1625; P67 (UNMO Team Podkonje report, 27 August 1995), para. 15.

³⁸⁰⁴ P248 (UNCIVPOL weekly report 4-10 September 1995, 10 September 1995), p. 7.

³⁸⁰⁵ P157 (UNMO Sector South daily situation report, 8 p.m., 25 September 1995), p. 4.

³⁸⁰⁶ P160 (UNMO Sector South daily situation report, 8:30 p.m., 30 September 1995), pp. 1, 4-5.

³⁸⁰⁷ P886 (Duty Log of the Joint VP Company in Knin from 11 August to 11 November 1995), entry of 7 September 1995.

Operation Storm (see chapter 4.4.8). The evidence indicates that HV forces reached Strmica on 7 August 1995. The Trial Chamber therefore considers that the evidence of Manda Rodić refers to a period covering all or most of approximately the first third of August 1995. This interpretation is supported by evidence from other witnesses who went to Strmica and saw burnt houses there as early as 12 August 1995. The Trial Chamber has received insufficient evidence as to when and the circumstances under which these houses caught fire, whether by shelling, arson or other means. The evidence also indicates that on 12 August 1995 there was dead livestock on the road in Strmica, however the Trial Chamber has received no evidence as to the circumstances under which these animals died.

985. The evidence further indicates that houses in Strmica were burnt on several occasions in September 1995. On two of these occasions, 3 and 7 September respectively, the evidence indicates that persons referred to as HV soldiers or policemen were observed next to the burning houses. With regard to the incident on 3 September, the evidence does not contradict the claim made to UNCIVPOL by the police and HV soldiers that they were at the scene of the burning house for investigatory purposes. However, the proximity of these persons to the burning houses is insufficient to establish that they set fire to the houses. Consequently, there is insufficient evidence as to the circumstances under which the houses that were burnt in September caught fire.

986. Manda Rodić's evidence indicates that after the HV moved its command posts from her hamlet, men, women, and children, who were not from her hamlet and who were wearing both civilian and military clothing, removed items from houses. Considering the prior removal of the HV command post, and the presence of women, children, and persons in civilian attire, which is a strong counter indication of their affiliation with any armed forces, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the persons in military clothing. The Trial Chamber will therefore not further consider this evidence. As for Rodić's testimony regarding items that disappeared from her house and shed, the evidence does not establish when, or by whom, these items were taken. As for Tor Munkelien's evidence indicating that there were 80 looted houses in Strmica on 23 August 1995, the evidence does not establish when, or by whom, items were taken from these houses. Under these circumstances, the Trial Chamber will not further consider any of the above incidents in relation to Counts 1, 4, and 5 of the Indictment.

Žagrović

987. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Žagrović, including the hamlet Bradaši, in Knin municipality primarily through the testimonies of Witness 69, Witness 136, and Kari Anttila. According to the 1991 Population Census, the population of Žagrović consisted of 1,373 Serbs out of a total of 1,393 persons in 1991.³⁸⁰⁸

988. **Witness 69**, a Serb from a village in Knin municipality,³⁸⁰⁹ left a house in Žagrović on 5 August 1995, a few minutes after he had witnessed the events described in chapter 4.1.9,³⁸¹⁰ and quickly left the village.³⁸¹¹ Then, Witness 69 observed from a distance of about 500-1,000 metres, uphill, a group of Croatian soldiers near Đurđija Rašuo's house in Žagrović in Knin municipality and saw the house suddenly go up in flames, although he did not actually see anyone setting the house on fire.³⁸¹² Witness 69 stated that he knew that they were Croatian soldiers because there was no other military presence in that area at that time.³⁸¹³ The house and the hayloft, which were about ten metres apart, started burning at the same time.³⁸¹⁴ On or about 7 August 1995, Witness 69 saw a house near Raljevac in Knin municipality that had recently burned down and was still smoking.³⁸¹⁵ Anđa Bajić realized from Witness 69's description that the burned-down house in Raljevac was hers.³⁸¹⁶ She told Witness 69 that she went to her burned house, where she quarrelled with Croatian soldiers from the Split brigade who were present at the scene and who apologized, saying that they would build her another house, after she had told them that one of her sons was in the Croatian civilian police in Split.³⁸¹⁷ Witness 69 further testified that he visited a house in Žagrović in Knin municipality in the evening of 11 or 12 August 1995, that he found in total disorder, with the interior damaged, but not looted.³⁸¹⁸ During the days following 11 or 12 August 1995, Witness 69 observed on several occasions Croatian soldiers and persons

³⁸⁰⁸ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

³⁸⁰⁹ P179 (Witness 69, witness statement, 31 May 1997), pp. 1-2; P180 (Witness 69, witness statement, 18 October 2004), p. 1; Witness 69, T. 2707.

³⁸¹⁰ Dmitar Rašuo, Milka Petko, Ilija Petko, Đuro Rašuo, and one unidentified person (Schedule no. 3).

³⁸¹¹ P179 (Witness 69, witness statement, 31 May 1997), p. 2.

³⁸¹² P179 (Witness 69, witness statement, 31 May 1997), pp. 2-3; P180 (Witness 69, witness statement, 18 October 2004), para. 2; Witness 69, T. 2720-2721, 2750, 2764.

³⁸¹³ P179 (Witness 69, witness statement, 31 May 1997), pp. 2-3.

³⁸¹⁴ P179 (Witness 69, witness statement, 31 May 1997), p. 2; Witness 69, T. 2764.

³⁸¹⁵ P179 (Witness 69, witness statement, 31 May 1997), p. 3.

³⁸¹⁶ P179 (Witness 69, witness statement, 31 May 1997), p. 3; Witness 69, T. 2750-2751.

³⁸¹⁷ P179 (Witness 69, witness statement, 31 May 1997), p. 3.

not in uniform coming to Žagrović in civilian cars and looting TV sets, chain-saws, furniture, and other items from different houses, loading them onto tractors, and taking vehicles that had been left behind by villagers.³⁸¹⁹ Among the looters, Witness 69 recognized persons he knew and who lived in Zadar, Split, and Šibenik.³⁸²⁰ One of the looters was leading the others to show what was located where.³⁸²¹ The witness recalled one occasion when four soldiers, between 20 and 30 years old and wearing Croatian emblems on their uniforms, looted Đoko Novković's house in Žagrović.³⁸²² Đoko Novković was a refugee in the FRY at the time when Witness 69 gave his statement.³⁸²³ On 15 August 1995, Witness 69 saw Croatian soldiers looting from another house owned by a Serb, that he had visited earlier in the evening of 11 or 12 August 1995, all the technical appliances, valuable working tools, livestock, and a tractor.³⁸²⁴ Witness 69 did not report the looting to UNCIVPOL or the Croatian police.³⁸²⁵ The Trial Chamber has considered further evidence of this witness, reviewed in chapter 4.1.9.³⁸²⁶

989. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,³⁸²⁷ testified that on 31 August 1995, she accompanied an UNCIVPOL official on patrol to the village of Žagrović in the area of Raškovići, in Knin municipality, where upon arrival, they saw that the Croatian police were also patrolling the village. From the patrol car she was in, Witness 136 saw a Croatian policeman wearing a normal civilian police uniform, loading things from a house owned by Milan Glumac into a small trailer attached to a white VW Golf vehicle.³⁸²⁸ Witness 136 added that the policeman picked up a rifle from his car and fired a burst over the UN patrol car. When Witness 136 reported the incident to the Croatian police, she was told that the person looting was probably falsely wearing a Croatian police uniform. The witness did not believe this because there were Croatian check-points all over the region and that it should have been impossible for a person falsely wearing a police uniform to get through a check-

³⁸¹⁸ P179 (Witness 69, witness statement, 31 May 1997), p. 3; Witness 69, T. 2753.

³⁸¹⁹ P179 (Witness 69, witness statement, 31 May 1997), p. 4; Witness 69, T. 2707, 2724-2725, 2753.

³⁸²⁰ Witness 69, T. 2724-2725, 2753-2754.

³⁸²¹ Witness 69, T. 2725.

³⁸²² P179 (Witness 69, witness statement, 31 May 1997), p. 4; Witness 69, T. 2725.

³⁸²³ P179 (Witness 69, witness statement, 31 May 1997), pp. 4, 6.

³⁸²⁴ P179 (Witness 69, witness statement, 31 May 1997), pp. 1, 4; Witness 69, T. 2725, 2753.

³⁸²⁵ Witness 69, T. 2755.

³⁸²⁶ Dmitar Rašuo, Milka Petko, Ilija Petko, Đuro Rašuo, and one unidentified person (Schedule no. 3).

³⁸²⁷ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

³⁸²⁸ P2 (Witness 136, witness statement, 4 July 1996), pp. 12-13; Witness 136, T. 641-642; P5 (Map of Sector South marked by Witness 136).

point.³⁸²⁹ The witness testified that on 11 September 1995, she noticed that a lot of houses in the hamlets of Gornji Žagrović in Knin municipality had been torched and looted and a lot of livestock killed.³⁸³⁰ Additionally, the witness stated that in Jejine and Đujići hamlets in Kovačić village, Knin municipality she found eight people remaining, with 19 people in Kovačić. The witness added that she found a further ten people in Bradaši village in Knin municipality, though no one in Zelembabe and Dmitrović, also in Knin municipality.³⁸³¹

990. **Kari Anttila**, an UNMO in Sector South from 14 August 1995 until 27 November 1995,³⁸³² and **Tor Munkelien**, an UNMO based in Knin from 14 August 1995 to 1 December 1995,³⁸³³ observed on 18 August 1995 approximately 40 looted houses in Bradaši, Žagrović, and Pađene, all in Knin municipality.³⁸³⁴ Anttila recognized that the houses were looted from the fact that the doors were open, the windows broken, and the rooms in general disarray.³⁸³⁵

991. On 23 August 1995, an HRAT visited the village of Bradaši, and observed one HV soldier taking parts out of a car and others taking furniture out of homes.³⁸³⁶ HRAT reported that police in the area had stated that they were trying to stop the looting and arson, and that they had set up road-blocks to catch those with looted goods.³⁸³⁷

992. According to HRAT and UNMO reports, at 9:50 a.m. on 12 September 1995, UNMO observed looting of a house by persons in uniform with cars with licence plates SI-702-U and SI-600-L, in Bradaši in Knin municipality.³⁸³⁸ According to the HRAT report, the uniforms were HV.³⁸³⁹

³⁸²⁹ P2 (Witness 136, witness statement, 4 July 1996), p. 13.

³⁸³⁰ P2 (Witness 136, witness statement, 4 July 1996), p. 14; Witness 136, T. 641-642; P5 (Map of Sector South marked by Witness 136).

³⁸³¹ P2 (Witness 136, witness statement, 4 July 1996), p. 14.

³⁸³² P171 (Kari Anttila, witness statement, 8 January 1996), p. 1; P172 (Kari Anttila, witness statement, 16 October 1997), pp. 1-2; P173 (Kari Anttila, witness statement, 12 December 2007), p. 1, para. 2; Kari Anttila, T. 2508.

³⁸³³ P60 (Tor Munkelien, witness statement, 18 December 1995, co-signed by Kari Anttila), p. 1; P61 (Tor Munkelien, witness statement, 10 January 2008), paras 1, 3; Tor Munkelien, T. 1514, 1546; D91 (Tor Munkelien, witness statement, 4 September 1999), p. 3.

³⁸³⁴ P61 (Tor Munkelien, witness statement, 10 January 2008), paras 23, 27; P173 (Kari Anttila, witness statement, 12 December 2007), para. 33; P67 (UNMO Team Podkonje report, 27 August 1995), para. 10.

³⁸³⁵ P173 (Kari Anttila, witness statement, 12 December 2007), para. 33.

³⁸³⁶ D94 (UNMO Sector South daily situation report, 7 p.m., 23 August 1995), pp. 4-5.

³⁸³⁷ D94 (UNMO Sector South daily situation report, 7 p.m., 23 August 1995), pp. 4-5.

³⁸³⁸ P39 (HRAT daily report, 12-13 September 1995), p. 1; P148 (UNMO Sector South daily situation report, 8 p.m., 12 September 1995), p. 8.

³⁸³⁹ P39 (HRAT daily report, 12-13 September 1995), p. 1.

993. The Trial Chamber finds that on 5 August 1995, in Žagrović, Đurđija Rašuo's house and a hayloft, situated about ten metres apart, suddenly went up in flames at the same time. The evidence further indicates that a group of persons referred to as Croatian soldiers were near the house at that time. Considering that Witness 69 described these persons as soldiers, the Trial Chamber is satisfied that these persons wore military-type uniform. According to Witness 69 these persons were Croatian soldiers because there was no other military presence in that area at that time. The Trial Chamber, considering the witness's observations in the village shortly before the two structures caught fire, understands this to mean that at that point in time there were no signs of enemy soldiers in the village and that the soldiers present behaved accordingly. Considering this and that the witness had seen a soldier bearing Croatian insignia in the village shortly before, the Trial Chamber is satisfied that the qualification as belonging to the HV was made on a proper factual basis and finds that this group of soldiers near the house were HV soldiers. Considering that both the house and the hayloft started burning at the same time and the proximity of the HV soldiers, the Trial Chamber finds that these HV soldiers set the two structures on fire. The Trial Chamber finds that the ratio of 1,373 Serbs out of a total of 1,393 persons establishes with sufficient certainty that this one burnt house and hayloft was owned by a Krajina Serb. The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

994. The Trial Chamber finds that during the days following 11 or 12 August 1995, on several occasions, persons referred to as Croatian soldiers and persons not in uniform came to Žagrović in civilian cars. They took TV sets, chain-saws, furniture, and other items from different houses and loaded them onto tractors and took vehicles that had been left behind by villagers. Based on the witness's description of the persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. Witness 69 does not provide further details as to the factual basis for their qualification as Croatian. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber recalls its findings below with regard to Đoko Novković's house. Based on the foregoing, the Trial Chamber finds that HV soldiers took the items away. Considering the ethnic composition of Žagrović in 1991, the Trial Chamber finds that a significant number, if not all, of the items were

owned by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1 and 4 of the Indictment.

995. The Trial Chamber finds that on one occasion during the days following 11 or 12 August 1995, four HV soldiers wearing Croatian emblems on their uniforms took items from Đoko Novković's house in Žagrović. The evidence indicates that Đoko Novković was a refugee in the FRY in 1997. Considering this to be a strong indicator that he was Serb, together with the 1991 population census that shows that Žagrović was a nearly 100 per cent Serb village in 1991, the Trial Chamber finds that Đoko Novković was a Serb. Under these circumstances, the Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment 5.6.2, and 5.8.2 (f) below.

996. The Trial Chamber finds that on 15 August 1995, persons referred to as Croatian soldiers took all the technical appliances, valuable working tools, livestock, and a tractor from the house in Žagrović that Witness 69 had visited earlier in the evening of 11 or 12 August 1995 and that was owned by a Serb. Based on the witness's description of the persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. Witness 69 does not provide further details as to the factual basis for their qualification as Croatian. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber recalls its findings above with regard to Đoko Novković's house. Based on the foregoing, the Trial Chamber finds that HV soldiers took the items from a house owned by a Serb. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment.

997. The evidence indicates that in Bradaši, on 23 August 1995, one HV soldier took parts out of a car and others took furniture out of homes. Based on the description of these persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. The evidence does not provide further details as to the factual basis for the qualification of them belonging to the HV. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to, including sufficient evidence about which armed forces, if any, were present in or in the vicinity of Žagrović at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the

alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

998. The evidence indicates that on 31 August 1995, a person described as a Croatian policeman wearing a normal civilian police uniform loaded items from a house owned by Milan Glumac, into a small trailer attached to a white VW Golf vehicle. The Trial Chamber notes Witness 136's information on the prevalence of Croatian check-points all over the region at the time. The Trial Chamber notes that this person was acting on his own and loaded a trailer attached to a civilian vehicle. For these reasons, the Trial Chamber is not satisfied that this evidence is sufficient to establish that this person was indeed affiliated with the Croatian police. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

999. The evidence indicates that on 18 August 1995, about 40 houses in Žagrović, including Bradaši, showed signs of looting (open doors, broken windows, and the rooms in general disarray) and that on 11 September 1995, a lot of houses in Gornji Žagrović in Knin municipality had been torched and looted and a lot of livestock killed. However, there is insufficient evidence as to whether, when, by whom and the circumstances under which the houses were emptied of goods or torched and the livestock killed. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1, 4 and 5 of the Indictment.

1000. According to an HRAT and an UNMO report, at 9:50 a.m. on 12 September 1995, persons in HV uniform drove two cars with the license plates SI-702-U and SI-600-L and looted houses in Bradaši in Knin municipality, which the Trial Chamber understands to mean that they took items away. The evidence does not provide further details as to the factual basis for the HRAT qualification as "HV". Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to, including evidence about which armed forces, if any, were present in or in the vicinity of Žagrović at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

4.2.10 Lišane Ostrovičke municipality

1001. The Trial Chamber has received no, or insufficient, relevant evidence with regard to alleged destruction or plunder in Lišane Ostrovičke municipality.

4.2.11 Lisičić municipality

1002. The Trial Chamber has received no, or insufficient, relevant evidence with regard to alleged destruction or plunder in Lisičić municipality.

4.2.12 Nadvoda municipality

Cičevac and Kaštel Žegarski

1003. The Trial Chamber has received evidence with regard to alleged destruction in Cičevac and Kaštel Žegarski in Nadvoda municipality primarily through the testimonies of Søren Liborius and Eric Hendriks. According to the 1991 Population Census, the population of Kaštel Žegarski consisted of 474 Serbs out of a total of 480 persons in 1991.³⁸⁴⁰

1004. At 2:15 p.m. on 1 September 1995, an ECMM patrol consisting of **Søren Liborius** and **Eric Hendriks** observed that the hamlet of Cičevac in Nadvoda municipality was on fire.³⁸⁴¹ They observed a red Jeep and a black Mitsubishi with HV-VP license plates parked close to the scene and guarded by an HV soldier.³⁸⁴² The soldier rushed towards the ECMM patrol, asked the ECMM members for their notebook, and upon their refusal to hand it over he told them not to leave until his commander arrived.³⁸⁴³ When the patrol stated that they would phone Čermak, they

³⁸⁴⁰ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 134.

³⁸⁴¹ P802 (Søren Liborius, witness statement, 20 June 2008), para. 23; Søren Liborius, T. 8317-8318; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 5; P818 (ECMM Knin daily report, 1 September 1995), pp. 1-2; P840 (Photo of smoking houses in Cičevac, 1 September 1995), pp. 1-2; P848 (Video of villages in Sector South with commentary by Liborius, 17, 19-21 May 1997), pp. 7-8; D741 (Diary of Liborius), p. 21; D743 (Notebook of Liborius, part I), p. 74.

³⁸⁴² D820 (Eric Hendriks, witness statement, 18 April 1996), p. 5; P818 (ECMM Knin daily report, 1 September 1995), p. 2; P848 (Video of villages in Sector South with commentary by Liborius, 17, 19-21 May 1997), pp. 7-8; D741 (Diary of Liborius), p. 21; D743 (Notebook of Liborius, part I), p. 74.

³⁸⁴³ P801 (Søren Liborius, witness statement, 12 October 2005), p. 6; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 5; P818 (ECMM Knin daily report, 1 September 1995), p. 2; P848 (Video of villages in Sector South with commentary by Liborius, 17, 19-21 May 1997), pp. 7-8; D741 (Diary of Liborius), p. 21; D743 (Notebook of Liborius, part I), p. 74.

were no longer detained.³⁸⁴⁴ About 35 minutes later, the patrol saw the same two cars exiting Kaštel Žegarski in Nadvoda municipality, where several houses were on fire.³⁸⁴⁵ **Søren Liborius**, an ECMM Operations Officer and team leader based in Knin from 28 July 1995 until 27 November 1995,³⁸⁴⁶ also stated that he saw several soldiers coming out of one burning house in Čičevac going further down the valley and shooting stray livestock.³⁸⁴⁷

1005. The Trial Chamber finds that at 2:15 p.m. on 1 September 1995 the hamlet of Čičevac was on fire, and two vehicles with HV-VP license plates were parked close to a burning house. A person referred to as an HV soldier, who was standing next to these vehicles, rushed towards the ECMM patrol and temporarily detained its members. Shortly thereafter, several other persons referred to as soldiers came out of the burning house and started shooting stray livestock in the valley. About half an hour later the same vehicles as seen in Čičevac were exiting Kaštel Žegarski where, at that moment, several houses were on fire. The Trial Chamber has considered that the person standing next to the vehicles with HV-VP number plates detained the ECMM patrol whilst several other persons were inside the burning house. The Trial Chamber has also considered the actions of these persons after they came out of the burning house. Based on this evidence, the Trial Chamber finds that they set houses on fire in Čičevac and shortly thereafter in Kaštel Žegarski. Based on the description of the perpetrators as soldiers, the Trial Chamber finds that they wore military-type uniforms. Considering the presence of two vehicles bearing HV-VP license plates on the scene, the fact that one of the uniformed men was standing next to these vehicles, and that the ECMM patrol was released after its members announced their intention to call Čermak, the Trial Chamber finds that the perpetrators were members of the HV.

1006. Considering the ethnical composition of Kaštel Žegarski in 1991 and that several houses were on fire, the Trial Chamber finds that at least some of the burnt houses were

³⁸⁴⁴ P801 (Søren Liborius, witness statement, 12 October 2005), p. 6; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 5; P818 (ECMM Knin daily report, 1 September 1995), p. 2; D741 (Diary of Liborius), p. 21; D743 (Notebook of Liborius, part I), p. 74.

³⁸⁴⁵ D820 (Eric Hendriks, witness statement, 18 April 1996), pp. 5-6; P818 (ECMM Knin daily report, 1 September 1995), p. 2.

³⁸⁴⁶ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 1, 3; P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; P801 (Søren Liborius, witness statement, 12 October 2005), p. 2; P803 (Søren Liborius, witness statement, 6 September 2008), para. 6; Søren Liborius, T. 8229; D741 (Diary of Liborius), p. 3.

³⁸⁴⁷ P801 (Søren Liborius, witness statement, 12 October 2005), p. 12; P848 (Video of villages in Sector South with commentary by Liborius, 17, 19-21 May 1997), p. 8; D741 (Diary of Liborius), p. 21.

owned or inhabited by Krajina Serbs. Čičevac is not listed in the 1991 Census and the Trial Chamber considers that its population is accounted for under the entry of one of its larger neighbouring villages for which the ethnical breakdown is available. These are Bogatnik, Golubić, Kaštel Žegarski, Krupa, and Nadvoda. In these five villages in 1991 lived 22 people of non-Serb ethnicity (three in Bogatnik, three in Golubić, six in Kaštel Žegarski, two in Krupa, and eight in Nadvoda).³⁸⁴⁸ Therefore, the number of non-Serbs living in Čičevac in 1991 must have ranged between zero and eight. The Trial Chamber recalls its finding that on 1 September 1995 the hamlet of Čičevac was on fire, thus implying that more than one house was burnt. Therefore, the Trial Chamber finds that at least some of the houses burnt in Čičevac on that day were inhabited or owned by Krajina Serbs. The Trial Chamber will further consider the burning of Čičevac and Kaštel Žegarski in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below. As the evidence does not establish the ownership of the stray cattle which the HV members shot in the valley, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

4.2.13 Obrovac municipality

Bilišane, Bogatnik and Golubić

1007. The Trial Chamber has received relevant evidence with regard to alleged plunder in Bilišane in Obrovac municipality and Golubić and Bogatnik in Nadvoda municipality through the testimonies of Edward Flynn and Maria Teresa Mauro. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,³⁸⁴⁹ testified that on 30 August 1995 he saw groups of three or four persons, some of whom wore HV camouflage uniforms, loading heavy machinery and household appliances, such as washing machines and kitchen sinks, into four or five civilian trucks in the villages of Bilišane, Golubić, and Bogatnik, right off the main road.³⁸⁵⁰

³⁸⁴⁸ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), pp. 134-135.

³⁸⁴⁹ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

³⁸⁵⁰ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 31-32; P21 (Edward Flynn, witness statement, 26-27 February 2008), paras 28, 40; Edward Flynn, T. 1118-1119; P24 (Map of Sector South with marked locations); P49 (HRAT daily report, 30-31 August, 1 September 1995), p. 1.

1008. **Maria Teresa Mauro**, a UN civil affairs officer and HRAT member in the former Sector South based in Knin from March to December 1995,³⁸⁵¹ testified that she travelled the road from Gračac to Obrovac on 30 August 1995 and confirmed that she saw men in Croatian camouflage uniform loading property like washing machines into private vehicles, as described in an HRAT report of 30-31 August and 1 September 1995.³⁸⁵² She added that she also saw some people in civilian clothes doing the same, and that the loaded property included beds.³⁸⁵³

1009. According to Edward Flynn, on 30 August 1995, groups of three to four persons, some of whom wore HV camouflage uniforms, loaded heavy machinery and household appliances, such as washing machines and kitchen sinks, into four or five civilian trucks in Bilišane, in Obrovac municipality, and in Bogatnik and Golubić, in Nadvoda municipality. Also on that same day, Maria Teresa Mauro observed men in Croatian military uniforms and men in civilian clothes loading property such as washing machines and beds into private vehicles as she travelled the road from Gračac to Obrovac. Although the Trial Chamber is satisfied that the uniforms described by Flynn and Mauro were military-type uniforms, no further details as to the factual basis for the qualification of the uniforms as HV and Croatian uniforms were provided. Consequently, the Trial Chamber cannot assess whether these qualifications were made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Bilišane, Bogatnik, and Golubić at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 4 of the Indictment.

Guglete

1010. The Trial Chamber has received relevant evidence with regard to the alleged destruction in Guglete, Obrovac municipality, primarily through the testimonies of

³⁸⁵¹ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

³⁸⁵² P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 5-6; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 40.

Søren Liborius and **Eric Hendriks**. On 22 August 1995 between 12:15 and 12:20 p.m., an ECMM patrol consisting of the mentioned witnesses observed a house, a stable, and haystacks on fire in the deserted village of Guglete in Obrovac municipality.³⁸⁵⁴ They then met one BMW with VP license plates carrying two uniformed VP wearing 72nd battalion insignia and three civilians, and an “INA” light fuel truck leaving on the only road leading to the village.³⁸⁵⁵ According to an ECMM report, black smoke was rising from the village and the smoke was deriving from burning fuel.³⁸⁵⁶

1011. The Trial Chamber finds that on 22 August 1995, between 12:15 and 12:20 p.m., five persons in a car with VP license plates drove away from the village of Guglete through its only entrance, where a house, a stable, and haystacks were burning. Considering that the car was accompanied by an oil truck, while according to an ECMM report the black smoke rising from the buildings and haystacks derived from burning fuel, and that, aside from the persons in the vehicles, the village was deserted, the Trial Chamber finds that the persons in the vehicles set the two buildings and the haystacks on fire. The Trial Chamber notes in this respect that there is no indication in the evidence that the uniformed men had arrested or were detaining the civilians. Considering that one of the vehicles had VP license plates and two of its passengers wore VP uniforms with 72nd battalion insignia, the Trial Chamber finds that at least two of the persons who caused the fire were members of the 72nd battalion of the VP. The evidence does not establish whether the burnt property was owned or inhabited by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment, in chapters 5.5.2 and 5.8.2 (g) below.

³⁸⁵³ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 6.

³⁸⁵⁴ P801 (Søren Liborius, witness statement, 12 October 2005), p. 5; P802 (Søren Liborius, witness statement, 20 June 2008), para. 18; P848 (Video of villages in Sector South with commentary by Liborius, 17, 19-21 May 1997), p. 7; P931 (Eric Hendriks, witness statement, 4 April 2008), para. 28; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 5; Søren Liborius, T. 8287-8288, 8575, 8578; Eric Hendriks, T. 9677; P810 (ECMM list of villages with level of destruction, 22 August 1995), p. 4; P811 (ECMM Knin daily report, 22 August 1995), pp. 1-2; P815 (ECMM report by Liborius, 26 August 1995), p. 9; P835 (Photo of house on fire in Guglete, 22 August 1995), pp. 1-2; P948 (Photograph of house in Guglete).

³⁸⁵⁵ P801 (Søren Liborius, witness statement, 12 October 2005), p. 5; P848 (Video of villages in Sector South with commentary by Liborius, 17, 19-21 May 1997), p. 7; P931 (Eric Hendriks, witness statement, 4 April 2008), para. 28; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 5; Søren Liborius, T. 8287-8288, 8575, 8578; P810 (ECMM list of villages with level of destruction, 22 August 1995), p. 4; P811 (ECMM Knin daily report, 22 August 1995), pp. 1-2; P815 (ECMM report by Liborius, 26 August 1995), p. 9; D743 (Notebook of Liborius, part I), p. 46.

³⁸⁵⁶ P811 (ECMM Knin daily report, 22 August 1995), pp. 1-2; P815 (ECMM report by Liborius, 26 August 1995), p. 9.

4.2.14 Oklaj municipality

Oklaj town

1012. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Oklaj primarily through the testimony of Berikoff. In this respect, the Trial Chamber has considered evidence from this witness reviewed in chapter 4.2.1, and P1183 and P2349 reviewed in chapter 4.1.15 (Stevo Berić and others - Schedule no. 7). According to the 1991 Population Census, the population of Oklaj town consisted of four Serbs out of a total of 485 persons in 1991.³⁸⁵⁷

1013. According to a daily operations report, dated 10 August 1995 and sent by Gotovina to the HV Main Staff, one battalion of the HV 4th Guards Brigade was in Knin as a reserve “for possible intervention”.³⁸⁵⁸ According to the same report, the 142nd Home Guard Regiment was deployed as a reserve in the wider sector of Oklaj and Promina village.³⁸⁵⁹ Some members of the regiment conducted clearing of the terrain in its area of responsibility, while others were on leave.³⁸⁶⁰

1014. Based on Philip Berikoff’s evidence, the Trial Chamber finds that on 10 August 1995 persons referred to as HV/HVO soldiers took unspecified items from buildings in Oklaj and placed them on vehicles. Based on Berikoff’s description of these persons as HV/HVO soldiers, the Trial Chamber finds that they wore military-type uniforms. The Trial Chamber notes that no further details are provided as to the factual basis for the qualification as HV and/or HVO soldiers. However, according to Berikoff, a Croatian check-point manned by Croatian soldiers and military police appeared in Oklaj following Operation Storm. Considering also that on 10 August 1995 the 142nd HV Home Guard Regiment was present in the wider sector of Oklaj and Promina, the Trial Chamber finds that at least some of the persons wearing military-type uniforms were members of the HV. The evidence indicates that the population of Oklaj was majority Croat in 1991, but considering that significant numbers of non-Serbs left the former Sector South between 1991 and 1995 (see chapter 5.1.2 above), the Trial Chamber cannot conclude with sufficient certainty the ethnicity of the owners of the items taken from buildings in Oklaj in August 1995. The Trial Chamber will further consider this

³⁸⁵⁷ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 74.

³⁸⁵⁸ D282 (Report by Ante Gotovina to HV Main Staff, 10 August 1995), p. 3.

³⁸⁵⁹ D282 (Report by Ante Gotovina to HV Main Staff, 10 August 1995), pp. 1-3.

³⁸⁶⁰ D282 (Report by Ante Gotovina to HV Main Staff, 10 August 1995), p. 2.

incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

1015. The evidence also indicates that on 10 August 1995 Oklaj was 95 per cent destroyed. However, the Trial Chamber has received insufficient evidence as to the circumstances under which and by whom the village was destroyed. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.

Razvođe

1016. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Razvođe in Oklaj municipality primarily through the testimony of Philip Berikoff. In this respect, the Trial Chamber has considered evidence from this witness (reviewed in chapter 4.2.1), P1183 and P2349 reviewed in chapter 4.1.15 (Stevo Berić and others - Schedule no. 7), and D282 reviewed in chapter 4.2.14 (Oklaj town). According to the 1991 Population Census, the population of Razvođe consisted of 160 Serbs out of a total of 507 persons in 1991.³⁸⁶¹

1017. Based on Philip Berikoff's evidence, the Trial Chamber finds that on 10 August 1995 persons referred to as HV/HVO soldiers took unspecified items from buildings in Razvođe, in Oklaj municipality, and placed them on vehicles. Based on Berikoff's description of these soldiers as HV/HVO, the Trial Chamber finds that these persons wore military-type uniforms. The Trial Chamber notes that no further details are provided as to the factual basis for the qualification as HV and/or HVO soldiers. However, according to Berikoff, a Croatian check-point manned by Croatian soldiers and military police appeared in Razvođe following Operation Storm. Considering also that on 10 August 1995 the 142nd HV Home Guard Regiment was present in the wider sector of Oklaj and Promina village, the Trial Chamber finds that at least some of the persons wearing military-type uniforms were members of the HV. The Trial Chamber has, however, received insufficient evidence linking these HV soldiers to the burning houses that Berikoff noticed in Razvođe on 10 August 1995. The evidence indicates that in 1991 Razvođe was approximately one-third Serb and two-thirds Croat, and that on 10

³⁸⁶¹ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 74.

August 1995 it contained intact houses with markings indicating that they were Croatian. The evidence does not establish whether the HV soldiers took items from houses owned or inhabited by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below, but will not further consider this incident in relation to Count 5 of the Indictment.

1018. On 29 and 30 August 1995 Berikoff saw dead animals, destroyed houses and vehicles in the areas of several towns, including, for at least one of these days, Razvođe. However, there is insufficient evidence as to the locations in which, the circumstances under which, and by whom the houses and vehicles were destroyed, and the animals killed. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 5 of the Indictment.³⁸⁶²

4.2.15 Orlić municipality

Biskupija

1019. The Trial Chamber has received evidence with regard to alleged plunder and destruction in Biskupija in Orlić municipality primarily through the testimonies of Draginja Urukalo and international observers, including Søren Liborius and Edward Flynn. According to the 1991 Population Census, the population of Biskupija consisted of 906 Serbs out of a total of 953 persons in 1991.³⁸⁶³

1020. **Draginja Urukalo**, a Serb from Urukali hamlet in Biskupija village in who was 73 years old in 1995,³⁸⁶⁴ testified that in the following days after the arrival of the soldiers in her village, she saw soldiers carry away all types of property including dishes from other houses in the hamlet.³⁸⁶⁵ She believes that her home was not looted because her grandson, whose father was a Croat and who served in the HV, painted the words, “Don’t touch this grandma” on an exterior wall of her home.³⁸⁶⁶

³⁸⁶² Nor will the Trial Chamber further consider this incident with regard to Knin, Kistanje, Drniš, Vrbnik, Gračac, and Donji Lapac.

³⁸⁶³ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

³⁸⁶⁴ P964 (Draginja Urukalo, witness statement, 3 September 2003), p. 1, paras 1-2; Draginja Urukalo, T. 10088.

³⁸⁶⁵ P964 (Draginja Urukalo, witness statement, 3 September 2003), paras 2-4, 7.

³⁸⁶⁶ P964 (Draginja Urukalo, witness statement, 3 September 2003), paras 6-7; Draginja Urukalo, T. 10095; P966 (Photograph of a wall painted over on Draginja Urukalo’s home).

1021. **Søren Liborius**, an ECMM Operations Officer and team leader based in Knin from 28 July 1995 until 27 November 1995,³⁸⁶⁷ stated that on 9 August 1995 at 2:30 p.m., he saw five armed soldiers in camouflage uniforms with “Diverzantia” insignia, a skull, whom he also identified by their insignia on cars and uniforms as belonging to the 7th Guards Brigade, in Biskupija, being in the process of searching and burning around ten houses.³⁸⁶⁸ The soldiers had a white Lada and a green Land Rover.³⁸⁶⁹ On 23 August 1995, ECMM learned from elderly villagers from Biskupija that they had “voluntarily made the Croatian authorities remove parts of the livestock as they [were] unable to take care of them”.³⁸⁷⁰

1022. The account of Liborius with regard to his observations on 9 August 1995 was confirmed by two other ECMM monitors. **Eric Hendriks**, an ECMM monitor in Knin from 21 July 1995 until 30 October 1995,³⁸⁷¹ testified that on 9 August 1995 in Biskupija village he saw ten houses burning and five soldiers from the 7th Brigade, from a special unit with skull insignia called “Diverzantia”, driving a white Lada and a green Land Rover, looting and openly setting houses on fire.³⁸⁷²

1023. **Stig Marker Hansen**, an ECMM monitor in Knin from June to September 1995 and head of ECMM Knin from approximately 5 September to 23 September 1995,³⁸⁷³ testified that on 9 August 1995 at 2:30 p.m. in Biskupija ECMM saw five armed men in camouflage uniforms with badges featuring a skull insignia that indicated to the witness that they were from the “Diverzantia”, with a white Lada and a green Land Rover burning houses.³⁸⁷⁴ According to a survey report created by Marker Hansen, at the time the ECMM team saw them, they had set fire to around ten houses while approximately

³⁸⁶⁷ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 1, 3; P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; P801 (Søren Liborius, witness statement, 12 October 2005), p. 2; P803 (Søren Liborius, witness statement, 6 September 2008), para. 6; Søren Liborius, T. 8229; D741 (Diary of Liborius), p. 3.

³⁸⁶⁸ P800 (Søren Liborius, witness statement, 11 November 1997), p. 4; P801 (Søren Liborius, witness statement, 12 October 2005), p. 4; Søren Liborius, T. 8271-8272; P807 (ECMM Knin daily report, 9 August 1995), p. 1; P810 (ECMM list of villages with level of destruction, 22 August 1995), p. 1; P815 (ECMM report by Liborius, 26 August 1995), p. 5; D741 (Diary of Liborius), p. 9.

³⁸⁶⁹ P815 (ECMM report by Liborius, 26 August 1995), p. 5.

³⁸⁷⁰ P812 (ECMM Knin daily report, 23 August 1995), p. 2.

³⁸⁷¹ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 3; D820 (Eric Hendriks, witness statement, 18 April 1996), pp. 1-2; Eric Hendriks, T. 9734-9735, 9755-9756.

³⁸⁷² P931 (Eric Hendriks, witness statement, 4 April 2008), para. 21; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 5; Eric Hendriks, T. 9675; P933 (ECMM daily report, 9 August 1995), p. 1.

³⁸⁷³ P1283 (Stig Marker Hansen, witness statement, 18 December 1995) p. 2; P1284 (Stig Marker Hansen, witness statement, 22 August 1997), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 3.

³⁸⁷⁴ Stig Marker Hansen, T. 15082-15083; P1290 (Survey report by Marker Hansen, 20 September 1995), p. 6; P2150 (ECMM daily report, 9 August 1995), pp. 1-2.

ten elderly Croat civilians watched them. ECMM left when the situation became tense and the men continued setting houses on fire.³⁸⁷⁵ According to the witness's diary, on 12 August 1995 he saw houses being set alight in a series of villages south of Biskupija.³⁸⁷⁶ At 11:25 a.m. on 12 August 1995, the witness visited Biskupija to check on the houses of relatives of his friends, and saw that they appeared looted.³⁸⁷⁷ The witness also saw bodies of cattle, dogs, and pigs strewn around, with a strong stench developing in the heat.³⁸⁷⁸ On 10 September 1995 the witness visited two houses in Biskupija belonging to relatives of his friends and found that most belongings, including the toilet and kitchen units, had been taken with only a little wine in the cellar, a few clothes, and other things that had been destroyed, remaining.³⁸⁷⁹

1024. Other international observers made observations relevant to the late August and September 1995. At 4:50 p.m. on 25 August 1995, UNMO observed one burning house in Biskupija.³⁸⁸⁰ **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,³⁸⁸¹ testified that on 26 August 1995, Major Michie and the witness went on patrol in, *inter alia*, Biskupija and saw that six houses were burned, five houses partly burned, and 27 houses that had been looted.³⁸⁸² **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,³⁸⁸³ stated that around 1 September 1995, Flynn visited a family near Biskupija which reported that someone had shot a hole through the lock of their house the previous night.³⁸⁸⁴ Flynn observed a bullet hole in the lock, and found five dead pigs and a dead dog in the barn.³⁸⁸⁵ On 3 September 1995, Flynn saw two houses and barns ablaze in Biskupija, and HV soldiers approximately one kilometre away loading pigs and cows

³⁸⁷⁵ P1290 (Survey report by Marker Hansen, 20 September 1995), p. 6.

³⁸⁷⁶ P1292 (Stig Marker Hansen, personal diary), pp. 10-11.

³⁸⁷⁷ P1290 (Survey report by Marker Hansen, 20 September 1995), p. 7; P1292 (Stig Marker Hansen, personal diary), pp. 10-11.

³⁸⁷⁸ P1290 (Survey report by Marker Hansen, 20 September 1995), p. 7; P1292 (Stig Marker Hansen, personal diary), p. 11.

³⁸⁷⁹ P1292 (Stig Marker Hansen, personal diary), pp. 15, 17.

³⁸⁸⁰ P127 (UNMO Sector South daily situation report, 7 p.m., 25 August 1995), p. 5.

³⁸⁸¹ P415 (Peter Marti, witness statement, 13 February 1996), p. 1; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17

³⁸⁸² P417 (Peter Marti, witness statement, 14 December 2007), paras 61, 75; Peter Marti, T. 4615-4617; D391 (Summary of humanitarian violations from HQ Sector South daily situation reports, 7 August-8 September 1995), p. 18.

³⁸⁸³ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

³⁸⁸⁴ P20 (Edward Flynn, witness statement, 29 June 1997), p. 36.

into trucks with Šibenik licence plates.³⁸⁸⁶ Between 9:30 a.m. and 1 p.m. on 4 September 1995, UNMO observed two burning houses in Zvjernac and Biskupija, both in Orlić municipality.³⁸⁸⁷ On 7 September 1995, Flynn saw in Orlić numerous vehicles, many without licence plates, which civilians or persons in military uniform drove from house to house, loading property.³⁸⁸⁸ At 11:26 a.m. on 20 September 1995, UNMO observed Croatian firemen extinguishing a burning house in Biskupija.³⁸⁸⁹ According to a UNCIVPOL daily situation report, dated 29 September 1995, on 27 September 1995 a UNCIVPOL patrol team observed two HV soldiers loot a house in Biskupija.³⁸⁹⁰

1025. The Trial Chamber has further considered the evidence of Vesela Damjanić, reviewed in chapter 4.2.15 (Vrbnik).

1026. Mainly based on the evidence of Liborius, Hendriks, and Marker Hansen, the Trial Chamber finds that on 9 August 1995, around 2:30 p.m., in Biskupija, five armed persons in camouflage uniform bearing insignia of the 7th Guards Brigade took unspecified items away and set around ten houses alight. Considering this and that the vehicles the armed persons had with them also bore insignia of the 7th Guards Brigade, the Trial Chamber find that they were members of the HV 7th Guards Brigade. Considering that the population of Biskupija was almost entirely Serb in 1991, the Trial Chamber finds that the majority if not all of the objects taken and of the houses burnt were owned or inhabited by Krajina Serbs. The Trial Chamber will further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

1027. Based on Urukalo's testimony, the Trial Chamber is satisfied that in the following days after the arrival of persons referred to as soldiers in her village, persons similarly referred to as soldiers carried away all types of property including dishes from houses in Biskupija. The Trial Chamber considers that these events occurred around 5 or 6 August or 12 or 13 August 1995. Based on the description of the persons taking the property as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. Lacking a more concrete time indication for these acts of appropriation, this

³⁸⁸⁵ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 36-37.

³⁸⁸⁶ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 29; P36 (HRAT daily report, 2-4 September 1995), p. 3.

³⁸⁸⁷ P141 (UNMO Sector South daily situation report, 8 p.m., 4 September 1995), p. 4.

³⁸⁸⁸ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 32; P37 (HRAT daily report, 7 September 1995), p. 1.

³⁸⁸⁹ P155 (UNMO Sector South daily situation report, 8 p.m., 20 September 1995), p. 3.

incident can neither be linked up with sufficient certainty with the incident on 9 August 1995 nor with other evidence on troop presence in or around the village. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

1028. Relying on the evidence by Flynn, the Trial Chamber finds that on 3 September 1995, two houses and barns were ablaze in Biskupija, and that persons referred to as HV soldiers approximately one kilometre away were loading cattle into trucks. The evidence does not establish that these persons were involved in the burnings. Hence, the evidence is insufficient as to the circumstances under which and by whom the houses and barns were set on fire. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment.

1029. The evidence indicates that something was on fire in Biskupija on or around 13 August 1995, and that at least one house was burning in Biskupija at the following times: 25 August 1995 around 4:50 p.m.; 4 September 1995 between 9:30 a.m. and 1 p.m.; and 20 September 1995 around 11:30 a.m. Marker Hansen and Marti also observed traces of looting, results of burnings and dead animals on 12 and 26 August and 10 September 1995. There is no evidence as to the circumstances under which and by whom items were taken, the structures were set on fire, and the animals killed. Therefore, the Trial Chamber will not further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment.

1030. The evidence indicates that on 27 September 1995 two persons referred to as HV soldiers were looting a house in Biskupija, which the Trial Chamber understands to mean that they were taking unspecified items away. Based on the description of these persons as HV soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. The report does not provide further details as to the factual basis for the qualification as HV. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Biskupija at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these

³⁸⁹⁰ P267 (UNCIVPOL daily situation report, 29 September 1995), p. 4.

circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

Čenići

1031. The Trial Chamber has received evidence with regard to alleged destruction and looting in Čenići village, Orlić municipality, primarily through the testimonies of Peter Marti, Edward Flynn, and through international reports.

1032. **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,³⁸⁹¹ testified that on 10 August 1995, he passed through Čenići village, Orlić municipality, en route from Vrbnik to Drniš and saw the whole village on fire and a group of 15-20 Croatian soldiers standing with their vehicles outside a row of burning houses.³⁸⁹²

1033. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,³⁸⁹³ testified that on 13 August 1995, he spoke with eleven remaining elderly villagers in Čenići, Orlić municipality, some of whom told him that HV soldiers had burned a building, and Flynn saw that several buildings had burned.³⁸⁹⁴ The villagers were very emotional and started crying upon seeing the UN personnel. A woman stated that she had been beaten by “invading HV soldiers”, while one couple reported that HV soldiers had told them that their son, who was an SVK soldier, had been captured and was in Šibenik. Another family stated that when the HV soldiers arrived, they set their house on fire. As the wife was paralyzed and could not leave the house, her husband dragged her out by her legs.³⁸⁹⁵

³⁸⁹¹ P415 (Peter Marti, witness statement, 13 February 1996), pp. 1-2; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17.

³⁸⁹² P415 (Peter Marti, witness statement, 13 February 1996), p. 4; P416 (Peter Marti, witness statement, 29 June 1997), pp. 5-6; P417 (Peter Marti, witness statement, 14 December 2007), para. 42.

³⁸⁹³ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

³⁸⁹⁴ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 13; Edward Flynn, T. 1118-1120; P24 (Map of Sector South with marked locations); P42 (HRAT daily report, 14 August 1995), p. 2.

³⁸⁹⁵ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 13; P42 (HRAT daily report, 14 August 1995), p. 2.

1034. At 1:30 p.m. on 20 August 1995, UNMO observed one house burning and unidentified persons looting livestock and household items in the presence of Croatian police in Čenići in Orlić municipality.³⁸⁹⁶

1035. On one occasion, Witness 84, a police officer in Knin,³⁸⁹⁷ saw the entire hamlet of Čenići on fire and he saw approximately 15-20 Croatian soldiers in camouflage uniforms and three or four military vehicles in the village.³⁸⁹⁸ The distance between the witness and the soldiers was approximately 300 metres.³⁸⁹⁹ Soon after the witness had passed the village he called his duty officer and told him to contact the military police and request that they send a patrol to the village.³⁹⁰⁰

1036. Due to several similarities, the Trial Chamber is satisfied that Witness 84 refers to the same incident witnessed by Peter Marti on 10 August 1995. Furthermore, the Trial Chamber has considered firstly, the proximity in time between the events of 10 August 1995 and the reporting by the villagers of recent arson on 13 August 1995 to Edward Flynn, secondly, the fact that on 10 August 1995 Peter Marti witnessed the whole village of Čenići on fire and thirdly, the apparent emotional state of the villagers on 13 August 1995, which the Trial Chamber considers to be indicative of recent trauma suffered. Consequently, the Trial Chamber finds that the burning incident which was reported to Flynn by a Čenići family also occurred on 10 August 1995. Based on the evidence of Marti and Witness 84, and having considered the events reported by the Čenići villagers, the Trial Chamber finds that one or more of the persons seen standing next to burning houses on 10 August 1995 set those houses on fire. Based on the description of the persons in Čenići as Croatian soldiers and HV soldiers, the Trial Chamber finds that they wore military-type uniforms. The Trial Chamber has considered the number of uniformed persons and military vehicles on the scene, as well as the fact that the HV was present on 10 August 1995 in the nearby village of Kosovo (see 4.2.15 Kosovo village) and on the Knin-Drniš Road (see 4.2.15 Knin-Drniš road). On this basis, the Trial Chamber finds that the uniformed persons who torched the houses were members of the Croatian military forces. The Trial Chamber has received no evidence regarding the ethnicity of the persons who owned or inhabited the houses

³⁸⁹⁶ P124 (UNMO Sector South daily situation report, 7 p.m., 20 August 1995), p. 3.

³⁸⁹⁷ P1035 (Witness 84, pseudonym sheet); P2393 (Witness 84, witness statement, 20 November 2007), p. 1; P2394 (Witness 84, witness statement, 11 July 2004), p. 1; P2395 (Witness 84, witness statement 9 March 2002), pp. 1-3; Witness 84, T. 11061, 11073, 11094, 11101, 11358, 11360.

³⁸⁹⁸ P2395 (Witness 84, witness statement, 9 March 2002), para. 32; Witness 84, T. 11408-11409, 11415.

³⁸⁹⁹ P2395 (Witness 84, witness statement, 9 March 2002), para. 32.

which were set alight. The Trial Chamber will further consider these incidents in Čenići village under Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

1037. The evidence also indicates that at 1:30 p.m. on 20 August 1995, in Čenići, one house was burning and unidentified persons were looting livestock and household items, which the Trial Chamber understands to mean that these items were taken away. According to an UNMO report, this occurred in the presence of Croatian police. However, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 4, and 5 of the Indictment.

Čolovići

1038. The Trial Chamber has received relevant evidence with regard to alleged plunder in Čolovići in Orlić municipality primarily through the testimony of **Petar Čolović**, a physically disabled Serb from Čolovići in Orlić municipality.³⁹⁰¹ He stated that a few days after 5 August 1995, soldiers entered all the houses in the hamlet in which the witness lived, including his own.³⁹⁰² The soldiers took the witness's radio, video cassette recorder, and television. Over the next few days, they seized livestock, a water heater, a bathtub, and more items from the witness's home.³⁹⁰³ Čolović observed the soldiers rounding up his livestock and loading them onto several military trucks parked in his yard.³⁹⁰⁴ He described these soldiers as dressed in camouflage uniforms and wearing military boots and the Croatian checkerboard insignia on their left upper arm. Some of them wore dark headbands and some wore military baseball caps. They were armed with knives, pistols, and automatic weapons.³⁹⁰⁵ One soldier cursed the witness's mother, referring to her as "Chetnik", and told him to stop crying or the soldier would kill him.³⁹⁰⁶ According to the witness, the soldiers looted all of the houses in the same manner as his. On occasion, a leader of a group of soldiers would stop his particular

³⁹⁰⁰ P2395 (Witness 84, witness statement, 9 March 2002), para. 32; Witness 84, T. 11415-11416.

³⁹⁰¹ P631 (Petar Čolović, witness statements), witness statement of 3 September 2003, p. 1, para. 2; P631 (Petar Čolović, witness statements), witness statement of 5 September 2003, p. 1, para. 6.

³⁹⁰² P631 (Petar Čolović, witness statements), witness statement of 3 September 2003, paras 4-5.

³⁹⁰³ P631 (Petar Čolović, witness statements), witness statement of 3 September 2003, para. 5.

³⁹⁰⁴ P631 (Petar Čolović, witness statements), witness statement of 3 September 2003, para. 5; P631 (Petar Čolović, witness statements), witness statement of 5 September 2003, para. 2.

³⁹⁰⁵ P631 (Petar Čolović, witness statements), witness statement of 5 September 2003, para. 3.

³⁹⁰⁶ P631 (Petar Čolović, witness statements), witness statement of 5 September 2003, para. 4.

group from looting, but this did not stop “all the others” from taking what they wanted.³⁹⁰⁷

1039. According to a Split MD operations diary covering the period between 25 July 1995 and 14 September 1995, on 8 August 1995 the 6th Home Guard Regiment was in the area of the villages of Zvjerinac, Markovac, Manojlovići, Turići, Bajanove Staje and Miloševe Drage. On 8 August 1995 at 11:25 a.m., the 7th Guards Brigade was positioned in Crveni Kukovi, and by 3:15 p.m. on the same day they had reached the Gola Glava position, Šibenik, and by 10:40 p.m. had reached Lipov Vrh thereby carrying out their planned task.³⁹⁰⁸

1040. In addition to the above evidence, the Trial Chamber has considered D180 reviewed in chapter 4.1.9 (Jovica Plavša - Further Clarification no. 126).

1041. The Trial Chamber finds that a few days after 5 August 1995, persons referred to as soldiers entered the house of Petar Čolović, a Serb, in Čolovići in Orlić municipality, and took his radio, video cassette recorder, and television. These persons were wearing camouflage uniforms and military boots with the Croatian checkerboard insignia on their left upper arms, and were armed with knives, pistols and automatic weapons. Some of them were also wearing dark headbands or military baseball caps. Over the next few days, some of these persons also took a water heater, a bathtub and other items from Petar Čolović’s house, and rounded up his livestock and loaded them onto several military trucks parked in his yard.

1042. According to Petar Čolović, in the days following 5 August 1995, the same persons looted the other houses in Čolovići in Orlić municipality. Based on this evidence, the Trial Chamber finds that these persons took unidentified items away from houses in Čolovići. The Trial Chamber further notes the evidence of Petar Čolović that on occasion while this was taking place, someone Čolović referred to as a leader would stop a particular group of the persons referred to as soldiers from looting. The evidence does not allow the Trial Chamber to draw any conclusions with regard to whether the property in Čolovići, with the exception of Petar Čolović’s property, was owned or inhabited by Krajina Serbs.

³⁹⁰⁷ P631 (Petar Čolović, witness statements), witness statement of 3 September 2003, para. 6.

³⁹⁰⁸ P71 (Split MD operations diary, 25 July 1995 – 14 September 1995), pp. 91-92.

1043. The Trial Chamber notes the evidence that the 7th Guards Brigade were in the vicinity of Čolovići on 5 August 1995, and that on 8 August 1995 the 6th Home Guard Regiment were in the vicinity of Čolovići. Further, given Petar Čolović's description of the uniforms worn by the perpetrators, combined with the fact that they were armed, driving military trucks, that certain groups appeared to have a leader and considering the fact that one of the perpetrators referred to Čolović's mother as "Chetnik", the Trial Chamber finds that they were members of the Croatian military forces or Special Police. Therefore, the Trial Chamber will further consider these incidents in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

Kaldrma

1044. The Trial Chamber has received evidence with regard to alleged destruction in Kaldrma in Orlić municipality through two UNMO reports. According to one, at 10 a.m. on 19 August 1995, UNMO observed one Croatian policeman and one civilian with a notebook walking around a house in Kaldrma. At 11 a.m., UNMO returned to the house and observed that it was burning.³⁹⁰⁹ According to the other UNMO report, on 19 August 1995, UNMO observed that all of Kaldrma had been burnt, except for one house in front of which there was a group of Croatians consisting of four policemen and one civilian who appeared to be in charge. When UNMO passed by again one hour later, they saw that the house was burning but they no longer saw the policemen and the civilian.³⁹¹⁰

1045. Despite inconsistencies the Trial Chamber finds that the two UNMO reports refer to the same incident. By 19 August 1995, almost the entire village of Kaldrma had been burnt. At 10 a.m., outside of the only house which was still intact, an UNMO patrol observed four persons referred to as Croatian police officers and one civilian, who appeared to be in charge. At 11 a.m. the same house was on fire. The Trial Chamber finds that at least this house was set alight by these persons. Given UNMO's description of some of these persons as police officers, the Trial Chamber finds they wore police-type uniforms. Considering the date and location of these events and that these persons wore police-type uniforms, the Trial Chamber finds that they were members of the Croatian civilian police. The evidence does not allow the Trial Chamber

³⁹⁰⁹ P123 (UNMO Sector South daily situation report, 7 p.m., 19 August 1995), p. 4.

to draw any conclusions with regard to whether the property was owned or inhabited by Krajina Serbs. The 1991 Population Census does not contain any reference to Kaldrma village in Orlić municipality. The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment.

Kosovo village

1046. The Trial Chamber has received evidence with regard to the alleged destruction and plunder in Kosovo village primarily through P2609 and the testimony of Normand Boucher, Søren Liborius and Stig Marker Hansen. There is no separate entry for Kosovo village in the 1991 Population Census. However, it is immediately adjacent to the village of Zvjerinac.³⁹¹¹ According to the 1991 Population Census, the population of Zvjerinac consisted of 290 Serbs out of a total of 344 persons in 1991.³⁹¹²

1047. **Eric Hendriks**, an ECMM monitor in Knin from 21 July 1995 until 30 October 1995,³⁹¹³ testified that the church in Kosovo in Orlić municipality was intact on 9 August 1995 and had a sign on it which read “Do not touch, HV”.³⁹¹⁴

1048. **Normand Boucher**, UNCIVPOL’s Sector South Chief from 30 April 1995 until 22 August 1995,³⁹¹⁵ testified that on 10 or 11 August 1995 he saw a green truck with “Puma” markings and no license plates, and at least three – possibly five or six – soldiers with 15-20 red jerry cans in the vicinity of houses on the road from Knin to Drniš, around four to five kilometres outside of Knin, in the village of Kosovo in Orlić municipality.³⁹¹⁶ When Boucher returned around three hours later, all houses except for

³⁹¹⁰ D872 (UNMO report, 27 August 1995), p. 2.

³⁹¹¹ P2432 (Map of Knin and surrounding area), WJ 9767. See also P114 (UNMO Sector South daily situation report, 8 p.m., 10 August 1995), p. 4.

³⁹¹² C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

³⁹¹³ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 3; D820 (Eric Hendriks, witness statement, 18 April 1996), pp. 1-2; Eric Hendriks, T. 9734-9735, 9755-9756.

³⁹¹⁴ Eric Hendriks, T. 9685; P933 (ECMM daily report, 9 August 1995), p. 2; P951 (ECMM special report, 9 September 1995).

³⁹¹⁵ P1176 (Normand Boucher, witness statement, 20 February 1996), paras 1, 13; P1177 (Normand Boucher, witness statement, 12 November 1999), paras 5, 81; P1178 (Normand Boucher, witness statement, 24 November 2008), para. 51; D1217 (Normand Boucher, witness statement, 17 December 2008), para. 27; Normand Boucher, T. 14036, 14063-14064.

³⁹¹⁶ P1176 (Normand Boucher, witness statement, 20 February 1996), para. 10; P1177 (Normand Boucher, witness statement, 12 November 1999), para. 71; P1178 (Normand Boucher, witness statement, 24 November 2008), para. 28; Normand Boucher, T. 13982, 13988, 14045.

a few, in total around 30, and the adjacent corn crops were on fire or at least still smoking and the soldiers and the truck were gone.³⁹¹⁷

1049. **Søren Liborius**, an ECMM Operations Officer and team leader based in Knin from 28 July 1995 until 27 November 1995,³⁹¹⁸ stated that on 10 August 1995, he saw six uniformed HV soldiers without unit insignia with a fuel truck moving from one house to another setting them on fire on the road from Drniš to Knin in the village of Kosovo in Orlic municipality.³⁹¹⁹

1050. **Stig Marker Hansen**, an ECMM monitor in Knin from June to September 1995 and head of ECMM Knin from approximately 5 September to 23 September 1995,³⁹²⁰ testified that on 10 August 1995 on the way back to Knin from Kistanje, he saw heavy smoke from an area south of Knin and upon going there saw that towns and individual houses along a stretch of up to 15 kilometres had been burnt down.³⁹²¹ He testified that there, in Kosovo in Orlic municipality, he saw six soldiers in camouflage uniforms without unit insignia and with HV pick-up trucks loaded with petrol canisters walking from house to house and setting them on fire.³⁹²² The witness testified that he never saw soldiers in groups larger than six involved in burning things and never saw an overall commander or officer directing them to do such things.³⁹²³ The men in camouflage uniforms started firing several small arms rounds in the air in the direction of the ECMM vehicle, and the ECMM team left the scene and observed the burning from a distance.³⁹²⁴ According to a survey report created by the witness, at 12:15 p.m. on 12

³⁹¹⁷ P1177 (Normand Boucher, witness statement, 12 November 1999), para. 72; Normand Boucher, T. 13982-13983.

³⁹¹⁸ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 1, 3; P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; P801 (Søren Liborius, witness statement, 12 October 2005), p. 2; P803 (Søren Liborius, witness statement, 6 September 2008), para. 6; Søren Liborius, T. 8229; D741 (Diary of Liborius), p. 3.

³⁹¹⁹ P846 (Video of villages in Sector South with commentary by Liborius, 18, 21 May 1997), pp. 2-3; Søren Liborius, T. 8570-8571; P810 (ECMM list of villages with level of destruction, 22 August 1995), p. 5; P815 (ECMM report by Liborius, 26 August 1995), p. 6; P830 (ECMM Knin daily report, 10 August 1995), p. 2.

³⁹²⁰ P1283 (Stig Marker Hansen, witness statement, 18 December 1995) p. 2; P1284 (Stig Marker Hansen, witness statement, 22 August 1997), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 3.

³⁹²¹ P1292 (Stig Marker Hansen, personal diary), p. 9.

³⁹²² Stig Marker Hansen, T. 14935-14936, 15084-15085; P1290 (Survey report by Marker Hansen, 20 September 1995), p. 6; P1292 (Stig Marker Hansen, personal diary), p. 9.

³⁹²³ Stig Marker Hansen, T. 15084-15085.

³⁹²⁴ Stig Marker Hansen, T. 14936; P1290 (Survey report by Marker Hansen, 20 September 1995), pp. 6-7.

August 1995 in Kosovo in Orlić municipality ECMM observed that the part of the village west of the main road was completely burnt.³⁹²⁵

1051. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,³⁹²⁶ testified that in the evening of 10 August 1995, [he] observed on a stretch of road south of Knin towards Drniš burning crops, 35-40 burning houses and at least two vehicles with fuel cans, fire-axes and similar items at the scenes.³⁹²⁷

1052. **Bert Dijkstra**, an UNMO in Sector South from 14 June 1995 until approximately 1 December 1995,³⁹²⁸ testified that on 10 August 1995, when he was on his way to Šibenik, he saw men in military clothing firing flares horizontally at what he believed were civilian houses with a double-barrel anti-aircraft gun on the western side of a road parallel to the road from Knin to Drniš.³⁹²⁹ The gun was mounted on a military truck, which had a yellow licence plate and the insignia of the Puma Brigade on the side.³⁹³⁰ According to the witness, civilian licence plates in Croatia were white with black letters and the military licence plates were yellow with black letters.³⁹³¹

1053. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,³⁹³² visited the town of Kosovo in Orlić municipality on 15 August 1995, which he found deserted and badly burnt.³⁹³³ He alleged that before the Croatian offensive the Kosovo centre of community had a

³⁹²⁵ P1290 (Survey report by Marker Hansen, 20 September 1995), p. 7.

³⁹²⁶ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

³⁹²⁷ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 8; Edward Flynn, T. 1052; P31 (HRAT daily report, 10 August 1995), p. 1; P41 (HRAT daily report, 11 August 1995), p. 2.

³⁹²⁸ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 2; P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 2.

³⁹²⁹ P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 40; Bert Dijkstra, T. 4765; P432 (Diary of Bert Dijkstra from 7 to 31 August 1995).

³⁹³⁰ P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 40; Bert Dijkstra, T. 4765; P432 (Diary of Bert Dijkstra from 7 to 31 August 1995).

³⁹³¹ Bert Dijkstra, T. 4765.

³⁹³² P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

³⁹³³ P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P684 (Alun Roberts's report to the press on HV's human rights violations in Sector South, 12 October 1995), p. 1.

population of 1,500 inhabitants.³⁹³⁴ The Trial Chamber has further considered evidence by Alun Roberts, reviewed in chapter 4.2.15 (Knin-Drniš road).

1054. Siniša Burazer, a member of the 113th HV Brigade, was convicted by the Split Military Court on 25 January 1996 of aggravated theft committed in the village of Kosovo, Orlić municipality, on 2 September 1995.³⁹³⁵ According to the judgement, Burazer admitted to having committed this crime. Burazer stated that he was aware that after the liberation, the area around Knin and especially the areas previously inhabited by Serbs, were mostly uninhabited. Therefore, he left Šibenik and drove to Knin in his private car, a VW Jetta, which had a trailer attached to it in order to obtain a steam boiler and radiators for central heating in his house. At that time Burazer was wearing a Croatian military uniform. Burazer went to Kosovo village, where he found a new steam boiler and next to it a set of radiators in front of one of the houses. With the help of some civilians, he started loading it onto the trailer. At that moment, a VP patrol arrived, arrested Burazer and brought him to the police station in Knin, where the steam boiler and the radiator were confiscated and he was given a receipt.³⁹³⁶ Burazer also stated that he was a volunteer of the Homeland War from the very beginning and, apart from minor breaks, had been wearing a Croatian military uniform at least until 25 January 1996.³⁹³⁷ Between the date of Burazer's indictment on 11 November 1995 and the date of the judgement, Burazer became an active member of the Šibenik Company of the 72nd VP Battalion Split.³⁹³⁸

1055. In addition to the above evidence, the Trial Chamber has considered the evidence of Philip Berikoff, reviewed in chapter 4.2.1.

1056. The evidence of Hansen, Boucher, and Liborius is similar with regard to location and date, as well as the appearance, number, equipment, and behaviour of the persons they observed. The minor discrepancies in their evidence are not contradictory, and could reflect slightly different observations and recollections. Consequently, the Trial Chamber finds that all three witnesses refer to the same incident. Flynn, Roberts and Berikoff provide further corroboration of this evidence. On the basis of their

³⁹³⁴ P684 (Alun Roberts's report to the press on HV's human rights violations in Sector South, 12 October 1995), p. 1.

³⁹³⁵ Mladen Bajić, T. 20820-20821; P2609 (Documentation on legal proceedings against Burazer for aggravated theft), pp. 1, 3, 6.

³⁹³⁶ P2609 (Documentation on legal proceedings against Burazer for aggravated theft), pp. 4-5.

³⁹³⁷ P2609 (Documentation on legal proceedings against Burazer for aggravated theft), pp. 4-6.

³⁹³⁸ P2609 (Documentation on legal proceedings against Burazer for aggravated theft), pp. 1, 4-5.

combined evidence, the Chamber finds that approximately six persons in camouflage uniforms without insignia were setting houses on fire, using jerry cans, in Kosovo village on 10 August 1995. Liborius and Hansen characterized these persons as HV soldiers, though the Trial Chamber has received no evidence about the factual basis on which these qualifications were made. All three witnesses noticed one or more trucks, which Hansen characterized as “HV”, again without providing a factual basis. Based on his description of these trucks as HV, the Trial Chamber finds they were military-type trucks. Boucher noticed a green camouflage truck with Puma markings, and no licence plates. Dijkstra and Berikoff corroborated the presence of members of the 7th “Puma” Guards Brigade in the area of the Knin-Drniš road that day. Considering the above evidence, in the light of the evidence in 4.2.9 (Knin town) regarding the 7th Guards Brigade also being referred to as the Puma’s, the Trial Chamber finds that on 10 August 1995, several members of the 7th Guards Brigade, who did not wear unit insignia and who used at least one HV truck without licence plates, used petrol to set fire to approximately 30 houses in Kosovo village and adjacent corn crops. Considering that there is no separate entry for Kosovo in the 1991 Population Census, it must have been included in the entry for the immediately adjacent village of Zvjerinac. Considering the ethnical composition of Zvjerinac in 1991, that significant numbers of non-Serbs left the former Sector South between 1991 and 1995 (see chapter 5.1.2 above), and the number of burned houses in Kosovo village, the Trial Chamber finds that at least some of the burnt houses were owned or inhabited by Krajina Serbs.³⁹³⁹ The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

1057. On the basis of P2609, the Trial Chamber further finds that on 2 September 1995, Siniša Burazer, a member of the 113th HV Brigade, went to Kosovo village in his private car, a VW Jetta, which had a trailer attached to it, in order to obtain a steam boiler and radiators for central heating in his house. At that time Burazer was dressed in a Croatian military uniform. In Kosovo village, Burazer found a steam boiler and a set of radiators and, with the help of some civilians, started loading it onto the trailer. Burazer was then apprehended by the VP and taken to the police station in Knin where the goods were confiscated and Burazer was given a receipt. The Trial Chamber notes

³⁹³⁹ Even if the data for Kosovo were included under other nearby villages or towns, namely Ramljane, Uzdolje, Riđane, Orlić or Markovac, the outcome of the analysis would remain the same since, according to the 1991 Population Census, all of these towns or villages were 98-99 per cent Serb.

in this regard that the Split Military Court convicted Burazer of the crime of aggravated theft, and that there is no indication in the evidence that this judgement did not become final under Croatian law. The evidence does not establish whether the steam boiler and set of radiators were owned by a Krajina Serb. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

Orlić town

1058. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Orlić town primarily through the testimony of Stevan Zarić and ECMM and UNMO reports. According to the 1991 Population Census, the population of Orlić consisted of 844 Serbs out of a total of 848 persons in 1991.³⁹⁴⁰

1059. **Stevan Zarić**, a Serb, born in 1922, from Zarići hamlet in Orlić village, stated that around 10 or 11 August 1995, he was up the hill above his house on the terrace of a house that he shared with his cousin.³⁹⁴¹ The witness saw three soldiers armed with automatic rifles and in camouflage uniform with black bands around their heads setting fire to houses, including the witness's house.³⁹⁴² The witness did not see what they used for that purpose, but the witness's house burned to the ground.³⁹⁴³ The witness did not see any insignia on the soldiers' uniforms, but stated that he assumed that they were Croatian soldiers because there were no other soldiers around. One of the soldiers asked the witness who owned the hay barn, and the witness responded that it was his. This soldier then told one of the other soldiers not to burn it, but the witness could see that it had already been set on fire by one of the soldiers.³⁹⁴⁴

1060. **Eric Hendriks**, an ECMM monitor in Knin from 21 July 1995 until 30 October 1995,³⁹⁴⁵ testified that on 12 August 1995 at 11:35 a.m., he saw five soldiers looting in Orlić.³⁹⁴⁶ According to a survey report prepared by Marker Hansen, on 12 August 1995

³⁹⁴⁰ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

³⁹⁴¹ P2516 (Stevan Zarić, witness statement, 10 September 2003), paras 6, 9, 11.

³⁹⁴² P2516 (Stevan Zarić, witness statement, 10 September 2003), para. 11.

³⁹⁴³ P2516 (Stevan Zarić, witness statement, 10 September 2003), paras 11-12.

³⁹⁴⁴ P2516 (Stevan Zarić, witness statement, 10 September 2003), para. 11.

³⁹⁴⁵ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 3; D820 (Eric Hendriks, witness statement, 18 April 1996), pp. 1-2; Eric Hendriks, T. 9734-9735, 9755-9756.

³⁹⁴⁶ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 31; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 5.

at 11:35 a.m. ECMM observed in Orlić that around 50 per cent of the village had burnt and there were five soldiers conducting small scale looting.³⁹⁴⁷ At 12:46 p.m. on 26 August 1995, an ECMM team witnessed three Croatian soldiers near a house in Orlić that, according to the team, had recently been set on fire. One of the soldiers loaded his weapon and told the team that there had been fire already the day before.³⁹⁴⁸ Before 8 p.m. on 19 September 1995, UNMO observed civilians and uniformed men looting Orlić.³⁹⁴⁹

1061. The Trial Chamber has received evidence that by 11:35 a.m. on 12 August 1995, around 50 per cent of Orlić village was burnt. The Trial Chamber finds that around 10 or 11 August 1995, three persons in camouflage uniforms, armed with automatic rifles and wearing black headbands, set fire to houses and one hay barn in Orlić village. The Trial Chamber recalls its findings in chapter 4.2.15 (Knin-Drniš road). Based on the foregoing, the Trial Chamber finds that the three persons were members of the HV. Considering the ethnic composition of Orlić in 1991, the Trial Chamber finds that a significant number, if not all of the burnt property was owned or inhabited by Krajina Serbs. The Trial Chamber will further consider the incident in relation to Counts 1 and 5 of the Indictment.

1062. The Trial Chamber has further received evidence that on 12 August 1995, five persons referred to as soldiers, were looting in Orlić village, which the Trial Chamber understands to mean they took unspecified objects away. Given the description of these persons as soldiers by the ECMM report and Erik Hendriks, the Trial Chamber is satisfied that these persons wore military-type uniforms. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence regarding which armed forces, if any, were present in or in the vicinity of Orlić village at that time. Therefore, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators.

1063. The Trial Chamber has also received evidence that on at 12:46 p.m. on 26 August 1995, an ECMM team observed three persons referred to as Croatian soldiers near a house in Orlić village which had recently been set alight. Given the description of

³⁹⁴⁷ P1290 (Survey report by Marker Hansen, 20 September 1995), p. 7.

³⁹⁴⁸ P766 (ECMM report, 26 August 1995), p. 1.

³⁹⁴⁹ P154 (UNMO Sector South daily situation report, 8 p.m., 19 September 1995), pp. 1, 4.

these persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. However, the evidence does not establish when or the circumstances under which the house caught fire.

1064. The Trial Chamber has also received evidence that before 8 p.m. on 19 September 1995, civilians and uniformed men were looting in Orlić village, which the Trial Chamber understands to mean they took unspecified objects away. The above evidence does not establish to which armed forces, if any, the alleged perpetrators belonged. Nor has the Trial Chamber received sufficient evidence regarding which armed forces, if any, were present in or in the vicinity of Orlić village at that time. Therefore, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider the above incidents in Orlić in relation to Counts 1, 4 and 5 of the Indictment.

Popovići

1065. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Popovići in Orlić primarily through the testimony of Peter Marti.

1066. **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,³⁹⁵⁰ testified that on 26 August 1995, Major Michie and the witness went on patrol in, *inter alia*, Popovići, Orlić municipality, and saw two houses completely burnt down, ten partly burnt, two burning and 37 houses looted.³⁹⁵¹

1067. **Maria Teresa Mauro**, a UN civil affairs officer and HRAT member in the former Sector South based in Knin from March to December 1995,³⁹⁵² stated that on 3 September 1995 she saw Croatian soldiers loading cows and pigs on trucks with Šibenik plates approximately one kilometre away from Biskupija, in Orlić municipality, as

³⁹⁵⁰ P415 (Peter Marti, witness statement, 13 February 1996), pp. 1-2; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17

³⁹⁵¹ P416 (Peter Marti, witness statement, 29 June 1997), p. 13; P417 (Peter Marti, witness statement, 14 December 2007), paras 61, 75; Peter Marti, T. 4615-4616; D391 (Summary of humanitarian violations from HQ Sector South daily situation reports, 7 August-8 September 1995), p. 18; P67 (UNMO Team Podkonje report, 27 August 1995), para. 18.

described in an HRAT daily report of 2-4 September 1995.³⁹⁵³ She also saw soldiers looting in Popovići hamlet, in Orlić municipality.³⁹⁵⁴

1068. The Trial Chamber has received evidence from Peter Marti that on 26 August 1995 in Popovići, two houses were completely burnt, two houses were burning, ten were partly burnt and 37 houses had been looted. However, the evidence does not establish when, by whom, or the circumstances under which these houses were set alight, nor whether, when, or by whom items were taken from these houses. The references cited by the Prosecution in Annex A, page 44 of its Final Brief in support of HV troop presence in Popovići hamlet on 26 August 1995, does not assist the Trial Chamber in this regard as these exhibits either refer to a different date, or places HV troops in locations other than Popovići or its surroundings on 26 August 1995. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 4 and 5 of the Indictment.

1069. The evidence further indicates that on 3 September 1995, persons referred to as soldiers looted in Popovići hamlet, which the Trial Chamber understands to mean they took unspecified items away. Given Mauro's description of these persons as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. However, the Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to, nor any evidence regarding which armed forces, if any, were present in or in the vicinity of Popovići at the time. Therefore, the Trial Chamber is unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1 and 4 of the Indictment.

Ramljane

1070. The Trial Chamber has received relevant evidence with regard to alleged destruction of property in Ramljane in Orlić municipality primarily through the testimonies of Zdravko Janić, Josip Čelić, Josip Turkalj, Stjepan Žinić, Branko

³⁹⁵² P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

³⁹⁵³ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 6.

³⁹⁵⁴ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 6; P36 (HRAT daily report, 2-4 September 1995), p. 3.

Balunović, Božo Krajina, and Witness CW-4. According to the 1991 Population Census, the population of Ramljane consisted of 559 Serbs out of a total of 569 persons in 1991.³⁹⁵⁵

1071. **Stjepan Žinić**, a specialist training instructor in the Lučko Anti-Terrorist Unit of the Special Police,³⁹⁵⁶ testified that on 26 August 1995, he served as a group leader during a search of the Ramljane area in Orlić municipality, where approximately 50 or 60 members of the Lučko Unit, under the direct command of Josip Čelić, were tasked with checking the terrain for enemy groups.³⁹⁵⁷ Žinić testified that the unit was divided in two groups, and that he was in the same group as Božo Krajina.³⁹⁵⁸ His group was equipped with personal side-arms, infantry weapons, and RPG 7 anti-armour rockets.³⁹⁵⁹ Žinić testified that he saw some smouldering houses in a hamlet.³⁹⁶⁰ The witness remembered no exchange of fire.³⁹⁶¹ However, as they passed through Vučenovići hamlet in Orlić municipality, his group opened fire on suspicious houses out of concern for their safety, which the witness testified was a standard practice for which they would normally use side-arms or, if necessary, anti-armour equipment, but the witness testified there was no return fire.³⁹⁶² Žinić further testified that he entered a few houses, but found nothing special.³⁹⁶³

1072. **Witness CW-4**, a member of the Lučko Anti-Terrorist Unit of the Special Police on 25 and 26 August 1995,³⁹⁶⁴ testified that there was a clash with enemy forces during the operation on 26 August 1995 that took place between Knin and Drniš along the railway track.³⁹⁶⁵ The unit arrived in cars at the area of operations where the first two or three cars stopped and let out half the unit, including Witness CW-4, while the other cars went to the left where the rest of the men exited their vehicles.³⁹⁶⁶ Witness CW-4 testified that these two groups, of approximately 15 men each, moved parallel to each other with the witness's group moving along the road on the right hand side, while the

³⁹⁵⁵ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

³⁹⁵⁶ Stjepan Žinić, T. 28057-28058; P2717 (Decision on Appointment of Stjepan Žinić, 9 November 1995), p. 1.

³⁹⁵⁷ Stjepan Žinić, T. 28069-28070, 28080, 28141.

³⁹⁵⁸ Stjepan Žinić, T. 28075.

³⁹⁵⁹ Stjepan Žinić, T. 28071.

³⁹⁶⁰ Stjepan Žinić, T. 28070, 28078, 28150.

³⁹⁶¹ Stjepan Žinić, T. 28070-28071.

³⁹⁶² Stjepan Žinić, T. 28070-28071, 28073, 28157.

³⁹⁶³ Stjepan Žinić, T. 28071.

³⁹⁶⁴ Witness CW-4, T. 28190, 28193, 28196-28197, 28319-28320.

³⁹⁶⁵ Witness CW-4, T. 28199, 28240-28241.

other group moved along the road on the left hand side.³⁹⁶⁷ Witness CW-4 was to the far right in the unit's formation and in the part of the unit with Branko Balunović.³⁹⁶⁸ According to the witness, the unit did not have any hand-held rocket launchers, only rifles and guns, however it was not uncommon that zoljas would be found during search operations.³⁹⁶⁹ Part of the unit, not including Witness CW-4, went through a settlement.³⁹⁷⁰ Roughly half an hour from the starting-point, Witness CW-4 heard shooting coming from the left side, although Witness CW-4 was not personally fired at, nor did he see anybody from the unit near him opening fire.³⁹⁷¹ Witness CW-4 testified that during the operation he saw smoke several hundred metres to the left.³⁹⁷² After the operation, the unit went back to Gračac where it was informed that the operation was over and they returned to Zagreb.³⁹⁷³

1073. **Branko Balunović**, specialist training instructor in the Lučko Anti-Terrorist Unit of the Special Police,³⁹⁷⁴ testified that he functioned as a group leader, under the direct authority of Josip Čelić, on 26 August 1995 when the Lučko Unit was operating in the area of Ramljane in Orlić municipality.³⁹⁷⁵ Balunović testified that, with regard to civilians and property, the members of the unit had been told not to do anything illegal.³⁹⁷⁶ Balunović further testified that it was normal for them to search the houses in the area where they were active to make sure they posed no danger.³⁹⁷⁷ The witness testified that his group moved along an axis from Dobrići, through Vujakovići, to Perica Tor.³⁹⁷⁸ The terrain around the road and the railroad near Ramljane was forested and between the Knin-Drniš road, no. 33, and the village of Ramljane, there is an elevation of approximately 300 metres running north to south, parallel to the road and the railway track.³⁹⁷⁹

³⁹⁶⁶ Witness CW-4, T. 28227.

³⁹⁶⁷ Witness CW-4, T. 28227, 28235, 28270.

³⁹⁶⁸ Witness CW-4, T. 28199, 28236, 28239, 28270.

³⁹⁶⁹ Witness CW-4, T. 28210, 28237-28238.

³⁹⁷⁰ Witness CW-4, T. 28227.

³⁹⁷¹ Witness CW-4, T. 28235, 28269, 28271, 28276.

³⁹⁷² Witness CW-4, T. 28239, 28278.

³⁹⁷³ Witness CW-4, T. 28245.

³⁹⁷⁴ Branko Balunović, T. 28345, 28404; P2724 (Decision on Appointment of Branko Balunović, 17 May 1995), p. 1.

³⁹⁷⁵ Branko Balunović, T. 28444, 28359.

³⁹⁷⁶ Branko Balunović, T. 28469.

³⁹⁷⁷ Branko Balunović, T. 28373.

³⁹⁷⁸ Branko Balunović, T. 28456-28459; D2040 (Exhibit map P190 marked in court by Chamber witness Mr Balunović, 20 April 2010).

³⁹⁷⁹ Branko Balunović, T. 28461, 28477-28479; D2041 (Google Map of Ramljane area).

1074. Balunović testified that soon after the group's departure from the starting point, when the whole unit was still together, they encountered two uniformed individuals ahead of them, at which point shots were fired, members of the unit shouted that they were being fired at, and the individuals fled.³⁹⁸⁰ However, Balunović testified that he did not see the actual shooting, nor did he open fire himself.³⁹⁸¹ The witness did not remember seeing any smoke on 26 August 1995, although he did recall that somebody from the operation's staff contacted him over the radio to enquire about smoke that could be seen from his position.³⁹⁸²

1075. **Božo Krajina**, a specialist training instructor in the Lučko Anti-Terrorist Unit,³⁹⁸³ testified that on 26 August 1995, the Lučko Unit participated in Operation Storm-Encirclement by moving from east to west along an axis from their starting point in the same groups they were in on 25 August 1995, which led them through the village of Ramljane in Orlic municipality.³⁹⁸⁴ The unit was assigned to provide security to ensure the safe passage of the freedom train travelling to Split.³⁹⁸⁵ During the search operation Krajina heard sporadic single rounds being fired.³⁹⁸⁶ On 26 August 1995, the Lučko unit did not carry anti-tank weapons.³⁹⁸⁷ The groups merged in Ramljane which was abandoned with houses in ruin and disrepair from before Operation Storm.³⁹⁸⁸ Krajina testified that he saw Stjepan Žinić in Ramljane.³⁹⁸⁹ He further testified that after the unit left the village and was a certain distance away, he saw smoke coming from the village.³⁹⁹⁰ Krajina testified that members of the Lučko unit, not from his group, burned houses in Ramljane, but he did not know who.³⁹⁹¹ At one point later in the day, the Lučko Unit came across a facility with some ten people where one person from the unit went to ask if they were on a good route before proceeding on their way.³⁹⁹² The search

³⁹⁸⁰ Branko Balunović, T. 28360.

³⁹⁸¹ Branko Balunović, T. 28360, 28421.

³⁹⁸² Branko Balunović, T. 28361.

³⁹⁸³ Božo Krajina, T. 28541-28542, 28579.

³⁹⁸⁴ Božo Krajina, T. 28553, 28629.

³⁹⁸⁵ Božo Krajina, T. 28606.

³⁹⁸⁶ Božo Krajina, T. 28557-28558, 28584.

³⁹⁸⁷ Božo Krajina, T. 28558, 28560-28561.

³⁹⁸⁸ Božo Krajina, T. 28553-28554, 28556, 28610, 28628.

³⁹⁸⁹ Božo Krajina, T. 28556, 28628.

³⁹⁹⁰ Božo Krajina, T. 28558, 28565, 28606, 28616, 28629.

³⁹⁹¹ Božo Krajina, T. 28591.

³⁹⁹² Božo Krajina, T. 28556-28557, 28560-28561.

on 26 August 1995 ended around 2 or 3 p.m.³⁹⁹³ Krajina testified that the operation ended at the Strmica railway station in Knin municipality.³⁹⁹⁴

1076. In addition to the evidence above, the Trial Chamber has considered in detail the evidence of Zdravko Janić, Josip Čelić, Josip Turkalj, and Željko Sačić, and has reviewed parts of their evidence in respect of Ramljane in chapter 6.2.6 and in Confidential Appendix C.

1077. The Trial Chamber has reviewed and analyzed the evidence with regard to this incident against the background of the evidence, and its findings, on the alleged murder of Jovan Grubor and others in Grubori on 25 August 1995. Based on the evidence received and reviewed above, the Trial Chamber finds that on 26 August 1995 Special Police units, including the Lučko unit, participated in a search operation in the Promina hills area, going from the Knin-Drniš road to a valley north-west of Drniš. The Lučko unit passed through Ramljane on that day. Shortly after the operation commenced, Zdravko Janić and Josip Čelić heard shots and explosions and saw smoke and flames rising from a village near the railway tracks. Zdravko Janić testified that he was informed by the Lučko unit that they had encountered two enemy soldiers. Branko Balunović testified that these two uniformed individuals fled after shots were fired. At the finishing point of the operation, Markač confronted the Lučko unit about the smoke that could be seen above the area. The Lučko unit then reported to Markač that several buildings and haystacks had caught fire. The evidence received offers various scenarios on how the properties caught fire. The reports of Josip Čelić, Mladen Markač, and the four group leaders of the Lučko unit suggest that the fires were the result of an armed exchange with two enemy soldiers. Josip Čelić also testified that the group leaders told him that the properties were already on fire before the unit reached them. Stjepan Žinić testified that it was standard practice to shoot at houses if there were safety concerns for the unit and that his group did so during this operation. Josip Turkalj, Branko Balunović, and Božo Krajina testified that according to them Frano Drljo had admitted to Markač that he had deliberately set the properties on fire. In this respect, the Trial Chamber is mindful of the fact that the majority of the evidence received about this incident stems from individuals who were members of the Special Police at the time. Keeping in mind that some of these witnesses may have had ulterior motives for giving

³⁹⁹³ Božo Krajina, T. 28627.

³⁹⁹⁴ Božo Krajina, T. 28554, 28557.

their testimonies in a certain way and further considering Markač's reaction after having spoken to the Lučko unit, yelling at his men, telling them that they "should not have done this", and announcing investigations and disciplinary measures, the Trial Chamber finds that members of the Lučko unit set several buildings and haystacks on fire in Ramljane on 26 August 1995. Considering the ethnic composition of Ramljane in 1991, the Trial Chamber finds that a vast majority if not all of the properties burnt on 26 August 1995 was owned or inhabited by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 5 of the Indictment in chapters 5.5.2 and 5.8.2 (g) below.

Vrbnik

1078. The Trial Chamber has received relevant evidence with regard to alleged destruction and plunder in Vrbnik in Orlić municipality primarily through Vesela Damjanić and UN, UNMO, and ECMM reports. According to the 1991 Population Census, the population of Vrbnik consisted of 1,309 Serbs out of 1,332 persons in 1991.³⁹⁹⁵

1079. According to a UN human rights report, a Serb woman, whose name is known to the UN, reported to the UN on the same day, that when she returned to her village of Vrbnik in Orlić municipality on 6 August 1995, she found her house along with five or six other houses on fire. She saw an HV soldier next to her house shoot and kill her shepherd dog. The woman entered her house. HV soldiers also entered her house and took away her stereo along with everything else of value. On her way to Knin she saw many overturned cars.³⁹⁹⁶

1080. On 6 August 1995, an UNMO patrol observed some houses burning in Vrbnik, Orlić municipality.³⁹⁹⁷ At 3:40 p.m. on 6 August 1995, Vrbnik in Orlić municipality began to burn.³⁹⁹⁸ Before 9 p.m. on 29 August 1995, UNMO observed burned houses in the villages of Amanovići Polje, Klanac, and Vukadini in the area of Vrbnik.³⁹⁹⁹ Serbs in these villages told UNMO that the Croatian army had detained them in Knin in the

³⁹⁹⁵ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

³⁹⁹⁶ D709 (UN human rights reports, 6-17 August 1995), p. 7.

³⁹⁹⁷ Tor Munkelien, T. 1520-1521; P67 (UNMO Team Podkonje report, 27 August 1995), para. 1.

³⁹⁹⁸ P109 (UNMO Sector South daily situation report, 8:30 p.m., 6 August 1995), p. 8.

³⁹⁹⁹ P131 (UNMO Sector South daily situation report, 9 p.m., 28 August 1995), pp. 1, 7.

evening of 5 August 1995, after which they had been moved to, and spent five days in, the UN compound. They had then returned to their villages, after which the Croatian Army burned the houses belonging to Serbs who had chosen to travel to Serbia.⁴⁰⁰⁰ The villagers also stated that unidentified persons had photographed all villagers for the purpose of Croatian ID cards, and that the Croatian army had treated them well, apart from one beating incident, and had given them some food.⁴⁰⁰¹ Two Serbs told UNMO that they would like to “return” to Serbia soon.⁴⁰⁰² UNMO witnessed civilians loading livestock onto a truck.⁴⁰⁰³

1081. **Vesela Damjanić**, a Serb from Vrbnik in Orlić municipality,⁴⁰⁰⁴ testified that on 6 August 1995, two soldiers, one of them wearing a camouflage uniform, entered her house and searched for money, ammunition, and weapons. The soldier wearing the uniform was about 35 years old and from Sinj; the witness had seen him before in Knin. He told the witness that his name was Stipe. The soldiers made the witness go in front of them when searching the house so that if there was a bomb or booby trap she would be killed first.⁴⁰⁰⁵ On 11 or 12 August 1995, a man in green camouflage uniform, whom she believed to be a soldier, fetched her from her house and took her to the nearby house of a relative, Nikola Damjanić. She saw that the door was smashed in and that there were a few other soldiers present. The man told her to enter the house first in case there was a booby trap or grenade. The witness observed that the house was fully furnished. No one was living in the house at that time. Vesela Damjanić then went back to her house, from where she was able to see civilians and soldiers carrying furniture and other valuable items out of Nikola Damjanić’s house, and soldiers loading these items into trucks and cars. The witness also saw that they killed two pigs, two goats, and the dog of Nikola Damjanić. She did not see any policemen looting the house of her relative.⁴⁰⁰⁶ After the soldiers left, the witness went to Nikola Damjanić’s house and saw that there was a mattress left, and because she believed that the soldiers would come back for it, she took it herself, for her son. Vesela Damjanić saw houses being looted by soldiers and civilians on a daily basis in her neighbourhood, and military and civilian vehicles

⁴⁰⁰⁰ P131 (UNMO Sector South daily situation report, 9 p.m., 28 August 1995), p. 7.

⁴⁰⁰¹ P131 (UNMO Sector South daily situation report, 9 p.m., 28 August 1995), pp. 7-8.

⁴⁰⁰² P131 (UNMO Sector South daily situation report, 9 p.m., 28 August 1995), p. 8.

⁴⁰⁰³ P131 (UNMO Sector South daily situation report, 9 p.m., 28 August 1995), p. 7.

⁴⁰⁰⁴ P632 (Vesela Damjanić, witness statements), pp. 1-2 (witness statement of 8 July 1999), 7 (witness statement of 13 October 2004).

⁴⁰⁰⁵ P632 (Vesela Damjanić, witness statements), p. 3 (witness statement of 8 July 1999).

⁴⁰⁰⁶ P632 (Vesela Damjanić, witness statements), p. 4 (witness statement of 8 July 1999).

driving around. Nobody stopped the looting. On or around 13 August 1995, she saw smoke coming from the direction of the hamlets of Vukmirović, Biskupija, and Vujatović. The witness also saw and heard houses in Vrbnik burning, often at night, but did not see who set them on fire.⁴⁰⁰⁷

1082. On 9 August 1995, ECMM observed the burning of houses in Vrbnik in Orlić municipality at 11 a.m., in Kaldrma in Donji Lapac municipality at 11:05 a.m., in the area between Uzdolje in Orlić municipality and Tepljuh in Drniš municipality at 11:10 a.m., in Kanjane in Drniš municipality at 12:30 p.m., in Gradac in Ružić municipality at 12:45 p.m., in Kadina Glavica in Drniš municipality at 1:30 p.m., and in Biskupija in Orlić municipality at 2:30 p.m.⁴⁰⁰⁸

1083. On 11 August 1995, Captain Matko Kurtović reported to the Commander of the OG Šibenik that coordination of the SIS personnel and the Commanders was very good, and that the SIS personnel did not attempt to take over command except for a case when Captain Šime Grcić assumed command over 100 soldiers and one tank, following a verbal order of the Commander of the OG Šibenik, tasking him to join the 7th Guards Brigade in the area of Vrbnik, along the Severić, Kosovo, Uzdolje, and Vrbnik axis. The report also indicated that this order was carried out without any problems.⁴⁰⁰⁹

1084. **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,⁴⁰¹⁰ testified that on 26 August 1995, he went on patrol together with Major Michie in a number of villages including Vrbnik in Orlić municipality, and saw that most of the houses in these villages were looted and many burned down.⁴⁰¹¹

1085. **William Hayden**, a researcher for the IHF who was on mission in the Krajina between 15 and 20 August 1995,⁴⁰¹² stated that in the early evening of 19 August 1995, while driving back to Split from Knin, his team passed a house just outside Vrbnik in Orlić municipality which was a smouldering wreck, but which had been intact that

⁴⁰⁰⁷ P632 (Vesela Damjanić, witness statements), p. 5 (witness statement of 8 July 1999).

⁴⁰⁰⁸ P933 (ECMM daily report, 9 August 1995), pp. 1-2.

⁴⁰⁰⁹ P2349 (Report on security in OG Šibenik, 11 August 1995), pp. 1, 3, 6.

⁴⁰¹⁰ P415 (Peter Marti, witness statement, 13 February 1996), p. 1; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17

⁴⁰¹¹ P417 (Peter Marti, witness statement, 14 December 2007), para. 75; Peter Marti, T. 4615-4617; D391 (Summary of humanitarian violations from HQ Sector South daily situation reports, 7 August-8 September 1995), p. 18.

⁴⁰¹² P986 (William Hayden, witness statement, 15 May 1996), para. 1; P987 (William Hayden, witness statement, 15 March 2004), paras 1-3.

morning.⁴⁰¹³ When they stopped to take photos of the house they saw a Volkswagen transporter parked outside the house and two men in civilian dress coming around the left side of the house, one of those men being armed.⁴⁰¹⁴ Hayden explained that in many cases houses had been burned from the inside with nothing remaining but a collapsed roof and other structural debris.⁴⁰¹⁵ Hayden had observed more than a few houses painted with signs saying “Hrvatska Kuća”, meaning “Croatian house”, and “Ne diraj Hrvatska Kuća”, meaning “don’t touch, Croatian house”, as well as houses with Croatian flags on windows or doors.⁴⁰¹⁶ These houses had been spared damage.⁴⁰¹⁷ According to Hayden, Serb houses were marked for burning through a rough outline of the Serb “Chetnik” hand-sign painted on the house or through other signs or markings.⁴⁰¹⁸ According to the IHF report, UN observers had informed the IHF mission that they had seen an “arson team” dressed in camouflage operating an antitank gun and firing tracer and incendiary rounds into homes in the Bulajusa area between Drniš and Knin.⁴⁰¹⁹ According to the IHF report, the villages of Žagrović, in Knin municipality, and Vrbnik and Kosovo in Orlić municipality, were all significantly damaged.⁴⁰²⁰ The IHF report also recorded that the UN military observation team in Knin had stated that 24 buildings were severely damaged and 23 were slightly damaged by burning.⁴⁰²¹

1086. **Murray Dawes**, a former civilian UN accommodation officer stationed in Knin municipality from May 1994 to October 1995,⁴⁰²² testified that on 6 August 1995, with Dreyer, he travelled up the hill to Vrbnik village in Orlić municipality.⁴⁰²³ Right at the entrance to Vrbnik, at an intersection on the top of the hill, Dawes saw a big pile of unsealed body bags containing what he estimated were eight to ten dead bodies.⁴⁰²⁴ Although he did not stop to examine the unsealed body bags, Dawes could see some of

⁴⁰¹³ P987 (William Hayden, witness statement, 15 March 2004), para. 11; William Hayden, T. 10626; P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 1.2.

⁴⁰¹⁴ P987 (William Hayden, witness statement, 15 March 2004), para. 11; William Hayden, T. 10626; P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 1.2.

⁴⁰¹⁵ William Hayden, T. 10612.

⁴⁰¹⁶ P987 (William Hayden, witness statement, 15 March 2004), para. 18; P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 1.2.

⁴⁰¹⁷ P987 (William Hayden, witness statement, 15 March 2004), para. 18; P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 1.2.

⁴⁰¹⁸ P987 (William Hayden, witness statement, 15 March 2004), para. 18; William Hayden, T. 10611-10612.

⁴⁰¹⁹ P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 1.1.

⁴⁰²⁰ P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 1.2.

⁴⁰²¹ P988 (IHF report from a fact-finding mission to the Krajina, 25 August 1995), para. 1.3.

⁴⁰²² P980 (Murray Dawes, witness statement, 22 August 1996), pp. 1-2.

⁴⁰²³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10414; P983 (Map marked by Murray Dawes of route taken on 6 August 1995).

the dead bodies, and observed that they were in very bad shape and showed signs of bloating.⁴⁰²⁵ Dawes and the others turned right, whereupon the witness saw a few HV soldiers carrying TV sets, videos and similar items, removed from the houses along that road in Vrbnik.⁴⁰²⁶ Dawes knew that these soldiers were from the HV because, unlike SVK soldiers, they were properly attired in full camouflage regalia with beret, flack vest and uniforms, and carried their weapons properly.⁴⁰²⁷ The witness could not identify the unit to which they belonged.⁴⁰²⁸ The soldiers did not place the items into separate piles.⁴⁰²⁹ According to the witness, the scene in Vrbnik was disorganized and chaotic.⁴⁰³⁰ The witness spoke to one of the HV soldiers, who seemed to be quite proud of what the soldiers were doing to the town.⁴⁰³¹ While in Vrbnik, the witness did not notice any living civilians.⁴⁰³² Most of the approximately 50 houses in the village of Vrbnik had been blown up, and their contents had been removed to the side of the road or placed in the backs of vehicles.⁴⁰³³ Because there were no visible traces of impact inside the houses or on the asphalt road, the witness concluded that the houses had been exploded from the inside, rather than by artillery fire.⁴⁰³⁴

1087. In addition to the above evidence, the Trial Chamber has considered the evidence of Witness 3 and P2349 reviewed in chapter 4.2.15 (Stevo Beric and others - Schedule no. 7), as well as P2559 (pp. 3-4).

1088. The evidence indicates that on 5 August 1995, Witness 3 was close to the hamlet of Amanovići in Vrbnik at around 8 p.m. and saw the entire hamlet burning, heard shouting, and automatic weapons firing. The evidence further indicates that on 6 August 1995, UNMO patrols observed some houses burning in Vrbnik. On 9 August 1995, ECMM observed houses in Vrbnik burning at around 11 a.m. On or around 13 August 1995, Vesela Damjanić saw and heard houses in Vrbnik burning, but did not see what caused the fire. On 19 August 1995, William Hayden observed a house smouldering in Vrbnik in the early evening, which had not been burning that morning. Hayden stopped

⁴⁰²⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10400, 10531.

⁴⁰²⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10532.

⁴⁰²⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10400, 10557.

⁴⁰²⁷ Murray Dawes, T. 10400, 10534.

⁴⁰²⁸ Murray Dawes, T. 10400, 10532.

⁴⁰²⁹ Murray Dawes, T. 10405, 10557.

⁴⁰³⁰ Murray Dawes, T. 10557.

⁴⁰³¹ P981 (Murray Dawes, witness statement, 2 April 2008), para. 30.

⁴⁰³² P980 (Murray Dawes, witness statement, 22 August 1996), p. 8.

⁴⁰³³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; Murray Dawes, T. 10400.

⁴⁰³⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8.

to take photos and saw a Volkswagen transporter parked outside and two men in civilian attire, one armed, coming around the left side of the house. These houses appeared burned from the inside out because only collapsed roofs remained. This evidence is further supported by Murray Dawes's description of 50 houses in the village of Vrbnik that he believed had been blown up from the inside as opposed to being damaged by artillery fire as Dawes had observed no visible traces of impact inside the houses or on the asphalt road. According to Peter Marti on 26 August 1995, most of the houses in a number of villages, including Vrbnik, were burned down. With regard to the burning of the houses in Vrbnik on or around 5, 6, 9, 13, 19, and 26 of August 1995, there is insufficient evidence as to the circumstances under which, and by whom the houses in Vrbnik caught fire. The evidence also indicates that according to Peter Marti on 26 August 1995, most of the houses in a number of villages, including Vrbnik, were looted. The evidence does not establish whether, when, or by whom items were taken from these houses. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment.

1089. The Trial Chamber finds that on 6 August 1995, a Serb woman from Vrbnik saw a person referred to as an HV soldier shoot and kill her shepherd dog. She also saw persons referred to as HV soldiers enter her house and take her stereo along with other, unspecified valuables. Based on this description the Trial Chamber is satisfied that the perpetrators wore military-type uniforms. However, the UN human rights report does not provide further details as to the factual basis for the qualification of the persons belonging to the HV. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. On that same day, Dawes saw persons referred to as HV soldiers carrying television sets, video recorders, and similar items from houses in Vrbnik. Dawes testified that he recognized these soldiers as HV as they wore full camouflage regalia, berets, flack vests, uniforms, and carried their weapons properly. The Trial Chamber has previously found that there was an HV presence on 6 August 1995 in Vrbnik (see 4.1.15 Lazo Damjanić - Further Clarification no. 258). Based on this, the Trial Chamber finds that the persons described by the Serb woman and Dawes were members of the HV. Considering the ethnic composition of Vrbnik in 1991, the Trial Chamber finds that a significant number of the items taken were owned by Krajina Serbs. The Trial Chamber will further consider this incident in relation to Counts 1 and 4 of the Indictment in chapters 5.6.2 and 5.8.2 (f) below.

1090. An UNMO report notes that on or around 10 August 1995, Serb villagers from Amanovići Polje, Klanac, and Vukadini in the area of Vrbnik observed a group described as the Croatian Army, burning the houses that belonged to Serbs who had chosen to travel to Serbia. Based on the villagers' descriptions, the Trial Chamber is satisfied that those individuals wore military-type uniforms. However, the UNMO report does not provide further details as to the factual basis for this qualification. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in the Vrbnik area on or around 10 August 1995. In this respect, the Trial Chamber notes that the Prosecution has cited P2349 which is dated 11 August 1995 but does not provide information about when the relevant actions took place. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not consider this incident further in relation to Counts 1 and 5 of the Indictment.

1091. According to Vesela Damjanić, on 11 or 12 August 1995 in Vrbnik, civilians and soldiers carried furniture and other valuable items out of Nikola Damjanić's house and soldiers loaded these items into trucks and cars. Based on the description of some of these persons as soldiers the Trial Chamber is satisfied they wore military-type uniforms. However, Vesela Damjanić did not provide further details as to the factual basis for this qualification. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. In this respect, the Trial Chamber also considered that the persons in uniforms were acting together with persons referred to as civilians. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Vrbnik on 11 or 12 August 1995. Under these circumstances, the Trial Chamber will not consider this incident further in relation to Counts 1 and 4 of the Indictment.

Knin-Drniš road

1092. The Trial Chamber has received relevant evidence relating to the alleged destruction and plunder along the Knin-Drniš road. The evidence relating to Čenići

village, Čolovići, Kaldrma, Kosovo village, Ramljane, Uzdolje and Vrbnik, all in Orlić municipality, has been dealt with separately in 4.1.15 (Stevo Berić and others - Schedule no. 7) and 4.2.15 Orlić municipality. The remainder of the evidence relating to plunder and destruction along this road is considered here. The Trial Chamber has carefully compared the evidence below to the evidence relating to the specific villages as mentioned above and is satisfied that there is no overlap in the evidence which would lead to an arbitrary plurality of findings on the same incident.

1093. The Trial Chamber has received evidence relating to alleged destruction and plunder along the Knin-Drniš road primarily through the testimonies of Philip Berikoff, John Hill, Murray Dawes, and Alun Roberts. The Knin-Drniš road is situated in Knin, Orlić, and Drniš municipalities. According to the 1991 Population Census, the villages along this road which include Ramljane (559 Serbs out of a total of 569 persons), Uzdolje (766 Serbs out of a total of 767 persons), Vrbnik (1,309 Serbs out of a total of 1,332 persons), Zjverinac (290 Serbs out of a total of 344 persons) and Tepljuh (360 Serbs out of a total of 433 persons) were predominately Serb in 1991, with the exception of Siverić (97 Serbs out of a total of 992), which was predominately Croat in 1991.⁴⁰³⁵

1094. **John Hill**, Commanding Officer of the International Military Police in Sector South from early June 1995 to 8 December 1995,⁴⁰³⁶ testified that in the morning of 8 August 1995, he, Tremblay, and Berikoff drove from Knin to Drniš.⁴⁰³⁷ In a small village, along the road to Drniš, Hill saw Croatian tanks.⁴⁰³⁸ From the car, Hill also saw “systematic” looting, i.e. civilian police was directing traffic and standing by while other civilian policemen, with light blue shirts and grey pants, and civilians were looting homes and loading animals onto trailers.⁴⁰³⁹ He saw people showing up with vehicles and trailers and walking out of houses with televisions, stereos, and food, and putting things that they found in the houses in their cars, on top of their cars, and in trailers.⁴⁰⁴⁰

⁴⁰³⁵ C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), pp. 74, 110.

⁴⁰³⁶ P291 (John Hill, witness statement, 23 August 1996), p. 2; P292 (John Hill, witness statement, 21 January 1998), pp. 3, 93; P293 (John Hill, witness statement, 2 November 1999), p. 3.

⁴⁰³⁷ P292 (John Hill, witness statement, 21 January 1998), p. 30; John Hill, T. 3763, 3782-3783; P301 (UNCRO military police report, 4-7 August 1995), p. 5; P307 (Map of routes taken by John Hill on his travels after Operation Storm); D274 (John Hill's diary, entries from 5-13 August 1995), p. 3.

⁴⁰³⁸ P292 (John Hill, witness statement, 21 January 1998), p. 30.

⁴⁰³⁹ P292 (John Hill, witness statement, 21 January 1998), pp. 30-31; John Hill, T. 3763; D274 (John Hill's diary, entries from 5-13 August 1995), p. 3.

⁴⁰⁴⁰ P292 (John Hill, witness statement, 21 January 1998), p. 31.

He also saw a civilian policeman loading horses from a house onto the back of a truck.⁴⁰⁴¹ Hill further testified that along the road, most of the houses were destroyed or burned but that there were no signs of fighting and that a week earlier they were intact.⁴⁰⁴² The route he had taken was a 45-50-minute drive and they drove 60-70 kilometres per hour. Once in Drniš, Hill did not see as much damage as he did on the road towards it.⁴⁰⁴³ Hill testified that on the way back from Drniš to Knin, they were stopped at a check-point outside Drniš, but after mentioning the name of Ivan Jurić, they were allowed through.⁴⁰⁴⁴ Hill testified that on 19 August 1995, he and two of his men went to Drniš to collect a stolen UN bulldozer of high value but were not allowed to take it back by the local military police.⁴⁰⁴⁵

1095. **Murray Dawes**, a former civilian UN accommodation officer stationed in Knin municipality from May 1994 to October 1995,⁴⁰⁴⁶ testified that on 8 August 1995, he and a convoy of three UN water trucks drove south in the direction of Drniš.⁴⁰⁴⁷ Along the main road, there were a lot of HV soldiers, and various check-points overseen by the Croatian military. They appeared to Dawes to be “well disciplined and well dressed.” All of the soldiers wore black uniforms, with flack jackets and berets.⁴⁰⁴⁸ From what Dawes remembered, their vehicles were coloured differently from normal HV units’, but they had license plates starting with “HV” which indicated that they were still military vehicles.⁴⁰⁴⁹ On the way from Knin to Drniš, HV soldiers in black uniforms, many of whom spoke good English, stopped the witness and his convoy five or six times for ID checks.⁴⁰⁵⁰ At one of the check-points, the soldier who stopped the witness called for another individual, whose demeanor suggested to the witness that he was of a higher rank and who spoke to the witness and then granted him permission to travel along the road.⁴⁰⁵¹ Looking past the check-points and to the sides of the road, the witness saw uniformed HV soldiers systematically removing items from houses and

⁴⁰⁴¹ P292 (John Hill, witness statement, 21 January 1998), pp. 30-31; John Hill, T. 3763.

⁴⁰⁴² P292 (John Hill, witness statement, 21 January 1998), pp. 30, 35-36; John Hill, T. 3763.

⁴⁰⁴³ P292 (John Hill, witness statement, 21 January 1998), p. 36.

⁴⁰⁴⁴ P292 (John Hill, witness statement, 21 January 1998), pp. 34-35.

⁴⁰⁴⁵ P292 (John Hill, witness statement, 21 January 1998), pp. 87-88.

⁴⁰⁴⁶ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 1-2.

⁴⁰⁴⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 10; Murray Dawes, T. 10406, 10414-10415.

⁴⁰⁴⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 10.

⁴⁰⁴⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 10; Murray Dawes, T. 10407.

⁴⁰⁵⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 10; P981 (Murray Dawes, witness statement, 2 April 2008), para. 33; Murray Dawes, T. 10406.

⁴⁰⁵¹ Murray Dawes, T. 10407.

placing them beside the houses or in the back of Croatian military trucks.⁴⁰⁵² According to the witness, the soldiers appeared to carry out their tasks in a very professional and methodical manner, without the kind of enthusiasm or pride the witness had seen exhibited by the HV soldiers in Vrbnik.⁴⁰⁵³ For the first time, the witness also noticed civilian vehicles, and saw that civilians were engaged in looting as well.⁴⁰⁵⁴ Soldiers in full uniform and civilians looted the houses along the road and then set them ablaze.⁴⁰⁵⁵ Dawes saw soldiers torching houses, and gasoline being thrown into houses which were then set on fire. He saw one soldier firing his anti-aircraft gun from a flatbed truck into houses near Uzdolje village in Orlić municipality so as to set these houses ablaze. The sky was completely black because of the burning houses, making it difficult to breathe.⁴⁰⁵⁶ According to the witness, the destruction stopped at Drniš, which was also where the former zone of separation ended.⁴⁰⁵⁷ There was no burning in Drniš or the remainder of the way to the coast in Primošten.⁴⁰⁵⁸ Dawes and his convoy took the same road back to Knin later in the afternoon.⁴⁰⁵⁹ He saw that the burning and looting were still in progress.⁴⁰⁶⁰ The same villages being looted earlier were now burning, and by that time, most of the villages along that road had been completely destroyed. All the way back from Drniš to Knin, the skyline was black, and dirt and dust, along with particles from burning houses, blew across the road.⁴⁰⁶¹ They arrived back at the UN compound around 6 p.m.⁴⁰⁶²

1096. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,⁴⁰⁶³ testified that he first left the UN compound and Knin on 9 August 1995, travelling on the road to Drniš, and that he saw approximately seven or eight

⁴⁰⁵² P980 (Murray Dawes, witness statement, 22 August 1996), p. 10; Murray Dawes, T. 10406-10407, 10527.

⁴⁰⁵³ P981 (Murray Dawes, witness statement, 2 April 2008), para. 33; Murray Dawes, T. 10406.

⁴⁰⁵⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 10.

⁴⁰⁵⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 10; Murray Dawes, T. 10527.

⁴⁰⁵⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 10.

⁴⁰⁵⁷ P981 (Murray Dawes, witness statement, 2 April 2008), para. 33.

⁴⁰⁵⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 10; P981 (Murray Dawes, witness statement, 2 April 2008), para. 33.

⁴⁰⁵⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 10; Murray Dawes, T. 10407.

⁴⁰⁶⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 10.

⁴⁰⁶¹ Murray Dawes, T. 10407.

⁴⁰⁶² P980 (Murray Dawes, witness statement, 22 August 1996), p. 10.

⁴⁰⁶³ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

houses burning right off the road.⁴⁰⁶⁴ According to Flynn, nearly half of the houses had destroyed roofs and were badly damaged.⁴⁰⁶⁵ There were few civilians, but many military vehicles travelling on the road.⁴⁰⁶⁶ Once, Flynn and his HRAT team got out of the car to look at a house burning near the road, when men in military fatigues approached them from a car and were, according to Flynn, extremely disturbed that the HRAT team would take a close look at the house.⁴⁰⁶⁷ On 11 August 1995, HRAT reported that it had observed many houses burning between Knin and Rastević, in Polača municipality, to which Croatian authorities still denied access.⁴⁰⁶⁸ On 15 August 1995, Flynn travelled to Vrlika and observed that approximately one third of the homes in the villages on the way were destroyed.⁴⁰⁶⁹ HRAT reported that on 1 September 1995 HRAT observed one burning house near Strmica in Knin municipality.⁴⁰⁷⁰

1097. On the morning of 6 August 1995, a Kenyan platoon commander travelled along the road from Drniš to Knin and saw many HV troops, fires, and killed livestock.⁴⁰⁷¹

1098. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,⁴⁰⁷² testified that after Operation Storm, he drove along the Knin–Drniš road several times, and saw houses that were either on fire or had been gutted by fire, along with hardly any sign of inhabitants.⁴⁰⁷³ On an HRAT patrol on 10 August 1995, Roberts saw, on the right of the Knin–Drniš road, in a small hamlet twelve kilometres from Knin, a house that had just been set on fire. He then saw, less than 20 metres away, two soldiers appear from behind the house, cross the road and head back to two HV jeeps. Several kilometres further along the same road, towards Kosovo town in Orlić municipality, Roberts found several houses

⁴⁰⁶⁴ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 16, 18-19; P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 7; P30 (HRAT daily report, 9 August 1995), p. 1.

⁴⁰⁶⁵ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 7; P30 (HRAT daily report, 9 August 1995), p. 1.

⁴⁰⁶⁶ P20 (Edward Flynn, witness statement, 29 June 1997), p. 16.

⁴⁰⁶⁷ P20 (Edward Flynn, witness statement, 29 June 1997), p. 24.

⁴⁰⁶⁸ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 9; P41 (HRAT daily report, 11 August 1995), p. 2.

⁴⁰⁶⁹ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 14; P33 (HRAT daily report, 15 August 1995), pp. 2-3.

⁴⁰⁷⁰ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 28; Edward Flynn, T. 1118-1119; P24 (Map of Sector South with marked locations); P49 (HRAT daily report, 30-31 August, 1 September 1995), p. 1.

⁴⁰⁷¹ P351 (UNCRO Sector South daily situation report, 1 p.m., 6 August 1995), p. 4.

⁴⁰⁷² P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

⁴⁰⁷³ P677 (Alun Roberts, witness statement, 28 February 2007), p. 12.

that had just been set on fire, along with some parked HV vehicles, and he saw two to four soldiers in Croatian uniform in front of the smoking houses.⁴⁰⁷⁴ According to an article in the Feral Tribune (Split), a UN official counted 45 burning houses on the 18-kilometre road from Knin to Drniš along with smoke from other houses that had previously been set on fire.⁴⁰⁷⁵ Roberts submitted a photograph showing a dead animal on the Knin-Kistanje road around 14 August 1995.⁴⁰⁷⁶ On 6 September 1995, Roberts along with other members of an HRAT team found the area between Donji Lapac and the Otrić junction in Gračac municipality deserted, with what was described as large and systematic destruction with hundreds of houses burnt down. Those present documented in a report that this stretch was the probably most comprehensively destroyed part of Sector South, and that most of this destruction was not a result of war operations.⁴⁰⁷⁷

1099. **Maria Teresa Mauro**, a UN civil affairs officer and HRAT member in the former Sector South based in Knin from March to December 1995,⁴⁰⁷⁸ on 9 August 1995 travelled the road between Knin and Drniš and stated that she saw burnt and destroyed houses, as well as burning houses.⁴⁰⁷⁹ On 10 August 1995 she saw houses and crops ablaze, as well as animal carcasses everywhere.⁴⁰⁸⁰ She confirmed that on 11 August 1995 she saw many houses ablaze between Knin and Rastević, in Polača municipality, and that during the evening along the road from Knin to Drniš she saw between 35-40 houses in flames and several HV vehicles in the area, as described in an HRAT report of 11 August 1995.⁴⁰⁸¹

1100. Goran Dodig testified that on 7 August 1995, he took the road from Split, via Drniš, to Knin, and testified that there were many people on the roads.⁴⁰⁸² According to

⁴⁰⁷⁴ P680 (Alun Roberts, witness statement, 1 July 2008), para. 6.

⁴⁰⁷⁵ P678 (Alun Roberts, witness statement, 7 February 2008), paras 28-29; P711 (Roberts press statement in Tanjug, 14 August 1995).

⁴⁰⁷⁶ P680 (Alun Roberts, witness statement, 1 July 2008), para. 32, no. 22; P683 (Various photographs of destruction, looting and killing in Knin and in villages taken between 10 August and mid-October 1995), pp. 43-44.

⁴⁰⁷⁷ P710 (HRAT report Donji Lapac and Otrić, 6 September 1995).

⁴⁰⁷⁸ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

⁴⁰⁷⁹ P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 18.

⁴⁰⁸⁰ P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 23.

⁴⁰⁸¹ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 3-4.

⁴⁰⁸² D1705 (Goran Dodig, witness statement, 16 May 2009), p. 5; Goran Dodig, T. 22644.

the witness, there were only a few torched houses visible from the road, though he saw houses damaged by shelling and smoke in the distance.⁴⁰⁸³

1101. In addition to the above evidence, the Trial Chamber has considered the evidence of P2349 reviewed in chapter 4.1.15 (Stevo Berić and others - Schedule no. 7), P2559 (pp. 3-4), P71 reviewed in chapter 4.2.15 (Čolovići), D180 reviewed in chapter 4.1.9 (Jovica Plavša - Further Clarification no. 126), and Philip Berikoff reviewed in chapter 4.2.1.

1102. The Trial Chamber finds that the evidence of Berikoff, Hill and Dawes in relation to the events of 8 August 1995 is quite similar with regard to location and date, as well as the appearance of the persons they observed and the activities carried out by them. The discrepancies in their evidence are not contradictory as they merely seem to reflect different observations at different times of the day on this road. The Trial Chamber finds that before 8 August 1995 most of the houses, fields and livestock along the Knin-Drniš road were intact. By 8 August 1995 most of the houses along this route were destroyed or burnt and many dead animals lay rotting along the road. The Trial Chamber finds, based on the testimony of Dawes, that on 8 August 1995, persons referred to as soldiers torched houses on the Knin-Drniš road by throwing gasoline into a number of them and setting them on fire. Further, that one other person referred to as a soldier fired an anti-aircraft gun from a flatbed truck into houses near Uzdolje in Orlic municipality, which then caught fire.

1103. The Trial Chamber further finds, based on the testimonies of Berikoff, Hill, and Dawes that on the same day, various unspecified items and livestock were taken away from houses along the Knin-Drniš road by persons referred to as civilian police, soldiers, Croatian soldiers, and HV soldiers. Berikoff, Hill and Dawes testified that persons referred to as civilian police, which Hill described as dressed in light blue shirts and grey pants, were directing traffic and standing by while these incidents occurred. Berikoff also testified that he observed these persons referred to as civilian police, checking something off on clipboards. Hill's testimony suggests that also civilians took away items from houses along this road such as televisions, stereos and food. However, as this evidence about civilians removing items does not establish the involvement of

⁴⁰⁸³ D1705 (Goran Dodig, witness statement, 16 May 2009), pp. 5, 11; Goran Dodig, T. 22644, 22712-22713.

either the civilian police or the Croatian military, the Trial Chamber will not further consider this evidence. See in this regard Chapter 2.

1104. Given the description of the perpetrators of these incidents by Berikoff, Hill and Dawes as soldiers, Croatian soldiers, HV soldiers, and civilian police, the Trial Chamber finds that they wore military-type and police-type uniforms respectively. Further, the Trial Chamber has considered Berikoff, Dawes and Hill's testimonies regarding the presence of Croatian tanks, vehicles with "HV" license plates and the line of trucks which persons referred to as Croatian soldiers were loading with livestock and unspecified items. It has also considered that the Split MD operations diary places the 6th Home Guard Regiment in the vicinity of Zvjerinac, Markovac, Manojlovići, Turići, Bajanove Staje and Miloševe Drage, all in Orlić municipality, on 8 August 1995. Therefore, based on the aforementioned, the Trial Chamber finds that some of these persons were members of the HV. Further, considering the date and location of these events and that some of the perpetrators wore police-type uniforms, the Trial Chamber finds that they were members of the Croatian civilian police. Furthermore, given that the majority of villages along the Knin-Drniš road were, according to the Population Census, predominately Serb in 1991 and further, considering that, according to Berikoff, houses with Croatian markings on them were spared, the Trial Chamber finds that a significant number, if not all, of the houses burnt or destroyed or items taken away were owned or inhabited by Krajina Serbs. The Trial Chamber will further consider these incidents under Counts 1, 4, and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

1105. The Trial Chamber further finds, based on Berikoff's testimony, that on 10 August 1995, on the Knin-Drniš road, a group of persons referred to as Croatian soldiers loaded trucks with livestock and valuables from a number of houses, whilst persons referred to as civilian police watched or directed traffic and again checked something off on clipboards. Furthermore, the Trial Chamber notes that houses with Croatian markings were again passed over and Berikoff was told that items taken away were to be taken to a central location from which it would later be distributed to the owners. The Trial Chamber also finds, based on evidence given by Roberts, that on the same day along the same road two persons referred to as soldiers appeared from behind a house that had just been set on fire, and headed back to two vehicles referred to by the witness as HV jeeps. Considering that these two persons were behind the house and headed

back to their vehicles shortly after the house had caught fire, the Trial Chamber finds that they set it on fire. Given the description of the perpetrators of these incidents by Berikoff and Roberts as soldiers the Trial Chamber finds that they wore military-type uniforms. Further, considering the HV presence on this date in the nearby village of Kosovo (see 4.2.15 Kosovo village), the Trial Chamber finds that the perpetrators were members of the Croatian military forces. Regarding the one house that was burnt, the Trial Chamber has received no direct evidence regarding the ethnicity of the owner or inhabitant of that property. Considering the limited extent of the destruction, the 1991 Population Census data will not be helpful in this instance. Regarding the unspecified items taken away, the Trial Chamber considered that, given that the majority of villages along the Knin-Drniš road were predominately Serb in 1991 and further, considering that houses with Croatian markings on them were spared, the Trial Chamber finds that a significant number, if not all, of the items taken away were owned by Krajina Serbs. The Trial Chamber will further consider these incidents under Counts 1, 4, and 5 of the Indictment in chapters 5.5.2, 5.6.2, and 5.8.2 (f) and (g) below.

1106. The evidence further indicates that on 6-11 and 15 August 1995 numerous houses, fields and vehicles along the Knin-Drniš road were damaged, destroyed, burnt or still ablaze while the occasional village remained intact. The evidence further indicates that dead livestock along this route was abounding. However, this evidence is unspecific and does not indicate when, by whom, or the circumstances under which these houses were set alight or the animals were killed. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Counts 1 and 5 of the Indictment.

4.3 Inhumane acts and cruel treatment

4.3.1 Overview of the charges

1107. The Indictment charges the Accused with inhumane acts as crimes against humanity and cruel treatment as violations of the laws or customs of war, from at least July 1995 to about 30 September 1995, in the following municipalities: Benkovac, Donji Lapac, Drniš, Gračac, Kistanje, Knin, and Orlić.⁴⁰⁸⁴ The Indictment also charges the Accused with inhumane acts as an underlying act of the crime against humanity of persecution, during the same time period, in the above-mentioned and the following municipalities: Civiljane, Ervenik, Lišane Ostrovičke, Lisičić, Nadvoda, Obrovac, and Oklaj.⁴⁰⁸⁵

1108. The Trial Chamber has received and considered evidence on a large number of specific incidents of alleged inhumane acts and cruel treatment. As discussed in chapter 2, it will, however, only address herein those incidents for which the evidence is sufficiently detailed to consider whether a crime occurred and, if so, whether the affiliation of the principal perpetrator can be identified.⁴⁰⁸⁶ Besides the incidents addressed in this chapter, the Trial Chamber has dealt with a number of incidents of alleged inhumane acts and cruel treatment in other chapters, as the evidence on those incidents was entwined with evidence predominantly dealing with other alleged crimes.⁴⁰⁸⁷

4.3.2 Benkovac municipality

Konstantin Drča

1109. The Trial Chamber has received relevant evidence with regard to the alleged ill-treatment of Konstantin Drča from the victim himself. Drča, a Serb SVK reservist,⁴⁰⁸⁸ stated that on 11 August 1995 at around 4:30 p.m. he was arrested outside his house in Benkovac by men in camouflage uniforms and automatic rifles with an insignia on their

⁴⁰⁸⁴ Indictment, para. 53.

⁴⁰⁸⁵ Indictment, para. 48.

⁴⁰⁸⁶ See chapter 2, paragraphs under heading “*findings*”.

⁴⁰⁸⁷ Radoslav Ognjenović and Mirko Ognjenović in chapter 4.1.8 (Uroš Šarić and Uroš Ognjenović - Schedule no. 8); woman accompanying Živko Stojakov in chapter 4.1.9 (Živko Stojakov - Further Clarification no. 184); Witness 67 in chapter 4.1.15 (Stevo Berić and others - Schedule no. 7); unnamed civilians in chapter 4.2.9 (Raškovići).

⁴⁰⁸⁸ P2509 (Konstantin Drča, witness statement, 26 May 1997), pp. 1-2.

left sleeve saying “Military Police 92. (or 72.) Company of the 4th Split Brigade”.⁴⁰⁸⁹ The witness was then taken in a civilian car to what the witness described as the VP headquarters in Benkovac, situated in a private house owned by Đorđe Čalić, where he was interrogated.⁴⁰⁹⁰ The witness was brought to a room with fresh blood stains on the walls where he met another detainee, Todor Šarić, who told Drča that he himself as well as other detainees had been beaten. During the first two days after the interrogation VP men beat the witness five to six times and threatened to slit his throat. Although the beatings stopped after about two days the threats and insults continued over the next two to three months. Drča remained in detention at the VP headquarters in Benkovac until 5 March 1996.⁴⁰⁹¹ Although the witness later found out that he was indicted in 1993 for terrorism and endangering the constitutional order and the territorial integrity of the Republic of Croatia, during the time of his detention in Benkovac he was not brought before an investigative judge nor given any documents stating he was indicted.⁴⁰⁹² The witness stated that he was not permitted to contact his family until early 1996. The only time he met with the ICRC was during an unannounced visit on 29 November 1995, during which he was told by the military policemen not to reveal that Šarić was also detained there or he would “suffer the consequences”. During his detention in Benkovac the witness observed a number of civilians being brought to the VP headquarters for interrogation after which they were taken to a destination unknown to him. The witness stated that the commanding officer in the VP headquarters of Benkovac during his incarceration was Captain Granacarić.⁴⁰⁹³ For the first month of his detention, the VP ordered the witness and Šarić to remove all personal belongings, including furniture, from apartments in Benkovac which formerly belonged to the JNA. The VP also ordered the witness and Šarić to clean other apartments, which were intended to be used as quarters for the VP, and on approximately ten occasions, the witness and Šarić moved furniture from one apartment to another. Drča and Šarić loaded the belongings onto civilian trucks with HV license plates, which were driven by military policemen to a destination unknown to the witness.⁴⁰⁹⁴ In August-September 1995 the witness and Šarić were taken to the military barracks in Benkovac, where they unloaded personal belongings such as TV sets, doors, cattle, and mechanic tools from civilian and military

⁴⁰⁸⁹ P2509 (Konstantin Drča, witness statement, 26 May 1997), p. 3.

⁴⁰⁹⁰ P2509 (Konstantin Drča, witness statement, 26 May 1997), pp. 3-4.

⁴⁰⁹¹ P2509 (Konstantin Drča, witness statement, 26 May 1997), p. 4.

⁴⁰⁹² P2509 (Konstantin Drča, witness statement, 26 May 1997), pp. 4-5.

⁴⁰⁹³ P2509 (Konstantin Drča, witness statement, 26 May 1997), p. 4.

trucks and civilian cars and tractors, which had been confiscated from looters by the civilian police and the VP. Some of these confiscated belongings were taken to the military barracks by the VP, while others were taken to a civilian warehouse, designated by the municipal authorities, where all confiscated objects should have been taken. The witness stated that these items were usually taken by members of the HV and the civilian police for personal use, and that he was present when some of these goods were taken to apartments and houses of HV personnel. During October-December 1995 the witness and Šarić were on several occasions taken to privately owned forests in the Bukovica area where they were ordered to cut trees for firewood. On these occasions the witness saw that almost every house in the villages of Medviđa in Lisičić municipality, Ervenik, Bilišane in Obrovac municipality, Modrino Selo in Kistanje municipality, Biovičino Selo in Kistanje municipality, and Parčić were burnt and destroyed, including the orthodox church in Medviđa. Drča and Šarić were ordered to take firewood from houses in these villages. During this time the witness saw numerous vehicles with Šibenik, Zadar, and Split license plates, both civilian and military, loaded with cattle, construction material, and furniture, and driven by people in civilian clothes as well as military uniforms. On 5 March 1996, the witness was transferred to Zadar District Prison where he finally met a military investigative judge and later transferred to Split District Prison from where he was released on 30 May 1996, after having signed a statement in front of the prison warden that he was leaving Croatia voluntarily. He was then taken to a refugee centre in Đakovo and arrived in Serbia on 8 June 1996, after having signed another statement, this time in front of representatives of the ICRC, that he was leaving Croatia voluntarily.⁴⁰⁹⁵ The Trial Chamber deals with Drča's evidence with regard to the alleged plunder in chapter 4.2.2 (Benkovac town).

1110. In addition to the evidence above, the Trial Chamber has considered D1749 reviewed in chapter 4.2.2 (Benkovac town) with regard to this incident.

1111. On the basis of the evidence, the Trial Chamber finds that around 4:30 p.m, on 11 August 1995, persons in camouflage uniforms armed with automatic rifles arrested Konstantin Drča, a Serb, outside his house in Benkovac and took him in a civilian car to a privately owned house in Benkovac, which the witness described as the VP headquarters. According to Drča, these persons bore the insignia "Military Police 92.

⁴⁰⁹⁴ P2509 (Konstantin Drča, witness statement, 26 May 1997), pp. 4-5.

⁴⁰⁹⁵ P2509 (Konstantin Drča, witness statement, 26 May 1997), p. 5.

(or 72) Company of the 4th Split Brigade” on their left sleeves. Drča was kept in this house until 5 March 1996. The Trial Chamber further finds that during the first two days after an interrogation, persons whom the witness referred to as VP beat him five to six times and threatened to slit his throat. Insults and threats continued over the following two or three months. Given Drča’s description of the above mentioned persons as VP, considering the VP insignia on the left sleeves of the persons arresting him, as well as the evidence of VP presence in Benkovac during August 1995 reviewed and considered in chapter 4.2.2 (Benkovac town), the Trial Chamber finds that the persons who kept him in the house and who beat and threatened him were members of the VP. Although the evidence indicates that Drča was indicted in 1993 for terrorism and endangering the constitutional order and the territorial integrity of the Republic of Croatia, during the time of his detention in Benkovac Drča was not brought before an investigative judge nor provided with any indictment documents. The Trial Chamber will further consider this incident in relation to Counts 1, 8, and 9 of the Indictment in chapters 5.7.2 and 5.8.2 (c) below.

4.3.3 Civljane municipality

1112. The Trial Chamber has received insufficient or no relevant evidence with regard to alleged inhumane acts and cruel treatment in Civljane municipality.

4.3.4 Donji Lapac municipality

1113. The Trial Chamber has received insufficient or no relevant evidence with regard to alleged inhumane acts and cruel treatment in Donji Lapac municipality.

4.3.5 Drniš municipality

1114. The Trial Chamber has received insufficient or no relevant evidence with regard to alleged inhumane acts and cruel treatment in Drniš municipality.

4.3.6 Ervenik municipality

1115. The Trial Chamber has received insufficient or no relevant evidence with regard to alleged inhumane acts and cruel treatment in Ervenik municipality.

4.3.7 Gračac municipality

Bogdan Brkić

1116. The Trial Chamber has received evidence with regard to the alleged ill-treatment of Bogdan Brkić primarily through the testimonies of Bogdan Brkić himself and Pero Perković. **Bogdan Brkić**, a Serb from Palanka in Gračac municipality who was born in 1926,⁴⁰⁹⁶ testified that when the shelling of Knin under Operation Storm began, he hid in the mountains each time he heard a car approach. Early in the morning of 9 August 1995, he returned from his hiding place in the mountains to Palanka where he saw Dušan Brkić's corpse in Dušan's garden. Bogdan Brkić observed one bullet mark on the left side of Dušan's corpse. One morning, no later than 12 August 1995, three Croatian soldiers bearing automatic rifles and dressed in camouflage uniforms appeared at Bogdan Brkić's home. The soldiers grabbed Brkić by his clothes, demanded he give them money, and then searched his home. After drinking some brandy, one of the soldiers ordered the others to tie Brkić to a plum tree behind his house, which they did. The soldiers placed an old suit belonging to Brkić and some hay under his feet and ignited them. In pain from the fire, Brkić kicked the burning suit away. When the soldiers untied Brkić, they forcefully took him to his friend's house in search of ham and when none was discovered returned Brkić to his home. One of the soldiers told Brkić that they had recently killed Brkić's neighbour. Brkić understood the soldier's comment to refer to the killing of Dušan Brkić.⁴⁰⁹⁷ The Trial Chamber has dealt with the alleged murder of Dušan Brkić in chapter 4.1.7 (Dušan Brkić - Further Clarification no. 22).

1117. Brkić also testified that one morning in the beginning of September 1995, he was feeding his pigs in front of his house when a car stopped. Three soldiers exited the vehicle and one of them pointed his pistol at Brkić. The soldiers ordered and led Brkić into his home, pushed him onto the couch, and began beating Brkić so heavily that they broke two of his ribs. Then the soldiers searched Brkić's home and took a radio, one kilogram of coffee, 100 kunas, 20 DEM, and a wrist watch. Before leaving, the soldiers kicked Brkić into the stream in front of his house. Several days later, Brkić was taken to Knin hospital by ICRC representatives. He was hospitalized for 15 days.⁴⁰⁹⁸

⁴⁰⁹⁶ P2506 (Bogdan Brkić, witness statement, 21 January 1999), pp. 1-2, 4.

⁴⁰⁹⁷ P2506 (Bogdan Brkić, witness statement, 21 January 1999), p. 4.

⁴⁰⁹⁸ P2506 (Bogdan Brkić, witness statement, 21 January 1999), p. 5.

1118. According to a UNCIVPOL report, dated 8 October 1995, Boško Brkić from Palanka, Gračac municipality, told UNCIVPOL how on or around 20 September 1995, three men in military uniform who had arrived in two civilian cars, took him outside his house, poured washing detergent and five kilograms of sugar over his head, pointed a gun to his head, and fired a false bullet before throwing him in a river. Following this, the three men told Boško Brkić that they would come back and kill him if he informed the police, which he nonetheless did. The men also stole 100 kunas and 20 DEM from Brkić.⁴⁰⁹⁹

1119. **Pero Perković**, a Croat from the village of Vodice and a member of the HV 15th Home Guards Regiment prior to, during, and after Operation Storm,⁴¹⁰⁰ stated that one day, when he and some others of his regiment were mopping up the terrain in a village in the area of Zrmanja, in Gračac municipality, they came across an old man called Bogdan Brkić, who told them that he had a son in the Serb army and whom they asked for weapons.⁴¹⁰¹ When Brkić answered that he did not have any weapons, Nikola Rašić tied him to a tree, put cloths around him, and threatened that he would set them on fire if he did not admit to having weapons.⁴¹⁰² Perković saw the man suffering and pleaded with Rašić to stop, after which someone untied Brkić.⁴¹⁰³ Brkić then promised them a calf.⁴¹⁰⁴ They told him that they would visit him the following day but when they arrived Brkić was not there and had left a note that he had left with the lambs and that there was no calf.⁴¹⁰⁵

1120. Having noted a number of minor discrepancies between the evidence of Bogdan Brkić and Pero Perković, the Trial Chamber finds that their accounts of the events are, on the whole, consistent on major points, and finds their evidence reliable. Based on the evidence received, the Trial Chamber finds that on or shortly before 12 August 1995, members of the HV 15th Home Guards Regiment, including Pero Perković and Nikola Rašić, wearing camouflage uniforms and bearing automatic rifles, arrived at the home of Bogdan Brkić, a Serb, in Palanka. The Trial Chamber further finds that one or more of these soldiers tied Bogdan Brkić to a tree, put some textiles underneath him, and set them alight, causing him pain. The Trial Chamber will further consider this incident in

⁴⁰⁹⁹ P797 (UNCIVPOL incident report, S05-95-294, 8 October 1995).

⁴¹⁰⁰ Pero Perković, T. 19448, 19451, 19470, 19511, 19527, 19546-19547.

⁴¹⁰¹ Pero Perković, T. 19464-19465, 19492.

⁴¹⁰² Pero Perković, T. 19454, 19465, 19490-19491.

⁴¹⁰³ Pero Perković, T. 19465, 19491.

⁴¹⁰⁴ Pero Perković, T. 19465.

relation to Counts 1 (insofar as it relates to inhumane acts), 8, and 9 of the Indictment in chapters 5.7.2 and 5.8.2 (c) below.

1121. The evidence received from Brkić also indicates that, at the beginning of September 1995, three persons referred to as soldiers arrived at his house in one car, pointed a pistol at him, and beat him, thereby breaking two of his ribs. The persons also took a radio, one kilogram of coffee, a wrist watch, and some money from Brkić. Before leaving, the persons kicked Brkić into a stream in front of his house. Several days later Brkić was taken to the hospital in Knin and was hospitalized for 15 days. The Trial Chamber also received hearsay evidence in the form of a UNCIVPOL report which the Trial Chamber considers to relate to the same incident and which partially differs from Brkić's account. Based on the witness's description of the persons as soldiers and the UNCIVPOL report, the Trial Chamber is satisfied that the persons wore military-type uniforms. However, the above evidence does not establish to which armed forces, if any, the alleged perpetrators belonged. The Trial Chamber has not received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Palanka at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 4, 8, and 9 of the Indictment.

Villagers in Palanka village

1122. With regard to alleged ill-treatment of villagers in Palanka, the Trial Chamber has primarily received documentary evidence. According to a UNCIVPOL incident report, dated 20 September 1995, UNCIVPOL patrolled the hamlet of Kušac in Palanka village, Gračac municipality, and were told by Dragan Milinković that three armed men in military uniform had visited the village in one blue and one yellow car with no license plates on 15 September 1995, and threatened him and other villagers with a knife. The men had also stolen cattle from villagers under the threat of knife and pistol.⁴¹⁰⁶ The villagers of the hamlet informed UNCIVPOL that they were suffering

⁴¹⁰⁵ Pero Perković, T. 19465.

⁴¹⁰⁶ P793 (UNCIVPOL incident report, S05-95-170, 20 September 1995).

from robberies on an almost daily basis, but that they had begun to see the Gračac police patrolling the area more frequently.⁴¹⁰⁷

1123. The evidence indicates that on 15 September 1995, in Palanka village, three armed men in military uniform threatened Dragan Milinković with a knife, and threatened other villagers with a knife and a pistol while stealing their cattle. The men drove blue and yellow vehicles without license plates. The above evidence does not establish to which armed forces, if any, the alleged perpetrators belonged. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Palanka at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 4, 8, and 9 of the Indictment.

80-year-old woman near Dobrić

1124. The Trial Chamber has received evidence with regard to the alleged ill-treatment of an 80-year-old woman in Dobrić through the testimony of Herman Steenbergen and UNCRO and UNMO reports. **Herman Steenbergen**, an UNMO in Team Gračac from 5 May until 24 October 1995,⁴¹⁰⁸ testified that at 3:30 p.m. on 11 August 1995, at a bus stop on the Gračac-Bruvno road near Dobrić in Gračac municipality, he and his team found an approximately 80-year-old wounded woman with one bullet injury on her right cheek and one on her forehead exposing her skull.⁴¹⁰⁹ The team contacted the Indonesian Medical Company for medical assistance.⁴¹¹⁰ According to UNCRO daily situation reports, on the same day, UNCRO staff evacuated an 80-year-old Serb woman

⁴¹⁰⁷ Laila Malm, T. 8173; P793 (UNCIVPOL incident report, S05-95-170, 20 September 1995).

⁴¹⁰⁸ P516 (Herman Steenbergen, witness statement, 18 July 2007), p. 1, paras 1-5, 7; P517 (Herman Steenbergen, witness statement, 18 September 2007), p. 1, para. 1; P518 (Herman Steenbergen, witness statement, 10 March 1996), p. 1; P519 (Incident report by Steenbergen regarding lost items due to Operation Storm, 21 September 1995), p. 1; Herman Steenbergen, T. 5408, 5442, 5461-5462.

⁴¹⁰⁹ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 53; P517 (Herman Steenbergen, witness statement, 18 September 2007), para. 10; P532 (Photograph of wounded old woman, taken by Steenbergen on 11 August 1995); P533 (Photograph of wounded old woman, taken by Steenbergen on 11 August 1995); P541 (UNMO Team Gračac human rights violations list), p. 1; P542 (Orientation map of the Gračac area regarding UNMO Team Gračac human rights violations list), bus stop marked 6 in blue.

⁴¹¹⁰ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 53.

(Mrs Milanovika) from Gračac to Knin, where she received treatment for bullet wounds to the face and head.⁴¹¹¹

1125. Based on the number of similarities, the Trial Chamber concludes that the UNCRO reports refer to the same incident as described by Steenbergen. The evidence indicates that the woman found near Dobrić sustained serious injuries to her head, caused by gunshots, on or before 11 August 1995. The Trial Chamber has, however, received no evidence about exactly when and under which circumstances she sustained these injuries, nor about who caused them. In the absence of such evidence, the Trial Chamber will not further consider this incident in relation to Counts 1, 8, and 9 of the Indictment.

Woman in Mala Popina

1126. The Trial Chamber has received evidence with regard to the alleged rape of a woman in Mala Popina through the testimonies of Laila Malm and Alexander Tchernetsky, as well as one UNCIVPOL report.

1127. Whilst on patrol in Mala Popina, Gračac municipality, UNCIVPOL, including **Laila Malm**, met a Serb woman who told them that on 26 August 1995, three Croatian soldiers came to her house, threatened her with knives and machine guns, and then all three raped her, telling her afterwards that if she told anyone about the rape she would pay for it.⁴¹¹² The soldiers also assaulted the woman's mother.⁴¹¹³ The woman told Malm that the soldiers were dressed in military uniforms and were from the National Guards.⁴¹¹⁴ The woman had informed the police in Gračac about the incident.⁴¹¹⁵ **Alexander Tchernetsky**, an UNMO in Croatia from 20 June 1995 until December 1995,⁴¹¹⁶ was on patrol through the village of Mala Popina, in Gračac municipality, when he learned from villagers that a woman had been raped by four Croatian soldiers

⁴¹¹¹ P363 (UNCRO Sector South daily situation report, 8:30 p.m., 11 August 1995), p. 3; P364 (UNCRO Sector South daily situation report, 8:30 p.m., 12 August 1995), p. 4.

⁴¹¹² P774 (Laila Malm, witness statement, 30 July 2008, corrected 4 September 2008), para. 15, p. 15; P782 (UNCIVPOL incident report, S05-95-147, 16 September 1995), pp. 1-2.

⁴¹¹³ P774 (Laila Malm, witness statement, 30 July 2008, corrected 4 September 2008), para. 15; P782 (UNCIVPOL incident report, S05-95-147, 16 September 1995), p. 2.

⁴¹¹⁴ P774 (Laila Malm, witness statement, 30 July 2008, corrected 4 September 2008), para. 15, p. 15; P782 (UNCIVPOL incident report, S05-95-147, 16 September 1995), p. 2.

⁴¹¹⁵ Laila Malm, T. 8162; P782 (UNCIVPOL incident report, S05-95-147, 16 September 1995), p. 2.

⁴¹¹⁶ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), pp. 1-2; Alexander Tchernetsky, T. 3204, 3221.

during Operation Storm and that she needed medical assistance.⁴¹¹⁷ The alleged victim of the rape refused to talk about the incident with the witness. The woman refused to go to a hospital, so the witness had a doctor and a nurse come to visit her, and he visited her on later occasions over the course of which he observed that she was “getting better”.⁴¹¹⁸

1128. Based on a number of similarities, the Trial Chamber concludes that the two accounts above refer to the same incident. The evidence indicates that on 26 August 1995 in Mala Popina three armed persons in military uniform raped a Serb woman. The victim also told UNCIVPOL that the men were Croatian and from the National Guards. The victim does not provide further details as to the factual basis for this qualification. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. The Trial Chamber notes in this respect the evidence of Theunens reviewed in chapter 3.1.1, according to which the National Guards Corps existed prior to the establishment of the HV and was replaced by the HV. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrators belonged to. Nor has the Trial Chamber received sufficient evidence about which armed forces, if any, were present in Mala Popina at the time. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Accordingly, the Trial Chamber will not further consider this incident in relation to Counts 1, 8, and 9 of the Indictment.

4.3.8 Kistanje municipality

Marko and Ilija Grulović

1129. With regard to the alleged ill-treatment of Marko and Ilija Grulović, the Trial Chamber has received documentary evidence in the form of UNCIVPOL reports. According to a UNCIVPOL incident report, dated 31 August 1995, Marko and Ilija Grulović from Grulovići hamlet, Kistanje town, who were 74 and 71 years old, respectively, in August 1995, told UNCIVPOL, including Laila Malm, that three Croatian soldiers had come to their house on 13 August 1995. They further told UNCIVPOL that they had both been beaten by one of the soldiers called “Stipe” who

⁴¹¹⁷ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 4; P205 (Alexander Tchernetsky, witness statement, 6 December 2007), para. 4; P211 (UNMO team leader map), grid reference WJ 8498.

⁴¹¹⁸ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 4.

also broke Marko Grulović's wheelchair. The soldier stopped the beating after one of the other two soldiers told him to do so.⁴¹¹⁹ The same information was included in a UNCIVPOL weekly report, dated 3 September 1995, with the addition that the soldiers were referred to as "HV soldiers" and that Marko and Ilija Grulović were described as a "Serbian couple".⁴¹²⁰

1130. The evidence indicates that Marko and Ilija Grulović were beaten by a person referred to as a soldier, in Kistanje on 13 August 1995. The victims were 74 and 71 years old, respectively and Marko Grulović used a wheelchair. The victims reported to UNCIVPOL that the perpetrator was a Croatian soldier. A UNCIVPOL weekly report refers to the perpetrator as an HV soldier but this report appears only to be based on the content of many incident reports including the one dated 31 August 1995. Based on the victims' qualification of the alleged perpetrator as a Croatian soldier, the Trial Chamber is satisfied that the person wore a military-type uniform. The victims did not provide further details as to the factual basis for this qualification. Consequently, the Trial Chamber cannot assess whether the qualification was made on a proper factual basis. The Trial Chamber has received no other reliable evidence about which armed forces, if any, the alleged perpetrator belonged to. The Trial Chamber is therefore unable to draw any conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 8, and 9 of the Indictment.

Nikola Bezbradica

1131. With regard to the alleged beating of Nikola Bezbradica, the Trial Chamber has received documentary evidence. According to a UNCIVPOL incident report, on 31 August 1995, Laila Malm visited the hamlet of Bezbradica, Kistanje town, and met Nikola Bezbradica, a Serb born in 1938, who informed her that a few days before some soldiers had come to his house and beaten him.⁴¹²¹

1132. The evidence indicates that a few days before 31 August 1995, in Bezbradica, persons referred to as soldiers beat Nikola Bezbradica, a Serb. The persons' conduct and

⁴¹¹⁹ P788 (UNCIVPOL incident report, S05-95-, 31 August 1995).

⁴¹²⁰ P241 (UNCIVPOL weekly report 27 August-3 September 1995, 3 September 1995), p. 6.

⁴¹²¹ P786 (UNCIVPOL incident report, S05-95-, 31 August 1995); P787 (UN patrol report, 31 August 1995).

the circumstances of their threatening behaviour are described with insufficient specificity for the Trial Chamber to assess the seriousness of the conduct's effect on the victim. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 8, and 9 of the Indictment.

4.3.9 Knin municipality

Dušan, Djuka, and Milica Drpa

1133. The Trial Chamber has received evidence with regard to the alleged ill-treatment of Dušan and Milica Drpa primarily through the testimony of Mira Grubor and a UNCIVPOL report. **Mira Grubor**, a Serb who was working as a laboratory assistant in a hospital in Knin on and before 4 August 1995,⁴¹²² testified that some days after the 4 and 5 August offensive another Serb, Dušan Drpa, who lived in Knin told her that he had tried to obtain a certificate of citizenship, and had managed to do so, and that he was subsequently beaten by two Croatian soldiers at his house.⁴¹²³ According to the witness, he had bruises on his face and elsewhere on his body.⁴¹²⁴

1134. According to a UNCIVPOL report dated 23 August 1995, a Serb woman by the name of Djuka Drpa (born 1959) told UNCIVPOL that on 5 August 1995 she came to the UN compound along with Dušan Drpa (56 years) and her mother Milica Drpa (83 years), and one week later they returned to their house. According to the report, Djuka Drpa told UNCIVPOL that on 22 August 1995, at approximately 3 p.m., three Croatian soldiers dressed in camouflage uniform came to Dušan Drpa's house, beat him, and told him to leave the house. The soldiers then went to Djuka Drpa's house and told her and her mother Milica Drpa that they would kill them and burn their house if they did not leave. One of the soldiers then beat Milica Drpa twice with a stick and warned that they would return to the house to see if they were still there. The report records that the individuals involved were willing to return back to the UN compound and go to Serbia.⁴¹²⁵ **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,⁴¹²⁶ confirmed that the UNCIVPOL report accurately reflected what she was told and what

⁴¹²² P54 (Mira Grubor, witness statement, 3 April 1998), pp. 1-2.

⁴¹²³ P54 (Mira Grubor, witness statement, 3 April 1998), p. 5; Mira Grubor, T. 1477-1478.

⁴¹²⁴ P54 (Mira Grubor, witness statement, 3 April 1998), p. 5.

⁴¹²⁵ P12 (UNCIVPOL incident report, 23 August 1995).

⁴¹²⁶ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

she observed when working with the relevant UNCIVPOL team.⁴¹²⁷ Witness 136 testified that a couple of weeks after having taken shelter in the UN compound, a number of refugees attempted to return home. Among them were four villagers from Drpa in Knin municipality, Djurdjica Matković, Milka Drpa (85 years), Dušan Drpa (about 56 years) and Aćim Čolović. The witness stated that Aćim Čolović returned to the UN compound a few days later as HV soldiers had beaten him and destroyed his ID card issued by Ivan Čermak. Djurdjica Matković, Milka Drpa and Dušan Drpa returned on 23 August 1995. According to the witness, both Milka Drpa and Dušan Drpa had been beaten up, and Dušan Drpa had a bloody mark on his face.⁴¹²⁸

1135. In addition to the evidence above, the Trial Chamber has considered evidence of Søren Liborius reviewed in chapter 6.4.7 in relation to this incident.

1136. Based on the evidence, the Trial Chamber finds that in the middle of August 1995 two or three persons in camouflage uniforms and referred to as Croatian and HV soldiers threatened and beat Dušan Drpa (56 years old) in Knin. As a result, Dušan Drpa had bruises on his face and elsewhere on his body. The evidence further indicates that these same perpetrators then came to Djuka Drpa's house where they threatened her and her mother Milica Drpa (83 years old) with death should they refuse to leave their home. Additionally, the evidence indicates that Milica was hit twice with a stick by one of the soldiers. The Trial Chamber finds that Dušan, Djuka, and Milica Drpa were of Serb ethnicity. The evidence referred to above does not provide further details as to the factual basis for the qualification of the persons as Croatian or HV. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. However, in this respect the Trial Chamber recalls the evidence underlying its findings in chapter 4.2.9 (Knin town) with regard to alleged destruction and plunder in Knin town. Based on the foregoing, the Trial Chamber finds that the persons were members of HV or VP. The Trial Chamber will further consider this incident in relation to Counts 1, 8, and 9 of the Indictment, in chapters 5.7.2 and 5.8.2 (c) below.

⁴¹²⁷ P3 (Witness 136, witness statement, 11 June 2007), para. 26.

⁴¹²⁸ P2 (Witness 136, witness statement, 4 July 1996), p. 14.

Ilija Mirković

1137. The Trial Chamber has received evidence with regard to the alleged unlawful detention and ill-treatment of Ilija Mirković through the testimony of Mirković himself, a Serb from Kninsko Polje in or near the town of Knin.⁴¹²⁹ He stated that on 7 August 1995 two soldiers passed by the witness's house.⁴¹³⁰ They swore at the witness and escorted him at gunpoint to the building of the elementary school about 100 metres from his house.⁴¹³¹ The witness was beaten by the soldiers, lost consciousness, and woke up in a small room in the school building around 1 p.m. without his wristwatch and belt.⁴¹³² He felt pain on his head and a big bump. There were three other Serbs in the room. Men wearing uniforms often entered the room and told the witness and the others to lie on the floor and not to look up while they walked on their bodies.⁴¹³³ After four days, 30-40 Serbs, civilians and military, were brought to the room, which became overcrowded. The following day in the afternoon the witness and the others were put in a bus to Zadar. They were tied in pairs and ordered to put their heads on their arms and not to look up.⁴¹³⁴ During the two-hour trip, they were constantly beaten with batons on their heads, forced to sing Croatian songs, and, when they stepped out of the bus in Zadar, ordered to kiss the ground.⁴¹³⁵ The witness was held in a basketball hall in Zadar until approximately 29 August 1995. All the detainees were interviewed about, amongst other things, involvement in war activity.⁴¹³⁶ When he returned to Knin, the witness found his house ransacked.⁴¹³⁷

1138. The Trial Chamber finds that the events set out by the witness took place in the way he described, including that on 7 August 1995, two persons referred to by him as soldiers, swore at him and escorted him at gunpoint to the elementary school building in Knin where they beat him unconscious. Men wearing uniforms often entered the room and told the witness and the three other Serbs in the room to lie on the floor and not look up while the soldiers walked on their bodies. After four days, 30 to 40 Serbs, both

⁴¹²⁹ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, p. 1, para. 1.

⁴¹³⁰ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, paras 7-9.

⁴¹³¹ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 9; P636 (Ilija Mirković, witness statements), 9 September 2003 witness statement, para. 7.

⁴¹³² P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 10.

⁴¹³³ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 10; P636 (Ilija Mirković, witness statements), 9 September 2003 witness statement, para. 8.

⁴¹³⁴ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 11.

⁴¹³⁵ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, paras 11-12.

⁴¹³⁶ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 12.

⁴¹³⁷ P636 (Ilija Mirković, witness statements), 3 September 2003 witness statement, para. 13.

civilians and military, were brought to Mirković's room and the following day they were all taken to Zadar. During the bus trip, they were tied in pairs and they were ordered to kiss the ground when they reached Zadar. The witness and the others on the bus were constantly beaten over the head with batons and forced to sing Croatian songs during the two-hour bus ride to Zadar. While the witness was held in Zadar, until approximately 29 August 1995, he was interviewed about his involvement in war activity. Based on the witness's description of the alleged perpetrators as soldiers, the Trial Chamber is satisfied that they wore military-type uniforms. The Trial Chamber recalls the evidence underlying its findings in chapter 4.2.9 (Knin town) with regard to alleged destruction and plunder in Knin town. Based on the foregoing, the Trial Chamber finds that the persons were members of HV or VP. With regard to the witness being kept at the Knin school building, the Trial Chamber recalls its finding in chapter 4.5.5. The Trial Chamber will further consider this incident in relation to Counts 1, 8, and 9 of the Indictment, in chapters 5.7.2 and 5.8.2 (c) below.

Unidentified man in Knin

1139. With regard to the alleged ill-treatment of an unidentified man in Knin, the Trial Chamber has primarily received documentary evidence. According to a UNCIVPOL report, dated 13 August 1995, a man told UNCIVPOL that on 4 August 1995 ("Friday during the shelling") he came to the UN compound for protection. On 12 August 1995, the man left the compound and went to the Croatian police to apply for a Croatian passport. After that, the man went to his accommodation in the centre of Knin. After a short while, four armed soldiers came to his home. They threatened him, beat him, destroyed things in the apartment, and stole some of his belongings. After the soldiers left, the man made it back to the UN compound.⁴¹³⁸

1140. On 14 August 1995, HRAT reported that it interviewed a 62-year-old man who on 10 August 1995 left the UN compound for Knin school, then returned home on 13 August 1995, where he was threatened and beaten by HV soldiers, after which he returned to the UN compound.⁴¹³⁹ HRAT further reported that Croatian authorities later apologized for the incident, and said that they could not control all the members of the

⁴¹³⁸ P222 (UNCIVPOL incident report, 13 August 1995).

⁴¹³⁹ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 13; P42 (HRAT daily report, 14 August 1995), p. 1.

army, but that they would be withdrawn from Knin in a couple of days, save for soldiers in the barracks who would need special passes to enter the city.⁴¹⁴⁰

1141. Based on the evidence, the Trial Chamber finds that a 62-year-old man left the UN compound and returned to his accommodation in Knin on 12 or 13 August 1995 where he was beaten by four armed persons referred to as HV soldiers while his apartment was ransacked. The persons destroyed things in the apartment and stole some of his belongings, although the evidence does not specify what was stolen and destroyed. The description of these persons as soldiers satisfies the Trial Chamber that they wore military-type uniforms. The documentary evidence referred to above does not provide further details as to the factual basis for the qualification of the persons as HV soldiers. Consequently, the Trial Chamber cannot assess whether this qualification was made on a proper factual basis. However, in this respect the Trial Chamber recalls the evidence underlying its findings in chapter 4.2.9 (Knin town) with regard to alleged destruction and plunder in Knin town. Based on the foregoing, the Trial Chamber finds that the persons were members of HV or VP. The Trial Chamber has received no evidence with regard to the ethnicity of the unidentified man. The Trial Chamber will further consider this incident in relation to Counts 1, 4, 5, 8, and 9 of the Indictment, in chapters 5.5.2, 5.6.2, 5.7.2, 5.8.2 (d), (f), and (g) below.

Predrag Šare

1142. The Trial Chamber has received evidence with regard to the alleged ill-treatment of Predrag Šare primarily through the testimonies of Alun Roberts, John Hill, and Alain Forand.

1143. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,⁴¹⁴¹ testified that the UN interpreter Predrag Šare had confessed to the UN in late 1994 that he was an SVK spy, though he claimed that he had been pressured into it, about which Roberts expressed doubts.⁴¹⁴²

⁴¹⁴⁰ P21 (Edward Flynn, witness statement, 26-27 February 2008), para. 13; P42 (HRAT daily report, 14 August 1995), p. 1.

⁴¹⁴¹ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

⁴¹⁴² Alun Roberts, T. 7038-7039, 7042-7043; D704 (Letter of the Security Department of the SVK's General Staff, 14 December 1994); D705 (Letter of the Security Department of the SVK's General Staff,

On visits to Knin on 8 August 1995, Serb interpreters reported to Roberts that they had been intimidated.⁴¹⁴³ Roberts testified that on 8 August 1995, he visited Knin with a Civil Affairs Officer and Šare to see the condition of their apartments, and had stopped at Šare's apartment, which had been ransacked.⁴¹⁴⁴ While Šare was inside the apartment and as Roberts and the Civil Affairs Officer were leaving Šare's apartment block, Croatian soldiers approached Roberts and the Civil Affairs Officer and challenged them in a threatening manner, asking them why they were there.⁴¹⁴⁵ The soldiers then entered the building, with Roberts and the Civil Affairs Officer following them, and the soldiers located Šare's apartment and confirmed his identity by looking at his UN ID card.⁴¹⁴⁶ Roberts observed that the soldiers immediately began hitting and slapping Šare several times hard in the face, pushing and punching him, pointing a rifle at him, and threatening to use it.⁴¹⁴⁷ As Roberts and the Civil Affairs Officer attempted to escort Šare out of the apartment via the stairs, Šare was punched in the back and threatened.⁴¹⁴⁸ The soldiers demanded that Šare be handed over by Roberts and the Civil Affairs Officer, who refused, and took Šare with them as they entered a UN vehicle outside the building.⁴¹⁴⁹ When they attempted to drive away, one soldier shot in the air over the vehicle and then shot the right front tire.⁴¹⁵⁰ More soldiers appeared and they

24 November 1994); D706 (Letter of the Security Department of the SVK's General Staff, 20 November 1994).

⁴¹⁴³ P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), para. 8.

⁴¹⁴⁴ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; Alun Roberts, T. 7050-7051; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), para. 8.

⁴¹⁴⁵ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; Alun Roberts, T. 7050-7051; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), introduction, para. 9.

⁴¹⁴⁶ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; Alun Roberts, T. 7050; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), introduction, para. 9.

⁴¹⁴⁷ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), introduction, para. 9.

⁴¹⁴⁸ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), introduction, para. 10.

⁴¹⁴⁹ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), introduction, para. 11.

⁴¹⁵⁰ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), paras 11-12.

rocked the vehicle and hit the passenger side window.⁴¹⁵¹ One soldier re-entered the interpreter's apartment and emerged with a paper with an SVK stamp and Šare's name on it and accused Šare of having committed war crimes; another soldier threatened Šare with a knife, and a third threatened that if Šare was not handed over, he would kill Šare.⁴¹⁵² When Croatian police arrived at the scene, the situation cooled down, although it became tense again when military police arrived and demanded that Šare be handed over.⁴¹⁵³ A Croatian liaison officer arrived, stating that the UN should not have been in Knin with any Serb men.⁴¹⁵⁴ The situation was eventually solved when a senior Croatian officer arrived, after which Šare was shielded by UN personnel and led to a UN military vehicle.⁴¹⁵⁵

1144. **John Hill**, Commanding Officer of the International Military Police in Sector South from early June 1995 to 8 December 1995,⁴¹⁵⁶ testified that on the evening of 8 August 1995, he went to Knin to check on a reported incident.⁴¹⁵⁷ He found approximately 30 Croat soldiers and military policemen surrounding a UN vehicle with a flat tire, in which a Serb interpreter for the UN was sitting.⁴¹⁵⁸ Hill stated that the interpreter had gone back to his house in Knin to pick up his belongings, but then Croatian soldiers discovered that he was a Serb, and as he was trying to drive away, they shot one front tire of the vehicle he was in.⁴¹⁵⁹ Hill talked to one of the soldiers who was introduced to him, through another interpreter, as the commander of the 4th

⁴¹⁵¹ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), para. 12.

⁴¹⁵² P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), para. 13.

⁴¹⁵³ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), para. 14.

⁴¹⁵⁴ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), para. 15.

⁴¹⁵⁵ P677 (Alun Roberts, witness statement, 28 February 2007), p. 7; P680 (Alun Roberts, witness statement, 1 July 2008), para. 6; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), paras 16-17.

⁴¹⁵⁶ P291 (John Hill, witness statement, 23 August 1996), p. 2; P292 (John Hill, witness statement, 21 January 1998), pp. 3, 93; P293 (John Hill, witness statement, 2 November 1999), p. 3.

⁴¹⁵⁷ P292 (John Hill, witness statement, 21 January 1998), p. 38; John Hill, T. 3766; D274 (John Hill's diary, entries from 5-13 August 1995), pp. 3-4.

⁴¹⁵⁸ P292 (John Hill, witness statement, 21 January 1998), p. 38; John Hill, T. 3766; D274 (John Hill's diary, entries from 5-13 August 1995), p. 4.

⁴¹⁵⁹ P292 (John Hill, witness statement, 21 January 1998), p. 38; John Hill, T. 3767; D274 (John Hill's diary, entries from 5-13 August 1995), p. 4.

Brigade.⁴¹⁶⁰ Hill later found out that he was the commander of the brigade “occupying” Knin.⁴¹⁶¹ Hill stated that the commander told him that the interpreter was putting the stuff from his house in a car, that he was a “Chetnik”, and that he was going to kill him.⁴¹⁶² He presented an SVK document to Hill stating that the man had been a member of the SVK for about a year.⁴¹⁶³ After a tense stand-off, the commander agreed to allow the interpreter to go back into the UN compound.⁴¹⁶⁴ Hill testified that because there was a helipad at the UN compound, the commander was concerned that Serbs like the interpreter would be allowed to leave the compound and he threatened to shoot down any helicopter leaving the UN compound.⁴¹⁶⁵ The Croat commander also told Hill that any Serbs from the ages of 19-60 leaving the camp would be shot.⁴¹⁶⁶ Hill and the Croat commander then agreed that the Croats could verify the helicopters leaving the UN compound.⁴¹⁶⁷

1145. **Alain Forand**, UNCRO Sector South Commander from 8 July 1995 to 10 October 1995,⁴¹⁶⁸ reported that around 8 p.m. on 8 August 1995, a local Serb interpreter who was employed by the UN was slapped around and accused of being an SVK soldier and a war criminal by Croatian civilian police when he went to pick up his personal belongings from his apartment in Knin.⁴¹⁶⁹

1146. The Trial Chamber finds that at approximately 8 p.m. on 8 August 1995, in Knin, persons referred to as soldiers entered the ransacked apartment of Predrag Šare, a Serb UNCRO interpreter, hit him hard in the face several times, pushed and punched him, pointed a rifle at him, and threatened to kill him. At the time, Šare was in Knin to visit his apartment and take his belongings. As Šare attempted to leave the apartment with Alun Roberts and a Civil Affairs Officer, he was punched in the back and threatened. Roberts and the Civil Affairs Officer refused to hand Šare over, entered a UN vehicle outside the building and attempted to drive away with him. The persons referred to as

⁴¹⁶⁰ P292 (John Hill, witness statement, 21 January 1998), pp. 38-39, 48-49; John Hill, T. 3766, 3868.

⁴¹⁶¹ P292 (John Hill, witness statement, 21 January 1998), p. 39.

⁴¹⁶² P292 (John Hill, witness statement, 21 January 1998), pp. 39-40; John Hill, T. 3767; D274 (John Hill’s diary, entries from 5-13 August 1995), p. 4.

⁴¹⁶³ P292 (John Hill, witness statement, 21 January 1998), p. 39; John Hill, T. 3766-3767; D274 (John Hill’s diary, entries from 5-13 August 1995), p. 4.

⁴¹⁶⁴ P292 (John Hill, witness statement, 21 January 1998), p. 39; John Hill, T. 3767.

⁴¹⁶⁵ P292 (John Hill, witness statement, 21 January 1998), pp. 39-40.

⁴¹⁶⁶ P292 (John Hill, witness statement, 21 January 1998), p. 40.

⁴¹⁶⁷ P292 (John Hill, witness statement, 21 January 1998), pp. 39-40.

⁴¹⁶⁸ P330 (Alain Forand, witness statement, 20 August 1996), pp. 2, 15; P333 (Alain Forand, witness statement, 25 January 2008), para. 2; Alain Forand, T. 4098-4099, 4180, 4186.

⁴¹⁶⁹ P360 (UNCRO Sector South update situation report, 7:30 a.m., 9 August 1995), p. 1.

soldiers fired over the vehicle and then shot the right front tire of the vehicle. They also rocked the vehicle and hit the passenger side window; threatened Šare with a knife; and threatened to kill him if he was not handed over. One of the persons referred to as soldiers retrieved a document with an SVK stamp and Šare's name on it from Šare's apartment. In late 1994, Šare had confessed to Roberts to being an SVK spy. The commander of the "4th Brigade" was present at the scene and told John Hill that the interpreter was a "Chetnik" and that he had had been a member of the SVK; that he was going to kill the interpreter; and that any Serbs aged 19-60 who left the UN compound would be shot. The VP arrived at the scene and asked for Predrag Šare to be handed over. One of the persons referred to as soldiers told Roberts that all male Serbs had to be questioned in relation to war crimes. Considering the presence of the commander of the "4th Brigade" and that this commander communicated and reached an agreement with John Hill after which Predrag Šare was allowed to return to the UN compound, and in light of the evidence underlying its findings in chapter 4.2.9 (Knin town), the Trial Chamber finds that the persons who beat and threatened Predrag Šare were members of the 4th Guards Brigade. The Trial Chamber will further consider this incident in relation to Counts 1, 8, and 9 of the Indictment, in chapters 5.7.2 and 5.8.2 (c) below.

Villagers in Golubić

1147. With regard to alleged ill-treatment of villagers in Golubić, the Trial Chamber has primarily received documentary evidence. On 29 August 1995, an HRAT from Knin visited the Golubić area in Knin municipality where the local residents complained to them that on that day soldiers had been terrorizing and threatening them, and shooting guns.⁴¹⁷⁰ The HRAT saw many soldiers in the area and was told by a sergeant of one group of soldiers that his superior was in Knin.⁴¹⁷¹ On 21 September 1995, in the same village an UNMO team observed harassment of civilian Serbs by people in HV uniforms, driving a vehicle with HV registration plates.⁴¹⁷²

1148. The Trial Chamber has received evidence concerning two incidents of alleged threatening and harassment in Golubić. The evidence indicates that on 29 August 1995 armed persons referred to as soldiers threatened local residents in Golubić. The

⁴¹⁷⁰ D631 (HRAT daily report, 29 August 1995), p. 2.

⁴¹⁷¹ D631 (HRAT daily report, 29 August 1995), p. 2.

⁴¹⁷² P68 (Summary of UNMO Sector South situation reports from 7 August to 22 November 1995), p. 42.

evidence further indicates that on 21 September 1995, persons in HV uniforms, driving vehicles with HV registration plates, harassed civilian Serbs in Golubić. With regard to both incidents, the persons' conduct and the circumstances of their threatening behaviour are described with insufficient specificity for the Trial Chamber to assess the seriousness of the conduct's effect on the victims. Under these circumstances, the Trial Chamber will not further consider these two incidents in relation to Counts 1, 8, and 9 of the Indictment.

Slavica Borović

1149. With regard to the alleged ill-treatment of Slavica Borović in Knin, the Trial Chamber has received various documentary evidence. On 8 September 1995, Slavica Borović reported to the Knin Criminal police that, on 6 September 1995, around 6:30 p.m., she was raped by two men in a house owned by Ljubiša Starčević at Dinka Šimunovića Street no. 2, in Knin. These two persons stopped her on the street, threatened her with a pistol and then took her to the first floor of the house and ordered her to undress and lie down.⁴¹⁷³ After the victim was raped by the men, one of the perpetrators took her to a living container in Gajnjača in Knin and raped her again.⁴¹⁷⁴ The victim identified one perpetrator as Kristijan, the owner of the café across the street from where she was raped and indicated the he wore denim trousers and a short sleeved camouflage shirt with HV insignia, and the second perpetrator was described as wearing denim trousers and a grey t-shirt.⁴¹⁷⁵ On 9 September 1995, Kristijan Nakić, a Croat, was taken into custody, and a special criminal report was filed indicating the crime police had reasonable grounds to suspect Kristijan Nakić and Saša Barišić of having

⁴¹⁷³ D1730 (Memo on receiving the criminal complaint by Slavica Borović by the 1st Police Station Knin, Crime Police Section, Zadar-Knin Police Administration, compiled by officer Tonči Sužberić, 8 September 1995), p. 1; D1731 (Special report by Ive Kardum as an addendum to the criminal report against Kristijan Nakić suspected of rape of Slavica Borović), p. 2.

⁴¹⁷⁴ D1730 (Memo on receiving the criminal complaint by Slavica Borović by the 1st Police Station Knin, Crime Police Section, Zadar-Knin Police Administration, compiled by officer Tonči Sužberić, 8 September 1995), p. 1.

⁴¹⁷⁵ D1730 (Memo on receiving the criminal complaint by Slavica Borović by the 1st Police Station Knin, Crime Police Section, Zadar-Knin Police Administration, compiled by officer Tonči Sužberić, 8 September 1995), p. 2.

raped Slavic Borović.⁴¹⁷⁶ The pistol used to threaten the victim was found on Nakić and confiscated.⁴¹⁷⁷

1150. On 7 September 1995, a member of the local ICRC staff reported to an ICRC nurse in Knin concerning the rape of Slavica Borović on the previous day. While walking home at around 6:30 p.m., the victim was stopped and ordered to enter a house by a drunken man carrying a weapon and wearing a blue jacket with HV insignia on the left sleeve and blue trousers. The man raped Borović while repeatedly telling the victim he was not raping her, he was taking revenge. After the first man left the room another man entered and raped the victim. The first man then re-entered the room intending to rape Borović again but the second man intervened and the victim was released. The incident lasted about thirty minutes.⁴¹⁷⁸

1151. The evidence indicates that in Knin, at around 6:30 p.m. on 6 September 1995, two persons repeatedly raped Slavica Borović. The Trial Chamber notes the discrepancies between the ICRC report on the one hand and the report and memo of the Croatian police, however, considering the similarities, the Trial Chamber is satisfied that both refer to the same incident. Borović identified one of the perpetrators as Kristijan Nakić, and a special criminal report indicated that the police had reasonable grounds to suspect Nakić and Saša Barišić. Although the Trial Chamber received no evidence as to the final outcome of the investigations regarding Nakić and Barišić, considering the victim identified Nakić by name and that the pistol used during the incident was found on Nakić, the evidence indicates that Nakić was one of the perpetrators. The evidence does not indicate on what basis Barišić was considered a suspect. The Trial Chamber notes that Borović identified an HV insignia on the camouflage shirt of Nakić. However, considering that the crime was processed in a civilian court, that Nakić was an owner of a café and living in Knin, and that he was described as wearing only half a military uniform, the Trial Chamber cannot conclude that Nakić was a member of Croatian military forces. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 8, and 9 of the Indictment.

⁴¹⁷⁶ D1731 (Special report by Ive Kardum as an addendum to the criminal report against Kristijan Nakić suspected of rape of Slavica Borović), pp. 1-3.

⁴¹⁷⁷ D1731 (Special report by Ive Kardum as an addendum to the criminal report against Kristijan Nakić suspected of rape of Slavica Borović), p. 3

4.3.10 Lišane Ostrovičke municipality

1152. The Trial Chamber has received insufficient or no relevant evidence with regard to alleged inhumane acts and cruel treatment in Lišane Ostrovičke municipality.

4.3.11 Lisičić municipality

1153. The Trial Chamber has received insufficient or no relevant evidence with regard to alleged inhumane acts and cruel treatment in Lisičić municipality.

4.3.12 Nadvoda municipality

1154. The Trial Chamber has received insufficient or no relevant evidence with regard to alleged inhumane acts and cruel treatment in Nadvoda municipality.

4.3.13 Obrovac municipality

1155. The Trial Chamber has received insufficient or no relevant evidence with regard to alleged inhumane acts and cruel treatment in Obrovac municipality.

4.3.14 Oklaj municipality

1156. The Trial Chamber has received insufficient or no relevant evidence with regard to alleged inhumane acts and cruel treatment in Oklaj municipality.

4.3.15 Orlić municipality

Đurdija Amanović in Vrbnik

1157. The Trial Chamber has received evidence with regard to the alleged ill-treatment of Đurdija Amanović through the testimony of **Vesela Damjanić**, a Serb from Vrbnik in Orlić municipality.⁴¹⁷⁸ She stated that around 16 August 1995, she heard the screams of Đurdija Amanović, who lived in the neighbourhood on the other side of the road from

⁴¹⁷⁸ D1729 (Letter from Carmen Burger to Čermak as a follow-up to meeting, 18 September 1995), p. 2.

⁴¹⁷⁹ P632 (Vesela Damjanić, witness statements), pp. 1-2 (witness statement of 8 July 1999), 7 (witness statement of 13 October 2004).

the witness. Amanović was elderly and had difficulty moving. The witness approached Amanović's house, and saw three soldiers in green camouflage uniforms shouting at Amanović and arguing about whether they should set her on fire. After the soldiers left, the witness found Amanović in her bedroom, and saw that the floor of the bedroom had burned, as had Amanović's skirt. Amanović told the witness that the soldiers had tried to burn her and had accused her sons of being "Chetniks". Around 17 August 1995, the same soldiers came to the house of Đurdija Amanović again and took away some of her firewood in the presence of the witness. The soldiers also took Amanović's television and parquet floor. The soldiers then left in a big green military truck with a soft covered back in the direction of Drniš.⁴¹⁸⁰

1158. Based on the evidence received, the Trial Chamber finds that around 16 August 1995, three persons threatened and tried to burn Đurdija Amanović from Vrbnik. The Trial Chamber also finds that around 17 August 1995, the same persons took some firewood, a television, and the parquet floor from Amanović's house. Considering that the persons accused Amanović's sons of being "Chetniks" and that, according to the 1991 Population Census, 1309 out of 1332 persons in Vrbnik were Serbs, the Trial Chamber finds that Đurdija Amanović was Serb. Considering in particular the persons' use of the term "Chetniks", that they wore green camouflage uniforms, and drove a big green military truck the Trial Chamber finds that they were members of Croatian military forces or Special Police. The Trial Chamber will further consider this incident in relation to Counts 1, 4, 8, and 9 of the Indictment in chapters 5.6.2, 5.7.2 and 5.8.2 (c) below.

Draginja Urukalo and Dušan Urukalo in Biskupija

1159. The Trial Chamber has received evidence with regard to the alleged ill-treatment of Draginja Urukalo through the testimony of **Draginja Urukalo**, a Serb from Urukali hamlet in Biskupija village in Orlić municipality, who was 73 years old in 1995.⁴¹⁸¹ She testified that one Saturday or Sunday after the beginning of August 1995, Croatian soldiers came to her village and began shooting and entering homes.⁴¹⁸² Urukalo was

⁴¹⁸⁰ P632 (Vesela Damjanić, witness statements), p. 5 (witness statement of 8 July 1999).

⁴¹⁸¹ P964 (Draginja Urukalo, witness statement, 3 September 2003), p. 1, paras 1-2; Draginja Urukalo, T. 10088.

⁴¹⁸² P964 (Draginja Urukalo, witness statement, 3 September 2003), paras 2-4; Draginja Urukalo, T. 10090-10091.

outside her home when a group of soldiers arrived at her house.⁴¹⁸³ The soldiers referred to Urukalo as a “Chetnik whore”, smashed some of her belongings, and fired shots at her house.⁴¹⁸⁴ Then the soldiers forced her to strip down to her underwear and play basketball with a naked elderly neighbour, Dušan Urukalo, in the yard behind her home.⁴¹⁸⁵ Eventually, the soldiers told her that she could get dressed, and she went inside to clothe herself. The soldiers then left, and the witness estimated that they could not have made it more than half way through her village by the time her grandson, Joško Šiklić, arrived at her home in his military vehicle.⁴¹⁸⁶ Joško Šiklić was the son of Urukalo’s daughter Slavic, who married a Croat, Dane Šiklić. Joško told Urukalo that he belonged to the 1st Brigade. Urukalo was in tears and still undressed when her grandson arrived. He asked Urukalo to tell him who had forced her to strip, but she did not disclose the names of the soldiers to her grandson, nor did she ask him to go after the soldiers, because she was afraid that they would kill her grandson.⁴¹⁸⁷ According to a statement taken from her grandson, with which the witness was confronted in court, Urukalo never told her grandson about any mistreatment by soldiers.⁴¹⁸⁸

1160. In relation to this incident, the Trial Chamber considers Draginja Urukalo’s testimony credible despite the contradictory claims in Joško Šiklić’s statement. The evidence indicates that around 5 or 6 August or 12 or 13 August 1995 in Biskupija, an unknown number of persons fired shots at the house of Draginja Urukalo, a 73-year-old Serb, and then forced her to strip down to her underwear and play basketball with a naked elderly neighbour named Dušan Urukalo. Based on the witness’s description of the persons as soldiers, the Trial Chamber is satisfied that the persons wore military-type uniforms. Further considering that they referred to the victim as a “Chetnik” indicates that they were Croatian. However, the above evidence does not establish to which armed forces, if any, the alleged perpetrators belonged. The Trial Chamber has not received sufficient evidence about which armed forces, if any, were present in or in the vicinity of Biskupija at the time. The Trial Chamber is therefore unable to draw any

⁴¹⁸³ P964 (Draginja Urukalo, witness statement, 3 September 2003), para. 4; Draginja Urukalo, T. 10091-10092.

⁴¹⁸⁴ P964 (Draginja Urukalo, witness statement, 3 September 2003), para. 4; Draginja Urukalo, T. 10091.

⁴¹⁸⁵ P964 (Draginja Urukalo, witness statement, 3 September 2003), paras 5-6; Draginja Urukalo, T. 10092; P965 (Photographs of the basketball court in Draginja Urukalo’s yard).

⁴¹⁸⁶ P964 (Draginja Urukalo, witness statement, 3 September 2003), para. 6; Draginja Urukalo, T. 10093-10094.

⁴¹⁸⁷ P964 (Draginja Urukalo, witness statement, 3 September 2003), paras 6-7; Draginja Urukalo, T. 10094.

⁴¹⁸⁸ See Draginja Urukalo, T. 10100-10102.

conclusions regarding the identity or affiliation of the alleged perpetrators. Under these circumstances, the Trial Chamber will not further consider this incident in relation to Counts 1, 8, and 9 of the Indictment.

4.4 Unlawful attacks on civilians and civilian objects

4.4.1 Overview of the charges

1161. The Indictment charges the Accused with unlawful attacks on civilians and civilian objects as underlying acts of the crime against humanity of persecution, from at least July 1995 to about 30 September 1995, in the Indictment municipalities. The evidence received by the Trial Chamber has been focused on a number of towns, with the overwhelming majority of evidence dealing with Knin during the first days of Operation Storm.

1162. The Trial Chamber has received evidence with regard to artillery projectiles impacting on or nearby Kistanje, Kaštel Žegarski in Nadvoda municipality, and Polača and hamlets in the Plavno Valley, both in Knin municipality, on 4 and 5 August 1995. The Trial Chamber has reviewed some of this evidence in chapter 4.5.3 (Kistanje and Knin municipalities). The evidence is insufficient for the Trial Chamber to determine the number of projectiles fired at these towns or, with only a few exceptions, to determine the times and locations of impacts of the projectiles. Moreover, the evidence insufficiently establishes whether there was an SVK presence in these towns or whether there were other objects offering a definite military advantage if fired at. The towns are not mentioned in the HV's artillery orders by Gotovina, Rajčić, Firšt, or Fuzul. The artillery reports which the Trial Chamber has received in evidence do not provide further details as to what the HV fired at in or nearby these towns. Under these circumstances, the Trial Chamber cannot determine what the forces firing artillery projectiles which impacted on or nearby the aforementioned towns targeted. The Trial Chamber does not consider an unlawful attack on civilians or civilian objects in these towns to be the only reasonable interpretation of the evidence. Instead, the Trial Chamber considers that the evidence allows for the reasonable interpretation that the forces who fired artillery projectiles which impacted on or nearby these towns were deliberately targeting military targets. Under these circumstances, the Trial Chamber will not further consider these incidents in relation to Count 1 of the Indictment.

4.4.2 General considerations

1163. The Trial Chamber has received expert evidence regarding the different types of artillery weapons and the use of artillery during military operations from **Harry**

Konings, a Luitenant Colonel in the Royal Netherlands army and an expert in the use of artillery in military operations,⁴¹⁸⁹ and **Geoffrey Corn**, an expert on the practical application of the laws of war in military operations.⁴¹⁹⁰

1164. **Konings** testified about the properties of the different types of artillery weapons, including with regard to their ranges and rates of fire. Specifically, Konings testified that Howitzers are high angle indirect fire weapon systems, whose projectiles follow a ballistic trajectory after being fired from the barrel at an angle. 155-millimetre Howitzers can fire shells with a rate of fire of two to three rounds per minute with a well-trained crew, although sustained fire is generally one round per minute. 130-millimetre Howitzers are comparable to 155-millimetre Howitzers and have ranges of up to 28 kilometres.⁴¹⁹¹ Mortars are characterised by the delivery of high-angle fire and a high rate of fire of up to 10 or more rounds per minute, over a relatively short range.⁴¹⁹² The 120-millimetre mortar has a rate of fire of four to six rounds per minute with a range of up to eight kilometres. Rockets have their own propulsion systems and are fired from rocket launchers, which tend to have high rates of fire. 128-millimetre rocket systems have maximum ranges of between 12 and 22 kilometres.⁴¹⁹³

1165. With regard to the accuracy of artillery weapons, **Konings** testified that artillery, mortar and rocket systems are designed to combat area targets, such as concentrations of forces, supply areas, larger command posts or other areas of 100 to 150 metres, with fired rounds landing apart from each other over a certain area, providing area coverage.⁴¹⁹⁴ These systems are too inaccurate to engage smaller, point targets, such as a single vehicle or a command post of less than 50 by 50 metres, and a high number of projectiles would have to be fired at a point target to destroy or neutralize it.⁴¹⁹⁵ For example, Konings noted that a single command post may be less than 50 by 50 metres,

⁴¹⁸⁹ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 1; Harry Konings, T.14302-14304, 14306-14307, 14349, 14486, 14545; P1258 (Curriculum Vitae of Harry Konings).

⁴¹⁹⁰ Geoffrey Corn, T. 21143-21150, 21221-21222, 21278, 21282; D1641 (Curriculum Vitae of Geoffrey Corn).

⁴¹⁹¹ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 9.

⁴¹⁹² P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), pp. 10-11.

⁴¹⁹³ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 11.

⁴¹⁹⁴ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), pp. 11, 13; Annex A, p. 5; P1260 (Harry Konings, Addendum to expert report), p. 4; Harry Konings, T. 14312-14313, 14465.

⁴¹⁹⁵ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), pp. 11, 13, Annex A, p. 5; P1260 (Harry Konings, Addendum to expert report), p. 4; Harry Konings, T. 14314, 14397, 14465.

while the probable error of a 155-millimetre projectile at long range was also 50 metres.⁴¹⁹⁶ In general, the rocket systems used in 1995 were less accurate than the artillery systems, such as Howitzers or mortar systems.⁴¹⁹⁷ The accuracy of conventional fire support systems with unguided ammunitions, such as Howitzers and mortars, is affected by internal characteristics, such as the differences between individual guns, known as gun-to-gun variations, which lead to probable errors in range and deflection.⁴¹⁹⁸ For example, Konings testified that these internal characteristics can lead to differences in the location of impact of an unguided 155-millimetre shell fired at 14,5 kilometres with a certain charge of up to 55 metres in range and five metres in deflection.⁴¹⁹⁹ Their accuracy is further affected by external factors, such as air temperature and density, wind speed and direction, flight time, muzzle velocity, propelling charges temperature, and the weight and height of the projectile.⁴²⁰⁰ By measuring the applicable data on external factors, the variations can be corrected.⁴²⁰¹ The probable errors increase the further the target is from the fire unit.⁴²⁰² For example, Konings testified with regard to the location of impact of an unguided 155-millimetre shell fired at 14,5 kilometres with a certain charge, that an increase of muzzle velocity by one metre per second would cause the shell to impact 26 metres further; a tail wind of one knot would cause the shell to impact 18 metres further; a lower or higher air temperature causes changes of 20 metres per degree; air density can lead to a difference of 60 metres and the spinning movement of the shell can cause a difference of 20 metres, if not corrected.⁴²⁰³ Accuracy is also affected by the precise locations of fire unit and target coordinates.⁴²⁰⁴ Depending on whether it uses ten, eight or six digits, a grid system of coordinates gives an accuracy of up to one, ten or 100 metres.⁴²⁰⁵ In case one of the coordinates is inaccurate, the commander of an artillery unit can adjust the fire,

⁴¹⁹⁶ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 13.

⁴¹⁹⁷ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 11; Harry Konings, T. 14464-14465, 14469-14470.

⁴¹⁹⁸ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 11; P1260 (Harry Konings, Addendum to expert report), pp. 3-4.

⁴¹⁹⁹ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 11.

⁴²⁰⁰ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), pp. 11-12; P1260 (Harry Konings, Addendum to expert report), pp. 3-4; Harry Konings, T. 14313, 14343.

⁴²⁰¹ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 11.

⁴²⁰² P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 11; P1260 (Harry Konings, Addendum to expert report), p. 4.

⁴²⁰³ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), pp. 11-12.

⁴²⁰⁴ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 12.

⁴²⁰⁵ Harry Konings, T. 14435.

by firing single shells in order to close in on the target, until the 50-metre mark has been reached, and then firing for effect.⁴²⁰⁶

1166. **Corn** testified that cannon artillery uses single round munitions, such as howitzer or mortar rounds, while rocket artillery fires rocket propelled munitions, often in salvo's of multiple rockets. Rocket artillery is preferred for area targets, but is also ideal for the disruption of enemy air defence or command and control capabilities. Corn testified that any commander considering the use of rocket artillery in a civilian area is obliged to assess the anticipated collateral damage and incidental injury.⁴²⁰⁷ Rocket artillery is not necessarily the most indiscriminate option of attack when compared to cannon artillery: the comparison depends on the location of the civilian population (indoors or outdoors), the timing of the attack, the protection afforded to civilians by hardened structures, and the potential comparative impact of cannon and rocket rounds. Depending on these factors, Corn considered it conceivable that a commander could make a good faith determination that rocket artillery is better suited to achieve the desired effect.⁴²⁰⁸

1167. **Andrew Leslie**, Chief of Staff of UNCRO Sector South in Knin from 1 March to 7 August 1995 and a military officer with extensive experience in artillery,⁴²⁰⁹ was told, and observed during his time in Knin, that the weapons system available to the HV was medium-weight 82-millimetre mortars, 122-millimetre guns, 130-millimetre guns, 152-millimetre guns, and a variety of MBRLs.⁴²¹⁰ Leslie testified that these were all area target weapons systems, for which a landing within a 400-metre radius of the target with the first shot would be "acceptable".⁴²¹¹

1168. **Konings** further testified about the properties of different types of artillery shells and their effects. Specifically, Konings testified that fragments from a 120-millimetre projectile can disperse to a range of 1,600 square metres if burst at the height of the target, within which area anybody present will have a fair chance of getting hit by flying shrapnel, or up to 2,100 square metres if burst at a height of three metres above the

⁴²⁰⁶ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 12.

⁴²⁰⁷ D1642 (Expert Report of Geoffrey Corn, 28 June 2009), p. 20; Geoffrey Corn, T. 21570, 21572-21573.

⁴²⁰⁸ D1642 (Expert Report of Geoffrey Corn, 28 June 2009), p. 21.

⁴²⁰⁹ Andrew Leslie, T. 1930-1931, 1933-1936, 2099, 2189, 2195-2196; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 1.

⁴²¹⁰ Andrew Leslie, T. 1989.

⁴²¹¹ Andrew Leslie, T. 1989-1990.

ground, by using a variable time fuse.⁴²¹² The fragmentation of a 155-millimetre Howitzer projectile will kill everybody within a radius of 50 metres around the point of explosion, which is known as the absolute lethal distance, beyond which the fragments may still cause damage and injuries, but will not necessarily be lethal.⁴²¹³ The explosion's effect is maximized when the explosion takes place between 6 and 20 metres above the ground, which can be achieved by using a time fuse.⁴²¹⁴ The variable time fuse has a small radar system that triggers the explosion at the desired height, whereas the normal time fuse, which was available and in widespread use in 1995, works as a clock which counts down after the shot is fired and triggers the explosion at a set time.⁴²¹⁵ A point detonating fuse can be adjusted to explode at a certain height above the ground or following a short delay after impact.⁴²¹⁶ DPICM munitions are carrier projectiles which contains a number of sub-munitions, also referred to as cluster munitions.⁴²¹⁷ Such munitions are activated by a time fuse at a height of 400 metres, the sub-munitions spread out over an area the size of a soccer field and explode upon hitting a target.⁴²¹⁸ 122, 152, 155 and 203-millimetre Howitzers, rocket systems and some mortar types are capable of delivering cluster munitions.⁴²¹⁹

1169. **Konings** also testified about the various effects that can be achieved by means of artillery fire, including the destruction, neutralising and suppression effects.⁴²²⁰ Further, interdiction fire involves firing at a point target or target area with the aim of preventing the enemy from using it.⁴²²¹ Harassing fire is intended to cause confusion among the enemy, to curtail his movement, and to lower enemy morale by threatening losses.⁴²²² Artillery can also be used to fix the enemy, preventing him from moving his forces

⁴²¹² P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 12; Harry Konings, T. 14316-14317, 14343, 14364, 14367-14369, 14472-14473.

⁴²¹³ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 12; Harry Konings, T. 14316-14317.

⁴²¹⁴ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 12.

⁴²¹⁵ Harry Konings, T. 14319-14320.

⁴²¹⁶ Harry Konings, T. 14319-14320, 14474.

⁴²¹⁷ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 13; Harry Konings, T. 14320-14321.

⁴²¹⁸ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 13; Harry Konings, T. 14367.

⁴²¹⁹ Harry Konings, T. 14331.

⁴²²⁰ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), pp. 2, 9, 11, Annex A, p. 4; P1260 (Harry Konings, Addendum to expert report), p. 4; D1253 (United States Department of the Army, Fire Support in the Airland Battle), p. 24.

⁴²²¹ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 2, Annex A, p. 4; P1260 (Harry Konings, Addendum to expert report), p. 4.

⁴²²² P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 2, Annex A, p. 4; Harry Konings, T. 14538.

around.⁴²²³ One method of fixing an enemy is neutralising or destroying his ability to communicate.⁴²²⁴ Artillery attacks on in-depth targets can also cause dislocation and disruption, for instance by attacking support facilities located well inside enemy lines, such as communications centres; command centres or headquarters; and logistics supply locations.⁴²²⁵ Under NATO doctrine, neutralisation and or destruction of the enemy's centre of gravity can lead to the destruction of the enemy.⁴²²⁶ While at a strategic level the centre of gravity may be something physical, it is more likely to be a moral entity related to a leader, ruling elite, or strong-willed population, which must be undermined, neutralized or defeated.⁴²²⁷ According to Konings, the centre of gravity for the RSK was Knin, so taking control of Knin was important for the HV to succeed.⁴²²⁸ According to Konings, small amounts of shelling, such as firing eight rounds at a target, and ongoing shelling for a period of 19 hours, can have only a neutralising, suppressing, or interdiction effect.⁴²²⁹ Firing artillery at irregular intervals indicates that the shelling may have been used as harassing fire.⁴²³⁰ While rates of fire of four to five rounds per hour may have a suppressing effect on military units, they may have a harassing and frightening effect on civilians, causing fear, panic and disorder.⁴²³¹

1170. **Corn** testified that harassment and interdiction can also be achieved by low rates of artillery fire, and an early surge, followed by lower rates of fire during the afternoon, could be consistent with an attempt to keep the enemy fixed and disoriented, while using a limited supply of ammunition.⁴²³² Low-rate artillery fire could also be linked, according to Corn, to the operational objective of demonstrating a full-spectrum control over the fight.⁴²³³ Corn added that, if an observer at a vantage point or driving around Knin perceived that there were rounds exploding all over the city, this perception may have been caused by the fact that the military targets in Knin were dispersed all over the

⁴²²³ Harry Konings, T. 14568-14570; D1254 (NATO Allied Joint Doctrine for Land Operations, AJP-3.2), pp. 3, 12, 14-15.

⁴²²⁴ Harry Konings, T. 14570.

⁴²²⁵ Harry Konings, T. 14567, 14572-14573, 14586, 14735; D1253 (United States Department of the Army, Fire Support in the Airland Battle), pp. 55-56; D1254 (NATO Allied Joint Doctrine for Land Operations, AJP-3.2), pp. 8-9.

⁴²²⁶ Harry Konings, T. 14576-14578; D1247 (NATO Allied Joint Doctrine AJP-01 (C) 2006), pp. 47, 49.

⁴²²⁷ D1247 (NATO Allied Joint Doctrine AJP-01 (C) 2006), pp. 47, 49.

⁴²²⁸ Harry Konings, T. 14578-14580, 14584, 14596, 14743.

⁴²²⁹ P1260 (Harry Konings, Addendum to expert report), p. 5; Harry Konings, T. 14421-14422.

⁴²³⁰ Harry Konings, T. 14427-14428.

⁴²³¹ P1260 (Harry Konings, Addendum to expert report), pp. 5-6; Harry Konings, T. 14348, 14365, 14374, 14379.

⁴²³² Geoffrey Corn, T. 21542-21543, 21577.

⁴²³³ Geoffrey Corn, T. 21542.

city, creating the impression of an indiscriminate attack.⁴²³⁴ The timing of the attack, during early morning twilight, could also have added to the perception that the entire city was under attack, because the lack of natural light exacerbates the flash impacts of artillery.⁴²³⁵

1171. With regard to artillery or forward observers, **Konings** testified that forward observers are important intelligence assets, as they may initiate fire missions, control and correct fire, assess the results and advise the unit commander.⁴²³⁶ According to Konings, firing artillery at a moving target requires a forward observer that can constantly see the target moving.⁴²³⁷ Further, the use of artillery and mortars against stationary targets in civilian-populated areas without having these targets under observation by a forward observer is inadvisable, unless the target is beyond the collateral damage distance and the exact location is known.⁴²³⁸ Air-based reconnaissance can be used as an alternative to forward observers.⁴²³⁹ Observation of the civilian-populated area containing military targets during artillery fire allows a commander to know whether the artillery is having the intended effects and not causing unintended damage to infrastructure or people.⁴²⁴⁰ **Corn** testified that artillery observers can be used to correct fire and better control the effects of the attack and mitigate the risk of collateral damage or incidental injury to civilians.⁴²⁴¹ However, observed indirect fire is not always an option: when firing artillery at long range, commanders might not be willing or able to place observers in close proximity to long range targets, especially in areas under significant enemy control.⁴²⁴² Unobserved indirect fire is based on intelligence indicating the location of proposed targets and indirect fire direction calculations.⁴²⁴³ Thus commanders should engage in a proportionality analysis,

⁴²³⁴ Geoffrey Corn, T. 21238-21241, 21247-21250, 21254-21255.

⁴²³⁵ Geoffrey Corn, T. 21255.

⁴²³⁶ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 8, Annex A, pp. 3, 7; P1262 (Harry Konings, Corrigendum to the expert report), p. 1.

⁴²³⁷ Harry Konings, T. 14344.

⁴²³⁸ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 8; P1260 (Harry Konings, Addendum to expert report), p. 5; Harry Konings, T. 14360-14361.

⁴²³⁹ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 8; P1260 (Harry Konings, Addendum to expert report), p. 5.

⁴²⁴⁰ Harry Konings, T. 14360-14361.

⁴²⁴¹ D1642 (Expert Report of Geoffrey Corn, 28 June 2009), p. 17; Geoffrey Corn, T. 21178-21179, 21185.

⁴²⁴² D1642 (Expert Report of Geoffrey Corn, 28 June 2009), pp. 17-18.

⁴²⁴³ D1642 (Expert Report of Geoffrey Corn, 28 June 2009), p. 17.

considering the location of the target and possible collateral damage, to decide whether using artillery observers is the best operational decision.⁴²⁴⁴

1172. The Trial Chamber has reviewed evidence regarding orders to the HV artillery by Gotovina and Rajčić in chapter 4.4.3. The Trial Chamber has received evidence from expert witnesses Konings and Corn on interpreting the formulations used in these HV artillery orders. **Konings** noted that Gotovina's order of 2 August 1995 to put Drvar, Knin, Benkovac, Obrovac, and Gračac under artillery fire did not provide clear guidelines for artillery units regarding the specification and details of military targets, or the effects to be achieved.⁴²⁴⁵ Konings stated that when giving the order to shell a city the detailed specification of military targets is an absolute precondition, otherwise the vague nature of the order may be interpreted as ordering, or at least permitting, commanders to fire randomly into the named cities.⁴²⁴⁶ Firing rounds at a city without specifying a target involves willingly and deliberately taking the risk that those rounds will fall in an area where only civilians live, and can have only the psychological effect of harassing fire on civilians.⁴²⁴⁷ Konings further stated that the 4 August 1995 report of TS-4, which referred to firing artillery at a general, civilian populated area, required further detailed explanation with a clear reference to implied rules of engagement and objectives.⁴²⁴⁸

1173. With regard to Gotovina and Rajčić's orders to put the town of Knin under artillery fire, **Corn** opined that the language was open to several interpretations, one of which was reading it as an order to shell the entire town of Knin.⁴²⁴⁹ Alternatively, the order could be read as a high-level order in a broader context to strike previously identified targets within Knin as tactical support.⁴²⁵⁰ Corn added that, as in most cases commanders do not write orders themselves, poor phrasing could be the result of subordinate officers preparing orders under time pressure.⁴²⁵¹ Further, according to Corn, a commander is permitted to anticipate the effect of an exodus of the civilian

⁴²⁴⁴ D1642 (Expert Report of Geoffrey Corn, 28 June 2009), p. 18; Geoffrey Corn, T. 21179-21180, 21182, 21184.

⁴²⁴⁵ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 14; Harry Konings, T. 14346-14347, 14350, 14427, 14539, 14579, 14640, 14654, 14761-14764, 14772.

⁴²⁴⁶ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 14; Harry Konings, T. 14346, 14356-14357, 14418-14419, 14760, 14764-14766, 14768-14769.

⁴²⁴⁷ Harry Konings, T. 14422.

⁴²⁴⁸ P1259 (Harry Konings, expert report, "Fire support during Operation Storm, August 1995"), p. 14; P1260 (Harry Konings, Addendum to expert report), p. 6.

⁴²⁴⁹ Geoffrey Corn, T. 21257-21259, 21263-21264, 21270, 21274, 21277-21278, 21472, 21474-21475.

⁴²⁵⁰ Geoffrey Corn, T. 21257-21258, 21263-21265, 21270, 21274-21275, 21277, 21279, 21474-21475.

population on the enemy's morale, so as long as he does not use his combat capability to spread terror among the civilian population on purpose.⁴²⁵²

1174. Experts Konings and Corn also testified on the basis of assumed facts put to them by the parties about the effects of using artillery against specific objects in Knin, including with regard to the anticipated military advantage and risk of collateral damage and incidental injury. Specifically, **Konings** testified that firing 120- or 155-millimetre shells at a tarmac or concrete road will damage it, but not in a way that renders it unusable, unless a lot of rounds are fired.⁴²⁵³ Moreover, most military vehicles would still be able to pass around it off-road or find another road.⁴²⁵⁴ Further, the SVK mortar section, which was located in close proximity to a school, could be moved quickly and formed a small, point target, so that firing artillery at it could only achieve a suppressing effect.⁴²⁵⁵ Although the presence of the RSK commander in chief could make his residence a military target, the likelihood of killing the commander by artillery was very low, considering the degree of protection in a strong building and that the commander was unlikely to be on the top floor.⁴²⁵⁶ Nonetheless, assuming that the commander was in Knin, the HV artillery attack will have excluded most of his movements, having a suppressing effect.⁴²⁵⁷

1175. **Corn** testified that Knin was a critical command, control, and communication centre serving enemy forces, as well as a logistical centre.⁴²⁵⁸ Corn considered the use of MBRLs against the SVK Main Staff headquarters and the Northern barracks to be understandable, as they presented critical command, control, communications, and intelligence targets.⁴²⁵⁹ Multiple barrel rocket launchers could degrade these targets by destroying communications antennas, cables, and equipment, while enemy forces required to move in and around the area would be disrupted.⁴²⁶⁰ As commander in chief Milan Martić was a lawful military objective, and although the probability of killing or

⁴²⁵¹ Geoffrey Corn, T. 21266, 21276-21279.

⁴²⁵² Geoffrey Corn, T. 21478, 21538-21539.

⁴²⁵³ Harry Konings, T. 14393.

⁴²⁵⁴ Harry Konings, T. 14393.

⁴²⁵⁵ P1260 (Harry Konings, Addendum to expert report), p. 2; Harry Konings, T. 14397-14398, 14646-14647.

⁴²⁵⁶ P1260 (Harry Konings, Addendum to expert report), pp. 2, 6; Harry Konings, T. 14403-14404.

⁴²⁵⁷ Harry Konings, T. 14599, 14604-14605.

⁴²⁵⁸ D1642 (Expert Report of Geoffrey Corn, 28 June 2009), pp. 23, 25.

⁴²⁵⁹ D1642 (Expert Report of Geoffrey Corn, 28 June 2009), pp. 31-32; Geoffrey Corn, T. 21192, 21245, 21309, 21579-21580.

⁴²⁶⁰ D1642 (Expert Report of Geoffrey Corn, 28 June 2009), pp. 31-32; Geoffrey Corn, T. 21500-21501, 21505-21506, 21570-21573, 21576.

disabling Martić by artillery attack was limited, if Gotovina believed Martić to be an important component in SVK decision-making, the potential operational advantage in disrupting the SVK command and control structure would be substantial.⁴²⁶¹ Further, indirect, harassing fire at the TVIK factory, an apparent logistics supply facility and ammunition components production facility, would degrade the enemy's ability to use the resources stored there to re-supply forces engaged in combat.⁴²⁶² The Knin police station was also a valuable military objective, because police forces had been mobilized to participate in hostilities and harassing fire could demoralize police forces unaccustomed to combat operations, as well as disrupt the communication capability in the station, which could have been used to augment military communications disrupted by other attacks.⁴²⁶³ The open field outside of the Northern barracks, where there were elements of a brigade that could function as reserve forces, was a place the enemy could use to muster prior to movement; sporadically targeting the field would inhibit the enemy's ability to do so.⁴²⁶⁴

4.4.3 Knin town

1176. The Trial Chamber has received evidence with regard to the alleged unlawful attack against civilians and civilian objects in Knin on 4 and 5 August 1995 from a large number of witnesses, including members of the HV and the SVK, civilians residing in Knin, international observers stationed in the town, and from a vast amount of documentary material. The documentary material included, inter alia, government cables and UN reports as well as excerpts from books authored by persons not called as witnesses. On several occasions, the Gotovina Defence and the Prosecution cited such materials in support of assertions in their final trial briefs.⁴²⁶⁵ The Trial Chamber has considered all this evidence but only reviews and discusses parts of it below, focusing on the best available evidence. In this respect, for matters on which it had received eye witness testimonies from persons who provided specific observations, the Trial Chamber preferred to focus on such evidence, rather than on documentary evidence which did not explicitly provide sources and contained more general information.

⁴²⁶¹ D1642 (Expert Report of Geoffrey Corn, 28 June 2009), p. 32; Geoffrey Corn, T. 21547-21549.

⁴²⁶² D1642 (Expert Report of Geoffrey Corn, 28 June 2009), p. 32.

⁴²⁶³ D1642 (Expert Report of Geoffrey Corn, 28 June 2009), p. 33.

⁴²⁶⁴ D1642 (Expert Report of Geoffrey Corn, 28 June 2009), p. 33; Geoffrey Corn, T. 21581-21583.

⁴²⁶⁵ See for instance, Gotovina Defence Final Trial Brief, paras 258, 279, 307, 313.

1177. The Trial Chamber first turns to the evidence regarding training and early planning for HV artillery operations. **Marko Rajčić**, the chief of artillery of the Split MD from April 1993 to June 1996,⁴²⁶⁶ testified that he was in charge of planning, coordinating, and controlling the use of artillery during Operation Storm.⁴²⁶⁷ According to Rajčić, the planning and training for the liberation of the areas of OGs Zadar, Šibenik, and Sinj started years before Operation Storm.⁴²⁶⁸ In 1993, the HV started to use unmanned aerial drones for reconnaissance of artillery targets, including those in Knin.⁴²⁶⁹ Following the Serb shelling of Biograd on 13 June 1993, General Bobetko ordered Rajčić to start preparations for a possible retaliation against Knin, although Knin was not within range of HV artillery at that time.⁴²⁷⁰ In mid-June 1993, based on information from the intelligence services, Rajčić selected the type of weapon and the targets and drafted an artillery target list for Knin (which is in evidence as P1271).⁴²⁷¹ In 1993, when Rajčić came under the command of General Gotovina, he also developed plans for the use of artillery in the towns of Benkovac, Obrovac, and Gračac, by defining the military facilities in those towns and determining their coordinates.⁴²⁷²

1178. In the spring of 1994, following the Zagreb Agreement, the initial planning for an HV military operation re-taking the Krajina began, by training staff in courses directed at the actual situation.⁴²⁷³ During 1994, 750 artillery personnel and the individual units of the Split MD were trained under the code name Promina-94, and a tactical live-fire exercise was conducted, codenamed Bandira-94.⁴²⁷⁴ During this time, Rajčić continued to plan possible artillery targets and their coordinates, on the basis of available intelligence.⁴²⁷⁵ On 6 February 1995, General Janko Bobetko ordered the commanders of several MDs, including Gospić and Split, to send their chiefs of staff, of artillery and of the intelligence department to the HV Main Staff for coordination. Bobetko further ordered that they bring along working maps containing data received

⁴²⁶⁶ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 1; Marko Rajčić, T. 16236, 16275; P2323 (Military Police official note of Rajčić interview, 11 July 2008), p. 1.

⁴²⁶⁷ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 1.

⁴²⁶⁸ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 50; Marko Rajčić, T. 16522.

⁴²⁶⁹ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 23; Marko Rajčić, T. 16268.

⁴²⁷⁰ Marko Rajčić, T. 16261, 16267, 16452.

⁴²⁷¹ Marko Rajčić, T. 16254, 16261, 16267-16268; P1271 (HV table of identified targets, drafted by Marko Rajčić, June 1993).

⁴²⁷² Marko Rajčić, T. 16452-16453.

⁴²⁷³ Marko Rajčić, T. 16262, 16522-16524.

⁴²⁷⁴ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 50, 52-53; Marko Rajčić, T. 16523.

⁴²⁷⁵ Marko Rajčić, T. 16524.

through aerial photography and that the chief of artillery bring a plan of artillery actions against targets in their zone of responsibility. The coordination related to the use of satellite shoots and data collected by unmanned aircraft aerial photography and aimed to identify the need for and possibility of additional aerial photography of areas and facilities.⁴²⁷⁶ In February 1995, Rajčić and the Commanders and Deputy Commanders of the Home Guards units' artillery battalions were trained, and a large number of officers and NCOs received specialist training at the Croatian Military College.⁴²⁷⁷ Two or three months before Operation Storm, Rajčić prepared another target list, (which is in evidence as P1272), for the staff training of the Split area headquarters.⁴²⁷⁸

1179. The Trial Chamber now turns to the evidence regarding artillery-related planning, meetings, and orders from June to early August 1995. **Marko Rajčić** testified that in June 1995, the Chief of the HV Main Staff issued a directive on Operation Storm, which set out the tasks of the Split HV, and the Command of the Split MD received training at the Lora barracks.⁴²⁷⁹ In the directive on Operation Storm of 26 June 1995, the HV Main Staff Chief Janko Bobetko decided that artillery and rocket support should focus on neutralising the SVK Main Staff and 7th Corps Command Post in Knin and the brigades' command posts, concentrations of enemy manpower, armour, and artillery in the area of Knin and Benkovac, including ammunition and fuel depots.⁴²⁸⁰ The artillery and rocket support should also support the main forces in attack and prevent an enemy counter-attack from the direction of Knin, Kaštel Žegarski and Benkovac.⁴²⁸¹

1180. On 31 July 1995, Rajčić attended the presidential meeting at Brioni.⁴²⁸² At the outset of the meeting, the President stated in his initial remarks that there was information that after the Croatian forces broke out at Dinara, civilians started leaving Knin.⁴²⁸³ Rajčić testified that he did not add any new potential targets to the existing

⁴²⁷⁶ D967 (HV Main Staff Order, Janko Bobetko, 6 February 1995).

⁴²⁷⁷ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 55.

⁴²⁷⁸ Marko Rajčić, T. 16253; P1272 (HV artillery preparation table of identified targets, drafted by Marko Rajčić, May or June 1995).

⁴²⁷⁹ Marko Rajčić, T. 16424-16425; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 2; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), pp. 2, 11.

⁴²⁸⁰ D956 (HV Main Staff directive on Operation Storm, Staff General Janko Bobetko, 26 June 1995), pp. 1, 6, 11. See also Marko Rajčić, T. 16527, 16618.

⁴²⁸¹ D956 (HV Main Staff directive on Operation Storm, Staff General Janko Bobetko, 26 June 1995), p. 6.

⁴²⁸² Marko Rajčić, T. 16594, 16600.

⁴²⁸³ Marko Rajčić, T. 16601-16602.

lists of potential targets after the Brioni meeting, nor did he or anybody else in the Split MD add any civilian facilities to the existing target lists following the meeting.⁴²⁸⁴ After the meeting, Rajčić and Gotovina flew from Brioni to Rujani and started the final planning for Operation Storm.⁴²⁸⁵ On the evening of 31 July 1995, Gotovina ordered Rajčić to prepare plans for the use of artillery in accordance with the Commander's Decision.⁴²⁸⁶ According to Rajčić, the final planning consisted mainly of updating the existing plans.⁴²⁸⁷

1181. On 1 August 1995, Rajčić attended a planning meeting in Split for Operation Storm with Gotovina and representatives of the Split MD, and OGS North, Šibenik, Sinj, Zadar and the battalions.⁴²⁸⁸ At the meeting, the commanders were informed of the upcoming operation and the intended implementation of the Chief of the HV Main Staff's directive.⁴²⁸⁹ At the meeting, Gotovina emphasized that the operation was aimed only at enemy soldiers and that the UNPROFOR facilities near SVK positions should not be endangered. He also warned those present to instruct their subordinates that enemy prisoners of war and civilians should receive proper treatment and protection.⁴²⁹⁰ He further stressed that there was a shortage of ammunition, so the artillery needed to be as precise as possible and could only target the military objectives that provided the highest military advantages.⁴²⁹¹ According to Rajčić the HV had less ammunition at its disposal than had been anticipated during the planning stage.⁴²⁹²

1182. Following the 1 August 1995 meeting, Rajčić prepared the artillery engagement plan, by reviewing the source lists of potential military objectives and taking into account the available ammunition.⁴²⁹³ The basis for the development of target lists was a database from which the targets were chosen.⁴²⁹⁴ The HV updated and reviewed its

⁴²⁸⁴ Marko Rajčić, T. 16618.

⁴²⁸⁵ Marko Rajčić, T. 16262, 16521.

⁴²⁸⁶ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 5.

⁴²⁸⁷ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 49-50; Marko Rajčić, T. 16524-16526.

⁴²⁸⁸ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 6, p. 15; Marko Rajčić, T. 16266, 16276.

⁴²⁸⁹ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 7.

⁴²⁹⁰ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 9.

⁴²⁹¹ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 10; Marko Rajčić, T. 16276-16277.

⁴²⁹² Marko Rajčić, T. 16621-16622.

⁴²⁹³ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 18-19; P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 20.

⁴²⁹⁴ Marko Rajčić, T. 17640-17641.

source lists on a daily basis, based on information from the intelligence departments.⁴²⁹⁵ Prior to Operation Storm, the Split MD established 22 artillery observation points, from the Velebit to the Dinara Mountains, as well as numerous infantry observation points. From these points, the HV monitored the SVK positions and any change would be noted in a Diary of Reconnaissance, based on which the source lists and working artillery maps would be updated.⁴²⁹⁶ Certain military objectives did not appear on these source lists, as it had been determined beforehand that the collateral damage would be too high. For instance, the fuel station near the Atlagic Bridge over the Krka river in Knin was a military objective that did not appear on the source list, as engaging it with artillery could result in contaminating the river, which was a source of drinking water.⁴²⁹⁷ Further, the source lists included items that served as visual reference points, such as churches, and were not military objectives to be fired upon. The lists also included structures for which the HV estimated that there was a high chance that enemy military forces may use them during the battle.⁴²⁹⁸ Smaller facilities that were not visible from the altitude the HV's unmanned drones flew at, were named after the visible dominant facilities in their vicinity.⁴²⁹⁹

1183. According to Rajčić, the HV discussed the protection of the civilian population and the instructions were as they had always been in operations he had participated in with Gotovina, that civilians were not to be targeted and civilian casualties and damage to civilian property should be minimized.⁴³⁰⁰ Gotovina told Rajčić that with regard to using artillery in the civilian-populated areas of Knin, Benkovac, Obrovac and Gračac, maximum precision and proportionality should be respected.⁴³⁰¹ According to Rajčić, Gotovina was aware of the relative inaccuracy of artillery and knew that the HV had trained, experienced artillery troops who were able to exceed standards of precision in artillery fire.⁴³⁰² Gotovina also informed Rajčić of his concerns about the probable range of errors of the artillery weapons, should the deviation of a missile or shell exceed the size of the target, specifically with regard to strategic level targets such as the SVK

⁴²⁹⁵ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 24, 26, 43, 49-50; Marko Rajčić, T. 16525.

⁴²⁹⁶ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 25-26.

⁴²⁹⁷ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 20.

⁴²⁹⁸ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 21.

⁴²⁹⁹ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 23.

⁴³⁰⁰ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 17, 30.

⁴³⁰¹ Marko Rajčić, T. 16277-16279.

⁴³⁰² Marko Rajčić, T. 16278-16279, 16620-16621.

Main Staff and communications centre.⁴³⁰³ Rajčić told Gotovina that 130-millimetre guns and 122-millimetre launchers were not capable of being fired at the SVK Main Staff and the communications centre and hitting only those targets, without causing damage to the surrounding area.⁴³⁰⁴ Gotovina told Rajčić to analyse the possible collateral damage of projectiles missing these targets, as the SVK Main staff was a highly interesting target in combat.⁴³⁰⁵

1184. Rajčić analyzed the possible collateral damage of firing at targets in Knin and concluded that the harm to citizens and material damage to surrounding buildings would be “to a lesser extent”.⁴³⁰⁶ In coming to this conclusion, Rajčić considered the use of contact-fuse shells, which cannot pierce concrete buildings, as well as the characteristics of the targets, their area, their surface area, the surrounding buildings, and the quality of construction.⁴³⁰⁷ He also considered the intelligence information that there had been substantial emigration of civilians from Knin and that there was a curfew in place in Knin, which affected the expected number of civilians on the streets and in buildings at 5 a.m.⁴³⁰⁸ According to Rajčić, when using artillery against military objectives in urban areas, the choice of the time of day was an important consideration in minimizing collateral damage to civilians, when deciding the weapon, type of fire and amount of ammunition.⁴³⁰⁹ According to Rajčić, the selection and targeting within the tactical and operational deployment of the enemy was preceded by a thorough intelligence assessment of the terrain, deployment and enemy strength, and weather conditions.⁴³¹⁰ Rajčić made the final selection of military objectives by considering both military necessity and possible collateral damage and civilian casualties.⁴³¹¹ The choice of weapon to be fired at a certain target was determined by range and by which weapon would cause the least collateral damage while still achieving the military advantage.⁴³¹²

⁴³⁰³ Marko Rajčić, T. 16282-16284.

⁴³⁰⁴ Marko Rajčić, T. 16284.

⁴³⁰⁵ Marko Rajčić, T. 16285.

⁴³⁰⁶ Marko Rajčić, T. 16285.

⁴³⁰⁷ Marko Rajčić, T. 16285-16286.

⁴³⁰⁸ Marko Rajčić, T. 16826.

⁴³⁰⁹ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 28.

⁴³¹⁰ P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 20.

⁴³¹¹ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 19.

⁴³¹² D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 27.

It was decided that the MBRLs were going to fire early in the morning.⁴³¹³ Rajčić submitted the artillery plan to Gotovina on 1 August 1995.⁴³¹⁴

1185. On 2 August 1995, Gotovina ordered the Split MD forces to engage in a vigorous attack with intense artillery and air support, on several axes, directed at the main military and political transportation features in the enemy's operational depth.⁴³¹⁵ Gotovina further ordered the forces to use frontal and flank strikes with strong artillery-rocket and air support to break up the enemy forces on the forward defence line and to take control of the key land, transportation, military, and political features in the operational depth, thereby putting the enemy in a no-exit situation and forcing him to surrender or withdraw. Gotovina ordered his forces to encircle the enemy forces in the general Northern Dalmatia area, to cut off their communications from Knin to the north, and to encircle and take control of Knin.⁴³¹⁶ Gotovina tasked all artillery-rocket groups with providing artillery support to the main forces in the attack operation, through powerful strikes against the enemy's front line, command posts, communications centres, and artillery firing positions and by putting the towns of Drvar, Knin, Benkovac, Obrovac, and Gračac under artillery fire.⁴³¹⁷ The artillery-rocket groups were further required to prevent the enemy from putting fresh forces into action from locations in Bosnia-Herzegovina, as well as from Knin, Vrlika, Gračac, and Obrovac. The chiefs of artillery in the OGs were ordered to devise artillery plans of use and plans of action, in line with the established groups, each for their respective TS or TRS.⁴³¹⁸

1186. In the same order, Gotovina ordered the 4th and 7th Guards Brigades to carry out a vigorous strike on the Dinara-Knin axis to break up the enemy forces on the forward defence line, cut off the road leading from Knin to Gračac, and then to take control of Knin.⁴³¹⁹ During the first phase of the attack, the 4th Guards Brigade was ordered to provide artillery and rocket support to the 7th Guards Brigade.⁴³²⁰ The 7th Guards Brigade was ordered to provide maximum fire support on the right flank of the attack

⁴³¹³ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 16.

⁴³¹⁴ Marko Rajčić, T. 16264, 16266.

⁴³¹⁵ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), pp. 4-5.

⁴³¹⁶ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 5.

⁴³¹⁷ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 14. The Trial Chamber has decided to rely on the CLSS translation of the word "udare" in P1125, as clarified in the Request for Verification of English Translation of Exhibit D970 of 12 January 2010.

⁴³¹⁸ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 14.

⁴³¹⁹ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), pp. 6-8.

⁴³²⁰ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 8.

for the insertion of the 4th Guards Brigade.⁴³²¹ On 3 August 1995, Damir Krstičević ordered the 4th Guards Brigade to provide artillery and rocket support to the 7th Guards Brigade, without mentioning any specific targets.⁴³²²

1187. On the same day, Rajčić drafted the artillery attachment to this order to attack, which went to the corps artillery level and down to the TS/TRS levels.⁴³²³ Rajčić tasked all TRS with engaging in intensive artillery shelling to rout, neutralize, and destroy the enemy's combat disposition at the tactical and operational level. All TRS were further tasked with preventing the enemy from bringing in new forces from the directions including Knin, several places in Bosnia-Herzegovina, Gračac, Obrovac, Bruška in Benkovac municipality, and Benkovac. All TRS were further required to neutralize the artillery positions of enemy batteries and destroy the enemy's communication centres and command posts. In Section 3 of this attachment, Rajčić further ordered the TRS to put the towns of Drvar, Knin, Benkovac, Obrovac and Gračac under artillery fire.⁴³²⁴ Finally, the chiefs of artillery of the OGs were tasked with drafting all relevant documents for carrying out the offensive operations at their respective levels.⁴³²⁵

1188. According to Rajčić, the formulation "putting the towns under fire" meant that the targets in those towns were to be under constant fire, which referred to a combat activity known as harassing fire and disruptive fire on enemy combat elements.⁴³²⁶ Rajčić testified that it was clear to all commanders of subordinate units that this meant that these towns contained important military units, facilities and commands, and referred to firing at previously selected targets with specific coordinates, according to the existing plans and source lists.⁴³²⁷ The artillery units received a textual tabular segment of the attachment for artillery and the groups also had a list of targets with the coordinates for the military objectives, based on which the commanders of the artillery

⁴³²¹ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 7.

⁴³²² P1202 (4th Guards Brigade's order for attack, Damir Krstičević, 3 August 1995), p. 1-2, 14.

⁴³²³ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 44; Marko Rajčić, T. 16532; P2323 (Military Police official note of Rajčić interview, 11 July 2008), pp. 2-4; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 2; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 2.

⁴³²⁴ D970 (Order to attack attachment for the artillery, by Marko Rajčić, 2 August 1995), p. 3. The Trial Chamber has decided to rely on the CLSS translation of the word "udare" in D970, as clarified in the Request for Verification of English Translation of Exhibit D970 of 12 January 2010. See also D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 45.

⁴³²⁵ D970 (Order to attack attachment for the artillery, by Marko Rajčić, 2 August 1995), p. 4.

⁴³²⁶ Marko Rajčić, T. 16590.

⁴³²⁷ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 45; Marko Rajčić, T. 16535-16537.

groups drew their operations maps.⁴³²⁸ The lists of military objectives were re-checked prior to the operation to ensure the accuracy of the x-y-z coordinates.⁴³²⁹ On 3 August 1995, Rajčić visited the Chiefs of Artillery at the various OGs, as well as the Command of each artillery group, to coordinate planned artillery targets and check that everyone understood their tasks.⁴³³⁰ According to Rajčić, the HV did not intend to use artillery to force civilians to flee the Krajina.⁴³³¹ Instead, the HV's plan was to shock, disorient and disrupt the leadership and communications of the SVK. The plan relied heavily on artillery, as well as the synchronization of fire and the element of surprise.⁴³³² In order to generate the strongest effect, the first strike had to be powerful, simultaneous, and coordinated, firing on targets on the enemy front line of defence and in depth on commands and communication centres.⁴³³³

1189. The Trial Chamber has received evidence on the targets identified by the HV, including in Knin, prior to Operation Storm primarily from **Marko Rajčić**, who testified that on the tactical level, the targets for Operation Storm were command posts of brigades; firing positions of the artillery; communication centres and relay nodes; depots for military equipment, combat reserves and troops; roads and bridges; fortified combat features and enemy defence trenches; and any targets that would emerge during combat.⁴³³⁴ The targets at the tactical level were in the enemy disposition, whereas the targets established for the Corps Artillery at the operational level were in the settlements of Knin, Benkovac, and Gračac.⁴³³⁵ On the operational level, the firing targets were the SVK Main Staff, the Ministry of Defence headquarters, the SVK communications centre, the bridges and the railway station, all in Knin; the police stations in Knin and Gračac; the military barracks facilities in Knin and other towns; and cross-roads in the towns of Knin, Drvar, Benkovac, and Gračac.⁴³³⁶

⁴³²⁸ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 5, 29, 46-47.

⁴³²⁹ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 47.

⁴³³⁰ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 58-59.

⁴³³¹ Marko Rajčić, T. 16538-16539.

⁴³³² D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 11-12.

⁴³³³ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 12, 14.

⁴³³⁴ P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), pp. 9-10; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 13.

⁴³³⁵ P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 13.

⁴³³⁶ P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), pp. 8-9; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 13.

1190. The target lists Rajčić compiled in mid-June 1993 and two or three months prior to Operation Storm contained the following targets in Knin, with x, y and z coordinates: church in Knin (KV-110); Kosovo warehouse (KV-150); army barracks located at the entrance (KV-210); Slavko Rodić barracks (KV-250); bridge at the entrance (KV-310); Senjak barracks (KV-350); railway station (KV-410); western warehouse (KV-450); cross-roads (KV-510); old garage (KV550); block of flats/apartment building complex (KV-610); Padane warehouse (KV-650, which the Trial Chamber understands to refer to Pađene, in Knin municipality); Hospital (KV-710); screw and bolt factory (KV-750); and the western bridge (KV-810).⁴³³⁷

1191. According to Rajčić, the Main SVK headquarters, the adjacent communications centre, and the SVK 7th Krajina Corps headquarters in the Northern barracks (also referred to as the Slavko Rodić barracks) were the main and highest pay-off targets in Knin.⁴³³⁸ These targets needed to be hit with all available assets, as they were critical to the success of the entire operation.⁴³³⁹ The HV also selected Milan Martić as a target in Knin and information regarding his location and residence was constantly updated, based on surveillance and intelligence efforts.⁴³⁴⁰ Although there was no clear line of sight from the HV's positions to the settlement of Knin before Operation Storm, HV intelligence officers determined the coordinates of Martić's apartment (KV-610) based on sources which Rajčić believed may have included aerial photography by pilotless drones, cadastral plans, and information spread by word of mouth.⁴³⁴¹ According to Rajčić, the HV took the rules of distinction and of proportionality into account when deciding whether to target the apartment block, where other civilians may have been present.⁴³⁴² In this context, Rajčić considered the information that the SVK had an evacuation plan and a plan on how to take care of civilians, that the buildings in the area were of good quality, and that the residents would try to take care of the population in the area.⁴³⁴³ Rajčić opined that it would have been unacceptable to fire at the residential

⁴³³⁷ P1271 (HV table of identified targets, drafted by Marko Rajčić, June 1993); P1272 (HV artillery preparation table of identified targets, drafted by Marko Rajčić, May or June 1995). The Trial Chamber notes that in the third entry of P1272, p. 1, the target is listed as "KV-410 (railway station)", with the corresponding z coordinate, while the x and y coordinates entered are those of "KV-610 (block of flats)".

⁴³³⁸ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 15.

⁴³³⁹ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 16.

⁴³⁴⁰ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 48; Marko Rajčić, T. 16613.

⁴³⁴¹ Marko Rajčić, T. 16443, 16445-16446.

⁴³⁴² Marko Rajčić, T. 16451, 16613.

⁴³⁴³ Marko Rajčić, T. 16613.

complex with 122-millimetre MBRLs, because they would damage the buildings around the target, due to their higher density of projectiles covering a broader area.⁴³⁴⁴

1192. According to Rajčić, the HV anticipated that the SVK may use a field near the cross-roads outside the Northern barracks and identified it as a military objective on the source lists, named Hospital (KV-710), after the first dominant facility near the location.⁴³⁴⁵ Rajčić had information that a small SVK artillery mortar unit was located in a secondary school close to the barracks and could use the targeted field, which was in front of the school, as a firing position from which to fire on the Dinara Mountain.⁴³⁴⁶ The HV never targeted the actual hospital in Knin.⁴³⁴⁷

1193. Based on the above evidence, the Trial Chamber finds that from 1993 up to the months preceding Operation Storm, Rajčić identified artillery targets in Knin with x, y, and z coordinates. Rajčić did so on the basis of information from sources which included at least aerial photography by unmanned drones. Rajčić listed these targets on target lists, such as P1271 and P1272, which were compiled for training purposes. Rajčić assigned the targets KV-numbers on these lists. Based on lists P1271, P1272, Rajčić's testimony, and map D1261,⁴³⁴⁸ the Trial Chamber finds that the following targets were entered on one or both of these lists: a church in Knin (referred to as KV-110, which the Trial Chamber understands to refer to the St Ante monastery); the Southern barracks (listed as army barracks located at the entrance, KV-210); the Slavko Rodić or Northern barracks (KV-250); the bridge at the entrance (KV-310); the Senjak barracks (KV-350); the railway station (KV-410); a cross-roads (KV-510); Martić's residence (listed as block of flats/apartment building complex, KV-610); a field near from the Northern barracks listed as Hospital (KV-710); the TVIK factory (listed as screw and bolts factory, KV-750); and the western bridge (KV-810).

1194. On 31 July 1995, Gotovina ordered Rajčić to prepare plans for the use of artillery and Rajčić finalized the target lists for Operation Storm. The Trial Chamber has not received in evidence any finalized target lists containing targets in Knin which postdate

⁴³⁴⁴ Marko Rajčić, T. 16592.

⁴³⁴⁵ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 22-23, p. 18; Marko Rajčić, T. 16614-16615.

⁴³⁴⁶ Marko Rajčić, T. 16615.

⁴³⁴⁷ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 22.

⁴³⁴⁸ D1261 (Gotovina Defence map plotting table of identified military targets of P1271 and P1272 on map of Knin); For the parties submissions on the locations of these targets within Knin, see Defendant Ante Gotovina's Submission on Grid References, 4 March 2009 and Prosecution Response to Defendant Ante Gotovina's Submission on Grid References, 10 March 2009.

P1271 and P1272. On 2 August 1995, Gotovina and Rajčić issued orders for the HV artillery to provide artillery support to the main forces in the attack operation, through powerful strikes against the enemy's front line, command posts, communications centres, and artillery firing positions and by putting the towns of Drvar, Knin, Benkovac, Obrovac, and Gračac under artillery fire (without further specifying what should be targeted). The Trial Chamber will consider in chapter 5.8.2 (i) whether these attack orders should be interpreted to mean that these towns as such were identified as targets.

1195. The Trial Chamber has received evidence on the facilities used by the SVK in Knin at the time of Operation Storm from Novaković, Mrkšić, Witness 54, Witness 56 and several international observers who were stationed or otherwise present in Knin at the time.

1196. **Kosta Novaković**, who was a member of the SVK General Staff and assistant commander to Mile Mrkšić during Operation Storm,⁴³⁴⁹ testified that the Northern barracks was situated on the edge of Knin, on the road to Strmica, in Knin municipality, and contained a kitchen, medical facilities and a technical workshop.⁴³⁵⁰ Until the end of July 1995, the Corps Command of the 7th North Dalmatian Corps, which protected the Sector South area, was based in the Northern barracks.⁴³⁵¹ The command consisted of around 30 soldiers. There was also a mobile communications unit consisting of 70 soldiers and 10 vehicles at the barracks.⁴³⁵² At the end of the July 1995, the Corps Command moved to the Dinara Mountains.⁴³⁵³

1197. Novaković testified that the SVK command centre was based in Knin town in a four storey building called the Garrison Command or Division Command, which was next to the Army hall and opposite the railway station.⁴³⁵⁴ This building was used as the command of the SVK, was the SVK's main communications centre and it housed the

⁴³⁴⁹ P1092 (Kosta Novaković, witness statement, 5 April 2001), pp. 1-2; P1093 (Kosta Novaković, witness statement, 8 March 2007), paras 4-5; Kosta Novaković, T. 11708, 11711, 11775-11776, 11858.

⁴³⁵⁰ P1093 (Kosta Novaković, witness statement, 8 March 2007), para. 9; P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 10; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), Northern barracks marked C.

⁴³⁵¹ P1093 (Kosta Novaković, witness statement, 8 March 2007), para. 7; P1094 (Kosta Novaković, witness statement, 3 October 2008), paras 10-11.

⁴³⁵² P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 10; Kosta Novaković, T. 11929.

⁴³⁵³ P1093 (Kosta Novaković, witness statement, 8 March 2007), para. 7; Kosta Novaković, T. 11929.

⁴³⁵⁴ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 9; P1093 (Kosta Novaković, witness statement, 8 March 2007), paras 5, 9; P1094 (Kosta Novaković, witness statement, 3 October 2008), paras 4, 18; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), Garrison Command marked H; Kosta Novaković, T. 11725.

offices of Mrkšić and Chief of Staff General Dušan Lončar on the first floor; the offices of the Main Staff on the second and third floor; the MUP, including the office of the head of the State Security Service, on the ground and first floor; and the Operations Centre in the basement.⁴³⁵⁵ The switchboard room was either in the basement, or on the ground floor of this building.⁴³⁵⁶ The stationary SVK communication system was based on a switchboard and radio relay equipment. In the event of an attack, the Main Staff was to be relocated to Srb, in Donji Lapac municipality.⁴³⁵⁷ Prior to Operation Storm there would be approximately 50 soldiers and 10 civilian employees in the Garrison Command at any given time.⁴³⁵⁸ Next to the Garrison Command was the Army Hall building, which housed, amongst others, the office of the RSK Prime Minister on the side of the building facing the street, as well as Novaković's own office.⁴³⁵⁹ The building further housed the press room and a number of civilian facilities.⁴³⁶⁰ Prior to Operation Storm, around 20 soldiers and ten civilian employees would be in the Army Hall at any given time.⁴³⁶¹

1198. The Senjak barracks in the central part of Knin housed the Main Staff logistics base administration, a bakery, and various RSK ministries.⁴³⁶² The SVK Assistant of the Main Staff for Logistics, General Mirko Bjelanović, used one of the Senjak barracks buildings as a rear logistics headquarters.⁴³⁶³ There was no ammunition storage in Knin.⁴³⁶⁴ The Southern barracks was occupied by the UN Sector South Command and was situated on the edge of Knin on the road to Drniš and Šibenik.⁴³⁶⁵ Separate from the UN camp, the SVK stored medication and clothing in a building of the Southern

⁴³⁵⁵ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 9; P1094 (Kosta Novaković, witness statement, 3 October 2008), paras 18, 20.

⁴³⁵⁶ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 18.

⁴³⁵⁷ Kosta Novaković, T. 11929.

⁴³⁵⁸ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 19.

⁴³⁵⁹ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 9; P1093 (Kosta Novaković, witness statement, 8 March 2007), para. 5; P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 21; Kosta Novaković, T. 11725; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), Army Hall marked I.

⁴³⁶⁰ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 21.

⁴³⁶¹ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 22.

⁴³⁶² P1093 (Kosta Novaković, witness statement, 8 March 2007), para. 9; P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 12; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), Senjak barracks marked D.

⁴³⁶³ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 12; Kosta Novaković, T. 11906-11908.

⁴³⁶⁴ Kosta Novaković, T. 11908.

⁴³⁶⁵ P1093 (Kosta Novaković, witness statement, 8 March 2007), para. 9; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), Southern barracks marked E.

barracks, which was manned by four or five persons.⁴³⁶⁶ The Police Station in Knin was on the main street and Milan Martić lived in an apartment in a four storey building between the city centre and the police station.⁴³⁶⁷ SVK helicopters would mostly land at the Northern barracks.⁴³⁶⁸ The football pitch was also used for the landing of UN and SVK helicopters, although no helicopters landed there on 4 August 1995.⁴³⁶⁹

1199. According to Novaković, a two to three storey building, located about 100 metres from the Army Hall in the direction of Knin castle, housed the President's staff consisting of ten civilians on the ground and first floor and a further 20 civilians working for the Radio/TV Knin on the top floor.⁴³⁷⁰ Novaković testified that the Speaker of the RSK Parliament was located in the Municipal Building which also housed the civilian administration of Knin and a medical clinic, and was, to his knowledge, not used for military purposes in 1995.⁴³⁷¹ He further stated that prior to Operation Storm, the Old Hospital complex in downtown Knin, located about 150 metres down the main road from the railway station contained a part of the Ministry of Justice, a civilian recruitment office, a civilian district prison, a military detention facility for SVK soldiers, a civilian medical facility and other civilian administration facilities.⁴³⁷² The Pensioner's Hall served as a civilian hotel with 10-15 of the 40 rooms being occupied by Main Staff officers.⁴³⁷³ According to Novaković, the Agroprerada Depots which housed cattle feed, grain silos, a mill and a bakery, had no military use.⁴³⁷⁴

1200. **Mile Mrkšić**, the commander of the SVK Main Staff from May 1995,⁴³⁷⁵ testified that before combat activities commenced, the command of General Kovačević,

⁴³⁶⁶ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 13; Kosta Novaković, T. 11699.

⁴³⁶⁷ P1094 (Kosta Novaković, witness statement, 3 October 2008), paras 25-26; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), police station marked L, Milan Martić's apartment marked M.

⁴³⁶⁸ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 37.

⁴³⁶⁹ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 37; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), football pitch marked T.

⁴³⁷⁰ P1094 (Kosta Novaković, witness statement, 3 October 2008), paras 5, 7-8; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), building housing President's staff and Radio/TV Knin staff marked A.

⁴³⁷¹ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 9; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), municipal building marked B.

⁴³⁷² P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 23; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), Old Hospital complex marked J.

⁴³⁷³ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 24; Kosta Novaković, T. 11926; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), Pensioner's Hall marked K.

⁴³⁷⁴ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 32; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), Agroprerada depots marked P.

⁴³⁷⁵ Mile Mrkšić, T. 18751, 18993.

commander of the 7th Corps, was located in the Northern barracks in Knin.⁴³⁷⁶ After relocation, the 7th Corps had its main operational command post at Pađene, in Knin municipality, near an abandoned railway station three to four kilometres along the winding road above Knin, which was also near a feature above Knin known as Bulina Strana.⁴³⁷⁷ Mrkšić did not know whether the rear or logistics command of the 7th Corps remained in the Northern Barracks, or whether it was (partially) relocated to Golubić, in Knin municipality, where the main former JNA depot was, but believed that some warrant officers, soldiers, vehicles and some assets which could not be moved remained at the barracks.⁴³⁷⁸

1201. On 3 August 1995, the SVK Main staff and the corps commands were divided into the main command post, the rear command post, and the logistics post, so that they could not be destroyed in a single blow, as the SVK assessed that an attack was imminent.⁴³⁷⁹ The Chief of Staff left with part of the command and set up a reserve command post in Srb, in Donji Lapac municipality, and Mrkšić remained in Knin with the other part of the command and the Supreme Command.⁴³⁸⁰ Mrkšić testified that the SVK command building was on the main road in downtown Knin, on the ground floor and in the basement.⁴³⁸¹ The operations room was in the basement of the command building.⁴³⁸² Other than the building Martić used as the President's headquarters, there were only civilian, mainly residential, buildings in the area around the command building.⁴³⁸³ Mrkšić testified that the logistics barracks called Senjak was in Knin, west of the TVIK factory.⁴³⁸⁴ No other buildings in Knin were occupied by the SVK.⁴³⁸⁵

⁴³⁷⁶ Mile Mrkšić, T. 18879, 19110; D1525 (Map of Knin with markings by Mile Mrkšić), Northern Barracks marked A.

⁴³⁷⁷ Mile Mrkšić, T. 18949-18950, 18977-18979, 18981, 19027, 19029-19032, 19043-19045, 19104-19105, 19114-19915; D1526 (Map of Knin municipality with markings by Mile Mrkšić), location of 7th Corps main operational command post marked A.

⁴³⁷⁸ Mile Mrkšić, T. 18907, 19029, 19043-19045, 19103-1904, 19115; D1526 (Map of Knin municipality with markings by Mile Mrkšić), main JNA depot in Golubić marked B.

⁴³⁷⁹ Mile Mrkšić, T. 18856-18858, 19030, 19041, 19092-19093.

⁴³⁸⁰ Mile Mrkšić, T. 18857, 18859-18860, 18978, 18999, 19105.

⁴³⁸¹ Mile Mrkšić, T. 18937, 19024-19025, 19046, 19110, 19112; D1525 (Map of Knin with markings by Mile Mrkšić), command building marked C.

⁴³⁸² Mile Mrkšić, T. 18860-18861, 18888, 19024.

⁴³⁸³ Mile Mrkšić, T. 19049.

⁴³⁸⁴ Mile Mrkšić, T. 19111; D1525 (Map of Knin with markings by Mile Mrkšić), Senjak barracks marked E.

⁴³⁸⁵ Mile Mrkšić, T. 19025.

1202. **Witness 54**, a Serb from Knin,⁴³⁸⁶ identified the SVK headquarters, the military infirmary, and the JNA club where, according to the witness, the reserve police of the army had their mess hall.⁴³⁸⁷ The witness further described the Senjak complex as military depots, holding medical supplies, the military bakery, and some repair shops used by the military.⁴³⁸⁸ The witness further identified the old people's home which was used as a kind of hotel, mostly for military personnel.⁴³⁸⁹ The old high school building was used as a radio and television station in August 1995.⁴³⁹⁰ The old hospital building was used as a detention centre in August 1995.⁴³⁹¹ The building referred to as the Old Army building consisted of residential buildings.⁴³⁹² The witness testified that the Agroprerada depots consisted of a mill and a bakery in 1995 and that there was no military material stored there.⁴³⁹³

1203. The existence, use, and location of a number of the facilities mentioned in the above paragraphs (such as the Northern barracks, the SVK headquarters, the Senjak barracks, the police station, the Radio TV Knin building, and Milan Martić's residence), were further confirmed by the testimonies of several witnesses, including **Witness 56**,⁴³⁹⁴ **Andrew Leslie**,⁴³⁹⁵ **Stig Marker Hansen**,⁴³⁹⁶ **Alun Roberts**,⁴³⁹⁷ **Andries**

⁴³⁸⁶ P186 (Witness 54, witness statement, 2 July 1996), pp. 1-2; Witness 54, T. 2781; P188 (Photograph of Knin, with Witness 54's house marked).

⁴³⁸⁷ P186 (Witness 54, witness statement, 2 July 1996), p. 4; Witness 54, T. 2785, 2788, 2811; P189 (Photographs of Knin, marked by Witness 54), SVK headquarters marked D, JNA club marked E, military infirmary marked O.

⁴³⁸⁸ Witness 54, T. 2792-2793, 2811; P189 (Photographs of Knin, marked by Witness 54), Senjak complex marked M.

⁴³⁸⁹ Witness 54, T. 2793, 2811; P189 (Photographs of Knin, marked by Witness 54), old people's home marked P.

⁴³⁹⁰ Witness 54, T. 2784-2785, 2811, 2812; P189 (Photographs of Knin, marked by Witness 54), old high school building marked C.

⁴³⁹¹ Witness 54, T. 2791, 2811; P189 (Photographs of Knin, marked by Witness 54), old hospital marked F.

⁴³⁹² Witness 54, T. 2791-2792, 2811; P189 (Photographs of Knin, marked by Witness 54), Old Army building marked I.

⁴³⁹³ Witness 54, T. 2786-2787, 2811; P189 (Photographs of Knin, marked by Witness 54), Agroprerada depots marked H.

⁴³⁹⁴ P286 (Witness 56, witness statement, 5 December 1996), pp. 2-4; P288 (Witness 56, witness statement, 12 June 2007), p. 9, paras 13-19; P289 (Witness 56, witness statement, 21 May 2008), para. 2, p. 10, northern barracks marked A, Senjak barracks marked B, SVK command headquarters marked D, government building marked E, police station marked F, old hospital marked N, soccer field marked Q; Witness 56, T. 3562, 3591-3592, 3605-3606.

⁴³⁹⁵ Andrew Leslie, T. 2132-2140, 2151, 2153-2155; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2; D131 (Maps of Knin identifying "legitimate military targets"), headquarters of the North Dalmatia Corps marked A1, RSK Ministry of Defence and SVK main headquarters marked B1, SVK facility just to the east of the UN compound marked A3, two areas of residence for SVK officers and their families marked A2 and B3, residence of Milan Martić marked B4, Parliament building marked B8, police station marked B10, fixed artillery position to the west of the UN compound marked C3, supply depot next to the rail yard marked D2, railway station marked E8, police office in the area just north of the river separating Knin and the UN

Dreyer,⁴³⁹⁸ **Murray Dawes,**⁴³⁹⁹ **Bert Dijkstra,**⁴⁴⁰⁰ **Roland Dangerfield,**⁴⁴⁰¹ and **Normand Boucher,**⁴⁴⁰² as well as by SVK orders of SVK Colonel Živko Šaponja dated 13 February 1995⁴⁴⁰³ and of Colonel Kozomara dated 27 July 1995⁴⁴⁰⁴.

1204. **Witness 56**, a Serb policeman in Knin between May 1994 and 5 August 1995,⁴⁴⁰⁵ further testified that the southern barracks were divided into two parts, one being used by UNPROFOR as their headquarters and the other by the SVK previously as a storage site for canons and tanks.⁴⁴⁰⁶ The SVK part of the southern barracks housed the 7th artillery anti-tank regiment.⁴⁴⁰⁷ The existence and location of the SVK facility east of UN compound was confirmed by witnesses **Andrew Leslie,**⁴⁴⁰⁸ **Bert Dijkstra,**⁴⁴⁰⁹ **Normand Boucher,**⁴⁴¹⁰ **Roland Dangerfield,**⁴⁴¹¹ and **Murray Dawes**⁴⁴¹².

compound marked A5, anti-aircraft artillery systems located in an area north-west of Knin marked C2, various military depots stretched along an area west of Knin marked D4.

⁴³⁹⁶ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 2; Stig Marker Hansen, T. 14893, 15057.

⁴³⁹⁷ P676 (Alun Roberts, witness statement, 31 July 1998), pp. 1-3.

⁴³⁹⁸ P72 (Andries Dreyer, witness statement, 22 February 2008), paras 3-4; D109 (Andries Dreyer, witness statement, 4 February 1996), pp. 3-4; Andries Dreyer, T. 1720, 1762; P78 (Aerial photograph of Knin marked by Dreyer in February 2008), marking A (northern barracks), marking B (southern barracks); P79 (Aerial photograph of Knin marked by Dreyer in February 1996); D102 (Aerial photograph of Knin showing artillery targets as alleged by the Defence).

⁴³⁹⁹ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 2, 4; P981 (Murray Dawes, witness statement, 2 April 2008), paras 4, 13; Murray Dawes, T. 10388, 10464; ; P984 (Map of Knin with various locations marked by Murray Dawes), RSK headquarters and parliament building marked A, Radio Knin marked F.

⁴⁴⁰⁰ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 2; P429 (Bert Dijkstra, witness statement, 12 March 2008), paras 8, 11-12; Bert Dijkstra, T. 4760; P430 (Aerial map of Knin marked by Bert Dijkstra), Northern barracks marked 1, Serb camp marked 2, government building and radio station marked 3 and 4, logistics base marked 5.

⁴⁴⁰¹ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 26; Roland Dangerfield, T. 7143-7144; D716 (Aerial photographs of Knin).

⁴⁴⁰² P1176 (Normand Boucher, witness statement, 20 February 1996), paras 2-4; D1217 (Normand Boucher, witness statement, 17 December 2008), para. 35.

⁴⁴⁰³ D244 (Order for the air defence from the command of the 7th corps, 13 February 1995).

⁴⁴⁰⁴ D1278 (Order of Colonel Kozomara, 27 July 1995), p. 1.

⁴⁴⁰⁵ P286 (Witness 56, witness statement, 5 December 1996), pp. 1-2; P287 (Witness 56, witness statement, 18 September 2000), p. 1; P288 (Witness 56, witness statement, 12 June 2007), p. 1, para. 2; P289 (Witness 56, witness statement, 21 May 2008), p. 1; Witness 56, T. 3686.

⁴⁴⁰⁶ P286 (Witness 56, witness statement, 5 December 1996), p. 4; P288 (Witness 56, witness statement, 12 June 2007), p. 9, para. 19; P289 (Witness 56, witness statement, 21 May 2008), para. 2, p. 10, southern barracks marked G.

⁴⁴⁰⁷ P289 (Witness 56, witness statement, 21 May 2008), para. 2.

⁴⁴⁰⁸ Andrew Leslie, T. 2133-2140, 2153-2155; D131 (Maps of Knin identifying "legitimate military targets"), SVK facility just to the east of the UN compound marked A3.

⁴⁴⁰⁹ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 2; P429 (Bert Dijkstra, witness statement, 12 March 2008), paras 8, 11-12; Bert Dijkstra, T. 4760; P430 (Aerial map of Knin marked by Bert Dijkstra) Serb camp marked 2.

⁴⁴¹⁰ P1176 (Normand Boucher, witness statement, 20 February 1996), paras 2-4; D1217 (Normand Boucher, witness statement, 17 December 2008), para. 35.

⁴⁴¹¹ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 26; Roland Dangerfield, T. 7143-7144; D716 (Aerial photographs of Knin).

1205. **Kosta Novaković** testified that there were no fixed artillery positions in or directly outside of Knin and that the closest SVK military unit and artillery position to Knin was the 7th Light Artillery Anti-Aircraft Rocket Regiment located in the general area of Pađene, in Knin municipality, some 10 to 15 kilometres from Knin.⁴⁴¹³ This regiment was tasked with defending Knin against aerial attacks.⁴⁴¹⁴ However, **Andrew Leslie** testified that military facilities in Knin included a fixed artillery position to the west of the UN compound; one large anti-aircraft facility to the south-east of the UN compound which was exclusively of military use.⁴⁴¹⁵ **Roland Dangerfield**, a British army sector liaison officer stationed in Knin in August 1995,⁴⁴¹⁶ testified that the legitimate military targets in the area of Knin he was aware of included the air defence battery outside of town, west of the army barracks.⁴⁴¹⁷ **Andries Dreyer**, UN Security Coordinator for Sector South in 1995,⁴⁴¹⁸ testified that he had heard from the military about a Serbian anti-aircraft position that was located on the hill above the UN compound.⁴⁴¹⁹

1206. With regard to the communications facilities in Knin, **Mile Mrkšić** testified that the SVK anticipated that the HV would strike at their communications network.⁴⁴²⁰ The SVK used the former JNA communications systems which were over 40 years old and which relied on relay communications, based on antennas with protected underground facilities serving as nodes which sent signals to other locations.⁴⁴²¹ **Kosta Novaković** testified that the Post Office in Knin was located across from the railway station and

⁴⁴¹² P980 (Murray Dawes, witness statement, 22 August 1996), p. 3; P981 (Murray Dawes, witness statement, 2 April 2008), para. 6; P984 (Map of Knin with various locations marked by Murray Dawes), Serbian army facility east of UN compound marked C.

⁴⁴¹³ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 30; Kosta Novaković, T. 11780-11781, 11783, 11906, 11916-11917.

⁴⁴¹⁴ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 30.

⁴⁴¹⁵ Andrew Leslie, T. 2133-2140, 2153-2155; D131 (Maps of Knin identifying "legitimate military targets"), fixed artillery position to the west of the UN compound marked C3, anti-aircraft facility to the south-east of the UN compound marked C4.

⁴⁴¹⁶ P695 (Roland Dangerfield, witness statement, 21 December 1995), paras 1-2; Roland Dangerfield, T. 7132.

⁴⁴¹⁷ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 26; Roland Dangerfield, T. 7143-7144; D716 (Aerial photographs of Knin), p. 4.

⁴⁴¹⁸ P72 (Andries Dreyer, witness statement, 22 February 2008), p. 1, para. 1; D109 (Andries Dreyer, witness statement, 4 February 1996), p.1; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 1; Andries Dreyer, T. 1710, 1745-1746, 1748, 1812, 1831.

⁴⁴¹⁹ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 4; Andries Dreyer, T. 1721-1722; P78 (Aerial photograph of Knin marked by Dreyer in February 2008), marking AA (anti-aircraft position); P79 (Aerial photograph of Knin marked by Dreyer in February 1996).

⁴⁴²⁰ Mile Mrkšić, T. 19056.

⁴⁴²¹ Mile Mrkšić, T. 18838, 19054-19055.

contained telegraph equipment.⁴⁴²² The railway also had a communication centre located across from the railway station in a residential building.⁴⁴²³ The SVK never used the Post Office or railway communication equipment as it relied on its own communications system in the Garrison Command building, and if that system failed, the SVK had a mobile communication facility.⁴⁴²⁴ The SVK did use normal landline telephones for general communications, including between commanders' offices.⁴⁴²⁵ Fuel was stored at the secondary railway yard, which was used for the trains.⁴⁴²⁶ **Witness 56** testified that there was an antenna for radio communication on top of the police station and that radio communications in Knin had to run through the post office.⁴⁴²⁷

1207. With regard to the TVIK factory, **Mile Mrkšić** testified that the SVK did not make military use of the TVIK factory, which made nuts and bolts, but received their military assets from installations in Serbia.⁴⁴²⁸ **Kosta Novaković** testified that he was not aware of a military use of the TVIK factory, which produced screws and which he had last visited in May 1995.⁴⁴²⁹ The power transformers and administration buildings of the power company which were immediately next to the TVIK factory distributed power to the town, but served no military use as the SVK had its own power generators.⁴⁴³⁰ **Murray Dawes**, a former civilian UN accommodation officer stationed in Knin municipality from May 1994 to October 1995,⁴⁴³¹ testified that he had been inside the TVIK factory many times before, at least once within a month prior to 4 August 1995, and had not on these occasions seen any soldiers or military equipment in

⁴⁴²² P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 28; P1095 (Aerial photograph of Knin, marked by Kosta Novaković).

⁴⁴²³ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 29; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), railway communication centre marked W.

⁴⁴²⁴ P1094 (Kosta Novaković, witness statement, 3 October 2008), paras 28-29; Kosta Novaković, T. 11752-11753.

⁴⁴²⁵ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 28; Kosta Novaković, T. 11752-11753, 11861.

⁴⁴²⁶ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 34; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), secondary railway yard marked R.

⁴⁴²⁷ P289 (Witness 56, witness statement, 21 May 2008), para. 2, p. 10, post office marked I, Witness 56, T. 3556-3557.

⁴⁴²⁸ Mile Mrkšić, T. 19047, 19110, 19126-19127; D1525 (Map of Knin with markings by Mile Mrkšić), TVIK factory marked D.

⁴⁴²⁹ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 31; Kosta Novaković, T. 11936-11937; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), TVIK factory marked O.

⁴⁴³⁰ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 33; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), power company buildings and transformers marked Q.

⁴⁴³¹ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 1-2.

the facilities, nor observed any manufacturing.⁴⁴³² **Andrew Leslie** testified that he never saw military equipment in the factory, or such equipment being delivered to or exiting the factory, but he did see Serb men partly wearing fatigues going in and out of the building.⁴⁴³³

1208. **Witness 54** testified that the TVIK factory was known for producing screws although there were rumours that it was producing shells but the witness did not know for sure.⁴⁴³⁴ **Witness 56** testified that the TVIK factory's main products were bolts, screws, and other metal products and in 1990 explosive devices called "tvikovkas" had allegedly been produced there by TVIK employees.⁴⁴³⁵ According to a contract dated 24 June 1994 between the RSK Ministry of Defence and the TVIK factory, the latter was to deliver mining/demining sets and engineering demolition and sabotage sets to the former.⁴⁴³⁶ A TV report from "SRT" Krajina dated 3 September 1994 recorded a visit to the TVIK factory by then Commander of the SVK, General Čeleketić, who discussed the factory's military production programme.⁴⁴³⁷ An RSK Ministry of Defence document signed by Colonel Šuput Milan and dated 10 July 1995 recorded that a part of the manufacturing of products required for the construction of lethal devices to be launched from a rocket-launcher had been allocated to the TVIK factory. In the document, Šuput Milan noted that the production of certain products at TVIK was not meeting deadlines; that materials were missing; and that there were problems with inertia in the organization and the return of manpower. Šuput Milan proposed that the TVIK factory be put into the work system of the Sector for Military and Special Purpose Production.⁴⁴³⁸ In an order dated 13 February 1995, SVK Colonel Živko Šaponja noted that the Croatian attack was expected to be directed at, among others, Knin town and the structures in the town, including the TVIK factory.⁴⁴³⁹ Zdenko Rinčić testified that two or three days after he arrived in Knin, when visiting the TVIK

⁴⁴³² P980 (Murray Dawes, witness statement, 22 August 1996), p. 5, 7; Murray Dawes, T. 10389-10390, 10467.

⁴⁴³³ Andrew Leslie, T. 2155.

⁴⁴³⁴ Witness 54, T. 2785-2786, 2811; P189 (Photographs of Knin, marked by Witness 54), TVIK factory marked G.

⁴⁴³⁵ P289 (Witness 56, witness statement, 21 May 2008), para. 2, p. 10, TVIK factory marked C; Witness 56, T. 3592-3593.

⁴⁴³⁶ D242 (Contract between RSK Ministry of Defence and TVIK factory, 24 June 1994), pp. 1-2.

⁴⁴³⁷ D949 (Video and transcript of SRT TV report on Čeleketić's visit to the TVIK factory, 3 September 1994).

⁴⁴³⁸ D950 (Information from the RSK Ministry of Defence regarding TVIK factory, Colonel Šuput Milan, 10 July 1995).

⁴⁴³⁹ D244 (Order for the air defence from the command of the 7th corps, 13 February 1995).

factory, which according to Rinčić had manufactured ammunition for the SVK and JNA, he saw large amounts of unfinished machine gun ammunition of different calibres at the factory, as well as notes from Captain Dragan and other military units expressing thanks for the supply of ammunitions.⁴⁴⁴⁰

1209. With regard to the railway station, **Mile Mrkšić** testified that the railway hub in Knin, which was down the street across from the command centre, was the biggest railway traffic hub in the area, but at the time of the shelling of Knin, there was no railway traffic there and the SVK was not using it.⁴⁴⁴¹ Mrkšić did not see trains moving out of Knin on 4 August 1995.⁴⁴⁴² Some 20 to 30 per cent of the railway was not damaged and could have been used between Stara Straza and Pađene to pull out assets and ammunition from a logistics base and from the depots.⁴⁴⁴³ **Kosta Novaković** testified that between 27 July and 1 August 1995, as they expected an attack on the Golubić depots, the SVK used the rail system to move ammunition in 13 train carriages out of the Golubić depot and into tunnels at least ten kilometres outside of Knin.⁴⁴⁴⁴ An excerpt from a report on Operation Storm prepared by HV Chief of Staff General Zvonimir Červenko, dated 22 August 1995, recorded that SVK ammunition and weapons depots were uncovered in Stare Straža, Knin municipality, where approximately 15 wagons of ammunition were seized and in Golubić, Knin municipality, where approximately 7000 tons of ammunition and weapons were found prepared for arming three brigades, amongst which various rockets, reserve parts, food, various military equipment and sanitary material, anti-personnel and anti-tank mines and several tons of explosives.⁴⁴⁴⁵ **Murray Dawes** testified that he believed the railway station was not in use because, during the time he lived in Knin, he drove along the main supply routes in former Sector South, which ran parallel to the railway lines, many times each day, and not once had he ever seen work being done on the tracks, nor had he seen the tracks in use or seen a railcar.⁴⁴⁴⁶ He had also heard from his interpreter

⁴⁴⁴⁰ D1680 (Zdenko Rinčić, witness statement, 16 May 2009), para. 25; Zdenko Rinčić, T. 22339-22341, 22343.

⁴⁴⁴¹ Mile Mrkšić, T. 18888, 19048, 19110, 19121; D1525 (Map of Knin with markings by Mile Mrkšić), railway hub marked B.

⁴⁴⁴² Mile Mrkšić, T. 19122.

⁴⁴⁴³ Mile Mrkšić, T. 19121-19123.

⁴⁴⁴⁴ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 35; Kosta Novaković, T. 11927-11928.

⁴⁴⁴⁵ D387 (Excerpt from Report on Operation Storm, prepared by HV Chief of Staff, General Zvonimir Červenko, 22 August 1995), p. 1.

⁴⁴⁴⁶ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 4, 7; P981 (Murray Dawes, witness statement, 2 April 2008), para. 7; Murray Dawes, T. 10390-10391, 10468.

whose father had worked for the railway yards, that the railway was not operational.⁴⁴⁴⁷ A lot of people in Knin spoke to Dawes about how they had lost income, since the trains were not running and they could not work anymore.⁴⁴⁴⁸ Further evidence of the railway not having been used for years is provided by, amongst others, **Philip Berikoff**⁴⁴⁴⁹ and **Nadan Vidošević**⁴⁴⁵⁰.

1210. With regard to the school marked F on P1095, **Kosta Novaković** testified that he was not aware of a weapons section located in Knin on 4 August 1995, nor of a mortar section located at the new high school.⁴⁴⁵¹ However, **Andries Dreyer** testified that on 4 August 1995 he observed a manned mortar section just outside the school marked F on P1095 (which location he marked C on P78).⁴⁴⁵² **Witness 56** testified that two or three days before Operation Storm, a part of a military unit was billeted in the Knin Secondary School, 200-300 metres from the northern barracks.⁴⁴⁵³

1211. With regard to the St Ante church or monastery in Knin, **Kosta Novaković** testified that he was not aware of a military or police use of the St Ante Catholic church in Knin.⁴⁴⁵⁴ However, **Witness 56** testified that the St. Ante Monastery housed Serb refugees (since 1991) who had previously lived in areas of Croatian control, as well as approximately 30 members of the Knin Special Police platoon.⁴⁴⁵⁵ **Andrew Leslie** testified that there was a police office in the area just north of the river separating Knin and the UN compound.⁴⁴⁵⁶ On 25 July 1994, then-RSK President Mikelić signed a decision to relocate the Special Police Unit of the RSK MUP from the Catholic

⁴⁴⁴⁷ P981 (Murray Dawes, witness statement, 2 April 2008), para. 7.

⁴⁴⁴⁸ Murray Dawes, T. 10391.

⁴⁴⁴⁹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 8.

⁴⁴⁵⁰ D1775 (Nadan Vidošević, witness statement, 4 May 2009), para. 3; Nadan Vidošević, T. 23735-23736.

⁴⁴⁵¹ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 15; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), new high school marked F.

⁴⁴⁵² P72 (Andries Dreyer, witness statement, 22 February 2008), para. 4; D109 (Andries Dreyer, witness statement, 4 February 1996), pp. 3-4; Andries Dreyer, T. 1721, 1738, 1795; P78 (Aerial photograph of Knin marked by Dreyer in February 2008), marking C (mortar section); P79 (Aerial photograph of Knin marked by Dreyer in February 1996); D105 (Aerial photographs of Knin marked by Defence reproducing Dreyer's markings and indicating military targets as alleged by Defence), p. 3.

⁴⁴⁵³ P289 (Witness 56, witness statement, 21 May 2008), para. 2, p. 10, Knin secondary school marked L; Witness 56, T. 3571-3572.

⁴⁴⁵⁴ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 17; Kosta Novaković, T. 11921, 11923; P1095 (Aerial photograph of Knin, marked by Kosta Novaković), St Ante Catholic church marked G.

⁴⁴⁵⁵ P289 (Witness 56, witness statement, 21 May 2008), para. 2, p. 10, St Ante Monastery marked M; Witness 56, T. 3547, 3559.

⁴⁴⁵⁶ Andrew Leslie, T. 2133-2136, 2139-2140, 2151, 2154-2155; D131 (Maps of Knin identifying "legitimate military targets"), police office in the area just north of the river separating Knin and the UN compound marked A5.

monastery, and on 10 November 1994, RSK government representatives discussed moving a special unit from a monastery following a government decision.⁴⁴⁵⁷ According to the daily log of incidents in the Police Administration of the Knin District, on 12 August 1995, Željko Car of the Split-Dalmatia Police Administration Civilian Protection reported that around 20 cases of ammunition were found at the St Anthony Monastery.⁴⁴⁵⁸

1212. Based on the evidence above, the Trial Chamber finds that the following buildings in Knin housed SVK facilities: the SVK headquarters (marked H on P1095) and the adjacent Army Hall (marked I on P1095); the eastern part of the Southern barracks (marked E on P1095); and the Senjak or logistics barracks (D on P1095). Further, the Trial Chamber finds that the Slavko Rodić or Northern barracks (marked C on P1095) was the headquarters of the command of the 7th Knin or North Dalmatia Corps until approximately the end of July 1995, after which the Corps command moved out and the Northern barracks housed SVK technical, medical and kitchen facilities.

1213. Novaković testified that there were no fixed artillery positions in or directly outside of Knin and that he was not aware of a mortar section at a high school (marked F on P1095), nor of a military or police use of the St Ante monastery or church (marked G on P1095). Nonetheless, the Trial Chamber finds, based on the testimonies of Leslie, Dangerfield, and Dreyer, that there was an SVK fixed artillery position to the west of the UN compound (marked C3 on D131) and a large SVK anti-aircraft facility to the south-east of the UN compound (marked C4 on D131). The Trial Chamber further finds, based on the testimonies of Leslie and Witness 56 and documentary evidence D946, D947, and D57, that there was an RSK police presence at the St Ante Monastery. Based on the testimonies of Dreyer and Witness 56, the Trial Chamber finds that there was an SVK mortar section on 4 August 1995 in or near the school marked F on P1095. In reaching these findings, the Trial Chamber also considered that Novaković's position within the SVK did not directly involve duties related to artillery, anti-aircraft defence, or the RSK police.

1214. The Trial Chamber further finds that the police station in Knin was located at marking L on P1095. Milan Martić's apartment was located nearby at marking B4 on

⁴⁴⁵⁷ D946 (Conclusion regarding Catholic monastery, President Borislav Mikelić, 25 July 1994); D947 (Video clip and transcript of RSK government meeting regarding monastery, 10 November 1994).

⁴⁴⁵⁸ D57 (Daily log of incidents in the Police Administration of the Knin District, Book 1, 6 August 1995-7 October 1995), pp. 1, 10.

D131. The Radio TV Knin building (marked A on P1095) housed, in addition to the Radio TV Knin staff, ten members of the RSK President's staff. The Pensioner's Hall (marked K on P1095) served as a hotel, with 10 to 15 of its 40 rooms occupied by SVK Main Staff officers.

1215. The Post Office was located at marking N on P1095. In light of the apparent inconsistencies between the testimony of Witness 56 on the one hand and Mrkšić and Novaković on the other, the Trial Chamber is unable to determine the technical role, if any, of the Post Office in SVK and/or RSK police communications. The railway station was at a location marked E8 on D131. The evidence indicates that no trains ran on the railway tracks through Knin in the months prior to or during Operation Storm, with the possible exception of the SVK's use of the railway in late July or early August 1995 to transport ammunition out of the Golubić depot to tunnels in Stara Straza. The Trial Chamber finds that there was a railway communication centre near the railway station (marked W on P1095). A secondary railway yard (marked R on P1095) was a fuel storage facility.

1216. There is documentary evidence indicating that the SVK planned to produce weapons-related products at the TVIK factory (marked O on P1095). The evidence does not conclusively establish whether and if so to what extent the planned weapons-related production at the TVIK factory was in operation by early August 1995. Rinčić testified to finding large amounts of unfinished ammunition in the TVIK factory after Operation Storm. However, Rinčić's testimony in this respect is unsupported by any contemporaneous documentation. Moreover, Rinčić's testimony also differs from that of Mrkšić, Novaković, and a number of international observers who visited the factory prior to Operation Storm, all of whom testified that there was no military production at the factory.

1217. The Trial Chamber has received evidence on the SVK presence in Knin immediately prior to and at the start of 4 August 1995 from Rajčić, HV documentation, Novaković, Mrkšić, and several international observers who were stationed or otherwise present in Knin at the time.

1218. In a report dated 30 July 1995, HV Rear admiral Davor Domazet stated that the success rate of SVK mobilisation in Knin and its surroundings was said to be as low as 17 percent. Domazet also stated that after a state of war and general mobilisation had been declared, the RSK Supreme Military Council met in Knin and decided to engage

all human and material resources in the defence of the RSK; to impose a curfew between 10 p.m. and 5 a.m.; and to punish severely anyone whose actions would increase fear and panic among people. Further, the SVK was setting up courts martial in the occupied areas of Croatia, in order to improve response and reduce desertion.⁴⁴⁵⁹

1219. Gotovina's order for an offensive operation, dated 2 August 1995, noted that the SVK 75th Knin motorized brigade was mobilized along an axis in Drniš municipality.⁴⁴⁶⁰ Combat Group Dinara (part of the forces of the 7th Knin Corps units, Knin MUP Battalion and part of the SVK Special Forces Corps) was mobilized along an axis in Bosnia-Herzegovina-Dinara, Borova Glava and Strmica, in Knin municipality. In the order, Gotovina stated that in the area of Knin, the enemy had reserve forces which included parts of the Special Forces Corp, the Mindušari (so-called Earring Wearers) Reconnaissance-Sabotage Company and up to 800 conscripts.⁴⁴⁶¹

1220. **Marko Rajčić** testified that on 4 August 1995, based on the intelligence information available to him at the time, in his analysis present in Knin were the troops of the SVK Main Staff, the command of the 7th Corps, the command of the mixed artillery regiment, which was in the Senjak barracks, the support artillery regiment, the command of the aircraft regiment, and a small unit in the new school in Knin.⁴⁴⁶² Rajčić testified that the operational reserve forces, for possible interventions along threatened lines of defence, were in the Slavko Rodić barracks and the police of Milan Martić, including the unit referred to as earring wearers,⁴⁴⁶³ were in the monastery of St Ante in Knin.⁴⁴⁶⁴ Statements of the RSK and SVK leadership lead the HV to believe that the SVK intended to resist and defend Knin to the last man.⁴⁴⁶⁵

1221. **Mile Mrkšić** testified that on 2 August 1995, he issued a decision to carry out a persistent defence, being an extreme, decisive, last-ditch defence, to slow down and prevent a possible attack by the HV, while also carrying out an operation to liberate the Knin-Grahovo-Drvar communication and take control of the Dinara ridge, so as to improve the RSK's negotiating position.⁴⁴⁶⁶ By this decision, Mrkšić hoped to slow

⁴⁴⁵⁹ P2619 (Intelligence administration report, Rear admiral Davor Domazet, 30 July 1995), p. 2.

⁴⁴⁶⁰ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 3.

⁴⁴⁶¹ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 4.

⁴⁴⁶² Marko Rajčić, T. 16481-16483.

⁴⁴⁶³ The Trial Chamber understands this to refer to the unit also known as the Mindušari.

⁴⁴⁶⁴ Marko Rajčić, T. 16481-16482.

⁴⁴⁶⁵ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 31.

⁴⁴⁶⁶ Mile Mrkšić, T. 18868; D1515 (SVK General Staff decision on further combat operations, Mile Mrkšić, 2 August 1995), p. 2.

down Gotovina's forces along the most important axis which was endangering the practically undefended capital.⁴⁴⁶⁷ Mrkšić testified that on 4 August 1995, other than a part of the Main Staff, the President's security, the staff units, and a police platoon securing the command, there were no combat units, anti-aircraft or tank units stationed in Knin, but only women and children.⁴⁴⁶⁸ The SVK had transport vehicles in order to relocate the Main Staff and mobile communication equipment in Knin, but no combat or defence systems.⁴⁴⁶⁹ Some of the Main Staff, MUP police and President's security were in the SVK command building, while others were at a nearby hotel, where a number of officers were billeted.⁴⁴⁷⁰ The Knin corps, consisting of a company or two, without engineering devices, minefields or the necessary firepower, were holding the front line in the Crvena Zemlja area.⁴⁴⁷¹ According to an SVK MUP Special Units Administration report of 2 August 1995, a new combat group was formed under the command of Colonel Radić of the 7th Corps, consisting of 60 MUP members, three police companies of the Secretariat for Internal Affairs Knin, the Special Unit Dalmatia with the Mindušari platoon,⁴⁴⁷² 30 7th Corps Scouts and an incomplete SVK infantry company.⁴⁴⁷³ Mrkšić testified that Martić sent the RSK MUP regular police forces and the Special Police platoon to defend the "Unista" position on the frontline along the Dinara, as the SVK lacked sufficient personnel.⁴⁴⁷⁴

1222. **Kosta Novaković** testified that there were no military units in or directly outside of Knin.⁴⁴⁷⁵ There were no operational units in either the Northern barracks or the Senjak barracks in August 1995, as they were all on the front lines.⁴⁴⁷⁶ On 4 August 1995, the 2nd Guards Brigade was not in Knin, but was deployed somewhere between Golubić and Strmica.⁴⁴⁷⁷ During Operation Storm, the Special Purpose Unit of the RSK MUP, consisting of around 100 members, was not located or housed in Knin, but fought

⁴⁴⁶⁷ Mile Mrkšić, T. 18868.

⁴⁴⁶⁸ Mile Mrkšić, T. 18813, 18832, 18874, 19023-19025.

⁴⁴⁶⁹ Mile Mrkšić, T. 19023.

⁴⁴⁷⁰ Mile Mrkšić, T. 18860-18861, 18888, 19024.

⁴⁴⁷¹ Mile Mrkšić, T. 18901.

⁴⁴⁷² The Trial Chamber understands this to refer to the unit also known as the Earring wearers.

⁴⁴⁷³ D941 (MUP Special Units Administration report on employment of the police forces at the Dinara, 2 August 1995), p. 1.

⁴⁴⁷⁴ Mile Mrkšić, T. 18901, 18915, 19113.

⁴⁴⁷⁵ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 30; Kosta Novaković, T. 11780-11781, 11783, 11906, 11916-11917.

⁴⁴⁷⁶ P1093 (Kosta Novaković, witness statement, 8 March 2007), para. 9; P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 16; Kosta Novaković, T. 11699, 11750.

⁴⁴⁷⁷ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 16.

with the 1st Brigade near Vrlika.⁴⁴⁷⁸ Prior to the end of July 1995, there were about 40 soldiers in the Senjak barracks, which number included the 10 to 15 soldiers who formed Bjelanović's staff.⁴⁴⁷⁹ On the morning of 4 August 1995 there were 15 soldiers in the Garrison Command building.⁴⁴⁸⁰ On 4 August 1995, only the 20-30 soldiers manning the medical facilities, the kitchen and the technical workshop were in the Northern barracks.⁴⁴⁸¹

1223. **Andries Dreyer** testified that the defensive positions in and around Knin that he observed on 4 August 1995 included only a manned mortar section and one APC.⁴⁴⁸² On the same day, Dreyer saw an overturned Milicija vehicle with one dead person inside.⁴⁴⁸³ Other than that, Dreyer observed no SVK military activity or other defence related activities in Knin on that day: specifically, he saw no movement of heavy weapons or firing of heavy or other weapons from Knin, no dug-in positions.⁴⁴⁸⁴

Andrew Leslie testified that from May 1995 onwards soldiers had been deployed into the zone of separation and were therefore no longer in the town of Knin.⁴⁴⁸⁵ Until approximately 1 August 1995, it was common to see soldiers visiting family and friends in the town of Knin.⁴⁴⁸⁶ Leslie stated that the military presence in Knin from 1 to 4 August 1995 was minimal and that the defensive preparations in or around the town of Knin were essentially non-existent.⁴⁴⁸⁷

⁴⁴⁷⁸ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 25; Kosta Novaković, T. 11895-11896.

⁴⁴⁷⁹ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 12.

⁴⁴⁸⁰ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 19.

⁴⁴⁸¹ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 11; Kosta Novaković, T. 11980.

⁴⁴⁸² P72 (Andries Dreyer, witness statement, 22 February 2008), para. 4; D109 (Andries Dreyer, witness statement, 4 February 1996), pp. 3-4; Andries Dreyer, T. 1721, 1738, 1795; P78 (Aerial photograph of Knin marked by Dreyer in February 2008), marking C (mortar section), marking D (APC); P79 (Aerial photograph of Knin marked by Dreyer in February 1996); D105 (Aerial photographs of Knin marked by Defence reproducing Dreyer's markings and indicating military targets as alleged by Defence), p. 3.

⁴⁴⁸³ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 5; D109 (Andries Dreyer, witness statement, 4 February 1996), p. 4; Andries Dreyer, T. 1721, 1795; P78 (Aerial photograph of Knin marked by Dreyer in February 2008), marking F (overturned Milicija vehicle with one dead person); P79 (Aerial photograph of Knin marked by Dreyer in February 1996); D105 (Aerial photographs of Knin marked by Defence reproducing Dreyer's markings and indicating military targets as alleged by Defence), p. 3.

⁴⁴⁸⁴ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 6; D109 (Andries Dreyer, witness statement, 4 February 1996), pp. 3-4; Andries Dreyer, T. 1722, 1738, 1795, 1799, 1801.

⁴⁴⁸⁵ Andrew Leslie, T. 1937-1938; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

⁴⁴⁸⁶ Andrew Leslie, T. 1938.

⁴⁴⁸⁷ Andrew Leslie, T. 1938; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

1224. **Robert Williams**, an intelligence officer for the Canadian contingent of UNPROFOR,⁴⁴⁸⁸ was sent to Knin on 3 August 1995.⁴⁴⁸⁹ During his trip around Knin, Williams saw no defensive positions and no heavy weapons, artillery, or tanks in town. The witness saw soldiers carrying hand-guns walking around downtown.⁴⁴⁹⁰ The evidence of a very limited SVK troop presence in Knin is supported by the testimony of several other witnesses, including **John Hill**,⁴⁴⁹¹ **Alun Roberts**,⁴⁴⁹² **Murray Dawes**,⁴⁴⁹³ **Philip Berikoff**,⁴⁴⁹⁴ **Bert Dijkstra**,⁴⁴⁹⁵ **Roland Dangerfield**,⁴⁴⁹⁶ **Mira Grubor**,⁴⁴⁹⁷ and **Witness 6**⁴⁴⁹⁸. The Trial Chamber has also considered the evidence of Đuro Vukašinić reviewed in chapter 4.4.4.

1225. Based on the evidence above, the Trial Chamber finds that there was a very limited SVK presence of approximately 50 to 150 SVK and police personnel within the town of Knin at the start of Operation Storm on 4 August 1995. The SVK also had transport vehicles and mobile communication equipment in the town at this time. The SVK personnel at the SVK headquarters included 15 soldiers, as well as part of the Main Staff. A number of SVK officers were at the Pensioner's Hall. Further, based on the evidence received, the Trial Chamber finds that there were no more than 30 SVK members at the Northern barracks and that the RSK Special Police were located outside of Knin on the front lines. The Trial Chamber notes that the number of SVK members at the Northern barracks as well as the location of the RSK Special Police differs from Rajčić's testimony, which he based on an analysis of the information available to him at the time, rather than on any personal observations. The Trial Chamber will make further factual findings regarding the SVK presence in Knin during the days of 4 and 5 August 1995 below.

⁴⁴⁸⁸ P924 (Robert Williams, witness statement, 5 November 1995), p. 1; P925 (Robert Williams, witness statement, 22 August 1996), p. 2.

⁴⁴⁸⁹ P925 (Robert Williams, witness statement, 22 August 1996), p. 2; Robert Williams, T. 9532.

⁴⁴⁹⁰ P925 (Robert Williams, witness statement, 22 August 1996), p. 3.

⁴⁴⁹¹ P291 (John Hill, witness statement, 23 August 1996), pp. 3, 5; John Hill, T. 3808.

⁴⁴⁹² P677 (Alun Roberts, witness statement, 28 February 2007), p. 5.

⁴⁴⁹³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 3.

⁴⁴⁹⁴ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 3; D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 4-6, 12, 17-18; Philip Berikoff, T. 7681, 7687-7688, 7690, 7891.

⁴⁴⁹⁵ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 2; P429 (Bert Dijkstra, witness statement, 12 March 2008), paras 8-10, 13; Bert Dijkstra, T. 4759.

⁴⁴⁹⁶ P695 (Roland Dangerfield, witness statement, 21 December 1995), paras 13, 26.

⁴⁴⁹⁷ P54 (Mira Grubor, witness statement, 3 April 1998), p. 4; P55 (Mira Grubor, witness statement, 12 July 2007), para. 10; Mira Grubor, T. 1389, 1406, 1408, 1471-1472.

⁴⁴⁹⁸ P16 (Witness 6, witness statement, 21 February 2007), para. 20.

1226. The Trial Chamber has received evidence about the civilian presence in Knin at the start of Operation Storm from several witnesses.

1227. **Marko Rajčić** testified that in June 1995, he received information from Serb acquaintances that civilians began leaving Knin when the HV took control over the dominant features of Mount Dinara.⁴⁴⁹⁹ Based on an analysis of the information he had at the time, Rajčić testified that there were between 2,000 and 3,000 civilians in the six-square-kilometre area of the settlement of Knin, which he based on a 1990 census of 12,300 inhabitants, from which he subtracted the approximately 1,600 Croats and others who left before Operation Storm, as well as the population of able-bodied men aged 18 to 60, who had been mobilized.⁴⁵⁰⁰ Rajčić also had some information that civilians from Grahovo and Glamoč, in Bosnia-Herzegovina, and Strmica, in Knin municipality, were going to Knin, while others from those areas were heading to Drvar, in Bosnia-Herzegovina.⁴⁵⁰¹

1228. On 30 July 1995, HV Rear admiral Davor Domazet reported that the HV's taking of Grahovo, in Bosnia-Herzegovina, on 28 July 1995 had created conditions for it to threaten Knin directly, which had caused local Serbs to fear an HV attack on the entire RSK.⁴⁵⁰² Domazet further stated that more and more people were leaving the Krajina area and moving to the Republika Srpska and the FRY, although the latter had issued a decree closing its borders with Bosnia-Herzegovina and Croatia out of fear of a mass influx of people from the Republika Srpska and RSK. Those who could not leave were preparing shelters in houses, and evacuation routes had been designated.⁴⁵⁰³

1229. **Alain Gilbert** testified that on or around 29 July 1995 up until the eve of Operation Storm, the population of the town of Knin began to leave and there was a state of panic there.⁴⁵⁰⁴ **Witness 6** testified that by 4 August 1995, between five and ten per cent of the population of Knin had already left the city.⁴⁵⁰⁵ Some had left by private vehicles and some on a bus four or five days before Operation Storm.⁴⁵⁰⁶ **Robert Williams** testified that he could not clearly assess the amount of civilians present in

⁴⁴⁹⁹ Marko Rajčić, T. 16286, 16483, 16619-16620.

⁴⁵⁰⁰ Marko Rajčić, T. 16480-16481, 16483-16484.

⁴⁵⁰¹ Marko Rajčić, T. 16484.

⁴⁵⁰² P2619 (Intelligence administration report, Rear admiral Davor Domazet, 30 July 1995), pp. 1, 7

⁴⁵⁰³ P2619 (Intelligence administration report, Rear admiral Davor Domazet, 30 July 1995), pp. 1-2.

⁴⁵⁰⁴ Alain Gilbert, T. 6419-6420.

⁴⁵⁰⁵ Witness 6, T. 939.

⁴⁵⁰⁶ Witness 6, T. 938-939.

Knin at the time of his visit on 3 August 1995, but he recalled that he did not see many civilians on the streets.⁴⁵⁰⁷

1230. **Murray Dawes** testified that the majority of Knin's inhabitants were elderly Serbs and Serb women and children, since most of the Serb men were out at the front lines.⁴⁵⁰⁸ Dawes's testimony on the composition of the population of Knin in the days prior to Operation Storm is confirmed by the testimony of witnesses **Philip Berikoff**,⁴⁵⁰⁹ **Andrew Leslie**,⁴⁵¹⁰ **Mira Grubor**,⁴⁵¹¹ and **Bert Dijkstra**⁴⁵¹². Dawes further testified that based on information relayed to him by Serbian municipal employees working in the property recorder's office, he knew that, just prior to the end of July 1995, Knin's population expanded from 15-17,000 to 30,000 people.⁴⁵¹³ According to the witness, as the HV took over Grahovo 28 July 1995 and proceeded along the eastern side of Knin, Knin's population swelled noticeably with people leaving their local villages.⁴⁵¹⁴ The population in Knin rose to a level which seemed to the witness greater than what the town was able to accommodate in such a short amount of time.⁴⁵¹⁵ The individuals coming into Knin, immediately preceding Operation Storm, were also mostly elderly Serbs, Serb women and children, not fighting age males.⁴⁵¹⁶ Dawes recalled seeing individuals living in makeshift camps along some of the roads in town.⁴⁵¹⁷ **Andrew Leslie** testified that Knin had a population of about 35,000 people immediately prior to 4 August 1995 although it was around 20,000 or 25,000 in March 1995.⁴⁵¹⁸ The reason for this increase was the rise of tensions and the expectation of imminent hostilities that had made people from villages and towns closer to the zone of separation move into Knin.⁴⁵¹⁹ According to Leslie, a part of the local population from Knin had left during roughly the week prior to 4 and 5 August 1995 but this did not

⁴⁵⁰⁷ P925 (Robert Williams, witness statement, 22 August 1996), p. 3; Robert Williams, T. 9570-9571.

⁴⁵⁰⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 2; Murray Dawes, T. 10386-10387.

⁴⁵⁰⁹ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 3.

⁴⁵¹⁰ Andrew Leslie, T. 1937; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

⁴⁵¹¹ Mira Grubor, T. 1389.

⁴⁵¹² P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 2.

⁴⁵¹³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 2; P981 (Murray Dawes, witness statement, 2 April 2008), para. 2; Murray Dawes, T. 10385-10386.

⁴⁵¹⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 3; Murray Dawes, T. 10386-10387.

⁴⁵¹⁵ P981 (Murray Dawes, witness statement, 2 April 2008), para. 2.

⁴⁵¹⁶ Murray Dawes, T. 10386-10387.

⁴⁵¹⁷ P981 (Murray Dawes, witness statement, 2 April 2008), para. 2.

⁴⁵¹⁸ Andrew Leslie, T. 1937; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

⁴⁵¹⁹ Andrew Leslie, T. 1937.

constitute a sizeable reduction in the population.⁴⁵²⁰ In his report of 12 August 1995, Leslie noted that 1,000 persons had fled Knin by the time of the attack.⁴⁵²¹ The Trial Chamber has further considered evidence of Alun Roberts reviewed in chapter 4.5.3 (Knin municipality) and Alain Forand reviewed in chapter 4.5.2.

1231. **Petar Pašić** testified that he prepared a letter to the citizens of Serb ethnicity in Knin, which he sent to the HINA news agency and which was broadcast on Croatian television and radio and on a Serbian news agency on 2 August 1995, telling the Serbs to renounce their dissident authorities and to acknowledge the Republic of Croatia as their sole homeland.⁴⁵²² Pašić's letter stated that Knin had been flooded with 35,000 people and that in the preceding days, barriers had been erected around the town preventing the population from leaving in light of the Krajina's likely collapse.⁴⁵²³

1232. **Witness 54** testified that in the days before Operation Storm, he saw refugees in Knin coming from the villages of Strmica and Golubić in Knin municipality and other villages just below Mount Dinara, who told the witness they were escaping the shelling of these villages.⁴⁵²⁴ **Hussein Al-Alfi**, the UN Civil Affairs Coordinator, later renamed Political and Human Affairs Coordinator, for Sector South in Knin from June 1995 to January 1996,⁴⁵²⁵ testified that in early August 1995, the RSK declared a curfew by radio, forbidding residents from being outside before 6 a.m.⁴⁵²⁶ On 4 August 1995, around 4:05 a.m., Al-Alfi was taken to the UN compound in Knin.⁴⁵²⁷ He saw no civilians on the streets of Knin at that time.⁴⁵²⁸ The Trial Chamber has also considered evidence of Witness 56 reviewed in chapter 4.5.2, and Witness 136 reviewed in chapter 4.5.3 (Knin municipality).

⁴⁵²⁰ Andrew Leslie, T. 1939; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

⁴⁵²¹ P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2

⁴⁵²² D1706 (Petar Pašić, witness statement, 3 March 2002), pp. 2-3; Petar Pašić, T. 22778-22780; D1710 (Petar Pašić, open letter to Serbian citizens in Knin, 2 August 1995); D1716 (Video clip of Croatian TV late night broadcast of Pašić's open letter, 2 August 1995).

⁴⁵²³ D1710 (Petar Pašić, open letter to Serbian citizens in Knin, 2 August 1995); D1716 (Video clip of Croatian TV late night broadcast of Pašić's open letter, 2 August 1995).

⁴⁵²⁴ P186 (Witness 54, witness statement, 2 July 1996), p. 2; Witness 54, T. 2780-2781, 2813-2814.

⁴⁵²⁵ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 5; Hussein Al-Alfi, T. 13805-13806, 13932-13933.

⁴⁵²⁶ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 26; Hussein Al-Alfi, T.13879-13880.

⁴⁵²⁷ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 26-27; Hussein Al-Alfi, T. 13807, 13889.

⁴⁵²⁸ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 26; Hussein Al-Alfi, T. 13880.

1233. The Trial Chamber notes that the above estimates of the civilian population in Knin in early August 1995 vary greatly, from 2,000-3,000 to 35,000 people. The Trial Chamber considers that the lowest given number of civilians in Knin in early August 1995, that provided by Rajčić, was based on his analysis of intelligence information, rather than any direct observations. According to the 1991 Census, Knin had a population of 12,331 persons, of whom 9,867 were Serbs and 1,660 were Croats, in 1991. The Trial Chamber considers that significant numbers of non-Serbs from Knin left the former Sector South between 1991 and 1995. The evidence above, including from Dawes and Leslie who were present in Knin at the time, indicates that there was a large influx of people into Knin prior to early August 1995. The Trial Chamber considers that it is difficult for witnesses to accurately estimate the large number of persons moving to Knin at this time. Further, according to the estimates of Witness 6 and Leslie's report P84, in early August 1995, approximately 1,000 people left Knin. Considering the aforementioned evidence and that pursuant to the SVK's orders, a significant number of men from Knin would have been mobilized and stationed at the front lines in early August 1995, the Trial Chamber finds that there were at least 15,000 civilians in Knin on 4 August 1995. The Trial Chamber further finds that the vast majority of these civilians were women, children, and elderly men.

1234. The Trial Chamber has received evidence on the HV Corps artillery pieces which had Knin town in range from Rajčić and contemporaneous HV orders.

1235. On 2 August 1995, Gotovina and Rajčić ordered that TS-3 be composed of four 130-millimetre guns, three 155-millimetre howitzers and two 203-millimetre howitzers.⁴⁵²⁹ Rajčić further specified in his order that the TS-3 command post and the firing positions of the 155- and 203-millimetre howitzers were to be located in the area of Luka, in Bosnia-Herzegovina. The firing position of the 130-millimetre guns was located in Donje Peulje in Bosnia-Herzegovina. Rajčić further ordered TS-3 to establish an observation post in the area of trigger point 1324, Razvala, in Bosnia-Herzegovina. Rajčić appointed Goran Mamić, the deputy commander of the 14th Artillery Battalion, to be the commander of TS-3.⁴⁵³⁰

⁴⁵²⁹ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 14; D970 (Order to attack attachment for the artillery, by Marko Rajčić, 2 August 1995), p. 2.

⁴⁵³⁰ D970 (Order to attack attachment for the artillery, by Marko Rajčić, 2 August 1995), p. 2.

1236. On 2 August 1995, Gotovina and Rajčić further ordered that TS-4 was to be composed of five 130-millimetre guns and two 203-millimetre howitzers.⁴⁵³¹ Rajčić further specified in his order that the TS-4 command post was to be located in the area of Pokrovnik, in Drniš municipality. The firing positions of the 130-millimetre guns and 203-millimetre howitzers were to be situated in Ključ, also in Drniš municipality. TS-4 was further tasked with establishing an observation post in the area of Crni Vrh, trigger point 720, also in Drniš municipality. Rajčić appointed Bruno Milin, the commander of the 20th Artillery Battalion, to be the commander of TS-4.⁴⁵³² Rajčić ordered Mamić and Milin to form commands, including reconnaissance squads, logistics sections, communications squads and two to three operations officers each.⁴⁵³³ P1125 and D970 have been further reviewed in chapter 3.1.1.

1237. **Marko Rajčić** testified that Knin was within range of a number of 122-millimetre MBRLs and seven 130-millimetre HV artillery pieces, being two of the TS-3 and five of the TS-4, located in two firing positions, one near Bosansko Grahovo, in Bosnia-Herzegovina, and the other near Drniš.⁴⁵³⁴ The TS-3 was about 27 kilometres away from its furthest target in Knin and TS-4 was about 25 kilometres away from its closest target in Knin.⁴⁵³⁵ The BM-21 launchers in the northeast in the direction of Mount Dinara, were between 18 and 20 kilometres away from their targets.⁴⁵³⁶ According to Rajčić's reconstruction, the 4th Guards Brigade artillery support had four 122-millimetre BM-21 MBRLs and the 7th Guards Brigade artillery support had three 122-millimetre BM-21 MBRLs.⁴⁵³⁷ According to Rajčić, the 130-millimetre cannon has an error range of about 15 metres along the axis, and about 70 to 75 metres in distance, at a distance of 26 kilometres.⁴⁵³⁸ The 130-millimetre cannon is used for targeting point targets, and can effectively be fired at a target area of 50 by 50 metres, with the normal scattering dispersion of a 130-millimetre shell being an area with a diameter of 35

⁴⁵³¹ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 14; D970 (Order to attack attachment for the artillery, by Marko Rajčić, 2 August 1995), p. 2.

⁴⁵³² D970 (Order to attack attachment for the artillery, by Marko Rajčić, 2 August 1995), p. 2.

⁴⁵³³ D970 (Order to attack attachment for the artillery, by Marko Rajčić, 2 August 1995), pp. 2-3.

⁴⁵³⁴ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 16, p. 24; Marko Rajčić, T. 16280-16281; P2322 (Map showing HV artillery positions and sectors of fire), p. 3; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), pp. 6-7, 9.

⁴⁵³⁵ Marko Rajčić, T. 16281.

⁴⁵³⁶ Marko Rajčić, T. 16281.

⁴⁵³⁷ P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), pp. 3, 5; P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 11.

⁴⁵³⁸ Marko Rajčić, T. 16280.

metres.⁴⁵³⁹ The BM-21 122-millimetre launcher can cover a broader area than the 130 millimetre cannon, and can be used to fire individual missiles or an entire set of missiles simultaneously.⁴⁵⁴⁰

1238. During Operation Storm, the TS-3 and TS-4 operated under the direct command of the HV commander, and also provided tactical support for infantry forces along the main axis of attack along the Bosansko Grahovo-Knin axis.⁴⁵⁴¹ The use of the T-130 millimetre guns for artillery support for units at a tactical level resulted in gaps in their firing on military objectives in Knin.⁴⁵⁴² The Trial Chamber has further considered evidence of this witness reviewed in chapter 3.1.1.

1239. Rajčić testified that during Operation Storm, the HV neither used nor had cluster munitions and did not use proximity-sensor fuses, only contact ignition fuses.⁴⁵⁴³ The commanders of artillery groups at artillery observation points, and sometimes from the front line of the unit, directed and corrected artillery fire.⁴⁵⁴⁴ Further, the HV's observation points were under constant enemy artillery fire, and on 4 August 1995, the SVK artillery hit the artillery observation points for the commanders of the 4th and 7th Guard Brigade and TS-3.⁴⁵⁴⁵ Because of enemy artillery fire on TS-4 firing positions, the TS-4 first neutralised enemy artillery, before continuing to fire at the targets according to plan.⁴⁵⁴⁶ Several artillery weapons broke down in the OGs Zadar, Šibenik, and North that day and certain ammunitions arrived late, such as the rockets for the 122mm BM-21 launchers of the 7th Guards Brigade, so they borrowed rockets from the 4th Guards Brigade.⁴⁵⁴⁷

⁴⁵³⁹ Marko Rajčić, T. 16286-16287.

⁴⁵⁴⁰ Marko Rajčić, T. 16286-16287, 16952.

⁴⁵⁴¹ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 42; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 7; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 11.

⁴⁵⁴² D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 61.

⁴⁵⁴³ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 64; Marko Rajčić, T. 16542.

⁴⁵⁴⁴ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 60; Marko Rajčić, T. 17705-17706.

⁴⁵⁴⁵ D1425 (Marko Rajčić, witness statement, 13 February 2009), paras 41, 60; Marko Rajčić, T. 17661, 17697.

⁴⁵⁴⁶ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 41; P1267 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 1 p.m.), pp. 1-3; P1268 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 8 p.m.); P2533 (War diary of TS-4, August 1995), p. 3.

⁴⁵⁴⁷ Marko Rajčić, T. 16575.

1240. According to **Mrkšić**, the SVK were expecting a Croatian attack, but did not know whether it would occur on 4 or 5 August 1995.⁴⁵⁴⁸ This expectation was based on intelligence, as well as on the fact that Gotovina's forces were above Knin and were observing SVK activities with binoculars.⁴⁵⁴⁹

1241. Based on the evidence above, the Trial Chamber finds that on 4 August 1995, Knin was in range of at least seven HV 130-millimetre cannons located at two firing positions. Five of these cannons belonged to the TS-4 and were located at a firing position near Ključ, in Drniš municipality, at a distance of approximately 25 kilometres. The remaining two belonged to the TS-3 and were located at a firing position near Donje Peulje in Bosnia Herzegovina, at a distance of approximately 27 kilometres. Knin was also in range of seven 122-millimetre BM-21 MBRLs: three belonging to the 7th Guards Brigade and four to the 4th Guards Brigade. The MBRLs were at firing positions North-East of Knin in the direction of the Dinara mountains, at a distance of approximately 18-20 kilometres.

1242. The Trial Chamber will now turn to the evidence concerning the HV's reporting of firing artillery projectiles at targets in Knin on 4 August 1995.

1243. **Marko Rajčić** testified that the vast majority of artillery fire during Operation Storm was concentrated on the enemy defence lines, artillery positions and the area of deployment of reinforcements.⁴⁵⁵⁰ Rajčić testified that he never fired a single projectile without knowing the exact coordinates, nor did units he was in command of, during the homeland war.⁴⁵⁵¹ A z-coordinate was also necessary for accurate artillery fire, but if the HV did not have one, the elevation of the target could be calculated by using topographic maps.⁴⁵⁵² On 4 August 1995, the HV fired on targets in Knin with 130-millimetre cannons from two positions, and 122-millimetre BM-21 MBRLs.⁴⁵⁵³

1244. According to Rajčić, during Operation Storm, the HV fired 122-millimetre rockets at the SVK Main Staff in Knin, the headquarters of the RSK Ministry of Defence, which was in the same building, and a roundabout intersection in the centre of

⁴⁵⁴⁸ Mile Mrkšić, T. 18814, 18856, 18861, 18886; D1514 (Order on relocation of SVK General Staff, Chief of Staff Lončar, 1 August 1995), p. 1; D1516 (Report on the conduct of combat activities of the 7th Corps from 29 July to 6 August 1995, Slobodan Kovačević, 9 August 1995), p. 1.

⁴⁵⁴⁹ Mile Mrkšić, T. 18861.

⁴⁵⁵⁰ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 63.

⁴⁵⁵¹ Marko Rajčić, T. 17718.

⁴⁵⁵² Marko Rajčić, T. 17646-17647.

⁴⁵⁵³ Marko Rajčić, T. 16257, 16279-16280, 16395.

Knin.⁴⁵⁵⁴ The HV also fired at the communications centre, which was housed in the main post office, the TVIK factory, known as KV-750, and a target referred to as Hospital, or KV-710, which Rajčić described as a cross-roads north of the Slavko Rodić barracks.⁴⁵⁵⁵ The HV also fired at the Slavko Rodić barracks, known as target KV-250, as well as at the cross-roads of the roads leading to Strmica and Vrlika on the periphery of Knin in Kninsko Polje.⁴⁵⁵⁶ The HV also fired at the Senjak barracks, known as KV-350, the railroad station, known as KV-410, and the police station.⁴⁵⁵⁷ Firing at the railway station was intended to damage the tracks, to prevent trains from going through.⁴⁵⁵⁸ The HV also fired at the bridge at the entrance, known as KV-310, and the western bridge, KV-810, one of which was across the Krka river near the Knin castle, and the other across the Butiznica river in the direction of Gračac.⁴⁵⁵⁹ The HV also fired 13 to 16 shells of 130 millimetres at Milan Martić's residence, known as KV-610, which was in one of the housing blocks near the police station.⁴⁵⁶⁰ The chance of hitting or injuring Martić by firing artillery at his building was very slight, but the HV aimed to

⁴⁵⁵⁴ Marko Rajčić, T. 16369-16370, 16378, 16395, 16559, 16593-16594; P2330 (Map of Knin, showing Knin castle and parliament, with Rajčić markings), SVK Main Staff marked 1, RSK Ministry of Defence marked 2; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 16; P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 16; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 24.

⁴⁵⁵⁵ D1425 (Marko Rajčić, witness statement, 13 February 2009), p. 18; Marko Rajčić, T. 16256, 16371, 16378-16380, 16391-16392, 16395, 16559; P2330 (Map of Knin, showing Knin castle and parliament, with Rajčić markings), Post Office marked 3; P2335 (Map of Knin, with Rajčić markings showing two circles), two possible locations of target Hospital marked with circles; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 16; P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 16; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 24.

⁴⁵⁵⁶ D1425 (Marko Rajčić, witness statement, 13 February 2009), p. 18; Marko Rajčić, T. 16254-16256, 16372-16373, 16377-16380, 16395; P2331 (Map of Knin, showing Knin general supply, with Rajčić markings), Slavko Rodić barracks marked 4; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 16; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 24.

⁴⁵⁵⁷ D1425 (Marko Rajčić, witness statement, 13 February 2009), p. 18; Marko Rajčić, T. 16255-16256, 16374-16375, 16378, 16391, 16395; P2332 (Map of Knin, showing Knin general supply and Butiznica river, with Rajčić markings), police station marked 5; P2333 (Map of Knin, showing police station and Knin castle, with Rajčić markings), railroad station marked 6; P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), p. 10.

⁴⁵⁵⁸ Marko Rajčić, T. 16375.

⁴⁵⁵⁹ D1425 (Marko Rajčić, witness statement, 13 February 2009), p. 18; Marko Rajčić, T. 16255-16256, 16376-16377, 16395; P2334 (Map of Knin, showing police station and Krka river, with Rajčić markings); P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 16; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 24.

⁴⁵⁶⁰ D1425 (Marko Rajčić, witness statement, 13 February 2009), p. 18; Marko Rajčić, T. 16256, 16391, 16443-16444, 16446-16447, 16591-16592, 16594, 16612-16614; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 16; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 24.

pressure him into signing a capitulation.⁴⁵⁶¹ According to Rajčić, the repeated fire achieved the desired harassment and pressure effect, instilling a sense of insecurity in Martić.⁴⁵⁶² According to Rajčić, the following targets in Knin from the target lists were not fired at with 130-millimetre cannons and 122-millimetre launchers: the church in Knin (KV-110), the Pađene (KV-650), Western (KV-450) and Kosovo (KV-150) warehouses, the Army barracks at the entrance (KV-210), and the Stara Straza area of military warehouses (KV-550).⁴⁵⁶³ According to Rajčić, the HV could not have fired projectiles at Knin without his knowledge.⁴⁵⁶⁴

1245. On 4 August 1995, Gotovina was at the forward command post in Sajkovići at the start of the day.⁴⁵⁶⁵ On 4 August 1995, at 6 a.m., OG Šibenik reported that its artillery had begun firing at 5 a.m. and was firing at the previously selected targets.⁴⁵⁶⁶ According to Rajčić, the HV conducted artillery fire during operation storm very early in the morning, around 5 a.m. or as shortly thereafter as possible, to minimize the risk of collateral damage to the civilian population.⁴⁵⁶⁷

1246. With regard to the reported artillery fire of the TS-4 on 4 August 1995, the Trial Chamber has received two regular reports of the TS-4, of 1 and 8 p.m. that day (P1267 and P1268, respectively); the war diary of the TS-4 (P2533);⁴⁵⁶⁸ and Rajčić's reconstructions (P2366, P2340, and P1241). The Trial Chamber has carefully compared these sources and found a number of discrepancies between them, as set out below.

1247. On 4 August 1995, the TS-4 fired 20 130-millimetre shells at a target which the Trial Chamber understands to be the Post Office in Knin at 5 a.m.; 20 shells of 130 millimetres at the Bolt Factory in Knin at 5:30 a.m.; either 10 or 20 130-millimetre shells at the railway station at 5:45 a.m.; five 130-millimetre shells at a target referred to as Knin Hospital at 6:30 a.m; and fired six shells of 130 millimetres at 7:30 a.m. and again at 8 a.m at a target the Trial Chamber understands to be Martić's residence in Knin.⁴⁵⁶⁹

⁴⁵⁶¹ Marko Rajčić, T. 16446, 16448, 16612-16614.

⁴⁵⁶² Marko Rajčić, T. 16612.

⁴⁵⁶³ D1425 (Marko Rajčić, witness statement, 13 February 2009), p. 18; Marko Rajčić, T. 16256-16259.

⁴⁵⁶⁴ Marko Rajčić, T. 16258-16259.

⁴⁵⁶⁵ Marko Rajčić, T. 16457, 16470.

⁴⁵⁶⁶ D1427 (OG Šibenik, regular report, 4 August 1995), p. 1.

⁴⁵⁶⁷ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 28.

⁴⁵⁶⁸ See Marko Rajčić, T. 17655-17656, 17708.

⁴⁵⁶⁹ P1267 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 1 p.m.), p. 2; P1271 (HV table of identified targets, drafted by Marko Rajčić, June 1993); P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 11; P2340 (Reconstruction of the Split MD artillery

1248. The Split MD's Operational Diary noted that on 4 August 1995, at 7:45 a.m., HV intelligence reported that HV artillery hit the barracks in Knin, noting "TRS-4 Šibenik. Repeat."⁴⁵⁷⁰ TS-4 further fired eight 130-millimetre shells at the post office at 8:25 a.m.; six shells of 130 millimetres at the police station at 9:05 a.m.; six shells of 130 millimetres at the communications centre/post office at 10:10 a.m.; and six shells of 130 millimetres at KV-750, which the Trial Chamber understands to refer to the TVIK factory (see P1271), at 10:25 a.m.⁴⁵⁷¹

1249. From 11 a.m., the TS-4 had only two of its 130-millimetre guns directed at Knin, as two others were redirected towards the Svilaja Mountain in support of the OG Sinj forces, and one of the guns had been malfunctioning since the beginning of the attack.⁴⁵⁷² The TS-4 further fired eight 130-millimetre shells at 12:20 p.m. recorded as "at Knin" in P1267, as "Knin" with the word "bridge" written above it in P2533, and "at a bridge in Knin" in Rajčić's reconstruction P2341.⁴⁵⁷³ The TS-4 further fired ten shells of 130 millimetres at the communications centre/post office at 12:40 p.m. and at 1:30 p.m. fired eight shells of 130 millimetres at a target referred to as Knin Hospital in P2533, although P1268 only recorded that these eight shells were fired "at Knin".⁴⁵⁷⁴ P2533 further recorded firing five 130-millimetre shells at target "Warehouse Knin" at

from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 16; P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), pp. 9-11, 13; P2533 (War diary of TS-4, August 1995), p. 1. The Trial Chamber notes the following discrepancies between P1267 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 1 p.m.) and P2533 (War diary of TS-4, August 1995):

Time of fire	Target and number of shells as recorded on P1267	Target and number of shells as recorded on P2533
5 a.m.	20 salvos at "a target in Knin"	20 shells at "post Knin"
5:45 a.m.	10 shells at the Knin railway station	20 shells at the train station Knin
7:30 a.m.	two salvos at "KV-610" (as recorded in the original BCS version)	two rounds at "RV-610 living buildings block"
8 a.m.	six shells at "a residential area in Knin"	six shells at "KV-610 living buildings block"

⁴⁵⁷⁰ P71 (Split MD operational diary for 25 July – 14 September 1995), pp. 1, 77, 79. See also P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), p. 3.

⁴⁵⁷¹ P1267 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 1 p.m.), p. 2; P1271 (HV table of identified targets, drafted by Marko Rajčić, June 1993); P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 11; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 16; P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), pp. 9-11, 13; P2533 (War diary of TS-4, August 1995), p. 2.

⁴⁵⁷² P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), p. 13; P2533 (War diary of TS-4, August 1995), p. 2.

⁴⁵⁷³ P1267 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 1 p.m.), p. 3; P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), p. 13; P2533 (War diary of TS-4, August 1995), p. 2.

⁴⁵⁷⁴ P1267 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 1 p.m.), p. 3; P1268 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 8 p.m.), p. 1; P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), p. 13; P2533 (War diary of TS-4, August 1995), p. 3.

2:10 p.m. and five at the bridge outside Knin at 2:30 p.m., whereas P1268 only recorded firing five shells at the “bridge (entrance to Knin)” at 2:10 p.m.⁴⁵⁷⁵ Further, P2533 recorded at 3 p.m. that the TS-4 was keeping Knin under fire over the next hour, at uneven intervals, with three times 15 shells of 130 millimetres, whereas P1268 recorded at 3 p.m. that a total of 18 shells of 130 millimetres were fired at the general area of Knin at irregular intervals.⁴⁵⁷⁶

1250. The TS-4 also repeatedly fired shells of 203 millimetres at the Promina summit and the Promina relay node, known as target C220, throughout the day.⁴⁵⁷⁷ The radio relay node at Promina was linked to the Čelavac radio relay station, which was one of the main communication systems used by the SVK.⁴⁵⁷⁸

1251. As artillery preparations that day, the TS-3 fired 90 shells of 130 millimetres at the Slavko Rodić barracks, the SVK Main Staff, the post office, the railway station, the police station, and the bridge on the river Butiznica.⁴⁵⁷⁹ On the same day, as artillery attack support, the TS-3 fired a further 86 shells of 130 millimetres at the same targets in the town of Knin, 47 of these at the request of the supported unit and 39 in order to prevent the enemy’s movements.⁴⁵⁸⁰ That morning, the TS-3 fired 130-millimetre shells on Drvar and Knin in salvos of two shells every three minutes for about an hour, by which the HV aimed to disrupt the SVK’s coordination, command, and planning.⁴⁵⁸¹ TS-3 commander Goran Mamić further noted in the TS-3 war diary that from 12:30 p.m. on 4 August 1995 the TS-3 would fire twice at Knin every 15 minutes.⁴⁵⁸²

⁴⁵⁷⁵ P2533 (War diary of TS-4, August 1995), p. 3; P1268 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 8 p.m.), p. 1.

⁴⁵⁷⁶ P2533 (War diary of TS-4, August 1995), p. 3; P1268 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 8 p.m.), p. 1.

⁴⁵⁷⁷ P1267 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 1 p.m.), pp. 2-3; P1268 (Regular report of the TS-4, Bruno Milin, 4 August 1995, 8 p.m.), p. 2; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 11; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 16; P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), pp. 9-11, 14-15; P2533 (War diary of TS-4, August 1995), pp. 1-4.

⁴⁵⁷⁸ Marko Rajčić, T. 16437-16438; P2435 (Table of barracks in Split MD), p. 4.

⁴⁵⁷⁹ Marko Rajčić, T. 16429; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 10; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), pp. 14-15; P2342 (Operations Diary, TS-3, Goran Mamić, 4-11 August 1995), pp. 3-4.

⁴⁵⁸⁰ P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 10; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 15; P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), p. 3.

⁴⁵⁸¹ Marko Rajčić, T. 16429, 16432-16434; P2342 (Operations Diary, TS-3, Goran Mamić, 4-11 August 1995), p. 3.

⁴⁵⁸² Marko Rajčić, T. 16429; P2342 (Operations Diary, TS-3, Goran Mamić, 4-11 August 1995), p. 3.

1252. According to Rajčić, on 4 August 1995, as artillery preparations, the 7th Guards Brigade artillery fired 112 rockets of 122 millimetres of a BM-21 rocket launcher at three targets on the Ivančića map: S-15, to the right of S-16, and at S-54, referred to as the communications centre.⁴⁵⁸³ A document bearing the name “Sekovanić” of the artillery and missile battalion Zagreb Brigade, recorded this fire as: “1. bridge in the centre (S-15-Ivančića), 2. left where is /illegible/ S-54, 3. right from the bridge S-16”.⁴⁵⁸⁴ Rajčić testified that the target to the right of S-16 referred to the Northern or Slavko Rodić Barracks, the coordinates of which he had discussed with the 7th Guards Brigade prior to the firing.⁴⁵⁸⁵ S-15, S-16 and S-54 refer to locations on the coded map known as Ivančića, used by the 7th Guards Brigade.⁴⁵⁸⁶ Such coded maps were used primarily by the infantry and the circular markings served as reference points for locating moving units, not as artillery firing targets.⁴⁵⁸⁷ For instance, S-16 denoted a place where infantry units, either Serb or HV, could be deployed, and served as a reference to avoid misunderstandings in communication.⁴⁵⁸⁸ According to Rajčić, S-16 also covered the police station in Knin.⁴⁵⁸⁹

1253. The same day, as artillery attack support, the 7th Guards Brigade fired, in Rajčić’s estimate, 70 to 80 rockets of 122 millimetres from a BM-21 rocket launcher at the SVK Main Staff and Slavko Rodić barracks in Knin, and two targets on the Ivančića map.⁴⁵⁹⁰ According to the 7th Guards Brigade’s daily reports and orders for 4 August 1995, the 7th Guards Brigade fired 191 rockets of 122 millimetres at Knin that day.⁴⁵⁹¹

⁴⁵⁸³ Marko Rajčić, T. 16408, 16410-16413; P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 3; P2455 (Document by Sekovanić on artillery and missile battalion Zagreb Brigade), p. 16; P2461 (Daily report of the 7th Guards Brigade, 4 August 1995), p. 1; P2467 (Document by Rudolf Franjčec of 7th Guards Brigade), p. 3; P2473 (Daily order of the battery commander of the 7th Guards Brigade, August 1995), p. 2.

⁴⁵⁸⁴ P2455 (Document by Sekovanić on artillery and missile battalion Zagreb Brigade), p. 16.

⁴⁵⁸⁵ Marko Rajčić, T. 16410-16412, 16552-16553; P2338 (Map of Knin and surrounding area with artillery targets, code named Ivančića); P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 3.

⁴⁵⁸⁶ Marko Rajčić, T. 16406, 16547; P2338 (Map of Knin and surrounding area with artillery targets, code named Ivančića).

⁴⁵⁸⁷ Marko Rajčić, T. 16546-16547, 16556.

⁴⁵⁸⁸ Marko Rajčić, T. 16554-16555.

⁴⁵⁸⁹ Marko Rajčić, T. 16555.

⁴⁵⁹⁰ Marko Rajčić, T. 16419; P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 4; P2461 (Daily report of the 7th Guards Brigade, 4 August 1995), p. 1; P2473 (Daily order of the battery commander of the 7th Guards Brigade, August 1995), p. 2.

⁴⁵⁹¹ P2461 (Daily report of the 7th Guards Brigade, 4 August 1995), p. 1; P2466 (Guards Brigade report on ammunition consumption, 3 to 5 August 1995), pp. 1-4; P2473 (Daily order of the battery commander of the 7th Guards Brigade, August 1995), p. 2.

1254. On 4 August 1995, as artillery preparation, the 4th Guards Brigade fired 89 rockets of 122 millimetres from a BM-21 rocket launcher, at the Slavko Rodić barracks in Knin.⁴⁵⁹² The report of the MBRL battery for that day recorded only that these rockets were fired at the town of Knin.⁴⁵⁹³ The Operative Logbook of the 4th Guards Brigade noted for 4 August 1995 at 7 a.m. that electronic operations reported that their forces were hitting the barracks in Knin and doing a good job.⁴⁵⁹⁴

1255. During the day, Gotovina visited the commands of OGs Šibenik and Zadar, to oversee the execution of combat tasks, travelling by helicopter, and returned to Sajkovići at the end of the day.⁴⁵⁹⁵ On the evening of 4 August 1995, intelligence officials gave Rajčić the coordinates for a newly emerged target area that had not been planned beforehand, and told him it was a building, where intelligence and electronic reconnaissance indicated Martić was present at that time.⁴⁵⁹⁶ The HV's electronic reconnaissance consisted of a platoon which eavesdropped on the electronic communications of the enemy, by intercepting radio communications and listening in on telephone conversations.⁴⁵⁹⁷ The HV fired 130-millimetre cannons at this target, in the area of a roundabout near Martić's flat, close to the railway station, in the area called Stara Bolnica, or old hospital.⁴⁵⁹⁸ On 4 August 1995, at 10 p.m., Gotovina chaired a working meeting discussing the artillery attacks against enemy towns.⁴⁵⁹⁹ The Split MD's Operational Diary noted that in the evening of 4 August 1995 the Chief of artillery reported artillery attacks against enemy towns, and that "things were also done upon the requests of the units".⁴⁶⁰⁰ According to the Operational Diary, that same evening the Chief of intelligence reported panic in Knin; that they expected an evacuation of civilians and the Krajina Corps command; and that SVK in-depth communications were broken.⁴⁶⁰¹

⁴⁵⁹² Marko Rajčić, T. 16554; P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 12; P2343 (Operative logbook of the 4th Guards Brigade, July and August 1995), p. 29; P2478 (Report on artillery operations of MBRL battery, 26 July to 9 August 1995), p. 5.

⁴⁵⁹³ P2478 (Report on artillery operations of MBRL battery, 26 July to 9 August 1995), p. 5.

⁴⁵⁹⁴ P2343 (Operative logbook of the 4th Guards Brigade, July and August 1995), p. 29.

⁴⁵⁹⁵ Marko Rajčić, T. 16457, 16470-16471.

⁴⁵⁹⁶ Marko Rajčić, T. 16394, 16396-16399, 16447.

⁴⁵⁹⁷ Marko Rajčić, T. 16448-16449.

⁴⁵⁹⁸ Marko Rajčić, T. 16393-16398, 16447; P2337 (Map of Knin, showing Knin general supply and police station, with Rajčić markings), old hospital area marked R.

⁴⁵⁹⁹ P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), p. 4.

⁴⁶⁰⁰ P71 (Split MD operational diary for 25 July – 14 September 1995), pp. 1, 77, 82.

⁴⁶⁰¹ P71 (Split MD operational diary for 25 July – 14 September 1995), pp. 1, 77, 82.

1256. The Trial Chamber will now turn to the evidence concerning the HV's reporting of firing artillery projectiles at targets in Knin on 5 August 1995.

1257. According to a document bearing the name "Sekovanić" of the artillery and missile battalion Zagreb Brigade, on 5 August 1995, at 00:40, the self-propelled multiple rocket launcher fired 40 pieces at Knin.⁴⁶⁰² On the night of 4 August 1995, Rajčić and Gotovina slept for a couple of hours in a house near the operations centre, and the witness saw Gotovina early in the morning on 5 August 1995.⁴⁶⁰³

1258. On 5 August 1995, the TS-4 reported firing six 130-millimetre shells at 5:20 a.m. at Knin, without further specifying a target; at 6:20 a.m. six 130-millimetre shells and at 6:50 a.m. twelve 130-millimetre shells at the Slavko Rodić barracks; at 7:10 a.m. twelve shells at the cross-roads KV-510, and at 7:20 a.m. twelve shells of 130 millimetres at the Senjak barracks.⁴⁶⁰⁴ TS-4 War diary P2533 further recorded firing twelve 130-millimetre shells at "Knin Tromost" at 7:30 a.m., which fire is not recorded in P1269, the TS-4 daily report for 5 August 1995.⁴⁶⁰⁵ Rajčić also had information that the SVK was pulling out and would be setting up their second defence line in the area of Pađene.⁴⁶⁰⁶ To make this impossible, Rajčić ordered the TS-4 to fire on a location a kilometre and a half away from an intersection of the road from Stara Straza to Pađene, in the Oćestovo area, which it did at 9:15 a.m.⁴⁶⁰⁷

1259. On 5 August 1995, the TS-3 fired 15 shells of 130 millimetres on the SVK Main Staff and 15 shells of 130 millimetres on the communications centre and post office in Knin.⁴⁶⁰⁸ According to Goran Mamić's operations diary for the TS-3, these shells were fired between 1 and 3 a.m.⁴⁶⁰⁹ According to Rajčić, on 4 and 5 August 1995, the TS-3

⁴⁶⁰² P2455 (Document by Sekovanić on artillery and missile battalion Zagreb Brigade), p. 21,

⁴⁶⁰³ Marko Rajčić, T. 16484.

⁴⁶⁰⁴ P1269 (Regular report of the TS-4, Bruno Milin, 5 August 1995), pp. 1-2; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 12; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 18; P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), pp. 16-17, 19; P2533 (War diary of TS-4, August 1995), p. 5.

⁴⁶⁰⁵ P1269 (Regular report of the TS-4, Bruno Milin, 5 August 1995), p. 2; P2533 (War diary of TS-4, August 1995), p. 5.

⁴⁶⁰⁶ Marko Rajčić, T. 17658.

⁴⁶⁰⁷ Marko Rajčić, T. 17655-17658; P2533 (War diary of TS-4, August 1995), p. 6.

⁴⁶⁰⁸ P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 12; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 17; P2342 (Operations Diary, TS-3, Goran Mamić, 4-11 August 1995), p. 4.

⁴⁶⁰⁹ P2342 (Operations Diary, TS-3, Goran Mamić, 4-11 August 1995), p. 4.

and TS-4 fired a combined total of 150 shells in artillery attack preparations and 255 shells as artillery attack support on targets in the town of Knin.⁴⁶¹⁰

1260. On 5 August 1995, the 7th and possibly also the 4th Guards Brigade were going to fire on the Northern Barracks in the early morning hours with MBRLs, in addition to firing at SVK soldiers on the front line.⁴⁶¹¹ Rajčić covered the particular coordinates of the Northern Barracks with the two brigades prior to the firing.⁴⁶¹² Rajčić had information from the intelligence department, based on electronic surveillance, that the RSK leadership were still active in the Slavko Rodić barracks and in the Main Staff headquarters.⁴⁶¹³ At 4 a.m., as artillery in support of the attack, the 7th Guards Brigade, fired 40 rockets of 122 millimetres from a BM-21 rocket launcher at the target S-54 in Knin; at 5 a.m. a further 40 rockets at the Slavko Rodić barracks, and further fired a total of 271 shells of 122 millimetres D30 at the Slavko Rodić barracks at 5 a.m. and on two targets in Knin municipality on the Ivančica map.⁴⁶¹⁴ A document bearing the name “Sekovanić” of the artillery and missile battalion Zagreb Brigade, recorded that on 5 August 1995, at 5:20 a.m., the 1st Howitzer battalion fired 80 pieces of 122 millimetres on Knin.⁴⁶¹⁵ The Split MD’s Operational Diary further noted that at 8:55 a.m. on 5 August 1995, the 7th Guards Brigade was informed to cease T-130 fire at Knin.⁴⁶¹⁶ According to the 7th Guards Brigade’s daily reports and orders for 5 August 1995, the 7th Guards Brigade fired 102 rockets of 122 millimetres on Knin that day.⁴⁶¹⁷

⁴⁶¹⁰ P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 16; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 23.

⁴⁶¹¹ Marko Rajčić, T. 16540-16541.

⁴⁶¹² Marko Rajčić, T. 16552-16553.

⁴⁶¹³ Marko Rajčić, T. 16471-16472.

⁴⁶¹⁴ Marko Rajčić, T. 16416; P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), pp. 4-5; P2455 (Document by Sekovanić on artillery and missile battalion Zagreb Brigade), p. 21; P2462 (Daily report of the 7th Guards Brigade, 5 August 1995); P2473 (Daily order of the battery commander of the 7th Guards Brigade, August 1995), p. 3.

⁴⁶¹⁵ P2455 (Document by Sekovanić on artillery and missile battalion Zagreb Brigade), p. 21. See also P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), pp. 4-5, 8-9.

⁴⁶¹⁶ P71 (Split MD operational diary for 25 July – 14 September 1995), pp. 1, 83-84.

⁴⁶¹⁷ P2462 (Daily report of the 7th Guards Brigade, 5 August 1995); P2466 (Guards Brigade report on ammunition consumption, 3 to 5 August 1995), p. 5; P2473 (Daily order of the battery commander of the 7th Guards Brigade, August 1995), p. 3. Having reviewed the evidence, the Trial Chamber decided to rely on P2462 in the original BCS text (which reads “70”) in relation to the number of rockets fired on Knin by the missile launcher referred to as “Cugi”.

1261. The 4th Guards Brigade fired 39 rockets of 122 millimetres from a BM-21 rocket launcher at the Slavko Rodić barracks in Knin.⁴⁶¹⁸ At 9:20 a.m., the 4th Guards Brigade received orders from the OG not to fire at Knin anymore and ordered its units and the 7th Guards Brigade to comply with this order.⁴⁶¹⁹ At 10:38 a.m., the Brigade Commander asked the 4th Guards Brigade artillery not to fire at Knin anymore, as HV troops were already there.⁴⁶²⁰

1262. Based on the evidence above, the Trial Chamber finds that on 4 August 1995 between 5 a.m. and 3 p.m., the TS-4 reported firing at least 142 shells of 130 millimetres at targets in Knin. Of these shells, 44 were reportedly fired at the Post Office; 26 at the TVIK factory; 13 at a target referred to as “Knin Hospital”; 13 at bridges in Knin; twelve at Milan Martić’s residence; ten at the railway station; and six at the police station. In addition to these targets, the TS-4 reported firing at least 18 shells after 3 p.m. either at “Knin” or “at the general area of Knin”, at irregular intervals. The TS-4 war diary P2533 further indicates that the TS-4 reported firing at the Knin warehouse at 2:10 p.m. However, this fire is not reported in the TS-4 daily report P1268. Rajčić testified that the Pađene, Western, and Kosovo warehouses in Knin were not fired on during Operation Storm. Consequently, the Trial Chamber is unable to establish the accuracy of the entry relating to 2:10 p.m. on P2533. On the same day, TS-3 reported firing at least a total of 176 shells of 130 millimetres at the following targets in Knin: the SVK headquarters; the Slavko Rodić or Northern barracks; the Post Office; the railway station; the police station; and the Butiznica bridge. Further, on the evening of 4 August 1995 Rajčić identified a new target where he believed, on the basis of intelligence and electronic reconnaissance, Martić to be present, and the HV fired an unknown number of 130-millimetre shells at this target, in an area marked “R” on P2337. The Trial Chamber notes that this fire was not reflected on the artillery reports of the TS-3 and TS-4 which are in evidence. From these findings, the Trial Chamber concludes that the TS-3 and TS-4 reported firing at least 318 shells at Knin on 4 August 1995.

1263. On the same day, the 7th Guards Brigade reported firing 191 rockets of 122 millimetres from BM-21 MBRLs at the following targets in Knin: a total of 112 rockets

⁴⁶¹⁸ Marko Rajčić, T. 16395; P2339 (Reconstruction of artillery activities of the 4th and 7th Guards Brigade from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 13; P2475 (Coded map Bura); P2478 (Report on artillery operations of MBRL battery, 26 July to 9 August 1995), p. 5.

⁴⁶¹⁹ P2343 (Operative logbook of the 4th Guards Brigade, July and August 1995), p. 35.

of 122 millimetres at S-15, at “left where is /illegible/ S-54”, and at “right from the bridge S-16”; and a total of 79 rockets of 122 millimetres from BM-21 MBRLs at the SVK headquarters and the Slavko Rodić or Northern barracks. The Trial Chamber understands these S-numbers to refer to the coded map Ivančića (P2338). On the same day, the 4th Guards Brigade reported firing 89 rockets of 122 millimetres from BM-21 MBRLs at the Slavko Rodić barracks. From these findings, the Trial Chamber concludes that the 4th and 7th Guards Brigades reported firing at least 280 rockets at Knin on 4 August 1995.

1264. The Trial Chamber finds that on 5 August 1995, between 5:30 and 7:30 a.m., the TS-4 reported firing at least 48 shells of 130 millimetres at targets in Knin. Of these shells 18 were reportedly fired at the Slavko Rodić or Northern barracks; twelve at the cross-roads; twelve at the Senjak barracks, and six at “Knin” (without further specifying a target). The TS-4 war diary P2533 further indicates that the TS-4 reported firing 12 shells at Knin “Tromost” at 7:30 a.m. However, the TS-4 daily report P1269 does not record firing shells at this time. No other evidence supports the existence of a target referred to as Knin “Tromost”. Consequently, the Trial Chamber is unable to establish the accuracy of the entry relating to 7:30 a.m. on P2533. The Trial Chamber further finds that on the same day, the TS-3 reported firing 30 shells of 130 millimetres at targets in Knin: 15 at the SVK headquarters and 15 at the Post Office. From these findings, the Trial Chamber concludes that the TS-3 and TS-4 reported firing at least 78 shells at Knin on 5 August 1995.

1265. On the same day the 7th Guards Brigade reported firing a total of 102 rockets of 122 millimetres from BM-21 MBRLs at targets in Knin: 40 of which were reportedly fired between 4 and 5 a.m. at S-54 on the coded map Ivančića (P2338), and 40 at the Slavko Rodić or Northern barracks. The reports of the 7th Guards Brigade do not further specify what the remaining 22 rockets of 122 millimetres were fired at. An entry in the Sekovanić diary (P2455) suggests that on 5 August 1995, at 00:40 the 7th Guards Brigade reported firing 40 rockets of 122 millimetres from BM-21 MBRLs at Knin (without further specifying a target). This firing at 00:40 is not reflected in any other contemporaneous HV documents and was not confirmed by Rajčić. Consequently, the Trial Chamber is unable to establish the accuracy of this entry relating to 00:40 a.m. in the Sekovanić diary. Based on Sekovanić’s diary and Rajčić’s testimony, the Trial

⁴⁶²⁰ P2343 (Operative logbook of the 4th Guards Brigade, July and August 1995), p. 36.

Chamber finds that on the same day the 7th Guards Brigade also reported firing at least an additional 80 shells of 122 millimetres from the 1st battalion's D30 Howitzers targeting the Slavko Rodić or Northern barracks. On the same day, the 4th Guards Brigade reported firing 39 rockets of 122 millimetres from BM-21 MBRLs at the Slavko Rodić or Northern barracks. From these findings, the Trial Chamber concludes that the 4th and 7th Guards Brigades reported firing at least 141 rockets and 80 shells of 122 mm at Knin on 5 August 1995.

1266. The Trial Chamber received the most detailed contemporaneous evidence on targets and times of fire from the artillery reports of the TS-4 (P2533, P1267, P1268, and P1269). These reports did not include x, y, and z coordinates for the targets to be fired at. Rajčić testified in Court that the orders as reflected in war diary P2533 would not allow for fire to be opened, as they lacked specific target coordinates.⁴⁶²¹ The Trial Chamber notes that a number of the entries in these reports contained targets with KV-numbers. These matched the KV-numbers assigned to targets in Knin on the lists P1271 and P1272. This indicates that on those occasions, the TS-4 used a target list similar to P1271 and P1272 with KV-numbers and x, y, and z coordinates when firing at Knin. Further, the artillery reports of the 7th Guards Brigade contained targets in Knin referred to by S-numbers on the coded map Ivančića (P2338). The Trial Chamber notes that this map did not contain x, y, and z coordinates. Instead, according to Rajčić, the S-numbered circles were intended as reference points for troop movements. The Trial Chamber notes that the reports admitted into evidence from the other HV artillery units which had Knin in range (such as the Operations Diary of the TS-3 by Goran Mamić, P2342) were fewer in number, contained less information, and were less clear than those of the TS-4.

1267. The Trial Chamber concludes that the reports of HV artillery fire on Knin which are in evidence do not provide a full account of the targets the HV fired artillery at in Knin on 4 and 5 August 1995. Instead, the reports provide a partial and at times coded account of the targets fired at. The Trial Chamber will carefully compare this evidence with the evidence of impacts observed in Knin below.

1268. The Trial Chamber has received evidence from several witnesses and from documentary evidence with regard to artillery impacts observed on 4 and 5 August 1995

⁴⁶²¹ Marko Rajčić, T. 17655-17656, 17708.

in Knin. The Trial Chamber will first consider the evidence of impacts observed on the first day of Operation Storm, 4 August 1995.

1269. **Mile Mrkšić** testified that while the President of the Assembly and a Minister remained in the command post in Knin, he did not spend the night of 3 August 1995 there as his intelligence services told him that he would be bombed if he did.⁴⁶²² Mrkšić instead spent the night at a commander's house in the town.⁴⁶²³ When the shelling started on 4 August 1995, he travelled to the command post by vehicle, but had to stop and take shelter in basements of civilian residential houses and apartment blocks along the way because of the heavy artillery shelling.⁴⁶²⁴ Mrkšić moved during the intermissions between the shelling.⁴⁶²⁵ In those houses and on the street, he saw and met terrified women and children who said they had shells coming in through their windows, which Mrkšić identified as 107- and 128-millimetre "Oganj" rockets, rather than ordinary artillery shells.⁴⁶²⁶ The rockets made a whizzing sound as they landed.⁴⁶²⁷ When Mrkšić arrived at the operations conference room in the basement, he was informed that the HV had shelled the command using 152-millimetre Howitzers with great precision in the first barrage of fire, puncturing all the tires of the SVK command's vehicles and killing a guard in one of the vehicles.⁴⁶²⁸ As a result of this strike, the SVK had to remove those vehicles, change their tires and relocate the command to the reserve command post.⁴⁶²⁹ Mrkšić observed the shelling from the third floor of the command building, while he hid behind a piece of furniture, so as not to be hit by artillery, and saw the rockets set buildings on fire and cause panic among the people.⁴⁶³⁰ The command building did not receive further direct hits on 4 August 1995 and he believed that had the HV further shelled the command building, the SVK would not have been able to remain at the command post.⁴⁶³¹ In addition to the command building, both the railway station and the Northern barracks were struck with precision by cannon and Howitzer shells, and the HV also targeted the presidential building.⁴⁶³²

⁴⁶²² Mile Mrkšić, T. 18860-18861, 18888, 19105.

⁴⁶²³ Mile Mrkšić, T. 18888, 18900.

⁴⁶²⁴ Mile Mrkšić, T. 18888, 18902, 19062, 19112.

⁴⁶²⁵ Mile Mrkšić, T. 18902, 19112.

⁴⁶²⁶ Mile Mrkšić, T. 18888, 18900, 18902-18903, 18919, 19051, 19062.

⁴⁶²⁷ Mile Mrkšić, T. 18888, 19062.

⁴⁶²⁸ Mile Mrkšić, T. 18888-18889, 18899-18900, 18903-18904, 19051, 19060-19061, 19097.

⁴⁶²⁹ Mile Mrkšić, T. 18903.

⁴⁶³⁰ Mile Mrkšić, T. 18901, 19046, 19144-19145.

⁴⁶³¹ Mile Mrkšić, T. 18889, 18901, 19061.

⁴⁶³² Mile Mrkšić, T. 18903, 19051, 19097.

The Northern barracks was hit during the first barrage.⁴⁶³³ Other than the initial precision strike on the SVK command, the rest of the 107- and 128-millimetre rocket shelling struck all over town.⁴⁶³⁴ The firing systems used did not demolish buildings, but made such noise as to create major disruptions and disturbances for the citizens present in Knin.⁴⁶³⁵ The SVK had some officers who had never before been in battle and a colonel committed suicide because he could not mentally bear the shelling.⁴⁶³⁶ Up to around 4 p.m. Mrkšić communicated with Knezević, a member of the Main Staff, and with the corps commanders; Mrkšić and the corps commanders considered it odd that the HV was not pounding the front, but was instead shelling elements in depth, including villages where there were no combatants.⁴⁶³⁷ Mrkšić and others concluded that the HV was trying to intimidate the civilian population and to disturb SVK fighters into abandoning their positions and returning home to check on their families.⁴⁶³⁸

1270. **Kosta Novaković** testified that on 4 August 1995, around 4 a.m. he was woken up by an SVK liaison officer who told him to go to the headquarters urgently.⁴⁶³⁹ When he arrived at the headquarters some fifteen minutes later, the liaison officer told Novaković that he had received information from a UN official working at the UN Sector South headquarters that there would be a Croatian attack at 5 a.m.⁴⁶⁴⁰ Novaković immediately conveyed this information, through a duty officer, to General Mrkšić, the Commander of the SVK, who in turn immediately informed all SVK commands.⁴⁶⁴¹ A heavy artillery fire attack began exactly at 5 a.m., when hundreds of shells from Howitzers of 155 and 122 millimetres and artillery from MBRLs fell in salvo's all over Knin.⁴⁶⁴² On 4 August 1995, when the artillery attack began, there were three or four people in the Army Hall, including two civilians.⁴⁶⁴³ During the day, there were about 15-20 people, civilians and soldiers, in the Army Hall.⁴⁶⁴⁴ During the day there were 40

⁴⁶³³ Mile Mrkšić, T. 18903, 19051, 19097.

⁴⁶³⁴ Mile Mrkšić, T. 18899, 18902, 19050.

⁴⁶³⁵ Mile Mrkšić, T. 19050.

⁴⁶³⁶ Mile Mrkšić, T. 18904; D1516 (Report on the conduct of combat activities of the 7th Corps from 29 July to 6 August 1995, Slobodan Kovačević, 9 August 1995), p. 4.

⁴⁶³⁷ Mile Mrkšić, T. 18898, 18925, 19063-19064.

⁴⁶³⁸ Mile Mrkšić, T. 19064.

⁴⁶³⁹ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 9; Kosta Novaković, T. 11724, 11773-11775.

⁴⁶⁴⁰ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 9; Kosta Novaković, T. 11724.

⁴⁶⁴¹ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 9; P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 3; Kosta Novaković, T. 11724.

⁴⁶⁴² P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 9; Kosta Novaković, T. 11725, 11783.

⁴⁶⁴³ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 22; Kosta Novaković, T. 11725.

⁴⁶⁴⁴ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 22.

soldiers in the Garrison Command building, including the Command Staff, and ten civilians sought shelter there.⁴⁶⁴⁵ Mrkšić arrived at the headquarters shortly after 5 a.m.⁴⁶⁴⁶ The Main Staff were at the headquarters attending their tasks.⁴⁶⁴⁷ Martić came straight to the SVK headquarters when the attack began.⁴⁶⁴⁸ Novaković estimated that in the first 30 minutes of the attack more than 500 shells had landed on Knin.⁴⁶⁴⁹ Novaković observed one shell impacting in the parking area between the Army Hall and the Garrison Command building, damaging the vehicles parked there.⁴⁶⁵⁰ Novaković moved between the SVK headquarters and the Army Hall some 20 times that day.⁴⁶⁵¹ According to Novaković, no other shells struck either of these buildings. Shells hit the ice cream parlour which was next to the Army hall and which caught fire, as well as a clinic for railway employees located across the street from the Army Hall and the area of a bus terminal. The railway station and its platforms and tracks were struck by at least 10 shells.⁴⁶⁵² When the shelling started the Radio/TV Knin staff informed Novaković and others that the building was hit and a part of it was torn off, and that it had no power.⁴⁶⁵³ That morning, many people told Novaković that the TVIK factory had been hit and was on fire.⁴⁶⁵⁴ At the beginning of the attack, three trucks were destroyed and two drivers were killed at the Senjak barracks.⁴⁶⁵⁵ While he was at the headquarters, Novaković was informed that several dead and wounded persons were taken to the hospital.⁴⁶⁵⁶ Novaković and others had information that the hospital had been hit.⁴⁶⁵⁷

1271. On the morning of 4 August 1995, Novaković passed on to General Janvier a message from Mrkšić, that since 5 a.m., the HV and HVO were targeting civilian objects in all RSK inhabited areas, especially in Knin, where thousands of shells fell and

⁴⁶⁴⁵ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 19.

⁴⁶⁴⁶ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 9.

⁴⁶⁴⁷ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 9.

⁴⁶⁴⁸ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 8.

⁴⁶⁴⁹ Kosta Novaković, T. 11725.

⁴⁶⁵⁰ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 41; Kosta Novaković, T. 11925.

⁴⁶⁵¹ Kosta Novaković, T. 11725.

⁴⁶⁵² P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 41.

⁴⁶⁵³ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 8; Kosta Novaković, T. 11932.

⁴⁶⁵⁴ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 31.

⁴⁶⁵⁵ Kosta Novaković, T. 11939; D923 (SVK Main Staff Report to Chief of VJ Main Staff, 26 August 1995), p. 24.

⁴⁶⁵⁶ P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 2.

⁴⁶⁵⁷ Kosta Novaković, T. 11788.

where the HV targeted the hospital, as well as other similar buildings.⁴⁶⁵⁸ On 4 August 1995 at 6:30 a.m., General Mrkšić of the SVK sent a letter to General Janvier of the UNPROFOR command in Zagreb in which he notified him that at 5 a.m. HV and HVO started shelling civilian targets in towns across the RSK.⁴⁶⁵⁹

1272. Around 10 a.m. on 4 August 1995, Forand, Al-Alfi, a Russian Colonel named Nikolai Ratsuk, a French colonel and some other officers met with Novaković at the SVK headquarters.⁴⁶⁶⁰ After the meeting, Novaković, Ratsuk and a number of UN officers and soldiers went to the Knin hospital in a UN APC to ascertain the situation there.⁴⁶⁶¹ The buildings around the hospital were being shelled.⁴⁶⁶² At the hospital, Novaković observed that a number of dead persons were being and had been brought to the hospital.⁴⁶⁶³

1273. Intelligence information from the SVK general staff, dated 4 August 1995 recorded that on that day, Knin was attacked by the HV from Livanjsko Polje, from several directions, and that by the time this information was drafted at 10 a.m., between 200-300 rounds of different calibres had impacted on Knin. It recorded that the first strike was carried out on the building of the SVK General Staff, which suffered great material damage with the fleet of vehicles almost completely destroyed. Later, the shelling was aimed at the military barracks “1300 kaplara”, the TVIK factory, the railway intersection, and residential buildings in the area beneath the Knin fortress and elsewhere. At 10 a.m. on 4 August 1995, the HV was still actively shelling Knin, alternatively using artillery pieces and MBRLs, and also shelling the Udbina airport, in addition to periodically firing on other RSK settlements.⁴⁶⁶⁴

1274. **Witness 54** testified that at 5 a.m. on 4 August 1995, the shelling in Knin began.⁴⁶⁶⁵ The witness estimated that over 1,000 shells fell during the first ten minutes of the shelling.⁴⁶⁶⁶ When the attack started, the witness and his relatives took shelter in

⁴⁶⁵⁸ Kosta Novaković, T. 11783-11784; D331 (Message from General Mrkšić to General Janvier, transmitted by Kosta Novaković).

⁴⁶⁵⁹ D270 (Letter from General Mrkšić to General Janvier of 4 August 1995 at 6:30 a.m.).

⁴⁶⁶⁰ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 10; Kosta Novaković, T. 11726, 11786.

⁴⁶⁶¹ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 10; P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 2; Kosta Novaković, T. 11787-11788.

⁴⁶⁶² P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 10.

⁴⁶⁶³ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 10; P1094 (Kosta Novaković, witness statement, 3 October 2008), para. 2.

⁴⁶⁶⁴ D389 (Intelligence information from SVK General Staff, dated 4 August 1995).

⁴⁶⁶⁵ P186 (Witness 54, witness statement, 2 July 1996), pp. 2-3.

⁴⁶⁶⁶ P186 (Witness 54, witness statement, 2 July 1996), p. 3.

the basement of the witness's house.⁴⁶⁶⁷ Later that morning, the witness and his relatives took shelter from the shelling in the basement of a hotel near the witness's house, where later in the day about 100 people had gathered.⁴⁶⁶⁸ According to the witness, the atmosphere in the hotel was one of panic and people were afraid for their safety.⁴⁶⁶⁹ Between about 5:30 a.m. and 7 a.m., the witness passed between his house and the hotel on several occasions.⁴⁶⁷⁰ While passing from his own house to the hotel, the witness observed that the house of Šime Đujić, a Croat, which was on the same side of the road as the hotel, and which had been hit by a shell, was on fire.⁴⁶⁷¹ The witness stated that he tried several times to leave the hotel to retrieve his second car, but because shells were falling continuously it was difficult to leave.⁴⁶⁷² The witness testified that houses on either side of the main road were shelled, but that no shells hit the main road itself, as far as the witness could see.⁴⁶⁷³ From the hotel, the witness saw smoke rising from the houses of Jandre (Jašo) Prijčić and Đoko Žegović, which were across the main street from the hotel.⁴⁶⁷⁴ He said that he later passed by these two houses and saw that they were destroyed.⁴⁶⁷⁵ The witness and his relatives stayed in the basement of the hotel until approximately 4 p.m., when the witness left by car with one of his relatives to go pick up other relatives from a house in the Kovačić area of Knin whom he brought back to the hotel for shelter from the shells.⁴⁶⁷⁶ The witness stated that at this time the shelling was slightly less intense.⁴⁶⁷⁷

1275. **Witness 56** testified that at 5 a.m. on 4 August 1995, the witness was awoken by grenade explosions and heard shell explosions.⁴⁶⁷⁸ At that time, he lived in an apartment 20 or 30 metres from the northern barracks and about 200 metres from the police

⁴⁶⁶⁷ P186 (Witness 54, witness statement, 2 July 1996), pp. 2-4; Witness 54, T. 2834, 2840-2842.

⁴⁶⁶⁸ P186 (Witness 54, witness statement, 2 July 1996), pp. 3-4; Witness 54, T. 2784, 2834-2835; P189 (Photographs of Knin, marked by Witness 54), hotel marked A.

⁴⁶⁶⁹ P187 (Witness 54, supplemental information sheet, 2 April 2007), para. 3.

⁴⁶⁷⁰ P186 (Witness 54, witness statement, 2 July 1996), p. 3; Witness 54, T. 2834.

⁴⁶⁷¹ P186 (Witness 54, witness statement, 2 July 1996), p. 3; Witness 54, T. 2784-2785, 2837-2838; P189 (Photographs of Knin, marked by Witness 54), one of two houses marked B.

⁴⁶⁷² P186 (Witness 54, witness statement, 2 July 1996), p. 4.

⁴⁶⁷³ Witness 54, T. 2837, 2849.

⁴⁶⁷⁴ P186 (Witness 54, witness statement, 2 July 1996), p. 4; Witness 54, T. 2784; P189 (Photographs of Knin, marked by Witness 54), one of two houses marked B.

⁴⁶⁷⁵ P186 (Witness 54, witness statement, 2 July 1996), p. 4.

⁴⁶⁷⁶ P186 (Witness 54, witness statement, 2 July 1996), p. 4; Witness 54, T. 2840, 2842-2846, 2849, 2851.

⁴⁶⁷⁷ P186 (Witness 54, witness statement, 2 July 1996), p. 4.

⁴⁶⁷⁸ P286 (Witness 56, witness statement, 5 December 1996), p. 4.

station.⁴⁶⁷⁹ After spending 30 minutes in the basement with other tenants, where he heard detonations very close by, the witness managed to drive to the police station.⁴⁶⁸⁰ While driving to the police station, the witness observed that the part of the town called “Breskvik”, located east of the northern barracks, was on fire.⁴⁶⁸¹ When arriving at the police station at around 6 a.m., the witness saw that all of its windows were broken.⁴⁶⁸² While sheltering in the basement of the police station, the witness heard explosions close to the police station. According to the witness, there were approximately ten police officers at the station that day.⁴⁶⁸³ Most Serb police officers and special police in the area, amounting to several hundred men, were at combat positions on the Dinara and had been placed under the command of SVK colonel Radić.⁴⁶⁸⁴ When the witness left the police station for a while, he saw that his car, parked across the street from the police station, was burning. He also observed a lot of smoke.⁴⁶⁸⁵

1276. Around 8 a.m., the witness and others helped a man called Dragović who used to live close (about ten to twenty metres away) to the police station and who told them that his house had been hit by a shell.⁴⁶⁸⁶ The witness then saw Dragović’s house which was heavily damaged due to a shell hitting a wall.⁴⁶⁸⁷ The witness assisted Dragović in bringing his injured daughter to a hospital and on his way back to the police station, he saw many shells dropped in the area of the Knin fortress and in the direction of the railway station, the government building, and the army headquarters.⁴⁶⁸⁸ The witness did not see signs of shelling on the hospital or in its vicinity, noting that the glass façade on the hospital was still intact when he was there on 4 August 1995.⁴⁶⁸⁹ During the day, the witness saw further shells land or consequences of shelling in the area towards

⁴⁶⁷⁹ P286 (Witness 56, witness statement, 5 December 1996), p. 4; P288 (Witness 56, witness statement, 12 June 2007), p. 9, para. 20; P289 (Witness 56, witness statement, 21 May 2008), para. 2, p. 10, apartment marked H; Witness 56, T. 3536.

⁴⁶⁸⁰ P286 (Witness 56, witness statement, 5 December 1996), p. 4; Witness 56, T. 3539.

⁴⁶⁸¹ P286 (Witness 56, witness statement, 5 December 1996), p. 4.

⁴⁶⁸² P286 (Witness 56, witness statement, 5 December 1996), p. 5; P288 (Witness 56, witness statement, 12 June 2007), para. 24.

⁴⁶⁸³ P286 (Witness 56, witness statement, 5 December 1996), p. 5.

⁴⁶⁸⁴ Witness 56, T. 3536-3538, 3550-3551, 3553-3554, 3558-3559.

⁴⁶⁸⁵ P286 (Witness 56, witness statement, 5 December 1996), p. 5.

⁴⁶⁸⁶ P286 (Witness 56, witness statement, 5 December 1996), p. 5; P288 (Witness 56, witness statement, 12 June 2007), p. 9, para. 22; P289 (Witness 56, witness statement, 21 May 2008), para. 2; Witness 56, T. 3639.

⁴⁶⁸⁷ P286 (Witness 56, witness statement, 5 December 1996), p. 5; P288 (Witness 56, witness statement, 12 June 2007), p. 9, para. 22; P289 (Witness 56, witness statement, 21 May 2008), para. 2, p. 10, house marked K.

⁴⁶⁸⁸ P286 (Witness 56, witness statement, 5 December 1996), p. 6; P289 (Witness 56, witness statement, 21 May 2008), p. 11, para. 6.

⁴⁶⁸⁹ Witness 56, T. 3620.

Madesevac, the area of the RSK centre for information, the police station, and the Northern barracks.⁴⁶⁹⁰ The witness then drove to the army headquarters around 8:30 or 9 a.m.⁴⁶⁹¹ When driving around town, mostly along the main street, later that day, the witness saw a lot of damage, mostly around the Knin fortress.⁴⁶⁹² Around noon, the shelling intensity decreased but otherwise the shelling continued for the entire day. According to the witness, thousands of shells were launched into town.⁴⁶⁹³

1277. **Witness 6**, a Croatian Serb from Knin,⁴⁶⁹⁴ was in his apartment in town when the attack on the city began at 5 a.m. on 4 August 1995.⁴⁶⁹⁵ One of the first buildings to be hit was one close to Witness 6's house.⁴⁶⁹⁶ Witness 6 testified that he lived in an apartment building which stood at the entrance to the city, on the road that leads to Zadar.⁴⁶⁹⁷ Witness 6's neighbour's apartment was hit by a shell soon after the beginning of the shelling.⁴⁶⁹⁸ Witness 6's own apartment building was hit a number of times and damaged, mainly by shell shrapnel.⁴⁶⁹⁹ The occupants of Witness 6's building, around 50-70 people, took shelter in the basement.⁴⁷⁰⁰ Around noon there was a pause in the shelling and Witness 6 decided to flee.⁴⁷⁰¹ Witness 6 made his way to the garage where his car was parked, about 500 metres from his apartment.⁴⁷⁰² On the way there he saw buildings hit by shells, houses on fire due to the shelling, and people running between buildings, visibly upset. Witness 6 testified that the shells fell everywhere, without an apparent target and appeared to have been aimed at scaring people and making them

⁴⁶⁹⁰ P289 (Witness 56, witness statement, 21 May 2008), paras 2, 6, pp. 10, northern barracks marked A, police station marked F, RSK centre for information marked P, 11, locations of shell impacts marked in blue.

⁴⁶⁹¹ P286 (Witness 56, witness statement, 5 December 1996), p. 6; P288 (Witness 56, witness statement, 12 June 2007), para. 25.

⁴⁶⁹² P286 (Witness 56, witness statement, 5 December 1996), p. 7; P289 (Witness 56, witness statement, 21 May 2008), para. 6, p. 11, route marked in red, locations of shell impacts marked in blue.

⁴⁶⁹³ P286 (Witness 56, witness statement, 5 December 1996), p. 7.

⁴⁶⁹⁴ P16 (Witness 6, witness statement, 21 February 2007), p. 1, para. 1.

⁴⁶⁹⁵ P16 (Witness 6, witness statement, 21 February 2007), para. 12.

⁴⁶⁹⁶ Witness 6, T. 1039; P17 (Aerial photograph of Knin, with locations indicated by Witness 6), location A indicating Witness 6's house.

⁴⁶⁹⁷ P16 (Witness 6, witness statement, 21 February 2007), para. 12; P17 (Aerial photograph of Knin, with locations indicated by Witness 6), location A indicating Witness 6's house.

⁴⁶⁹⁸ P16 (Witness 6, witness statement, 21 February 2007), para. 13; Witness 6, T. 885-887; P17 (Aerial photograph of Knin, with locations indicated by Witness 6), location A indicating Witness 6's house.

⁴⁶⁹⁹ P16 (Witness 6, witness statement, 21 February 2007), para. 14; Witness 6, T. 885-887; P17 (Aerial photograph of Knin, with locations indicated by Witness 6), location A indicating Witness 6's house.

⁴⁷⁰⁰ P16 (Witness 6, witness statement, 21 February 2007), para. 13.

⁴⁷⁰¹ P16 (Witness 6, witness statement, 21 February 2007), para. 15.

⁴⁷⁰² P16 (Witness 6, witness statement, 21 February 2007), para. 16; Witness 6, T. 887; P17 (Aerial photograph of Knin, with locations indicated by Witness 6), location B showing area where Witness 6's car was parked.

leave, and it indeed made everyone feel like they had to flee.⁴⁷⁰³ When Witness 6 reached his car, he drove to his brother's house which was next to the police station, in the northern part of Knin.⁴⁷⁰⁴ On the way, Witness 6 saw that some buildings had been hit and also saw a lot of damaged vehicles, a lot of glass, and signs that shells had fallen near his brother's house, with smoke rising from all over the town.⁴⁷⁰⁵ The northern part of the town where the police station was located appeared to have been hit more heavily than the west.⁴⁷⁰⁶ Witness 6 testified that the sound of shelling was coming from several directions, though he could not ascertain if the buildings being targeted were military facilities or not.⁴⁷⁰⁷ Some of the buildings hit were a private home near the Dinara Hotel,⁴⁷⁰⁸ the TVIK factory and some areas around it,⁴⁷⁰⁹ a building near the army hall and army headquarters,⁴⁷¹⁰ the Senjak military barracks which the witness claimed were no longer in use by the military,⁴⁷¹¹ and the police station.⁴⁷¹²

1278. **Andrew Leslie** testified that at approximately 5 a.m. on 4 August 1995, a massive artillery barrage impacted in and around Knin.⁴⁷¹³ There was a multiplicity of explosions into one continuous roar that lasted for a minute or two followed by a pause of a minute or two, and then the cycle repeated itself with the synchronicity of the explosions starting to become mixed. The detonations indicated to Leslie that whatever indirect fire systems were used had been instructed to fire at a specific moment in

⁴⁷⁰³ P16 (Witness 6, witness statement, 21 February 2007), para. 16.

⁴⁷⁰⁴ P16 (Witness 6, witness statement, 21 February 2007), para. 17; Witness 6, T. 887; P17 (Aerial photograph of Knin, with locations indicated by Witness 6), location D indicating the witness's brother's house, and location C indicating the location of the police station.

⁴⁷⁰⁵ P16 (Witness 6, witness statement, 21 February 2007), para. 17; Witness 6, T. 959, 1039.

⁴⁷⁰⁶ P16 (Witness 6, witness statement, 21 February 2007), para. 17; Witness 6, T. 887; P17 (Aerial photograph of Knin, with locations indicated by Witness 6), location C indicating the location of the police station.

⁴⁷⁰⁷ Witness 6, T. 1039.

⁴⁷⁰⁸ Witness 6, T. 973; D18 (Aerial stills of buildings in Knin), pp. 1-4.

⁴⁷⁰⁹ Witness 6, T. 960, 963-965, 967; P18 (Video filmed by Colonel Nestorović and edited by Veritas of the shelling of Knin on 4 August 1995); D16 (Aerial photograph with the location of the TVIK factory indicated and angles from which various scenes in P16 were taken); D17 (Filming positions of Colonel Nestorović in P16).

⁴⁷¹⁰ Witness 6, T. 900, 972, 974-975, 991-993, 1039; P17 (Aerial photograph of Knin, with locations indicated by Witness 6), location F indicating the building on fire located 100-200 metres south of the army hall; P18 (Video filmed by Colonel Nestorović and edited by Veritas of the shelling of Knin on 4 August 1995); D18 (Aerial stills of buildings in Knin), pp. 1, 3; D20 (A photograph marked by the witness indicating a building which is shown on fire in P18).

⁴⁷¹¹ Witness 6, T. 972, 979-986, 989-990; P17 (Aerial photograph of Knin, with locations indicated by Witness 6), location E indicating buildings located in front of the Senjak military barracks; P18 (Video filmed by Colonel Nestorović and edited by Veritas of the shelling of Knin on 4 August 1995).

⁴⁷¹² Witness 6, T. 1039.

⁴⁷¹³ Andrew Leslie, T. 1941; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 1; D122 (Video of BBC interview with Andrew Leslie on the morning of 4 August 1995).

time.⁴⁷¹⁴ According to Leslie, the intensity was high between approximately 5 and 7 a.m.⁴⁷¹⁵ From what the witness could observe from 6 a.m. onwards there was, however, no concentration of fire or any discernible pattern that corresponded to any obvious aim.⁴⁷¹⁶ Most of the fire was directed towards the centre of the town.⁴⁷¹⁷ From approximately 7 a.m. onwards, the fire decreased significantly and instead of explosions all over the city, the explosions were grouped across specific regions of the town where a shell first detonated, and after one or a few minutes another shell detonated 200-300 metres from the first one.⁴⁷¹⁸ That process would be repeated several times.⁴⁷¹⁹ Then four to six shells landed tightly grouped together.⁴⁷²⁰ According to Leslie, this signified that the HV artillery was engaged in target grid procedure, that is directing the artillery towards a particular target through visual observation.⁴⁷²¹ According to Leslie, the large anti-aircraft facility to the south-east of the UN compound was deliberately targeted and was effectively neutralised by the HV artillery.⁴⁷²² Shells were also fired at the factory complex at the south-east portion of the train yards.⁴⁷²³ With these two exceptions and according to Leslie's observations, the legitimate military targets in Knin were not hit in any significant manner.⁴⁷²⁴ According to Leslie, the mass of shells from 7 a.m. onwards on 4 August 1995 landed on mainly residential areas in the centre of town.⁴⁷²⁵

1279. On 4 August 1995, the shelling continued until nightfall although, as far as Leslie remembered, there were still occasional explosions at night.⁴⁷²⁶ Leslie testified

⁴⁷¹⁴ Andrew Leslie, T. 1941.

⁴⁷¹⁵ Andrew Leslie, T. 1942.

⁴⁷¹⁶ Andrew Leslie, T. 1943, 1945, 1979-1982, 1990, 2044.

⁴⁷¹⁷ Andrew Leslie, T. 2045-2046, 2048.

⁴⁷¹⁸ Andrew Leslie, T. 1942, 1945, 1947-1948; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

⁴⁷¹⁹ Andrew Leslie, T. 1942; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

⁴⁷²⁰ Andrew Leslie, T. 1942; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

⁴⁷²¹ Andrew Leslie, T. 1943, 1980; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

⁴⁷²² Andrew Leslie, T. 1981, 2157; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

⁴⁷²³ Andrew Leslie, T. 1981; D131 (Maps of Knin identifying "legitimate military targets"), factory complex at the south-east portion of the train yards marked E8.

⁴⁷²⁴ Andrew Leslie, T. 2157.

⁴⁷²⁵ Andrew Leslie, T. 1948-1949, 1980, 1990-1991, 2048, 2120, 2144-2148; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), pp. 1-2; D122 (Video of BBC interview with Andrew Leslie on the morning of 4 August 1995); P85 (Aerial photograph of Knin, marked by Andrew Leslie), estimated civilian areas where Leslie observed artillery fire marked in pink.

⁴⁷²⁶ Andrew Leslie, T. 1963, 1991; D123 (Video of BBC interview with Andrew Leslie on the evening of 4 August 1995).

that there were Serb soldiers in Knin throughout 4 August 1995. He also testified that there was fighting going on in the hills surrounding Knin that same evening.⁴⁷²⁷ Leslie also testified that when he visited the SVK main headquarters in Knin on the evening of 4 August 1995 he observed that the building had been damaged, that it had some shell fragmentation, and was essentially deserted.⁴⁷²⁸ He also saw a dead body, dressed in some semblance of military uniform, next to the building.⁴⁷²⁹

1280. The Trial Chamber has further considered the evidence of Andrew Leslie, reviewed in chapter 4.5.3 (Knin municipality).

1281. **Murray Dawes** testified that on 4 August 1995 around 4:15 a.m., he ran to the headquarters building in the UN compound. The attack began at 5 a.m. sharp with indirect fire from multiple rocket launchers, which the witness was able to see and hear based on the low speed at which they travel and the distinct sound they make, and the use of heavy artillery. The witness testified that he saw and heard very intense and heavy shelling coming in as salvos from the northeast and the southeast during the first half of the day, until around lunchtime.⁴⁷³⁰ From the balcony in Colonel Leslie's office, the witness could see rockets being fired into the town of Knin.⁴⁷³¹ Dawes observed that the downtown part of Knin had been heavily hit.⁴⁷³² Based on what he could see, the first salvos had landed in the centre of town and then edged closer to the river, which was also closer to the UN compound.⁴⁷³³ At this point, the witness ran to the shelters located next to the main headquarters building.⁴⁷³⁴ He stayed there for approximately half an hour, until about 5:20 a.m. Under orders from Sector Commander, General Forand, to begin evacuating the roughly 70 UN personnel from their accommodations in downtown Knin, Sector Administration Officer Harry Hooey ordered Dawes, given his unique knowledge of where the UN personnel lived, to accompany Dreyer and arrange for the evacuation.⁴⁷³⁵ Dawes and the rest of his party proceeded out the main gate in the vicinity of 6 a.m., in two APCs, down to the bridge, north of the UN compound.⁴⁷³⁶

⁴⁷²⁷ Andrew Leslie, T. 2058.

⁴⁷²⁸ Andrew Leslie, T. 1959, 1997-1998, 2076-2077.

⁴⁷²⁹ Andrew Leslie, T. 1959, 2076-2077.

⁴⁷³⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 3.

⁴⁷³¹ P981 (Murray Dawes, witness statement, 2 April 2008), p.3, para. 7.

⁴⁷³² P980 (Murray Dawes, witness statement, 22 August 1996), p. 3.

⁴⁷³³ P981 (Murray Dawes, witness statement, 2 April 2008), p. 3, para. 7.

⁴⁷³⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 3; P981 (Murray Dawes, witness statement, 2 April 2008), para. 7.

⁴⁷³⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 3.

⁴⁷³⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 3; Murray Dawes, T. 10460.

They continued on the main road into Knin.⁴⁷³⁷ When Dawes, Dreyer and the others reached the main bus station, located on the western side of the railroad station, at approximately 6 a.m., the shelling was so intense that shrapnel kept hitting the APC.⁴⁷³⁸ They went into a holding position in an alley near the main bus station and near the Parliament building, located right next to the RSK headquarters downtown.⁴⁷³⁹ They stayed there for roughly ten minutes.⁴⁷⁴⁰ Afterwards, they drove to the residential areas located on a hillside southwest of the Parliament building and RSK headquarters.⁴⁷⁴¹ Dawes testified that, although the shelling was very intense in that area, neither the Parliament building or RSK headquarters appeared to have been damaged at the time.⁴⁷⁴² The witness saw no guards standing at either of these buildings, and no one coming or going from either.⁴⁷⁴³ While in the residential area, they ran into about six young SVK soldiers on the street who demanded their APC.⁴⁷⁴⁴ The soldiers seemed, to the witness, much more desperate and panicked than hostile.⁴⁷⁴⁵ Dreyer responded by pointing a 50 calibre machine-gun at the soldiers, who then allowed Dawes' party to leave.⁴⁷⁴⁶ Dawes and the others proceeded thereafter to pick up their first group of passengers, which included Alun Roberts.⁴⁷⁴⁷ Very heavy shelling continued to fall around them.⁴⁷⁴⁸ Dawes saw houses being hit.⁴⁷⁴⁹ Near to that area was an SVK jail facility which had also been heavily hit.⁴⁷⁵⁰ On the sides of roads, the witness also saw men and women, none of whom wore full military uniforms, either injured or killed as a

⁴⁷³⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4.

⁴⁷³⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 8; Murray Dawes, T. 10464; P984 (Map of Knin with various locations marked by Murray Dawes), bus station marked D.

⁴⁷³⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 9; Murray Dawes, T. 10464-10465, 10517; P984 (Map of Knin with various locations marked by Murray Dawes), RSK headquarters and parliament building marked A.

⁴⁷⁴⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4.

⁴⁷⁴¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), paras 9-10; P984 (Map of Knin with various locations marked by Murray Dawes), RSK headquarters and parliament building marked A, residential area marked B.

⁴⁷⁴² P981 (Murray Dawes, witness statement, 2 April 2008), para. 9.

⁴⁷⁴³ P981 (Murray Dawes, witness statement, 2 April 2008), para. 9.

⁴⁷⁴⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 10; Murray Dawes, T. 10465; P984 (Map of Knin with various locations marked by Murray Dawes), residential area marked B.

⁴⁷⁴⁵ P981 (Murray Dawes, witness statement, 2 April 2008), para. 10; Murray Dawes, T. 10466.

⁴⁷⁴⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4.

⁴⁷⁴⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 10; Murray Dawes, T. 10461.

⁴⁷⁴⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; Murray Dawes, T. 10464-10465.

⁴⁷⁴⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 10.

⁴⁷⁵⁰ P981 (Murray Dawes, witness statement, 2 April 2008), para. 11.

result of the shelling.⁴⁷⁵¹ Some of the dead males wore partial military uniforms.⁴⁷⁵² The witness also observed members of the Milicia (Serbian Police), though he did not see many of them in town that day, helping civilians into shelters and bringing them to the hospital.⁴⁷⁵³ In the area they were in, the witness testified that, apart from the young SVK soldiers they encountered earlier, he did not see any heavy weapons, troops, or anything that would have constituted a military threat.⁴⁷⁵⁴

1282. During Dawes' first trip on 4 August, both sides of the road near to the SVK jail were very heavily shelled; the side where the railway and bus station were located and the side where Radio Knin was located.⁴⁷⁵⁵ Sometime between 6:30 and 7 a.m., the party travelled a half kilometre northwest into a purely residential area, where there was a school with a red roof.⁴⁷⁵⁶ The witness testified that the shelling in this area was also intense, and what he described as "civilian" houses had been hit.⁴⁷⁵⁷ Dawes and the others also stopped once, in that same residential area, to pick up a UN local interpreter.⁴⁷⁵⁸ At this point, they took the main road en route to the UN compound.⁴⁷⁵⁹ Upon reaching the main crossing, they encountered a male Serbian doctor dressed in white whom they drove to the hospital.⁴⁷⁶⁰ While Dawes and the others travelled along the road to the hospital, grenades and shrapnel continued to fall, though not as heavily as they had in the centre of town.⁴⁷⁶¹ They drove with the trapdoor of the APC open, which allowed the witness to look around while standing on a bench inside the vehicle.⁴⁷⁶² Dawes claimed that he saw no visible damage to the Serbian North Barracks

⁴⁷⁵¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 10; Murray Dawes, T. 10466-10467, 10550.

⁴⁷⁵² Murray Dawes, T. 10550.

⁴⁷⁵³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 12.

⁴⁷⁵⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4.

⁴⁷⁵⁵ Murray Dawes, T. 10465, 10468; P984 (Map of Knin with various locations marked by Murray Dawes), bus station marked D, Radio Knin marked F.

⁴⁷⁵⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 14; Murray Dawes, T. 10470, 10472-10473; P982 (Photograph with school building circled in red by Murray Dawes); P984 (Map of Knin with various locations marked by Murray Dawes), residential area marked H; D861 (Video clip from Zastava Films showing school building identified by Murray Dawes, 4 August 1995).

⁴⁷⁵⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4.

⁴⁷⁵⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 14; Murray Dawes, T. 10461-10462.

⁴⁷⁵⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4.

⁴⁷⁶⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 15.

⁴⁷⁶¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4.

⁴⁷⁶² P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; Murray Dawes, T. 10477.

as they passed it.⁴⁷⁶³ He testified that he continued to see no visible damage to the Barracks when they passed it many times after that.⁴⁷⁶⁴ Just after driving past the main entrance of the Barracks, Dawes and the others stopped outside of the UNCIVPOL station to pick up four UNCIVPOL officers.⁴⁷⁶⁵ They proceeded to escort the doctor to the hospital and stopped outside the “atomic shelter” on the western side of the hospital.⁴⁷⁶⁶ According to Dawes, the atomic shelter was being used as an area to select and prioritise injured persons.⁴⁷⁶⁷ There were more than a hundred people, including nurses and injured persons, running around.⁴⁷⁶⁸ The witness did not recall seeing any corpses while he was at the shelter, though he never actually went into the hospital or got out of the APC.⁴⁷⁶⁹ Dawes and the others then hurried back towards the UN compound.⁴⁷⁷⁰ Dawes testified that at a location in Knin, they found that most of the tree tops along the alley had been cut off, without much visible damage to the bottoms of the trees.⁴⁷⁷¹ There they also discovered bomblets - about 20-30 small bombs from a cluster bomb, each about 25 centimetres long and four to five centimetres in diameter with cloth attached to them - covering the entire road.⁴⁷⁷² Dawes could not remember the exact location of these cluster bomblets, but testified that they found them either approximately 150 metres southwest of the main crossing in the centre of Knin, while heading in the direction of the bus station, or at a location east of the TVIK factory.⁴⁷⁷³ Both Dawes and Dreyer commented to each other that they should stay away from the bomblets, since both men at the time assessed them to be antipersonnel warheads.⁴⁷⁷⁴

1283. Dawes, Dreyer, and the others returned to the UN compound at about 8 a.m. At that time, Dawes saw refugees from the south arriving in Knin, as well as refugees gathered at the intersection near the UN compound. According to the witness, the

⁴⁷⁶³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; Murray Dawes, T. 10389, 10477.

⁴⁷⁶⁴ Murray Dawes, T. 10389.

⁴⁷⁶⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4.

⁴⁷⁶⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; Murray Dawes, T. 10476.

⁴⁷⁶⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 15.

⁴⁷⁶⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4.

⁴⁷⁶⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4; P981 (Murray Dawes, witness statement, 2 April 2008), para. 15; Murray Dawes, T. 10476-10477.

⁴⁷⁷⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4.

⁴⁷⁷¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 5; Murray Dawes, T. 10482, 10488-10489.

⁴⁷⁷² P980 (Murray Dawes, witness statement, 22 August 1996), p. 5; Murray Dawes, T. 10482.

⁴⁷⁷³ P981 (Murray Dawes, witness statement, 2 April 2008), paras 16, 18; Murray Dawes, T. 10488-10489, 10492, 10500; P984 (Map of Knin with various locations marked by Murray Dawes), one of two possible areas of bomblets marked I; D863 (Map marked by Murray Dawes identifying the main crossing and the area where he allegedly saw bomblets), one of two possible areas of bomblets marked 2.

shelling appeared to come closer to the intersection from the time the refugees started gathering there. On several occasions, shells landed on the area around the intersection, even though the witness said that he never saw any SVK positions or troop movements in that area.⁴⁷⁷⁵ Dawes testified that he did see some SVK soldiers trying to get into the UN compound.⁴⁷⁷⁶

1284. During the time the witness was back at the UN compound, two SVK soldiers came up to the UN gate, placed some anti-vehicle mines and left.⁴⁷⁷⁷ Two UN mine experts cleared the road, after which Dawes, Engleby, and others departed on a second trip sometime between 8:15 and 8:30 a.m.⁴⁷⁷⁸ They went first to the UNMO station in the village of Podkonje in Knin, about 2,5 kilometres north of the UN barracks.⁴⁷⁷⁹ Dawes and the others drove back along the main road in Knin, passed the roundabout in the centre and the railway bridge, and then turned right towards the TVIK factory, located next to and east of the police station.⁴⁷⁸⁰ The witness observed that the TVIK factory, the railway station, the residential areas across from the TVIK factory, and the agricultural plant had been heavily shelled.⁴⁷⁸¹ The shelling in this area on 4 August 1995 was heavy.⁴⁷⁸² At this time, they also passed a crossing—about 250 metres east of the main gate of the TVIK factory; whereupon Dawes saw an overturned Serbian police car and two dead police officers.⁴⁷⁸³ It appeared to the witness that the car had been destroyed by a shell.⁴⁷⁸⁴ After the crossing, Dawes and his party tried to find another road into the residential area north of the TVIK factory where a lot of UN personnel were living.⁴⁷⁸⁵ They entered the residential area from a road close to General Forand's house, whereupon they picked up three local UN interpreters. They proceeded to circle

⁴⁷⁷⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 5; Murray Dawes, T. 10501.

⁴⁷⁷⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 5.

⁴⁷⁷⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 4.

⁴⁷⁷⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 5; Murray Dawes, T. 10502-10503.

⁴⁷⁷⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 5; Murray Dawes, T. 10380.

⁴⁷⁷⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 5; Murray Dawes, T. 10422, 10504-10505; D856 (Map marked by Murray Dawes of route taken during his second trip on 4 August 1995).

⁴⁷⁸⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 5; P981 (Murray Dawes, witness statement, 2 April 2008), para. 17; Murray Dawes, T. 10422-10423; P984 (Map of Knin with various locations marked by Murray Dawes), police station marked E, TVIK factory marked G; D856 (Map marked by Murray Dawes of route taken during his second trip on 4 August 1995).

⁴⁷⁸¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 5.

⁴⁷⁸² P980 (Murray Dawes, witness statement, 22 August 1996), p. 5.

⁴⁷⁸³ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 5-6; P981 (Murray Dawes, witness statement, 2 April 2008), para. 18; P984 (Map of Knin with various locations marked by Murray Dawes), area marked I.

⁴⁷⁸⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; P981 (Murray Dawes, witness statement, 2 April 2008), para. 18.

the area picking up about 15 UN personnel. During this time, the witness never left the APC because the shelling was so heavy.⁴⁷⁸⁶ The shelling was also intense but random.⁴⁷⁸⁷ According to Dawes, a lot of civilian houses were being hit, and many of these houses were on fire.⁴⁷⁸⁸ Their party began heading back to the UN compound, by way of the main road, at around 10:30 a.m. Shelling continued in the same pattern as before.⁴⁷⁸⁹ As they were about to leave the residential area, they saw four SVK trucks carrying lightly wounded soldiers from the direction of Strmica road and travelling northwest.⁴⁷⁹⁰ The witness and the others pulled over their APC outside of the POL station to let the SVK trucks pass.⁴⁷⁹¹ At the crossing, just before the main road, the witness met a few SVK soldiers from the “Earring Brigade”.⁴⁷⁹² It appeared to the witness that these soldiers were travelling as a unit.⁴⁷⁹³ One of these soldiers informed the witness that their unit was the last line of defence for Knin, and that they were pulling back from the Strmica area in order to aid the withdrawal of the SVK from frontline positions in the South.⁴⁷⁹⁴ After this, Dawes and the others continued back to the UN compound.⁴⁷⁹⁵ As far as the witness remembered, on their way back, he again noticed the bomblets were still lying in the same place he saw them before, along the main road.⁴⁷⁹⁶ He also observed that, although there was still some shelling, the shelling was sporadic and not as concentrated anymore.⁴⁷⁹⁷ According to the witness, around this

⁴⁷⁸⁵ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 5-6; P981 (Murray Dawes, witness statement, 2 April 2008), para. 17.

⁴⁷⁸⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6.

⁴⁷⁸⁷ P981 (Murray Dawes, witness statement, 2 April 2008), para. 17.

⁴⁷⁸⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; P981 (Murray Dawes, witness statement, 2 April 2008), para. 17.

⁴⁷⁸⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6.

⁴⁷⁹⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; Murray Dawes, T. 10505-10506, 10552, 10561; P985 (Map marked by Murray Dawes tracing the direction in which four SVK trucks were heading and where he saw them); D864 (Map marked by Murray Dawes tracing the direction from which four SVK trucks were coming).

⁴⁷⁹¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; Murray Dawes, T. 10552; P985 (Map marked by Murray Dawes tracing the direction in which four SVK trucks were heading and where he saw them), marking red area of POL station where the trucks passed.

⁴⁷⁹² P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; P981 (Murray Dawes, witness statement, 2 April 2008), para. 20; Murray Dawes, T. 10507.

⁴⁷⁹³ P981 (Murray Dawes, witness statement, 2 April 2008), para. 20.

⁴⁷⁹⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; P981 (Murray Dawes, witness statement, 2 April 2008), para. 20.

⁴⁷⁹⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6.

⁴⁷⁹⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; Murray Dawes, T. 10489; D863 (Map marked by Murray Dawes identifying the main crossing and the area where he allegedly saw bomblets), one of two possible areas of bomblets marked 2.

⁴⁷⁹⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6.

time, the shelling pattern changed from random firing all over town to more targeted firing, involving more artillery shells than rockets.⁴⁷⁹⁸

1285. By the time they returned to the UN compound, it was around lunchtime. After the break, Dawes made his third and final trip of the day.⁴⁷⁹⁹ Among the individuals joining him on this trip were Sergeant Edward Engleby and Andries Dreyer.⁴⁸⁰⁰ They travelled down the main road toward the area west of the Northern Barracks.⁴⁸⁰¹ As far as Dawes remembered, there was very little shelling in that particular area. A local interpreter who they intended to pick up would not leave, claiming that she felt quite safe. Their party continued to the outskirts of town to fetch two or three UNCIVPOL personnel, then returned to an area north of the Serbian North Barracks to pick up more UN employees. While they were in this area north of the Serbian North Barracks, a shell came very close to hitting them, and they ended up getting a flat tire from a piece of shrapnel. According to the witness, the shelling seemed to commence just as they arrived at this area.⁴⁸⁰² Dawes and the rest of his party left the area, and continued along the road to the hospital, turned right, and went to pick up around 15 other personnel from the ECMM headquarters.⁴⁸⁰³ Dawes testified that the ECMM headquarters was located down the road past the eastern side of the Serbian North Barracks and near the hospital, somewhere on the left-hand side.⁴⁸⁰⁴ As they travelled along that road, the shelling started to diminish in intensity.⁴⁸⁰⁵ However, as they branched off the road toward the ECMM headquarters, the shelling became what the witness described as almost “targeted” artillery and mortar fire, in contrast to the more random rocket fire in the downtown area.⁴⁸⁰⁶ Dawes also observed that shelling seemed to start as soon as they arrived in the area near the ECMM headquarters.⁴⁸⁰⁷ The APC was bracketed by mortar shells, some of which fell 40 to 50 metres short of the vehicle and others which

⁴⁷⁹⁸ P981 (Murray Dawes, witness statement, 2 April 2008), para. 21.

⁴⁷⁹⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6.

⁴⁸⁰⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; Murray Dawes, T. 10380, 10424, 10428, 10508.

⁴⁸⁰¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; Murray Dawes, T. 10424-10425; D857 (Map marked by Murray Dawes of route taken during his third and final trip on 4 August 1995).

⁴⁸⁰² P980 (Murray Dawes, witness statement, 22 August 1996), p. 6.

⁴⁸⁰³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; Murray Dawes, T. 10391, 10426-10428; D857 (Map marked by Murray Dawes of route taken during his third and final trip on 4 August 1995).

⁴⁸⁰⁴ P981 (Murray Dawes, witness statement, 2 April 2008), para. 22; Murray Dawes, T. 10426-10428; D857 (Map marked by Murray Dawes of route taken during his third and final trip on 4 August 1995).

⁴⁸⁰⁵ Murray Dawes, T. 10391.

⁴⁸⁰⁶ Murray Dawes, T. 10391, 10393, 10508-10509.

⁴⁸⁰⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6.

landed 40 to 50 metres ahead of the vehicle.⁴⁸⁰⁸ After that, rounds of mortar shells started dropping directly over the APC. The witness believed they were mortar shells, and definitely not rockets, because of the distinct sound they made.⁴⁸⁰⁹ When they reached the parking lodge outside the ECMM building and got out of the APC, a round of mortar shells hit very close to where they were.⁴⁸¹⁰ One mortar shell landed approximately ten metres away from Dawes, and the pressure from its impact was enough to pick the witness up, physically move him backwards and force him to the ground; his ear drum perforated and started to bleed slightly.⁴⁸¹¹ Dreyer remained unharmed.⁴⁸¹² One of the UN security personnel they were with helped Dawes up, and they moved into the ECMM headquarters.⁴⁸¹³ According to Dawes, there were no military targets in the area around the ECMM headquarters, which happened to be purely residential. Yet, the shelling in that area was heavy and intense.⁴⁸¹⁴ The witness recalled that approximately 40 rounds were targeted at that particular area.⁴⁸¹⁵ Nevertheless, all of the personnel at the ECMM headquarters refused to be evacuated.⁴⁸¹⁶

1286. As they were leaving the area around the ECMM headquarters, Dawes saw two dead farmers beside the road, and about 15 civilians running for shelter in a seeming state of panic.⁴⁸¹⁷ He also saw civilian casualties in the farm areas.⁴⁸¹⁸ They proceeded to a Russian UN employee's house at a railway depot located of the train tracks and railway station.⁴⁸¹⁹ Along the way, Dawes got close enough to see that the TVIK factory, railway depot, and railway station were "totally devastated by the shelling".⁴⁸²⁰ They drove passed the TVIK factory, turned right at the overturned Serbian police car,

⁴⁸⁰⁸ Murray Dawes, T. 10391-10392.

⁴⁸⁰⁹ Murray Dawes, T. 10392.

⁴⁸¹⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; Murray Dawes, T. 10391.

⁴⁸¹¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; P981 (Murray Dawes, witness statement, 2 April 2008), para. 22; Murray Dawes, T. 10391.

⁴⁸¹² P980 (Murray Dawes, witness statement, 22 August 1996), p. 6.

⁴⁸¹³ Murray Dawes, T. 10391.

⁴⁸¹⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; P981 (Murray Dawes, witness statement, 2 April 2008), para. 22.

⁴⁸¹⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6.

⁴⁸¹⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; Murray Dawes, T. 10391.

⁴⁸¹⁷ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6.

⁴⁸¹⁸ P981 (Murray Dawes, witness statement, 2 April 2008), para. 22.

⁴⁸¹⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 6; P981 (Murray Dawes, witness statement, 2 April 2008), para. 23; Murray Dawes, T. 10427; P984 (Map of Knin with various locations marked by Murray Dawes), area of Russian employee's house marked J; D857 (Map marked by Murray Dawes of route taken during his third and final trip on 4 August 1995).

⁴⁸²⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7.

and approached the Russian UN employee's house from the north.⁴⁸²¹ The person they were looking for was not there, and his house had been completely destroyed.⁴⁸²² Having picked up between 30 to 50 people in their APC, Dawes and the others with him went back to the UN compound at around 2:30 to 3 p.m.⁴⁸²³ Later that day, Dawes went up on the balcony of the UN headquarters building to watch downtown Knin.⁴⁸²⁴ He could see fire and smoke throughout the entire town of Knin, even though the shelling itself faded away in the late afternoon.⁴⁸²⁵ When the smoke cleared, the witness was surprised to find that the damage did not appear as severe as the shelling he had experienced that day suggested.⁴⁸²⁶

1287. **Andries Dreyer** testified that he took five trips into Knin on 4 August 1995 to retrieve UN personnel from their homes to bring them to the UN compound for security reasons.⁴⁸²⁷ Dreyer stated that during his time in Knin and the surrounding areas, he saw shell impacts on houses, department stores, and factories that were miles away from military installations.⁴⁸²⁸ According to Dreyer, no place was safe for movement during those trips, and they encountered the shrapnel of incoming fire.⁴⁸²⁹ Dreyer stated that he saw shellfire hitting the entire town but was especially concentrated in the area north of the POL station (which the Trial Chamber understands refers to a fuel storage area in the centre of town, not to the police station), where several UN employees lived.⁴⁸³⁰ He testified that the intensity of the shelling varied on 4 August 1995, but it was most intense during the first two to two and a half hours (starting at 5 a.m.).⁴⁸³¹ Dreyer marked on aerial maps of Knin and surrounding areas the places where he observed or

⁴⁸²¹ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 5-7; P981 (Murray Dawes, witness statement, 2 April 2008), para. 23; Murray Dawes, T. 10427; P984 (Map of Knin with various locations marked by Murray Dawes), TVIK factory marked G, area of Russian employee's house marked J; D857 (Map marked by Murray Dawes of route taken during his third and final trip on 4 August 1995).

⁴⁸²² P980 (Murray Dawes, witness statement, 22 August 1996), p. 7.

⁴⁸²³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7; Murray Dawes, T. 10509.

⁴⁸²⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7; P981 (Murray Dawes, witness statement, 2 April 2008), para. 24.

⁴⁸²⁵ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7.

⁴⁸²⁶ P981 (Murray Dawes, witness statement, 2 April 2008), para. 24.

⁴⁸²⁷ P72 (Andries Dreyer, witness statement, 22 February 2008), paras 7, 10-16; D109 (Andries Dreyer, witness statement, 4 February 1996), pp. 1-3; D110 (Andries Dreyer, witness statement, 8 November 1995), pp. 1-2; Andries Dreyer, T. 1740-1741, 1784, 1789, 1808.

⁴⁸²⁸ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 7.

⁴⁸²⁹ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 7.

⁴⁸³⁰ P72 (Andries Dreyer, witness statement, 22 February 2008), paras 7, 11; D109 (Andries Dreyer, witness statement, 4 February 1996), pp. 1-3; D110 (Andries Dreyer, witness statement, 8 November 1995), pp. 1-2; Andries Dreyer, T. 1721, 1740-1741, 1808; P78 (Aerial photograph of Knin marked by Dreyer in February 2008), marking H (area where many UN employees lived); P79 (Aerial photograph of Knin marked by Dreyer in February 1996).

⁴⁸³¹ Andries Dreyer, T. 1723-1724.

experienced shelling during these trips.⁴⁸³² Each marked area on the map indicates an area in which Dreyer noticed at least one shell impact.⁴⁸³³ While Dreyer acknowledged that the bombardment was most intense in the areas that were identified by the Defence as military targets, he testified that shelling also occurred, although less intensely, in other areas wherever he drove through. Therefore, he disagreed with the assessment of an UNMO report that shell damage occurred only in civilian areas that were close to military targets and that only few (three to five) impacts occurred in other urban areas, even assuming that the military targets as alleged by the Defence in fact were military targets.⁴⁸³⁴ He testified that on 4 August 1995, he saw approximately three to five bodies of civilians in Knin, which he believed were killed by the shelling.⁴⁸³⁵

1288. Dreyer testified that his five trips into Knin and surrounding areas were from about 4:30 a.m. until about 6 p.m., and he indicated the routes he followed on maps.⁴⁸³⁶ On the first trip, Dreyer observed the first impacts of the intense and omnipresent shelling at 5 a.m., which he described as an almost immediate explosion of everything around the convoy.⁴⁸³⁷ In order to get out of that area, they made their way across a bridge into a residential area, and found the shelling there was less intense.⁴⁸³⁸ On this trip, which lasted approximately from 4:35 a.m. until 5:20 a.m., he saw impacts of

⁴⁸³² P72 (Andries Dreyer, witness statement, 22 February 2008), para. 7; D109 (Andries Dreyer, witness statement, 4 February 1996), p. 3; Andries Dreyer, T. 1719-1720, 1726-1728, 1731-1732, 1740, 1781, 1808; P78 (Aerial photograph of Knin marked by Dreyer in February 2008), marking circles (to indicate areas where Dreyer saw or experienced shelling); P79 (Aerial photograph of Knin marked by Dreyer in February 1996), marking circles (to indicate areas where Dreyer saw or experienced shelling but did not recall specific impact locations), marking dots (to indicate where Dreyer observed the impacts).

⁴⁸³³ Andries Dreyer, T. 1857-1859; P78 (Aerial photograph of Knin marked by Dreyer in February 2008), marking circles (to indicate areas where Dreyer saw or experienced shelling); P79 (Aerial photograph of Knin marked by Dreyer in February 1996), marking circles (to indicate areas where Dreyer saw or experienced shelling but did not recall specific impact locations), marking dots (to indicate where Dreyer observed the impacts).

⁴⁸³⁴ Andries Dreyer, T. 1855-1856.

⁴⁸³⁵ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 17; D109 (Andries Dreyer, witness statement, 4 February 1996), p. 3; Andries Dreyer, T. 1844.

⁴⁸³⁶ P72 (Andries Dreyer, witness statement, 22 February 2008), paras 10-16; D109 (Andries Dreyer, witness statement, 4 February 1996), pp. 1-2, 4; D110 (Andries Dreyer, witness statement, 8 November 1995), pp. 1-2; Andries Dreyer, T. 1716-1718, 1726-1728, 1732, 1781-1783, 1788-1794, 1806-1807, 1814; P73 (Aerial photograph of Knin with Dreyer's markings indicating route of first trip); P74 (Aerial photograph of Knin with Dreyer's markings indicating route of second trip); P75 (Aerial photograph of Knin with Dreyer's markings indicating route of third trip); P76 (Aerial photograph of Knin with Dreyer's markings indicating route of fourth trip); P77 (Aerial photograph of Knin with Dreyer's markings indicating route of fifth trip); P78 (Aerial photograph of Knin marked by Dreyer in February 2008); P79 (Aerial photograph of Knin marked by Dreyer in February 1996).

⁴⁸³⁷ P72 (Andries Dreyer, witness statement, 22 February 2008), paras 7, 12; D109 (Andries Dreyer, witness statement, 4 February 1996), pp. 1, 3-4; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 1; Andries Dreyer, T. 1722-1723, 1781; P78 (Aerial photograph of Knin marked by Dreyer in February 2008), marking G (area in which Dreyer observed first shell impacts); P79 (Aerial photograph of Knin marked by Dreyer in February 1996).

multiple rocket launchers in an area of Knin centre and at another spot marked “MRL” on P79, left of marking B on P78 and P79.⁴⁸³⁹ Bricks, glass, and tree trunks fell down on Dreyer’s convoy, caused by the convulsion, even when they diverted their route through an area that was far from any military camps.⁴⁸⁴⁰ During this time, shells fell around and in the middle of the convoy. After making their way back to the main road, Dreyer stated that the impact of the shelling raised so much dust that the convoy had to reduce speed to avoid an accident.⁴⁸⁴¹ Dreyer saw that the Knin main road near the parliament building was being shelled.⁴⁸⁴² Dreyer stated that on the way back from this trip to the UN compound, he saw and heard shells everywhere, and many shells impacted on houses, buildings, and department stores.⁴⁸⁴³ On the second trip, which lasted approximately from 6 a.m. until just before 8:30 a.m., Dreyer stated that he again noticed constant shelling in areas where there were neither military movements nor camps, and that the Croatian military targeted numerous civilian areas with multi-purpose rocket launchers and artillery fire.⁴⁸⁴⁴

1289. Dreyer testified that the attack on Knin on 4 August 1995 involved multiple rocket launchers, which he recognized from their specific sound upon impact, and 155-millimetre Howitzer cannons.⁴⁸⁴⁵ The witness testified that the basis for this assessment was both his own personal recollection as well as information received from the military.⁴⁸⁴⁶

1290. **Alun Roberts** testified that on 4 August 1995, he first heard and then saw the shelling at almost exactly 5 a.m., from his third and top floor apartment, located on the

⁴⁸³⁸ Andries Dreyer, T. 1723.

⁴⁸³⁹ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 12; Andries Dreyer, T. 1733-1735; P79 (Aerial photograph of Knin marked by Dreyer in February 1996) (area within the circle and MRL written within it, left to marking B in the centre of Knin).

⁴⁸⁴⁰ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 12; D109 (Andries Dreyer, witness statement, 4 February 1996), p. 2; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 1.

⁴⁸⁴¹ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 12; D109 (Andries Dreyer, witness statement, 4 February 1996), p. 2; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 1.

⁴⁸⁴² Andries Dreyer, T. 1759-1762, 1766; P73 (Aerial photograph of Knin with Dreyer’s markings indicating route of first trip); D102 (Aerial photograph of Knin showing artillery targets as alleged by the Defence).

⁴⁸⁴³ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 12; D109 (Andries Dreyer, witness statement, 4 February 1996), pp. 1-3; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 1.

⁴⁸⁴⁴ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 13; D109 (Andries Dreyer, witness statement, 4 February 1996), p. 2; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 2; Andries Dreyer, T. 1788-1789.

⁴⁸⁴⁵ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 7; D109 (Andries Dreyer, witness statement, 4 February 1996), p. 3; Andries Dreyer, T. 1732-1733.

⁴⁸⁴⁶ Andries Dreyer, T. 1732-1733.

road going uphill from the main street close to and overlooking the centre of Knin.⁴⁸⁴⁷ According to Roberts, civilian buildings in Knin were directly hit by shells.⁴⁸⁴⁸ The shelling began from the direction of the Dinara mountains to the east of Knin.⁴⁸⁴⁹ Roberts initially heard and then observed other shelling that commenced a short time later and originated from a southern direction, possibly from the hills overlooking Drniš about 20 kilometres south of Knin.⁴⁸⁵⁰ At about 5 a.m., Roberts saw SVK soldiers in the streets, mainly helping civilians into shelters. Other than that, he saw no significant SVK presence in Knin.⁴⁸⁵¹ The early bombardment was consistent and most intense and lasted for about an hour.⁴⁸⁵² Shells hit several buildings behind and along the road where Robert's apartment was located.⁴⁸⁵³ Roberts testified that shells impacted on Knin radio station in the early morning of 4 August 1995.⁴⁸⁵⁴

1291. During a lull in the shelling, around 6:30 a.m., Roberts saw from the balcony of his apartment a car and part of a roof of an apartment building across the street hit by shells and burning, and a large fire in the centre of the town, which appeared to be the main ammunition dump.⁴⁸⁵⁵ The witness added that both the main ammunition dump and the SVK headquarters were being shelled consistently.⁴⁸⁵⁶ Roberts saw smoke rising from the direction of the RSK government building, from the fuel depot close to it and from the top of civilian apartments in various parts of town which he saw impacted by shells.⁴⁸⁵⁷ He saw smoke rising from the top far side of the roof of an apartment

⁴⁸⁴⁷ P676 (Alun Roberts, witness statement, 31 July 1998), p. 2; P677 (Alun Roberts, witness statement, 28 February 2007), p. 4; Alun Roberts, T. 6820; P682 (Aerial map with markings shell impacts and bodies), Roberts's apartment marked A.

⁴⁸⁴⁸ P676 (Alun Roberts, witness statement, 31 July 1998), p. 2; P682 (Aerial map with markings shell impacts and bodies), apartment buildings marked B, D, E and civilian building marked C.

⁴⁸⁴⁹ P676 (Alun Roberts, witness statement, 31 July 1998), pp. 2, 4-5; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 4-5; P680 (Alun Roberts, witness statement, 1 July 2008), para. 14.

⁴⁸⁵⁰ P676 (Alun Roberts, witness statement, 31 July 1998), pp. 2, 5.

⁴⁸⁵¹ D1377 (BBC radio report, 4 August 1995, 3 p.m.).

⁴⁸⁵² P676 (Alun Roberts, witness statement, 31 July 1998), pp. 2, 5; P677 (Alun Roberts, witness statement, 28 February 2007), p. 4; P680 (Alun Roberts, witness statement, 1 July 2008), para. 12; Alun Roberts, T. 6821-6822.

⁴⁸⁵³ P676 (Alun Roberts, witness statement, 31 July 1998), p. 2; P680 (Alun Roberts, witness statement, 1 July 2008), paras 13-14; P682 (Aerial map with markings shell impacts and bodies), apartment buildings marked B, D, E and civilian building marked C.

⁴⁸⁵⁴ P676 (Alun Roberts, witness statement, 31 July 1998), pp. 3-4; Alun Roberts, T. 7085.

⁴⁸⁵⁵ P676 (Alun Roberts, witness statement, 31 July 1998), pp. 2-3; P680 (Alun Roberts, witness statement, 1 July 2008), paras 13-14; Alun Roberts, T. 6821-6822, 7060; P682 (Aerial map with markings shell impacts and bodies), apartment building marked B.

⁴⁸⁵⁶ P676 (Alun Roberts, witness statement, 31 July 1998), p. 3.

⁴⁸⁵⁷ P676 (Alun Roberts, witness statement, 31 July 1998), p. 3; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 4-5; D1369 (Reuters news article, 5 August 1995), p. 1.

building on the street in front of his apartment to the sharp right.⁴⁸⁵⁸ Roberts could not see any responding fire coming from the town at all.⁴⁸⁵⁹ Roberts saw two bodies in civilian clothes, one on the street in front of his apartment and one on the street to the sharp right of his apartment.⁴⁸⁶⁰ The body lying on the pavement immediately opposite, about 30 metres away, was that of a man.⁴⁸⁶¹ The body lying face down on the street to the sharp right of his balcony appeared to be that of a woman dressed in jeans.⁴⁸⁶² Roberts believed he saw a third body lying on the street which ran opposite his balcony about 80 metres away.⁴⁸⁶³ Roberts was on his balcony three to four times very shortly that morning, one time for four to five minutes and one time for ten minutes.⁴⁸⁶⁴ After the first hour, a pattern of shelling emerged, from 6:15 a.m. until the later morning, in which a short lull was followed by several minutes of shelling.⁴⁸⁶⁵ Roberts was told by UNMO officers later that day that between around 5 a.m. and 8 a.m. approximately 1,100 shells had fallen on Knin.⁴⁸⁶⁶ He further testified that he had read in an UNMO report of 4 August 1995 that UNMOs heard 350-400 artillery “MBRL rocket fire” impacting on Knin between 5 a.m. and 10:40 a.m., a number he testified would likely be more reliable than the 1,100 figure due to it being documented in a report.⁴⁸⁶⁷ Roberts testified that at 8:40 a.m., shells were still falling on the central government and military buildings of Knin and on apartment blocks.⁴⁸⁶⁸ A UN APC picked Roberts up at about 8:40 a.m. and took him through other parts of town, past the police station and the former SVK military barracks to pick up other people.⁴⁸⁶⁹ It then turned back into the main road, passed the centre of town, crossed the Krka river and arrived at the UN

⁴⁸⁵⁸ P680 (Alun Roberts, witness statement, 1 July 2008), paras 13-14; Alun Roberts, T. 6821; P682 (Aerial map with markings shell impacts and bodies), apartment building marked D.

⁴⁸⁵⁹ P678 (Alun Roberts, witness statement, 7 February 2008), para. 8, Alun Roberts, T. 7060.

⁴⁸⁶⁰ P680 (Alun Roberts, witness statement, 1 July 2008), para. 15; Alun Roberts, T. 6821-6822, 7060, 7087-7089, 7091-7092; P682 (Aerial map with markings shell impacts and bodies), locations of bodies marked B1 and F; D1374 (Croatia’s Ministry of Defence note featuring an interview of Alun Roberts with a reporter of Slobodna Dalmacija on 4 August 1995), p. 6.

⁴⁸⁶¹ P680 (Alun Roberts, witness statement, 1 July 2008), para. 16; Alun Roberts, T. 6821; P682 (Aerial map with markings shell impacts and bodies), location of body marked B1.

⁴⁸⁶² P680 (Alun Roberts, witness statement, 1 July 2008), para. 17; Alun Roberts, T. 6822; P682 (Aerial map with markings shell impacts and bodies), location of body marked F.

⁴⁸⁶³ P680 (Alun Roberts, witness statement, 1 July 2008), para. 18; Alun Roberts, T. 6822, 7087-7089, 7091-7092; P682 (Aerial map with markings shell impacts and bodies), location of body marked G.

⁴⁸⁶⁴ Alun Roberts, T. 7060-7061.

⁴⁸⁶⁵ P676 (Alun Roberts, witness statement, 31 July 1998), pp. 2-3.

⁴⁸⁶⁶ P676 (Alun Roberts, witness statement, 31 July 1998), p. 5, Alun Roberts, T. 7070-7071.

⁴⁸⁶⁷ Alun Roberts, T. 7069-7070; P101 (UNMO report, 4 August 1995, 12:05 p.m.).

⁴⁸⁶⁸ P676 (Alun Roberts, witness statement, 31 July 1998), p. 3.

⁴⁸⁶⁹ P676 (Alun Roberts, witness statement, 31 July 1998), p. 3; P677 (Alun Roberts, witness statement, 28 February 2007), p. 5; Alun Roberts, T. 6820.

compound.⁴⁸⁷⁰ Roberts testified that all his observations about the shelling of civilian buildings were based on what he was able to see from the balcony of his apartment, until he reached the UN compound at about 9:30 a.m., and from then, what he was able to see from the balcony on the second floor of the UN compound.⁴⁸⁷¹ The shelling continued throughout the day on a sporadic but consistent basis.⁴⁸⁷² According to a Reuter news article of 4 August 1995, Serbian radio reported that more than 600 missiles and artillery shells had targeted Knin by 2 p.m.⁴⁸⁷³ Roberts testified that the shelling was particularly intense late in the night of 4 to 5 August 1995.⁴⁸⁷⁴ A Reuter news article of 5 August 1995 reported Roberts as saying that the hospital had been hit by shelling.⁴⁸⁷⁵

1292. **Philip Berikoff**, UN Military Information Officer for UN Sector South who was based in Knin between 21 July and 5 September 1995,⁴⁸⁷⁶ testified that at 5 a.m. on 4 August 1995 the HV began to shell Knin and its surroundings.⁴⁸⁷⁷ The shelling came from the East and South.⁴⁸⁷⁸ Berikoff stated that it seemed to target the fuel storage site and railroad facilities.⁴⁸⁷⁹ He further stated that in the morning of 4 August 1995, he heard a few rounds of SVK fire from the hills west of Knin by the road to Otrić, where he had seen SVK positions prior to Operation Storm, but that he heard no SVK fire from inside Knin.⁴⁸⁸⁰ Between approximately 7:15 and 8 a.m., Berikoff accompanied APCs to collect UN civilian employees who lived in Knin, and saw approximately 15-20 bodies lying on the street, mainly elderly civilians along with a couple of persons

⁴⁸⁷⁰ Alun Roberts, T. 6820.

⁴⁸⁷¹ P676 (Alun Roberts, witness statement, 31 July 1998), p. 4, Alun Roberts, T. 7060.

⁴⁸⁷² P677 (Alun Roberts, witness statement, 28 February 2007), p. 5.

⁴⁸⁷³ D1369 (Reuters news article, 5 August 1995), p. 1.

⁴⁸⁷⁴ P676 (Alun Roberts, witness statement, 31 July 1998), p. 5.

⁴⁸⁷⁵ D1367 (Reuters news article, 5 August 1995), p. 1.

⁴⁸⁷⁶ P739 (Philip Berikoff, witness statement, 24 August 1996), pp. 1-2; P740 (Philip Berikoff, witness statement, 21 May 1997), p. 1, paras 1-2; P741 (Philip Berikoff, witness statement, 11 December 2007), p. 1; D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 1-2, 45; Philip Berikoff, T. 7589, 7655-7656, 7734-7735, 7759-7760, 7768, 7776, 7813, 7823; P748 (Berikoff's daily journal, 17 July – 6 September 1995), pp. 2, 16.

⁴⁸⁷⁷ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 2; P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (f); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 6, 54; P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 2; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (a); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 5.

⁴⁸⁷⁸ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 3; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 1; Philip Berikoff, T. 7886.

⁴⁸⁷⁹ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 3; D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 17.

⁴⁸⁸⁰ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 3; D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 7; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7892.

dressed in military attire, some dead animals and numerous destroyed or burning buildings.⁴⁸⁸¹ Most of the fires were near the POL station, which was a fuel storage area.⁴⁸⁸² At 1 p.m. Berikoff accompanied the Senior Medical Officer to Knin hospital, and saw outside the hospital approximately 30-40 wounded persons who were bloody and bandaged, as well as approximately 50-75 persons who were bloody and lying immobile on their backs in a row.⁴⁸⁸³ The latter group appeared to be dead to Berikoff, and he stated that they were mostly civilians, while others were soldiers or wore a mixture of civilian and military clothes.⁴⁸⁸⁴ Berikoff then drove to the Jordanian Chief of Staff's (replacing Leslie) residence in Knin, during which an SVK soldier at a check-point fired a hand-held rocket at his APC and missed.⁴⁸⁸⁵ During this time, Berikoff noticed two or three check-points manned with lightly armed SVK soldiers.⁴⁸⁸⁶ There were damaged or burning buildings.⁴⁸⁸⁷ At the Jordanian Chief of Staff's residence, Berikoff encountered a number of confused and panicked Serb civilians on the street.⁴⁸⁸⁸ Berikoff then returned straight back to the UN compound, and reported to General Forand.⁴⁸⁸⁹ At approximately 3 p.m., Berikoff accompanied Forand to the SVK North Dalmatian Corps headquarters in downtown Knin, where there was a meeting and a press conference.⁴⁸⁹⁰ Press and Information Officer Alun Roberts was there.⁴⁸⁹¹ At this

⁴⁸⁸¹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (g); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 7-8; Philip Berikoff, T. 7729, 7731; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 1 (a); P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 2; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (a); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 5.

⁴⁸⁸² D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 8.

⁴⁸⁸³ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (g); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 7-9; D735 (Philip Berikoff, witness statement, 30 August 2008), pp. 1-2; Philip Berikoff, T. 7609-7611, 7641-7643, 7682, 7727, 7729-7731, 7740; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 1 (b); P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 2; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (a); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 5.

⁴⁸⁸⁴ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 9; Philip Berikoff, T. 7730.

⁴⁸⁸⁵ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (g); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 7, 10; Philip Berikoff, T. 7643, 7647; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 1 (b); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 6.

⁴⁸⁸⁶ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 7, 10.

⁴⁸⁸⁷ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 10; Philip Berikoff, T. 7729-7731; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (a); P748 (Berikoff's daily journal, 17 July – 6 September 1995), pp. 5-6.

⁴⁸⁸⁸ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 10.

⁴⁸⁸⁹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 10-11; P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 2.

⁴⁸⁹⁰ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (h); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 11; D735 (Philip Berikoff, witness statement, 30 August 2008), pp. 1-2; Philip Berikoff, T. 7610-7611, 7731; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 1 (c); P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 3; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 6.

point, the shelling continued at a much decreased level of intensity.⁴⁸⁹² Berikoff then assisted Roberts in locating a Serb interpreter, at which point he walked through some streets and observed that most buildings had sustained some damage, most windows were broken, there was lots of debris, and many buildings were still burning.⁴⁸⁹³ Berikoff stated that people were hiding and that he saw the occasional armed SVK soldier but no defended positions.⁴⁸⁹⁴

1293. At approximately 10 p.m. on 4 August 1995, a number of refugees arrived at the main gate of the UN compound, whom Forand decided to allow into the building, and Berikoff organized their entry.⁴⁸⁹⁵ In addition, "Vandoos" - a nickname for Canadian Royal 22nd infantry regiment - brought in refugees, some of whom were wounded and some of whom were of military age, who quartered in a make-shift hospital in an area of the UN compound.⁴⁸⁹⁶ UN personnel searched the refugees and found numerous and various weapons, including on women and elderly men.⁴⁸⁹⁷ Some refugees parked their cars loaded with belongings on the road outside the main gate of the compound.⁴⁸⁹⁸ The shelling of Knin continued throughout 4 August 1995 at varying degrees of intensity until around midnight, when it ended with approximately 15-20 minutes of intense shelling.⁴⁸⁹⁹ More refugees, with means of transportation, then came to the front gate of the UN compound and Forand decided to distribute fuel so that they could leave.⁴⁹⁰⁰ Based on the counting of Colonel Leslie, Master Bombardier Parlee and his own basic knowledge of flash-to-bang counting of artillery shelling, Berikoff stated that about 1,800 high-explosive artillery shells (causing fires), rockets, mortar bombs, and smoke

⁴⁸⁹¹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 11.

⁴⁸⁹² P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (h); P748 (Berikoff's daily journal, 17 July - 6 September 1995), p. 6.

⁴⁸⁹³ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (h); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 11; Philip Berikoff, T. 7731-7732; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 1 (c); P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (a); P748 (Berikoff's daily journal, 17 July - 6 September 1995), pp. 5-6.

⁴⁸⁹⁴ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 11.

⁴⁸⁹⁵ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (i); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 12; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 1 (c); P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 3; P748 (Berikoff's daily journal, 17 July - 6 September 1995), p. 6.

⁴⁸⁹⁶ Philip Berikoff, T. 7733-7735.

⁴⁸⁹⁷ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 12; Philip Berikoff, T. 7735-7736; P748 (Berikoff's daily journal, 17 July - 6 September 1995), p. 6.

⁴⁸⁹⁸ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 12, 55.

⁴⁸⁹⁹ P739 (Philip Berikoff, witness statement, 24 August 1996), pp. 2-3; P740 (Philip Berikoff, witness statement, 21 May 1997), paras 2 (g), 2 (i); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 12; P748 (Berikoff's daily journal, 17 July - 6 September 1995), p. 6.

⁴⁹⁰⁰ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (i); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 12; P748 (Berikoff's daily journal, 17 July - 6 September 1995), p. 6.

rounds hit the city and its surroundings throughout 4 August.⁴⁹⁰¹ Berikoff stated that the HV fired approximately 2,500-3,000 shells and rockets over Knin within 31 hours.⁴⁹⁰²

1294. **John Hill**, Commanding Officer of the International Military Police in Sector South from early June 1995 to 8 December 1995,⁴⁹⁰³ testified that on 4 August 1995, together with his Military Police platoon he was deployed in front of the Military Police headquarters at the UN compound, when at exactly 5 a.m. the heavy bombardment started.⁴⁹⁰⁴ They then all ran behind the Military Police building to nearby containers to take cover.⁴⁹⁰⁵ From there, Hill saw through a six-inch door opening that the first salvos into Knin town were very heavy.⁴⁹⁰⁶ In his opinion, based on his knowledge of artillery as he had been in the artillery reserves in the Canadian forces for five or six years, it was a very heavy barrage consisting of mortars, heavy artillery, and multiple rocket launchers.⁴⁹⁰⁷ He saw that the air was glowing with air-bursts and assessed that hundreds or even up to a thousand shells fell in the first hours of shelling.⁴⁹⁰⁸ Hill thought at the time that the purpose of air-bursts was anti-personnel and was also used against the civilian population in order to create panic.⁴⁹⁰⁹ He explained that air-bursts explode above the ground, and are designed to, from above, kill soldiers who are in the open field or who are sheltered in (fox) holes.⁴⁹¹⁰ According to Hill, an air-burst explosion can be created by turning a fuse on to an artillery round.⁴⁹¹¹ During the initial barrage, he saw orange air-burst explosions above Knin and also the explosions caused by shells hitting the ground.⁴⁹¹² He stated that the noise of the shelling was like the

⁴⁹⁰¹ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 2; P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (f); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 6-7; Philip Berikoff, T. 7681, 7741; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 5.

⁴⁹⁰² P739 (Philip Berikoff, witness statement, 24 August 1996), p. 2;

⁴⁹⁰³ P291 (John Hill, witness statement, 23 August 1996), p. 2; P292 (John Hill, witness statement, 21 January 1998), pp. 3, 93; P293 (John Hill, witness statement, 2 November 1999), p. 3.

⁴⁹⁰⁴ P291 (John Hill, witness statement, 23 August 1996), pp. 2, 4; P292 (John Hill, witness statement, 21 January 1998), pp. 10-11, 15; John Hill, T. 3738; P301 (UNCRO Military Police report, 4-7 August 1995), p. 2; D271 (John Hill's diary, entries for 3 and 4 August).

⁴⁹⁰⁵ P291 (John Hill, witness statement, 23 August 1996), p. 4; John Hill, T. 3816; D271 (John Hill's diary, entries for 3 and 4 August).

⁴⁹⁰⁶ P291 (John Hill, witness statement, 23 August 1996), p. 4; P292 (John Hill, witness statement, 21 January 1998), pp. 3, 100-101; John Hill, T. 3816-3817, 3780-3781, 3895-3897; P306 (Report by John Hill on HV activities from 4-11 August 1995), p. 1; D271 (John Hill's diary, entries for 3 and 4 August).

⁴⁹⁰⁷ P291 (John Hill, witness statement, 23 August 1996), p. 4; P292 (John Hill, witness statement, 21 January 1998), pp. 13, 15.

⁴⁹⁰⁸ P291 (John Hill, witness statement, 23 August 1996), p. 4; P292 (John Hill, witness statement, 21 January 1998), pp. 11, 15; John Hill, T. 3738, 3822-3823, 3826; D271 (John Hill's diary, entries for 3 and 4 August).

⁴⁹⁰⁹ P291 (John Hill, witness statement, 23 August 1996), p. 4.

⁴⁹¹⁰ P292 (John Hill, witness statement, 21 January 1998), pp. 15-16; John Hill, T. 3739-3740.

⁴⁹¹¹ John Hill, T. 3826.

⁴⁹¹² P292 (John Hill, witness statement, 21 January 1998), p. 16.

firing of heavy machine guns, but with artillery.⁴⁹¹³ According to Hill, the initial barrage went on for about thirty minutes, and was soon followed by the second one which was also very heavy.⁴⁹¹⁴ He stated that when the second barrage had calmed down, at around 6:30 a.m., he ran uphill to the Military Police platoon accommodation bunkers to check if his men were fine.⁴⁹¹⁵ At this time, the third barrage started.⁴⁹¹⁶ He further stated that also at this time, a mortar impacted on a building close to where he was, and that a portable rifle propelled grenade hit the wall in front of Hill, the impact of which threw Hill down the stairs.⁴⁹¹⁷ According to Hill, UNMOs who conducted a crater analysis later concluded that the SVK at the Southern Barracks had fired both grenades.⁴⁹¹⁸ Hill testified that at about 7:30 a.m. the shelling slowed down a little bit, and he and others were able to get out of the bunker and observe the fire.⁴⁹¹⁹ He took some photos showing impacts on Knin at this time.⁴⁹²⁰ One of the photos he took shows black smoke rising over Knin on 4 August 1995.⁴⁹²¹ According to Hill, firing into Knin, which he called “harassment fire”, continued during the morning hours.⁴⁹²² Hill explained that harassment fire consists of small series of one to four rounds, intended to make the enemy aware that he is under attack and to disrupt enemy re-supplying.⁴⁹²³ He stated that, in the afternoon, the town was burning and still being shelled.⁴⁹²⁴ Also in the afternoon, he and others were finding shrapnel inside the UN compound.⁴⁹²⁵ An UNCRO artillery expert concluded that a piece of mortar found inside the camp stemmed from a 120-millimetre mortar gun. Hill further stated that around dinner time the shelling became intermittent.⁴⁹²⁶ Hill also stated that around 11 p.m. the artillery fire

⁴⁹¹³ P291 (John Hill, witness statement, 23 August 1996), p. 4.

⁴⁹¹⁴ P291 (John Hill, witness statement, 23 August 1996), p. 4; John Hill, T. 3822.

⁴⁹¹⁵ P291 (John Hill, witness statement, 23 August 1996), p. 4; John Hill, T. 3816-3817.

⁴⁹¹⁶ P291 (John Hill, witness statement, 23 August 1996), p. 4.

⁴⁹¹⁷ P291 (John Hill, witness statement, 23 August 1996), p. 4; P292 (John Hill, witness statement, 21 January 1998), p. 12; John Hill, T. 3738-3739, 3817; P301 (UNCRO Military Police report, 4-7 August 1995), p. 2.

⁴⁹¹⁸ P291 (John Hill, witness statement, 23 August 1996), p. 4; John Hill, T. 3738, 3817-3818; P301 (UNCRO Military Police report, 4-7 August 1995), p. 2.

⁴⁹¹⁹ P291 (John Hill, witness statement, 23 August 1996), p. 4; D271 (John Hill’s diary, entries for 3 and 4 August).

⁴⁹²⁰ P291 (John Hill, witness statement, 23 August 1996), p. 4.

⁴⁹²¹ John Hill, T. 3742; P296 (Photo taken by John Hill of black smoke rising over Knin).

⁴⁹²² P291 (John Hill, witness statement, 23 August 1996), p. 4.

⁴⁹²³ John Hill, T. 3740-3741.

⁴⁹²⁴ P291 (John Hill, witness statement, 23 August 1996), p. 4; P292 (John Hill, witness statement, 21 January 1998), p. 13.

⁴⁹²⁵ P291 (John Hill, witness statement, 23 August 1996), p. 4; D271 (John Hill’s diary, entries for 3 and 4 August).

⁴⁹²⁶ P291 (John Hill, witness statement, 23 August 1996), p. 4.

was still going on, and that although it was not as heavy as in the morning it was a little bit more intense than harassment fire.⁴⁹²⁷

1295. **Stig Marker Hansen**, an ECMM monitor in Knin from June to September 1995 and head of ECMM Knin from approximately 5 September to 23 September 1995,⁴⁹²⁸ testified that at 5 a.m. on 4 August 1995 he was in his house 100 metres east of the ECMM RC in Knin when the shelling of Knin began, and he remained there for approximately the next four hours.⁴⁹²⁹ From his house he was able to overlook Knin, and when the attack on Knin started he could see shelling impacts all over the city and especially in the immediate vicinity of the Knin hospital.⁴⁹³⁰ He heard the sound of shelling very close to him, houses close to his were hit, and he observed heavy smoke coming from a residential area several hundred metres to the south of him.⁴⁹³¹ The witness heard shell impacts coming from areas throughout Knin and observed smoke across different parts of the city.⁴⁹³² To the witness, the shelling appeared general or random, however the TVIK factory was heavily shelled. He saw impacts on the slopes of Knin.⁴⁹³³ Around 9 or 10 a.m., the witness went to the ECMM RC basement, from where he could not monitor Knin, to take shelter.⁴⁹³⁴ A grenade impacted 20 metres from the ECMM RC.⁴⁹³⁵ The witness testified that he was later evacuated to the UN compound where he took shelter in a basement cellar and at times overlooked Knin

⁴⁹²⁷ P291 (John Hill, witness statement, 23 August 1996), p. 5; John Hill, T. 3739, 3745-3746.

⁴⁹²⁸ P1283 (Stig Marker Hansen, witness statement, 18 December 1995) p. 2; P1284 (Stig Marker Hansen, witness statement, 22 August 1997), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 3.

⁴⁹²⁹ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 18; Stig Marker Hansen, T. 15066; P1292 (Stig Marker Hansen, personal diary), p. 1; P1293 (Aerial photo of Knin with markings by Stig Marker Hansen), ECMM RC marked I, witness's house marked II; P1300 (ECMM daily monitoring report, 7 August 1995), p. 2; D1276 (ECMM weekly assessment, 4-10 August 1995), p. 1.

⁴⁹³⁰ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), pp. 2-3; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 18; Stig Marker Hansen, T. 14901, 14903-14904; P1293 (Aerial photo of Knin with markings by Stig Marker Hansen), witness's house marked II.

⁴⁹³¹ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 18; P1292 (Stig Marker Hansen, personal diary), p. 1; P1293 (Aerial photo of Knin with markings by Stig Marker Hansen), witness's house marked II.

⁴⁹³² Stig Marker Hansen, T. 14903-14904.

⁴⁹³³ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3.

⁴⁹³⁴ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 18; Stig Marker Hansen, T. 15066; P1292 (Stig Marker Hansen, personal diary), p. 1.

⁴⁹³⁵ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3; P1292 (Stig Marker Hansen, personal diary), p. 2; P1293 (Aerial photo of Knin with markings by Stig Marker Hansen), ECMM RC marked I.

from a balcony on the third floor.⁴⁹³⁶ In his Rule 92 *ter* statement and in examination-in-chief, the witness testified that in the afternoon of 4 August 1995 en route to the UN compound, he saw houses on fire in a residential area, including the house of an orthodox priest, and saw impacts at the TVIK factory.⁴⁹³⁷ In cross-examination and re-direct examination, the witness testified that he could not see anything from the APC he travelled in to the UN compound.⁴⁹³⁸ Confronted with this apparent inconsistency, the witness testified that in his recollection, he first saw damage on his first trip to the ECMM RC.⁴⁹³⁹ Some time after 7 August 1995 while touring Knin, the witness saw that the house of the orthodox priest was a burned down ruin.⁴⁹⁴⁰

1296. **Roland Dangerfield** testified that the Croat offensive on Knin started on 4 August 1995, just before 5 a.m.⁴⁹⁴¹ He immediately went to hide in a bunker on the UN compound.⁴⁹⁴² For approximately 90 minutes, he heard rocket and artillery fire, which he was able to identify as a result of training on weapons system recognition he had received prior to his deployment.⁴⁹⁴³ The witness was later told by Colonel Andrew Leslie that a total of 1,800 shells had fallen on Knin by 6:30 a.m., and that 300 of those, which consisted of shells and rockets, had hit Knin in the first half hour of the attack.⁴⁹⁴⁴ Around 6:30 a.m., Dangerfield came out of the bunker and observed that Knin was covered in a blanket of dust and smoke.⁴⁹⁴⁵ The intensity of the shelling had lessened by that time.⁴⁹⁴⁶ Two to three artillery shells continued to be fired per minute throughout

⁴⁹³⁶ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 2; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 18; P1292 (Stig Marker Hansen, personal diary), pp. 1, 3; P1299 (ECMM special report, 7 August 1995).

⁴⁹³⁷ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3; Stig Marker Hansen, T. 14901-14902; P1298 (Aerial photo of North-Eastern part of Knin with markings by Stig Marker Hansen), house of priest marked A.

⁴⁹³⁸ Stig Marker Hansen, T. 15066-15067, 15094-15095.

⁴⁹³⁹ Stig Marker Hansen, T. 15094-15095.

⁴⁹⁴⁰ Stig Marker Hansen, T. 14902.

⁴⁹⁴¹ P695 (Roland Dangerfield, witness statement, 21 December 1995), paras 4, 27; Roland Dangerfield, T. 7139; P698 (Brief Overview for Sector South on 4 August 1995), para. 1; P699 (Fall of the Republic of Serb Krajina, authored by Roland Dangerfield), p. 2.

⁴⁹⁴² Roland Dangerfield, T. 7139, 7220; P699 (Fall of the Republic of Serb Krajina, authored by Roland Dangerfield), pp. 2-3.

⁴⁹⁴³ P695 (Roland Dangerfield, witness statement, 21 December 1995), paras 4, 27; Roland Dangerfield, T. 7139-7140, 7145, 7173, 7220-7221, 7268; P698 (Brief Overview for Sector South on 4 August 1995), para. 1.

⁴⁹⁴⁴ P696 (Roland Dangerfield, supplemental witness statement, 9 January 2008), para. 1; Roland Dangerfield, T. 7230-7231, 7173, 7230; P698 (Brief Overview for Sector South on 4 August 1995), para. 1; P699 (Fall of the Republic of Serb Krajina, authored by Roland Dangerfield), p. 3.

⁴⁹⁴⁵ Roland Dangerfield T. 7140, 7150, 7221.

⁴⁹⁴⁶ Roland Dangerfield, T. 7140, 7145-7146; P698 (Brief Overview for Sector South on 4 August 1995), para. 1.

the day.⁴⁹⁴⁷ Sometime in the middle of the morning, the dust over Knin settled and, using binoculars, Dangerfield was able to see the areas where shells were landing, although not the precise impact points, from the balcony of the UN headquarters.⁴⁹⁴⁸ The shelling of Knin lasted until 7 p.m., after which it again decreased in intensity, but continued throughout the night.⁴⁹⁴⁹ Dangerfield testified that after 27 July 1995, only about 100 SVK soldiers had remained present in Knin but that there were SVK troops moving through Knin on 4 August 1995.⁴⁹⁵⁰ The witness did not see or hear any outgoing fire from Knin during the entire time he was at the UN compound.⁴⁹⁵¹ Dangerfield further testified that during the attack on Knin, which started on 4 August 1995, civilians, the majority of which were elderly, women, and children, came to the UN compound.⁴⁹⁵² On the same day, at about 5 p.m., refugees and troops began withdrawing through Knin.⁴⁹⁵³ Dangerfield testified that the few tanks that he saw were simply leaving and were not directing their guns towards the suspected HV threat, showing no indication of a “fighting withdrawal”.⁴⁹⁵⁴ Dangerfield saw shells landing in the residential areas north of the police station, in the vicinity of the railway station, near ammunitions bunker 200 metres west of the UN compound, on the parliament building, around the base of Knin castle, on the helipad or football pitch, on the police station in Knin, and on houses on the “main street”.⁴⁹⁵⁵ Dangerfield considered the shelling of Knin to be sporadic and non-directed because no one area or military target appeared to be hit with more than three or four rounds, a large number of shells and rockets landed in a very short time, and due to the fact that the town was covered in dust

⁴⁹⁴⁷ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 30; P698 (Brief Overview for Sector South on 4 August 1995), para. 1.

⁴⁹⁴⁸ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 30; Roland Dangerfield, T. 7140, 7150.

⁴⁹⁴⁹ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 30; P696 (Roland Dangerfield, supplemental witness statement, 9 January 2008), para. 5; Roland Dangerfield, T. 7146-7147; P698 (Brief Overview for Sector South on 4 August 1995), para. 1.

⁴⁹⁵⁰ Roland Dangerfield, T. 7243.

⁴⁹⁵¹ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 30; Roland Dangerfield, T. 7150-7151, 7165, 7249.

⁴⁹⁵² P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 17; P699 (Fall of the Republic of Serb Krajina, authored by Roland Dangerfield), p. 4.

⁴⁹⁵³ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 32.

⁴⁹⁵⁴ Roland Dangerfield, T. 7145.

⁴⁹⁵⁵ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 30; Roland Dangerfield, T. 7141-7143; P697 (Aerial photograph of Knin, marked by Roland Dangerfield), two areas north of police station marked A, area near train station marked B, area near ammunitions bunker marked C, parliament building marked D, area at the base of the Knin castle marked E, football pitch marked F, police station marked G.

and smoke, it would not have been possible to adjust fire for accuracy because it would have been impossible to see where shells were landing.⁴⁹⁵⁶

1297. **Søren Liborius**, an ECMM Operations Officer and team leader based in Knin from 28 July 1995 until 27 November 1995,⁴⁹⁵⁷ testified that at 5 a.m. on 4 August 1995, the shelling started.⁴⁹⁵⁸ From his house located approximately 500 metres south of the Knin hospital, Liborius observed heavy black-grey smoke rising shortly after the first impacts were heard.⁴⁹⁵⁹ Liborius estimated the impacts to be in the southern residential area around the TVIK factory or at the TVIK factory itself.⁴⁹⁶⁰ The intensity of the shelling was initially four to five shells per ten seconds.⁴⁹⁶¹ Liborius attributed the firing to heavy calibre 155-millimetre artillery fire and also heard several times the distinct sound of “modest calibre” multiple rocket launcher impacts.⁴⁹⁶² He stated that it seemed to him that no specific targets received all the fire, but that the fire was laid over different areas and unpredictable, including areas where civilians were present.⁴⁹⁶³ From 9 a.m. onwards on 4 August 1995, Liborius observed the shelling from the operations room on the third floor of the ECMM RC building located in the north-eastern part of the town.⁴⁹⁶⁴ He stated that it seemed like the artillery and rocket fire was being laid all over the Knin area, without targeting any specific location.⁴⁹⁶⁵ The fire came from the north-eastern direction, from the hills east of Knin towards Bosanski Grahovo.⁴⁹⁶⁶ Liborius observed the impact of one artillery shell detonating in the grass field south-west of the ECMM building, which blew out the windscreens of some nearby cars and

⁴⁹⁵⁶ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 30; Roland Dangerfield, T. 7143-7144, 7149-7150.

⁴⁹⁵⁷ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 1, 3; P800 (Søren Liborius, witness statement, 11 November 1997), p. 2; P801 (Søren Liborius, witness statement, 12 October 2005), p. 2; P803 (Søren Liborius, witness statement, 6 September 2008), para. 6; Søren Liborius, T. 8229; D741 (Diary of Liborius), p. 3.

⁴⁹⁵⁸ P799 (Søren Liborius, witness statement, 2 November 1995), p. 3; Søren Liborius, T. 8252; P804 (ECMM Knin daily report, 4 August 1995); D741 (Diary of Liborius), p. 7.

⁴⁹⁵⁹ P799 (Søren Liborius, witness statement, 2 November 1995), p. 3; P802 (Søren Liborius, witness statement, 20 June 2008), para. 5; Søren Liborius, T. 8239; P798 (Photo of Knin town marked by Søren Liborius), Liborius’s apartment marked B.

⁴⁹⁶⁰ P799 (Søren Liborius, witness statement, 2 November 1995), p. 3; P802 (Søren Liborius, witness statement, 20 June 2008), para. 12; Søren Liborius, T. 8239.

⁴⁹⁶¹ P799 (Søren Liborius, witness statement, 2 November 1995), p. 3.

⁴⁹⁶² P799 (Søren Liborius, witness statement, 2 November 1995), p. 3; P802 (Søren Liborius, witness statement, 20 June 2008), para. 8.

⁴⁹⁶³ P802 (Søren Liborius, witness statement, 20 June 2008), paras 5, 8; Søren Liborius, T. 8252.

⁴⁹⁶⁴ P799 (Søren Liborius, witness statement, 2 November 1995), p. 3; Søren Liborius, T. 8240; P798 (Photo of Knin town marked by Søren Liborius), ECMM headquarters marked A.

⁴⁹⁶⁵ P799 (Søren Liborius, witness statement, 2 November 1995), pp. 3-4.

⁴⁹⁶⁶ P799 (Søren Liborius, witness statement, 2 November 1995), p. 4; P802 (Søren Liborius, witness statement, 20 June 2008), para. 7.

left fragmentation marks on the ECMM building.⁴⁹⁶⁷ He stated that there were no military targets in the vicinity of the ECMM building.⁴⁹⁶⁸ The closest military target was the police station, which was about 700-800 metres away.⁴⁹⁶⁹ Around noon on 4 August 1995, a pause in the shelling led to the evacuation of the ECMM building upon orders from ECMM headquarters.⁴⁹⁷⁰ The order was to evacuate to the UN compound in the Southern Barracks, leaving behind only a few volunteers to protect the approximately 60-70 civilians that had taken shelter in the ECMM building.⁴⁹⁷¹ On his way to the Southern Barracks, Liborius saw damage to civilian buildings on the western side of the road just before the main railway bridge. He also saw many civilians collecting their belongings and fleeing Knin.⁴⁹⁷²

1298. **Robert Williams** testified that on 4 August 1995, at 5 a.m., Williams, together with Philip Berikoff and another man, witnessed the shelling on Knin from the balcony of the main building at the UN compound for about ten to fifteen minutes.⁴⁹⁷³ From there, the witness could overlook the downtown area of Knin.⁴⁹⁷⁴ For the first 30 minutes the shelling on Knin was very heavy with about 300 shells falling.⁴⁹⁷⁵ The witness did not manage to count all the shells but concluded the number together with Andrew Leslie, Philip Berikoff, and another man.⁴⁹⁷⁶ Initially the shells came in from the direction of Drniš, passing over the UN compound.⁴⁹⁷⁷ The initial salvos of heavy artillery hit downtown Knin and the area around the TVIK factory, including the residential area north of it.⁴⁹⁷⁸ The witness saw the RSK Parliament being hit with one

⁴⁹⁶⁷ P802 (Søren Liborius, witness statement, 20 June 2008), para. 4; Søren Liborius, T. 8240, 8250.

⁴⁹⁶⁸ P799 (Søren Liborius, witness statement, 2 November 1995), p. 4; P802 (Søren Liborius, witness statement, 20 June 2008), para. 6.

⁴⁹⁶⁹ P802 (Søren Liborius, witness statement, 20 June 2008), para. 6; Søren Liborius, T. 8241.

⁴⁹⁷⁰ P799 (Søren Liborius, witness statement, 2 November 1995), p. 4.

⁴⁹⁷¹ P799 (Søren Liborius, witness statement, 2 November 1995), p. 4; P802 (Søren Liborius, witness statement, 20 June 2008), para. 11; D741 (Diary of Liborius), p. 7.

⁴⁹⁷² P802 (Søren Liborius, witness statement, 20 June 2008), para. 11; D741 (Diary of Liborius), p. 7.

⁴⁹⁷³ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P925 (Robert Williams, witness statement, 22 August 1996), pp. 3-4; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 1.

⁴⁹⁷⁴ P925 (Robert Williams, witness statement, 22 August 1996), p. 3.

⁴⁹⁷⁵ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P925 (Robert Williams, witness statement, 22 August 1996), pp. 3-4; P927 (Robert Williams, supplemental information sheet, 23 September 2008), p. 1; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 1.

⁴⁹⁷⁶ P925 (Robert Williams, witness statement, 22 August 1996), p. 4; P927 (Robert Williams, supplemental information sheet, 23 September 2008), p. 1.

⁴⁹⁷⁷ P925 (Robert Williams, witness statement, 22 August 1996), p. 4.

⁴⁹⁷⁸ P925 (Robert Williams, witness statement, 22 August 1996), p. 4; Robert Williams, T. 9537; P928 (Aerial map of Knin, marked by Robert Williams); D815 (Aerial map of Knin, part of D131), areas marked in red and blue.

shell.⁴⁹⁷⁹ The intensity of the shelling decreased after approximately 2 p.m., after that, sporadic shelling which the witness described as “harassment fire” continued into the evening.⁴⁹⁸⁰ Williams described this sort of shelling as “single or groups of two or three guns shelling different areas of town, including residential areas”.⁴⁹⁸¹ This “harassment fire” was not directed at specific military targets but, according to the witness, directed near enough to houses that it would convince people that they should leave.⁴⁹⁸² The witness did not observe or hear of any outgoing artillery fire from Knin. The shelling of Knin resulted in persons seeking refuge at the UN compound in Knin. According to the witness, the persons were civilians, mainly elderly and very young, and they were mainly Serbs though there were also Croats from downtown Knin.⁴⁹⁸³ They began gathering outside the main gate of the UN compound during the afternoon on 4 August 1995, but were only let in at 11:20 p.m.⁴⁹⁸⁴ Civilians entered the UN compound all night. By the morning of 5 August 1995, 700 civilians were sheltering in the UN compound.⁴⁹⁸⁵

1299. **Joseph Bellerose**, the Sector Engineer for UNCRO Sector South,⁴⁹⁸⁶ testified that he was awakened at about 3:30-4 a.m. on 4 August 1995 when he heard on the radio that General Forand was arriving at the UN compound from his accommodation in Knin. At about 4:15 a.m. the sirens of the UN compound went off and Bellerose moved to one of the shelters in the compound with other people in the camp.⁴⁹⁸⁷ At 5 a.m. heavy shelling of Knin began and continued for about one or two hours, after which it slowed down. Although he was hiding in a shelter, based on his military training Bellerose recognized both artillery and rocket fire.⁴⁹⁸⁸ He testified that from how it

⁴⁹⁷⁹ P926 (Robert Williams, witness statement, 14 November 2007), para. 2; P927 (Robert Williams, supplemental information sheet, 23 September 2008), p. 2.

⁴⁹⁸⁰ P925 (Robert Williams, witness statement, 22 August 1996), pp. 4-5; P927 (Robert Williams, supplemental information sheet, 23 September 2008), p. 1; Robert Williams, T. 9533-9534.

⁴⁹⁸¹ P925 (Robert Williams, witness statement, 22 August 1996), pp. 4-5; Robert Williams, T. 9533-9534.

⁴⁹⁸² P925 (Robert Williams, witness statement, 22 August 1996), p. 5; P926 (Robert Williams, witness statement, 14 November 2007), para. 3; P927 (Robert Williams, supplemental information sheet, 23 September 2008), p. 1; Robert Williams, T. 9533-9534.

⁴⁹⁸³ P925 (Robert Williams, witness statement, 22 August 1996), p. 5.

⁴⁹⁸⁴ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P925 (Robert Williams, witness statement, 22 August 1996), p. 5; P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 2.

⁴⁹⁸⁵ P925 (Robert Williams, witness statement, 22 August 1996), p. 5.

⁴⁹⁸⁶ P545 (Joseph Bellerose, witness statement, 1 November 1995); P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 2.

⁴⁹⁸⁷ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 3.

⁴⁹⁸⁸ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 3; Joseph Bellerose, T. 5865.

sounded the artillery fire was random and there was no specific target.⁴⁹⁸⁹ At some point during the day, from the top floor of the UN compound he also observed, together with Captain Gilbert, that the shells landed in different places in town although he only identified as impact sites, the railway yard near the northern barracks and another spot close to the hill where the road to Gračac passes.⁴⁹⁹⁰

1300. On 4 August 1995, Bellerose was tasked by General Forand to go into town and collect the international UN staff from their accommodations, but an armed Serb soldier and mines on the road outside the UN compound did not allow him to leave immediately.⁴⁹⁹¹ The problem was then solved by a Russian UNMO and in the afternoon Bellerose and other UN staff went into town on two APCs.⁴⁹⁹² Bellerose went to the Knin hospital to deliver medical supplies and saw a number of injured people being brought in on stretchers, some of which had missing limbs.⁴⁹⁹³ He testified that although most of the injured were elderly civilians, some were wearing Serbian military uniforms.⁴⁹⁹⁴ He also testified that a corner of the hospital looked as if it had been hit by a shell; however, he did not hear from any other UN member that this had happened.⁴⁹⁹⁵ During his time in the hospital, Bellerose heard shells flying overhead and exploding in Knin.⁴⁹⁹⁶ He did not see any SVK tanks stationed near the hospital.⁴⁹⁹⁷ After the hospital, Bellerose went with an APC to collect international UN staff in town.⁴⁹⁹⁸ Bellerose explained that he was not driving the APC himself so he could only identify the locations he passed once he stepped out of the APC.⁴⁹⁹⁹ When he went out of the APC he saw dead people on the streets, including civilians and soldiers wearing uniforms.⁵⁰⁰⁰ He also saw buildings and cars on fire and could hear artillery rounds exploding in town.⁵⁰⁰¹ Specifically, Bellerose saw one shell landing on the north railway tracks and three shells west from there, in an area adjacent to the road to Medesevac,

⁴⁹⁸⁹ Joseph Bellerose, T. 5865.

⁴⁹⁹⁰ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 3; Joseph Bellerose, T. 5865-5866.

⁴⁹⁹¹ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 3; Joseph Bellerose, T. 5866, 5955-5956.

⁴⁹⁹² P546 (Joseph Bellerose, witness statement, 2 November 1999), pp. 3-4; Joseph Bellerose, T. 5866, 5956.

⁴⁹⁹³ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 4; Joseph Bellerose, T. 5866.

⁴⁹⁹⁴ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 4. Joseph Bellerose, T. 5917.

⁴⁹⁹⁵ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 4; Joseph Bellerose, T. 5917-5918.

⁴⁹⁹⁶ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 4; Joseph Bellerose, T. 5867.

⁴⁹⁹⁷ Joseph Bellerose, T. 5867.

⁴⁹⁹⁸ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 4.

⁴⁹⁹⁹ Joseph Bellerose, T. 5916-5917.

⁵⁰⁰⁰ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 4; Joseph Bellerose, T. 5867-5868, 5870.

where he also saw corpses with and without uniforms; he also saw another shell falling north of the hospital, and corpses in the area next to the Knin General Supply.⁵⁰⁰² He did not know how these people had died.⁵⁰⁰³ On 4 August 1995, after the shelling on Knin had begun, civilians from town were gathering outside the UN compound asking for shelter. Most of them were elderly and children.⁵⁰⁰⁴ None of them were of fighting age.⁵⁰⁰⁵ As there was no set plan to deal with the refugees the witness volunteered to draw up a plan to give them shelter. Bellerose built a compound within the UN compound to accommodate the civilians seeking shelter there.⁵⁰⁰⁶ Late in the evening, civilians began entering the UN compound and continued doing that throughout the night.⁵⁰⁰⁷ Bellerose stated that he did not see outgoing fire from Knin on 4 and 5 August 1995.⁵⁰⁰⁸ He recalled that the Serbs had fired a rocket propelled grenade into the UN compound on 4 August 1995 from a Serb observation post that overlooked the compound.⁵⁰⁰⁹

1301. **Alain Gilbert**, posted in Knin from 28 June 1995 as UNCRO General Alain Forand's military aide-de-camp,⁵⁰¹⁰ testified that at around 4 a.m. on 4 August 1995, the witness together with Alain Forand headed to the UN compound in Knin.⁵⁰¹¹ He testified that upon his arrival, he conducted a tour of the camp, and during this time, the first shells fell on Knin.⁵⁰¹² From approximately 5:02 a.m., the record of the first shelling in his contemporary notebook, until around noon, and again later in the afternoon, Gilbert observed the shelling from his office window facing Knin, approximately ten metres from a balcony which according to the witness had the same view of Knin, on the top floor of the UN headquarters building.⁵⁰¹³ He testified that the

⁵⁰⁰¹ Joseph Bellerose, T. 5867.

⁵⁰⁰² Joseph Bellerose, T. 5868-5870, 5919; P547 (Aerial photograph of Knin, marked by Joseph Bellerose), railway tracks marked C, area adjacent to road to Medesevac marked A, area north of the hospital marked B.

⁵⁰⁰³ Joseph Bellerose, T. 5920.

⁵⁰⁰⁴ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 4.

⁵⁰⁰⁵ P546 (Joseph Bellerose, witness statement, 2 November 1999), pp. 4-5.

⁵⁰⁰⁶ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 4.

⁵⁰⁰⁷ P546 (Joseph Bellerose, witness statement, 2 November 1999), pp. 4-5.

⁵⁰⁰⁸ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 6; Joseph Bellerose, T. 5870.

⁵⁰⁰⁹ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 6.

⁵⁰¹⁰ P589 (Alain Gilbert, witness statement, 5 February 2008), p. 1, para. 1; Alain Gilbert, T. 6401, 6485-6486; P590 (Two photographs of UN compound in Knin with Alain Gilbert's office marked in red, 5 February 1995); P593 (Article in a military magazine authored by Alain Gilbert, 7 August 1995), pp. 1-2.

⁵⁰¹¹ P589 (Alain Gilbert, witness statement, 5 February 2008), para. 4; Alain Gilbert, T. 6428

⁵⁰¹² P589 (Alain Gilbert, witness statement, 5 February 2008), para. 5; Alain Gilbert, T. 6432-6433.

⁵⁰¹³ P589 (Alain Gilbert, witness statement, 5 February 2008), paras 5-7, 8; Alain Gilbert, T. 6406-6411, 6432-6434, 6458; P594 (Photograph taken from 3rd floor balcony of UN camp in Knin); P595

number of shells he recorded in his contemporary notebook at specific times throughout the day were only an approximate number of shells he saw and heard, and that the purpose of the notes was not to record every shell that fell on Knin and its exact location.⁵⁰¹⁴ While it is recorded in the witness's contemporary notebook that 60 shells fell at 5:02 a.m. and 25 shells fell at 5:05 a.m., Gilbert testified that he does not know whether the 60 shells recorded include the ones he heard fall during his tour of the camp upon his arrival.⁵⁰¹⁵ At 5:38 a.m. and 5:39 a.m., Gilbert recorded two separate impacts as well as two shots from small arms either within the UN camp or very close to it.⁵⁰¹⁶ At 5:43 a.m., Gilbert recorded that there were shells landing close to the SVK barracks.⁵⁰¹⁷ At 5:45 a.m. the witness recorded that there had been an impact from one round every 30 seconds for the last 15 minutes, adding that shells had fallen behind one of two small hills and believed that a mortar shot was fired close to the UN camp.⁵⁰¹⁸ Other than the SVK military barracks, Gilbert did not know whether there were military targets behind the hills where he observed shells landing, adding that it appeared to him that there was firing all over Knin.⁵⁰¹⁹ The witness's best estimate of shelling was that approximately 500-700 shells fell in the morning of 4 August 1995, another 400 in the afternoon, and 20-30 in the evening.⁵⁰²⁰

1302. **Hussein Al-Alfi** testified that at 5 a.m., the witness was in his office at the UN compound when the shelling started.⁵⁰²¹ The witness heard loud, massive, and rapid

(Photograph taken from balcony of UN camp in Knin, marking white Parliament building); P596 (Photo of the view from 3rd floor balcony of UN camp in Knin).

⁵⁰¹⁴ P589 (Alain Gilbert, witness statement, 5 February 2008), paras 6-7; Alain Gilbert, T. 6433-6435.

⁵⁰¹⁵ P589 (Alain Gilbert, witness statement, 5 February 2008), para. 7.

⁵⁰¹⁶ P589 (Alain Gilbert, witness statement, 5 February 2008), paras 11-13; P591 (Alain Gilbert's contemporary notes on shelling of Knin, 4 August 1995), p. 1.

⁵⁰¹⁷ Alain Gilbert, T. 6460; P591 (Alain Gilbert's contemporary notes on shelling of Knin, 4 August 1995), p. 1.

⁵⁰¹⁸ P589 (Alain Gilbert, witness statement, 5 February 2008), paras 16-18; Alain Gilbert, T. 6443-6451; D570 (Alain Gilbert, series of photos of two hills in Knin); D569 (Alain Gilbert, two screenshots from the UN headquarters of Knin, 4 August 1995); P591 (Alain Gilbert's contemporary notes on shelling of Knin, 4 August 1995), p. 1; P594 (Photograph from UN headquarters of a hill and a shed in Knin); P595 (Photograph taken from balcony of UN camp in Knin, marking white Parliament building); P596 (Photograph of the view from 3rd floor balcony of UN camp in Knin); P597 (Photograph from the UN camp in Knin of two hills).

⁵⁰¹⁹ P589 (Alain Gilbert, witness statement, 5 February 2008), paras 17-18; Alain Gilbert, T. 6443-6447, 6450-6455; D570 (Series of photographs of two hills in Knin and identified military targets situated behind them); D571 (Photograph of significant military targets); D572 (Aerial photographs of UN camp in Knin), photograph no. 3.

⁵⁰²⁰ P589 (Alain Gilbert, witness statement, 5 February 2008), paras 20, 23; P591 (Alain Gilbert's contemporary notes on shelling of Knin, 4 August 1995), pp. 1-3; P593 (Article in a military magazine authored by Alain Gilbert, 7 August 1995), p. 4.

⁵⁰²¹ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 27-29; Hussein Al-Alfi, T. 13889.

incoming shelling.⁵⁰²² The shelling made the UN building shake.⁵⁰²³ The UN military assessed that in the first two or three hours, the rate of shelling of Knin and the surrounding areas approached 10,000 shells dropped per hour.⁵⁰²⁴ The witness also heard gunshots from inside Knin, which he presumed were Serbs shooting.⁵⁰²⁵ The witness rarely heard any outgoing shells.⁵⁰²⁶ Through the windows of the headquarters, the witness could see shells landing, explosions, fires, and smoke.⁵⁰²⁷ The witness saw shells landing on the radio station, as well as on houses and in civilian areas, and saw houses burning.⁵⁰²⁸ Intense shelling continued during the day, although it slowed down at times.⁵⁰²⁹ On 4 or 5 August 1995, at 4 p.m., Al-Alfi and General Forand went in an APC to meet the Serb authorities at the RSK headquarters on the main street of Knin.⁵⁰³⁰ According to Al-Alfi, the city was deserted at that time.⁵⁰³¹ Upon exiting the APC, Al-Alfi saw 10-15 dead bodies dressed in civilian clothes in the main street of Knin about 50 metres from the RSK headquarters.⁵⁰³² Al-Alfi also saw that a shell had fallen outside the headquarters and saw a number of houses on the main street burned by shelling. Al-Alfi's colleagues told him that they had seen between five and seven dead bodies in a civilian car that had been struck by a shell.⁵⁰³³ At the meeting, the Serbs demanded 70,000 litres of oil for cars and 500 trucks to transport civilians out of the area, to Petrovac and Banja Luka, both in Bosnia-Herzegovina.⁵⁰³⁴ Al-Alfi responded that the UN would help the Serbs to the best of its ability, and left around 7 p.m.⁵⁰³⁵ The UN headquarters in Zagreb authorized the provision of fuel for the purpose

⁵⁰²² P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 27-28; Hussein Al-Alfi, T. 13807, 13953.

⁵⁰²³ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 28-29; Hussein Al-Alfi, T. 13953.

⁵⁰²⁴ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 27; Hussein Al-Alfi, T. 13889-13890, 13894.

⁵⁰²⁵ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 28, 30.

⁵⁰²⁶ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 30.

⁵⁰²⁷ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 28-29; Hussein Al-Alfi, T. 13807-13809.

⁵⁰²⁸ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 28; Hussein Al-Alfi, T. 13807-13808.

⁵⁰²⁹ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 29; Hussein Al-Alfi, T. 13808.

⁵⁰³⁰ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 29-30; Hussein Al-Alfi, T. 13881-13882, 13916-13917.

⁵⁰³¹ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 32.

⁵⁰³² P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 42, 106; Hussein Al-Alfi, T. 13916-13920, 13930-13931.

⁵⁰³³ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 43.

⁵⁰³⁴ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 30; Hussein Al-Alfi, T. 13882, 13886, 13913, 13918.

⁵⁰³⁵ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), p. 31.

of moving civilians.⁵⁰³⁶ The witness tried to set up another meeting that night and a sent a Liaison Officer, but the Serbs had left and the RSK headquarters was locked.⁵⁰³⁷

1303. **Bert Dijkstra**, an UNMO in Sector South from 14 June 1995 until approximately 1 December 1995,⁵⁰³⁸ testified that in the morning of 4 August 1995 at 5 a.m., the witness was in his private accommodation, near the possible logistics base and north-east of Knin centre.⁵⁰³⁹ At that time the witness was awoken by what he believed was the sound of rockets from a multiple rocket launcher.⁵⁰⁴⁰ Dijkstra believed that the impact of the rocket was in a residential area, within a few hundred metres of his accommodation, and at least 500 metres from the closest military target the witness identified, which the Trial Chamber understands to refer to the Senjak barracks.⁵⁰⁴¹ The shockwave blew in the windows and wooden shutters of the accommodation of Dijkstra.⁵⁰⁴² At approximately 8 a.m. the witness arrived at the UN compound.⁵⁰⁴³ The building of the UN compound had two north-facing balconies overlooking Knin from which the witness could see approximately 50-60 per cent of the town, all except the most northern part.⁵⁰⁴⁴ Dijkstra testified that he went out on the balcony every hour to observe the shelling.⁵⁰⁴⁵ During the first couple of hours of the morning of 4 August 1995 there was about one round of shelling every minute or every 30 seconds.⁵⁰⁴⁶ Later in the afternoon the shelling decreased to approximately one round every minute or every two or three minutes.⁵⁰⁴⁷ Dijkstra testified that the only time that he could clearly recall hearing a multiple rocket launcher was when he was awoken at 5 a.m., after this, mainly shells were fired.⁵⁰⁴⁸ Dijkstra was not able to see from the balconies what was

⁵⁰³⁶ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 31-32; Hussein Al-Alfi, T. 13882.

⁵⁰³⁷ P1160 (Hussein Al-Alfi, witness statement, 5 March 1998), pp. 31-32.

⁵⁰³⁸ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 2; P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 2.

⁵⁰³⁹ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 2; P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 11; P430 (Aerial map of Knin marked by Bert Dijkstra), Dijkstra's apartment marked as 'living'.

⁵⁰⁴⁰ P428 (Bert Dijkstra, witness statement, 7 December 1995), pp. 2-3; Bert Dijkstra, T. 4760-4761.

⁵⁰⁴¹ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 3.

⁵⁰⁴² P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 18.

⁵⁰⁴³ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 3.

⁵⁰⁴⁴ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 3; P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 20; Bert Dijkstra, T. 4770-4771; P431 (Aerial Map of U.N. compound marked by Bert Dijkstra).

⁵⁰⁴⁵ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 3.

⁵⁰⁴⁶ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 3; P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 16.

⁵⁰⁴⁷ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 3; P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 16.

⁵⁰⁴⁸ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 3; P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 17.

being targeted or hit, but from the sound of the explosions, and the shells he incidentally did see landing, the witness got the impression that at least every 15-20 minutes shells landed on the field, a swampy area next to the Krka river in a mountainous or hilly area, in front of the UN compound.⁵⁰⁴⁹ Dijkstra testified that during the night, after around 8 p.m., there was little to no shelling.⁵⁰⁵⁰ Sometime around 8 or 9 p.m., Dijkstra saw civilians, mostly in carts or cars, passing by the UN compound and entering Knin from the road that leads to Drniš.⁵⁰⁵¹

1304. **Normand Boucher**, UNCIVPOL's Sector South Chief from 30 April 1995 until 22 August 1995,⁵⁰⁵² testified that at 5 a.m. on 4 August 1995, a shell hit a house in his block.⁵⁰⁵³ The third shell he heard hit his house.⁵⁰⁵⁴ According to Boucher, his house in Knin was about 170-200 metres away from the police station and the SVK base in the northern part of Knin.⁵⁰⁵⁵ The house was also in the direct line of fire between the Croatian positions on the Dinara mountain and the SVK's and "milicija's" barracks.⁵⁰⁵⁶ On 4 August 1995, while seeking cover from the shelling, Boucher noticed a school being hit by a shell, as well as eight to ten damaged houses in a residential area.⁵⁰⁵⁷ Boucher testified that damage to the buildings and houses was concentrated on the areas near the SVK barracks, the SVK headquarters, the police building, and the school next to the police building.⁵⁰⁵⁸ According to Boucher, the shelling continued for 31 hours.⁵⁰⁵⁹

⁵⁰⁴⁹ P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 21; Bert Dijkstra, T. 4771-4778; P430 (Aerial map of Knin marked by Bert Dijkstra), field marked 6; D392 (Aerial view of Knin marked by Gotovina Defence); D393 (Three-dimensional views of Knin area marked by Gotovina Defence).

⁵⁰⁵⁰ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 3; P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 23.

⁵⁰⁵¹ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 3; P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 24.

⁵⁰⁵² P1176 (Normand Boucher, witness statement, 20 February 1996), paras 1, 13; P1177 (Normand Boucher, witness statement, 12 November 1999), paras 5, 81; P1178 (Normand Boucher, witness statement, 24 November 2008), para. 51; D1217 (Normand Boucher, witness statement, 17 December 2008), para. 27; Normand Boucher, T. 14036, 14063-14064.

⁵⁰⁵³ P1176 (Normand Boucher, witness statement, 20 February 1996), para. 5; P1177 (Normand Boucher, witness statement, 12 November 1999), paras 39-40; D1217 (Normand Boucher, witness statement, 17 December 2008), para. 34; Normand Boucher, T. 14030.

⁵⁰⁵⁴ P1177 (Normand Boucher, witness statement, 12 November 1999), para. 40; D1217 (Normand Boucher, witness statement, 17 December 2008), para. 34; Normand Boucher, T. 13967; P1179 (Map of Knin marked by Normand Boucher), pp. 1-3, Boucher's house marked A.

⁵⁰⁵⁵ P1178 (Normand Boucher, witness statement, 24 November 2008), para. 12; Normand Boucher, T. 13965, 14022-14024; P1179 (Map of Knin marked by Normand Boucher), pp. 1-3, Boucher's house marked A, police station marked B.

⁵⁰⁵⁶ Normand Boucher, T. 14027.

⁵⁰⁵⁷ P1178 (Normand Boucher, witness statement, 24 November 2008), para. 14; Normand Boucher, T. 13967; P1179 (Map of Knin marked by Normand Boucher), pp. 1-2, school marked E, residential area marked K.

⁵⁰⁵⁸ D1217 (Normand Boucher, witness statement, 17 December 2008), paras 36, 39; P1179 (Map of Knin marked by Normand Boucher), pp. 1-3, police station marked B, school marked E.

1305. **Mikhail Ermolaev**, Deputy Senior UN Military Observer of Sector South from July 1995 to October 1995,⁵⁰⁶⁰ testified that on 4 August 1995 at 5 a.m. he was in his house in Knin, situated near a school and the Knin army barracks, when he was woken up by the sound of shelling.⁵⁰⁶¹ He and two others hid in the basement, and a shell hit his house.⁵⁰⁶² At approximately 7 a.m., during a pause in the shelling, a UN APC came and took them to the UN compound in Knin.⁵⁰⁶³ Ermolaev observed some, and heard much, shelling from his office, and stated that the RSK Ministry of Defence building in Knin was not seriously damaged.⁵⁰⁶⁴

1306. **Witness 136**, a Serb field interpreter for UNCIVPOL and UNCRO,⁵⁰⁶⁵ testified that in the morning of 4 August 1995, heavy shelling followed by “terrible noise all around,” began in Knin at 5 a.m. and lasted continuously until at least 3 p.m.⁵⁰⁶⁶ At about 10 a.m. that day, a shell hit and destroyed a house near the apartment the witness was in.⁵⁰⁶⁷ Around 1 p.m. the witness ran about 700 metres through the town in the direction of the “south Barracks”.⁵⁰⁶⁸ While running through Knin she saw damage to the outpatient clinic, and damage to a civilian house close to the location where she was usually picked up by the UNCIVPOL patrol for work.⁵⁰⁶⁹ The witness got into a UN APC outside the RSK headquarters and was dropped off at the UN compound in Knin.⁵⁰⁷⁰ A report by UNMO headquarters of Sector South dated 4 August, 4:10 p.m., recorded that from 3:15 p.m. the UN compound was blockaded by the SVK, who had

⁵⁰⁵⁹ P1176 (Normand Boucher, witness statement, 20 February 1996), para. 5; P1177 (Normand Boucher, witness statement, 12 November 1999), para. 48.

⁵⁰⁶⁰ P94 (Mikhail Ermolaev, witness statement, 14 May 2002), pp. 1-2; P95 (Mikhail Ermolaev, witness statement, 2 December 2007), p. 1; Mikhail Ermolaev, T. 2285, 2371.

⁵⁰⁶¹ P95 (Mikhail Ermolaev, witness statement, 2 December 2007), para. 8; Mikhail Ermolaev, T. 2294-2295, 2463; P96 (Photo of Knin on which Ermolaev marked his house and a school), house marked A, school marked B.

⁵⁰⁶² P94 (Mikhail Ermolaev, witness statement, 14 May 2002), p. 5; P95 (Mikhail Ermolaev, witness statement, 2 December 2007), para. 8.

⁵⁰⁶³ P95 (Mikhail Ermolaev, witness statement, 2 December 2007), para. 8.

⁵⁰⁶⁴ P95 (Mikhail Ermolaev, witness statement, 2 December 2007), paras 10-11; Mikhail Ermolaev, T. 2466-2467.

⁵⁰⁶⁵ P2 (Witness 136, witness statement, 4 July 1996), pp. 1-2; Witness 136, T. 620, 622, 641, 726, 765, 768, 780-782.

⁵⁰⁶⁶ P2 (Witness 136, witness statement, 4 July 1996), p. 2.

⁵⁰⁶⁷ P3 (Witness 136, witness statement, 11 June 2007), para. 4.; Witness 136, T. 637-638; P4 (Map of Knin marked by Witness 136), route marked in red.

⁵⁰⁶⁸ P2 (Witness 136, witness statement, 4 July 1996), p. 2; P3 (Witness 136, witness statement, 11 June 2007), paras 4-5; Witness 136, T. 639-640, 696; P4 (Map of Knin marked by Witness 136), “B” marking where shells fell.

⁵⁰⁶⁹ Witness 136, T. 692-693, 696-697, 800; D2 (Aerial Map of Knin marked by Witness 136), number 6 indicating location of outpatient clinic.

⁵⁰⁷⁰ P2 (Witness 136, witness statement, 4 July 1996), pp. 2-3; Witness 136, T. 638-639, 789; P4 (Map of Knin marked by Witness 136), “A” marking the location she was picked up by the APC.

placed anti-tank mines on the main road to Knin, about 100 metres from the compound entrance gates.⁵⁰⁷¹ Four SVK soldiers with AK-47 rifles were recorded as standing close to the mines, not allowing anyone to approach the spot, allegedly at the order of their “commander”.⁵⁰⁷² The witness did not see these mines being placed by the SVK.⁵⁰⁷³ The witness decided not to leave as, like the other civilians in the compound, she feared passing through Knin as the shelling was still ongoing.⁵⁰⁷⁴ The witness testified that she saw and heard almost no shelling later in the afternoon.⁵⁰⁷⁵

1307. **Mira Grubor**, a Serb who was working as a laboratory assistant in a hospital in Knin on and before 4 August 1995,⁵⁰⁷⁶ testified that on 4 August 1995, from the time she was awakened by explosions at about 5 a.m. until about 10:30 a.m., she stayed at her home 200 metres from the hospital due to the heavy shelling.⁵⁰⁷⁷ Then she ran to the hospital, where many staff were absent.⁵⁰⁷⁸ The witness stated that a number of dead bodies or wounded civilians were brought to the hospital’s main entrance.⁵⁰⁷⁹ Two SVK soldiers drove an injured man to the hospital and upon entering the hospital, told the witness that shrapnel from shells landing just outside the entrance to the hospital had killed one of the men in the vehicle and the witness saw, through the glass hospital door, that the vehicle had a hole in it.⁵⁰⁸⁰ Shells falling nearby the hospital damaged some window panes.⁵⁰⁸¹ At some point the witness saw broken glass and some shrapnel on the stairs of the south side of the hospital.⁵⁰⁸² SVK soldiers and UNPROFOR troops brought in other wounded and dead, including SVK soldiers.⁵⁰⁸³ Based on what she saw herself and heard from others, the witness testified that all of the injuries and deaths were due to the shelling.⁵⁰⁸⁴ All of the patients in the hospital moved to the underground

⁵⁰⁷¹ Witness 136, T. 732-733; D5 (UNMO Sector south daily situation report, 4:10 p.m., 4 August 1995), p. 2.

⁵⁰⁷² Witness 136, T. 732-733; D5 (UNMO Sector south daily situation report, 4:10 p.m., 4 August 1995), p. 2.

⁵⁰⁷³ Witness 136, T. 732-733.

⁵⁰⁷⁴ P2 (Witness 136, witness statement, 4 July 1996), p. 3.

⁵⁰⁷⁵ P2 (Witness 136, witness statement, 4 July 1996), p. 2.

⁵⁰⁷⁶ P54 (Mira Grubor, witness statement, 3 April 1998), pp. 1-2.

⁵⁰⁷⁷ P54 (Mira Grubor, witness statement, 3 April 1998), p. 2; Mira Grubor, T. 1446; P58 (Map of Knin, with markings by Mira Grubor), Grubor’s house marked 1.

⁵⁰⁷⁸ P54 (Mira Grubor, witness statement, 3 April 1998), p. 2.

⁵⁰⁷⁹ P54 (Mira Grubor, witness statement, 3 April 1998), p. 3; P58 (Map of Knin, with markings by Mira Grubor), main entrance to hospital marked 15.

⁵⁰⁸⁰ P54 (Mira Grubor, witness statement, 3 April 1998), p. 3; Mira Grubor, T. 1391, 1407-1408, 1431; D70 (Video of Knin hospital exterior).

⁵⁰⁸¹ P54 (Mira Grubor, witness statement, 3 April 1998), p. 3.

⁵⁰⁸² Mira Grubor, T. 1433-1434.

⁵⁰⁸³ P54 (Mira Grubor, witness statement, 3 April 1998), p. 3; Mira Grubor, T. 1428-1429.

⁵⁰⁸⁴ P55 (Mira Grubor, witness statement, 12 July 2007), para. 9

areas of the building for security.⁵⁰⁸⁵ The witness stated that 30-40 of the approximately 120 dead brought in the first day wore civilian clothing.⁵⁰⁸⁶ She estimated that out of approximately 170 wounded admitted to the hospital on the first day of shelling, 40-60 wore civilian clothing and were mainly elderly people.⁵⁰⁸⁷ Her casualty estimates were partly based on her observations and partly based on discussions with other staff members.⁵⁰⁸⁸ A co-worker later told the witness that she had seen members of the HV moving bodies or wounded personnel from the hospital, either toward the Knin cemetery or to a potential field hospital.⁵⁰⁸⁹ She did not recall seeing any SVK vehicles or organized group of SVK soldiers in the town.⁵⁰⁹⁰ The witness heard the hissing noise of shells being fired from the Dinara mountains and from the direction of Drniš.⁵⁰⁹¹ The witness could not identify any pattern to the shelling that she observed.⁵⁰⁹² The witness stated that she observed areas, specific houses, and civilian buildings that had been shelled, as well as civilians killed and injured by the shelling and the witness marked these areas on a map.⁵⁰⁹³ She indicated that she saw many shelled locations from the hospital.⁵⁰⁹⁴ Among other targets hit, she noted that the Knin army barracks were shelled.⁵⁰⁹⁵ She saw and heard shells falling all around, and she also observed an explosion just outside the UN camp.⁵⁰⁹⁶

⁵⁰⁸⁵ P54 (Mira Grubor, witness statement, 3 April 1998), p. 3; Mira Grubor, T. 1415-1416; D75 (UNCIVPOL report on possible human rights violations, 8 August 1995), p. 2; D77 (Video of Knin hospital, 7 August 1995).

⁵⁰⁸⁶ P54 (Mira Grubor, witness statement, 3 April 1998), p. 3; Mira Grubor, T. 1426.

⁵⁰⁸⁷ P54 (Mira Grubor, witness statement, 3 April 1998), p. 3.

⁵⁰⁸⁸ P54 (Mira Grubor, witness statement, 3 April 1998), p. 3.

⁵⁰⁸⁹ P54 (Mira Grubor, witness statement, 3 April 1998), pp. 3-4; P55 (Mira Grubor, witness statement, 12 July 2007), para. 2; Mira Grubor, T. 1435-1436; P58 (Map of Knin, with markings by Mira Grubor), Knin cemetery marked 5.

⁵⁰⁹⁰ P55 (Mira Grubor, witness statement, 12 July 2007), para. 10; Mira Grubor, T. 1408.

⁵⁰⁹¹ P54 (Mira Grubor, witness statement, 3 April 1998), pp. 2, 4; Mira Grubor, T. 1482-1484; P58 (Map of Knin, with markings by Mira Grubor), direction of Dinara marked 17, direction of Drniš marked 18.

⁵⁰⁹² P54 (Mira Grubor, witness statement, 3 April 1998), p. 4; P55 (Mira Grubor, witness statement, 12 July 2007), para. 10; Mira Grubor, T. 1471, 1484.

⁵⁰⁹³ P54 (Mira Grubor, witness statement, 3 April 1998), pp. 3-5; P55 (Mira Grubor, witness statement, 12 July 2007), para. 10; Mira Grubor, T. 1396-1399, 1402-1405, 1439, 1441-1443; P58 (Map of Knin, with markings by Mira Grubor), police station marked 4, areas where Grubor observed shelling marked 6-11, area where a number of people were killed by a shell which hit a tractor marked 14; P59 (Video of shell damage location).

⁵⁰⁹⁴ Mira Grubor, T. 1403, 1405, 1441-1443.

⁵⁰⁹⁵ Mira Grubor, T. 1443.

⁵⁰⁹⁶ P55 (Mira Grubor, witness statement, 12 July 2007), para. 3; Mira Grubor, T. 1449; D72 (Map and photos of area near UN Camp in Knin).

1308. **Maria Teresa Mauro**, a UN civil affairs officer and HRAT member in the former Sector South based in Knin from March to December 1995,⁵⁰⁹⁷ stated that on 4 August 1995 at approximately 4 a.m. she received a phone call and was advised to “go to the warden”.⁵⁰⁹⁸ According to the witness intense shelling started before she was able to leave the house, which was in a residential area close to a school in which she had previously seen some military equipment.⁵⁰⁹⁹ At around 10 a.m., UN military arrived to take her and others to the UN compound.⁵¹⁰⁰

1309. **Eric Hendriks**, an ECMM monitor in Knin from 21 July 1995 until 30 October 1995,⁵¹⁰¹ testified that in the early morning of 4 August 1995 shelling started and that based on the sound, shells fell very close to where he was.⁵¹⁰² Until noon, Hendriks was in the basement of the ECMM RC building in Knin, which according to him was located in the northern part of town near the hospital.⁵¹⁰³ Around noon, Hendriks and others were evacuated to the UN compound.⁵¹⁰⁴ When driving to the UN compound, Hendriks saw damage, burning houses, and smoke and fire in the town.⁵¹⁰⁵ Hendriks stated that according to his observations shells seemed to be falling everywhere and that they did not seem to be aimed at specific targets.⁵¹⁰⁶ Hendriks testified that the railway station, the barracks, and the logistics base were intact.⁵¹⁰⁷ In the early evening, the shelling stopped.⁵¹⁰⁸ Hendriks testified that he did not see any SVK heavy artillery or tanks in or around Knin.⁵¹⁰⁹

⁵⁰⁹⁷ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), pp. 1-2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), p. 1, paras 1, 7-9, 11-12; Maria Teresa Mauro, T. 11998, 12000, 12024, 12075-12076.

⁵⁰⁹⁸ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 2.

⁵⁰⁹⁹ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 2; P1099 (Maria Teresa Mauro, witness statement, 6 February 2008), para. 3; Maria Teresa Mauro, T. 12080, 12083; D955 (Marked aerial photo of Knin), area where Mauro believes she may have lived marked in blue.

⁵¹⁰⁰ P1098 (Maria Teresa Mauro, witness statement, 3 March 2000), p. 3.

⁵¹⁰¹ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 3; D820 (Eric Hendriks, witness statement, 18 April 1996), pp. 1-2; Eric Hendriks, T. 9734-9735, 9755-9756.

⁵¹⁰² P931 (Eric Hendriks, witness statement, 4 April 2008), para. 14; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 3; Eric Hendriks, T. 9700.

⁵¹⁰³ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 14; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 3.

⁵¹⁰⁴ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 14; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 3; Eric Hendriks, T. 9789.

⁵¹⁰⁵ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 15; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 3; Eric Hendriks, T. 9700.

⁵¹⁰⁶ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 16.

⁵¹⁰⁷ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 16; Eric Hendriks, T. 9788.

⁵¹⁰⁸ D820 (Eric Hendriks, witness statement, 18 April 1996), p. 3.

⁵¹⁰⁹ P931 (Eric Hendriks, witness statement, 4 April 2008), para. 12; D820 (Eric Hendriks, witness statement, 18 April 1996), p. 2.

1310. **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,⁵¹¹⁰ testified that on 4 August 1995, he was in a house in Podkonje, just south of Knin, where he and four other UNMOs were staying at the time, when at about 4-5 a.m., they heard the sound of shells striking into Knin.⁵¹¹¹ From their accommodation in Podkonje, Marti did not have a direct view of Knin and could not see exactly what was hit because there was a hill in between, although he could see smoke rising from Knin and the surrounding villages.⁵¹¹² Shells fell some 2-3 kilometres from the house Marti was in.⁵¹¹³ Marti then went into a basement of a nearby house with other civilians of the village, and testified that while the shelling in the early morning was intense, throughout the day, he estimates that about 4-6 shells per hour were fired.⁵¹¹⁴

1311. **Alain Forand**, UNCRO Sector South Commander from 8 July 1995 to 10 October 1995,⁵¹¹⁵ testified that at 5 a.m. on 4 August 1995 heavy barrages started on towns and villages throughout Sector South and that there was heavy shelling and local attacks in the zone of separation.⁵¹¹⁶ Forand immediately went to the balcony on the third floor of the UN compound from where he observed the shelling of Knin together with other officers, seeing puffs of smoke all over town.⁵¹¹⁷ Forand stayed on the balcony for about ten minutes.⁵¹¹⁸ He did not observe any adjusted fire during this time.⁵¹¹⁹ The shelling remained intense for approximately one or more hours, then continued intermittently throughout the day, and stopped completely at midnight on 4

⁵¹¹⁰ P415 (Peter Marti, witness statement, 13 February 1996), pp. 1-2; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17.

⁵¹¹¹ P415 (Peter Marti, witness statement, 13 February 1996); p. 1; P416 (Peter Marti, witness statement, 29 June 1997), p. 3; P417 (Peter Marti, witness statement, 14 December 2007), para. 32; Peter Marti, T. 4632, 4671-4672.

⁵¹¹² P416 (Peter Marti, witness statement, 29 June 1997), p. 3; P417 (Peter Marti, witness statement, 14 December 2007), para. 32; Peter Marti, T. 4632-4634, 4672.

⁵¹¹³ P417 (Peter Marti, witness statement, 14 December 2007), para. 32; P416 (Peter Marti, witness statement, 29 June 1997), p. 3; Peter Marti, T. 4632-4634.

⁵¹¹⁴ P417 (Peter Marti, witness statement, 14 December 2007), para. 34.

⁵¹¹⁵ P330 (Alain Forand, witness statement, 20 August 1996), pp. 2, 15; P333 (Alain Forand, witness statement, 25 January 2008), para. 2; Alain Forand, T. 4098-4099, 4180, 4186.

⁵¹¹⁶ P330 (Alain Forand, witness statement, 20 August 1996), p. 4; P331 (Alain Forand, witness statement, 29 September 1997), p. 12; Alain Forand, T. 4114; P340 (UNCRO Sector South update situation report, 10:20 a.m., 4 August 1995), pp. 2-3; P341 (UNCRO Sector South update situation report, 1 p.m., 4 August 1995), p. 1; P399 (Video and transcript of an interview with Alain Forand), p. 1; P400 (Press statement, 12 October 1995), p. 1; P401 (Presentation by Alain Forand, 24 June 1996), p. 21; D346 (Alain Forand's interview in Globus newspaper, 12 March 2004), p. 1.

⁵¹¹⁷ P333 (Alain Forand, witness statement, 25 January 2008), para. 5; Alain Forand, T. 4114, 4116, 4433, 4458; D346 (Alain Forand's interview in Globus newspaper, 12 March 2004), p. 5.

⁵¹¹⁸ P333 (Alain Forand, witness statement, 25 January 2008), para. 5; Alain Forand, T. 4115-4116.

⁵¹¹⁹ Alain Forand, T. 4116.

August 1995.⁵¹²⁰ On 4 August 1995, Forand gave a radio interview in which he stated that around 700-800 shells had hit Knin on that day.⁵¹²¹ On the same day, Forand visited the RSK Ministry of Defence twice, at approximately 11-11:30 a.m. and 6 p.m., and the RSK parliament building once, and saw minimal damage to those buildings and no concentration of fire around them.⁵¹²²

1312. **Jan Elleby**, Deputy Chief and later Chief of UNCIVPOL Sector South in Knin between 15 May and 1 or 2 October 1995,⁵¹²³ testified that on 4:55 a.m. on 4 August 1995, he woke up hearing shelling whereupon he ran to the ground floor of his building to take shelter.⁵¹²⁴ During the first two to three hours of shelling there was an impact every 20 seconds.⁵¹²⁵

1313. The Trial Chamber has received evidence regarding the effects of HV artillery fire on the SVK and its command and communications in Knin on 4 August 1995, from several sources.

1314. According to a Croatian intelligence report, sent at 8:30 a.m. on 4 August 1995, General Kovačević, who was in Knin, told Lieutenant Colonel Radić, commander of the Dinara combat group, at 7 a.m. that the HV had hit the barracks and were shooting at everything, and ordered him not to leave his position, but to open fire at the HV positions on the Dinara mountain.⁵¹²⁶ According to the same report, Milan Martić called an unidentified person at 7:20 a.m., saying the Croatians had been bombing Knin since 5 a.m., for the past hour or two, non-stop, and were shooting at everything.⁵¹²⁷ On 4 August 1995, Croatian intelligence further reported at 10 a.m. that around 7 a.m. that morning, a person named Duško had made several private calls from Martić's office,

⁵¹²⁰ P330 (Alain Forand, witness statement, 20 August 1996), p. 7; P331 (Alain Forand, witness statement, 29 September 1997), p. 12; P333 (Alain Forand, witness statement, 25 January 2008), para. 5; Alain Forand, T. 4100-4101; P341 (UNCRO Sector South update situation report, 1 p.m., 4 August 1995), p. 2; P343 (UNCRO Sector South daily situation report, 11 p.m., 4 August 1995), p. 5; P399 (Video and transcript of an interview with Alain Forand), p. 1.

⁵¹²¹ Alain Forand, T. 4419-4421; D328 (Radio interview of Forand with the Canadian Broadcasting Service, 4 August 1995).

⁵¹²² P333 (Alain Forand, witness statement, 25 January 2008), para. 12; Alain Forand, T. 4100-4101, 4124, 4369, 4371, 4391-4392.

⁵¹²³ P214 (Jan Elleby, witness statement, 17 September 1995), p. 1; P215 (Jan Elleby, witness statement, 14 September 1997), pp. 1-3; P216 (Jan Elleby, witness statement, 10 October 2005), pp. 1-2; Jan Elleby, T. 3361-3362, 3469.

⁵¹²⁴ P214 (Jan Elleby, witness statement, 17 September 1995), p. 1; Jan Elleby, T. 3367; P219 (UNCIVPOL memo from Jan Elleby to UNCIVPOL headquarters, 4 August 1995).

⁵¹²⁵ P215 (Jan Elleby, witness statement, 14 September 1997), p. 2.

⁵¹²⁶ D1257 (Croatian Intelligence Report composed by Vladimir Janković, 4 August 1995), pp. 1-2.

⁵¹²⁷ D1257 (Croatian Intelligence Report composed by Vladimir Janković, 4 August 1995), p. 1.

stating that the HV had pounded all major towns, that Knin was burning, and that he was the only person on duty, as everyone else was in shelters or at home.⁵¹²⁸

1315. According to an interview of Milan Martić that was published in *Vreme International* on 24 August 1996, with regard to the attack on Knin on 4 August 1995, Martić stated that he was with his family in his apartment in Knin at the time of the first attack, which he claimed he survived only by chance, as two projectiles passed nearby his apartment.⁵¹²⁹

1316. **Mile Mrkšić** testified that the first barrage of artillery destroyed a number of SVK communication devices and that during the day, the HV captured or destroyed SVK repeaters at Čelavac, Promina, and Plješevica, in Titova Korenica municipality, as a result of which communications between the SVK Main Staff and the corps commands were disrupted.⁵¹³⁰ By 4 p.m., the MUP units were afraid and pulled out in order to avoid a frontal engagement.⁵¹³¹

1317. At 8 p.m. on 4 August 1995, Mrkšić held a meeting with his subordinates during which they discussed the civilian evacuation, the taking of positions above Knin and the protection of people.⁵¹³² Mrkšić testified that although SVK commanders had already prepared their defences, some of which had not been attacked, holding the old front line along Benkovac-Drniš-Vrlika was not sensible if the attack came from behind, from the territory of the Republika Srpska.⁵¹³³ Mrkšić testified that he decided that the front should be shortened and should run above Knin, from Gračac to Srb, as people were leaving the area the SVK was defending and withdrawing towards Srb.⁵¹³⁴ The SVK would set up a new, narrowed front, in order to defend from the features above Knin town, to stop HV forces from penetrating the region of Otrić, in Gračac municipality,

⁵¹²⁸ D1256 (Croatian Intelligence Report composed by Stjepan Vrančić, 4 August 1995), pp. 2-3.

⁵¹²⁹ D1449 (Article of Martić interview in *Vreme International*, 24 August 1996), pp. 3-4.

⁵¹³⁰ Mile Mrkšić, T. 18766, 18808, 18929, 18998, 19054, 19129, 19141-19143; D923 (SVK Main Staff Report to Chief of VJ Main Staff, 26 August 1995), pp. 1, 13, 29; D1519 (SVK General Staff intelligence information, VJ General Staff 2nd Administration, VRS General Staff Intelligence Organ, signed by Mihajlo Knežević, 4 August 1995), p. 1; D1528 (Request to the VJ General Staff for communications equipment, Mile Mrkšić, 4 August 1995, 1 p.m.).

⁵¹³¹ Mile Mrkšić, T. 18928, 19079; D1519 (SVK General Staff intelligence information, VJ General Staff 2nd Administration, VRS General Staff Intelligence Organ, signed by Mihajlo Knežević, 4 August 1995), p. 1.

⁵¹³² Mile Mrkšić, T. 18945, 18948, 19090.

⁵¹³³ Mile Mrkšić, T. 18948-18949. The Trial Chamber notes that the transcript at T. 18949 reads Velika, but in the context of the evidence the Trial Chamber understands this to refer to Vrlika.

⁵¹³⁴ Mile Mrkšić, T. 18837, 18948, 19083-19085.

and to protect the area where the people were located.⁵¹³⁵ A report to the Chief of the VJ Main Staff of 26 August 1995, which bears Mrkšić's signature, noted that on 4 August 1995, Mrkšić also ordered one battalion of the 75th Motorized Brigade to take control of Bulina Strana by the morning of 5 August 1995 for the purpose of the defence of Knin.⁵¹³⁶

1318. On 4 August 1995, an HV Main Staff intelligence report sent at 9:30 p.m., noted with regard to the SVK Main Staff that the Knin leadership had abandoned the city in the direction of Drvar, in Bosnia-Herzegovina, through Srb, in Donji Lapac municipality.⁵¹³⁷ The report further contained what it claimed was a copy of Mrkšić's report to the press, which stated that Knin was deserted, partly abandoned and that civilians were in shelters, while the men were at their battle positions. The alleged report to the press further stated that it was difficult to psychologically endure the continuous shelling, particularly of the multiple rocket launchers, but that those in the Krajina would defend themselves to the end.⁵¹³⁸

1319. **Mile Mrkšić** further testified that he remained in the command centre until 10 p.m., when the rocket fire subsided, the Main Staff left Knin and the command proceeded to relocate to Srb.⁵¹³⁹ When he arrived at the corps command post at the railway station, Mrkšić issued instructions to stabilize the defence at the elevations above Knin.⁵¹⁴⁰ There was a view of the surrounding area from this post and it was possible to direct fire at Knin and stop the further advance of the Croatian forces.⁵¹⁴¹ Martić stayed at the corps command post to rest and spent the night there, while Mrkšić moved on to Srb to make sure that the system was set up and functioning.⁵¹⁴² Kovačević, commander of the 7th Corps, and his command post relocated again before Martić awoke.⁵¹⁴³

⁵¹³⁵ Mile Mrkšić, T. 18949, 19083-19085.

⁵¹³⁶ Mile Mrkšić, T. 18766, 18808, 19141-19143; D923 (SVK Main Staff Report to Chief of VJ Main Staff, 26 August 1995), pp. 1, 8.

⁵¹³⁷ P2347 (Intelligence report of the HV Main Staff, compiled by Stjepan Vrančić, 4 August 1995), pp. 1-2.

⁵¹³⁸ P2347 (Intelligence report of the HV Main Staff, compiled by Stjepan Vrančić, 4 August 1995), p. 3.

⁵¹³⁹ Mile Mrkšić, T. 19030, 19046, 19086-19087, 19090, 19096, 19104; D1516 (Report on the conduct of combat activities of the 7th Corps from 29 July to 6 August 1995, Slobodan Kovačević, 9 August 1995), p. 2.

⁵¹⁴⁰ Mile Mrkšić, T. 18977-18978, 19031, 19035, 19096.

⁵¹⁴¹ Mile Mrkšić, T. 18977-18978.

⁵¹⁴² Mile Mrkšić, T. 18949-18950, 18978, 19027, 19031, 19035, 19096.

⁵¹⁴³ Mile Mrkšić, T. 19035-19036; D1516 (Report on the conduct of combat activities of the 7th Corps from 29 July to 6 August 1995, Slobodan Kovačević, 9 August 1995), p. 2.

1320. On 5 August 1995, Mrkšić ordered forces to continue to form a defence line, in order to try to establish a new front line against the advancing HV forces.⁵¹⁴⁴ Specifically, Mrkšić ordered the 7th Corps and the 1/103rd infantry brigade to prevent the enemy taking Knin and the enemy forces coming from the directions of Knin and Gračac towards Otrić from joining. The order also mentioned that one unit was to be sent to Bulina Strana to defend the area of Knin and prevent the advance to Otrić.⁵¹⁴⁵

1321. **Kosta Novaković** testified that on the evening of 4 August 1995, the SVK planned to stay and defend Knin and that at 8:30 p.m., Mrkšić issued an order to that effect.⁵¹⁴⁶ That evening, the communication centre in the command was partially damaged, but not completely destroyed and still provided for contact with the commanders in the field.⁵¹⁴⁷ According to Novaković, the headquarters moved to Srb in Donji Lapac municipality on the morning of 5 August 1995.⁵¹⁴⁸

1322. On 5 and 7 August 1995, HV Rear Admiral Davor Domazet reported that the enemy communications system had been completely disabled by the capture or disabling of features key to radio-relay communications, increasing the chaos among the remaining units of the routed SVK, except in the 11th Eastern Slavonia Corps.⁵¹⁴⁹ According to the report, General Mrkšić stated on 4 or 5 August 1995 that he no longer had direct communication with practically any operational command.⁵¹⁵⁰

1323. In addition to the above evidence, the Trial Chamber has considered evidence of Witness AG-58 reviewed in chapter 4.5.2 and Đuro Vukašinić reviewed in chapter 4.4.4.

1324. The Trial Chamber now turns to the evidence of artillery impacts observed in Knin on the second day of Operation Storm, 5 August 1995.

1325. **Philip Berikoff** testified that at approximately 5:20 a.m. on 5 August 1995, a barrage of around one hundred rockets and artillery and mortar shells hit Knin and its

⁵¹⁴⁴ Mile Mrkšić, T. 18834-18835, 18981; D1511 (SVK Main Staff order to stabilise defence, Mile Mrkšić, 5 August 1995), pp. 1-2.

⁵¹⁴⁵ D1511 (SVK Main Staff order to stabilise defence, Mile Mrkšić, 5 August 1995), p. 2.

⁵¹⁴⁶ Kosta Novaković, T. 11791, 11930-11931.

⁵¹⁴⁷ Kosta Novaković, T. 11932.

⁵¹⁴⁸ P1092 (Kosta Novaković, witness statement, 5 April 2001), p. 11; Kosta Novaković, T. 11791.

⁵¹⁴⁹ D1266 (Intelligence report for 6 August 1995, Davor Domazet, 7 August 1995), pp. 1, 7; D1267 (Intelligence report, Davor Domazet, 5 August 1995), pp. 1-3, 7.

⁵¹⁵⁰ D1267 (Intelligence report, Davor Domazet, 5 August 1995), p. 3.

surroundings, and the shelling continued until sometime between 10:30 and 11 a.m.⁵¹⁵¹ The shelling came from the South.⁵¹⁵² Berikoff saw tanks fleeing through Knin in the early morning of 5 August 1995.⁵¹⁵³ Refugees came to the gate of the UN compound, including a scared SVK soldier, armed and in uniform, whom Berikoff turned away, as he was under orders from his senior management not to allow combatants to enter.⁵¹⁵⁴ Sometime between 8 and 9 a.m. one mortar bomb hit the main intersection in front of the UN compound.⁵¹⁵⁵ Berikoff stated that, besides a few rounds that hit an open field in front of the UN compound, this was the first shell that hit near the UN compound.⁵¹⁵⁶ Berikoff and others went to the intersection and saw that the impact of the shell had killed three SVK soldiers (a fourth SVK soldier being already dead from a gunshot wound) and two civilians, and wounded two further civilians.⁵¹⁵⁷ One of the dead SVK soldiers was the man whom Berikoff had turned away at the gate of the UN compound earlier that day.⁵¹⁵⁸ Then they moved the bodies off the road.⁵¹⁵⁹ They returned to the

⁵¹⁵¹ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 3; P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (j); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 13, 54; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 1-2; P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 3; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 6.

⁵¹⁵² P739 (Philip Berikoff, witness statement, 24 August 1996), p. 3; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 1.

⁵¹⁵³ D735 (Philip Berikoff, witness statement, 30 August 2008), p. 1; Philip Berikoff, T. 7642, 7690, 7884-7886; P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 3.

⁵¹⁵⁴ Philip Berikoff, T. 7611, 7735-7737; P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 4; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 6.

⁵¹⁵⁵ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (j); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 13; Philip Berikoff, T. 7612, 7710, 7712, 7721; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (b); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 6; P755 (Video of Berikoff recounting his experience with the shelling of the intersection and of refugees arriving at the UN Compound), p. 1.

⁵¹⁵⁶ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 3; D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 13, 17-18; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 2 (a).

⁵¹⁵⁷ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 3; P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (j); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 13; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 1; Philip Berikoff, T. 7607-7608, 7612, 7711-7713, 7846; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 2 (b); P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 4; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (b); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 6; P755 (Video of Berikoff recounting his experience with the shelling of the intersection and of refugees arriving at the UN Compound), pp. 1-2.

⁵¹⁵⁸ Philip Berikoff, T. 7611, 7737; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 7.

⁵¹⁵⁹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (j); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 13; Philip Berikoff, T. 7714; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 2 (b); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 6; P755 (Video of Berikoff recounting his experience with the shelling of the intersection and of refugees arriving at the UN Compound), p. 1.

UN compound.⁵¹⁶⁰ At approximately 9:30 a.m. Berikoff and others returned to the intersection and placed the bodies in body bags, which lasted until 11-11:30 a.m.⁵¹⁶¹ During this time, one round of mortar fire hit within approximately 25 metres of their location, and they took cover in a drainage ditch.⁵¹⁶² They could not ascertain from which direction the mortar had come.⁵¹⁶³ A Serb doctor arrived at the gate of the UN compound, asking for help evacuating casualties from Knin hospital because the Croatian forces had shelled and captured it.⁵¹⁶⁴ The doctor maintained that only seven people had been killed during the offensive, which Berikoff and Leslie found laughable.⁵¹⁶⁵ Berikoff went with Leslie to the hospital and noticed on the way that there were still around 10-30 dead persons on the streets.⁵¹⁶⁶ Upon arrival at the hospital, Leslie entered it while Berikoff remained in the parking lot and saw that there were still approximately the same amount of dead and wounded civilians and soldiers outside the hospital as he had seen the day before.⁵¹⁶⁷ Berikoff also noticed that there were shell marks on the hospital wall, that several of its windows were broken, and that there were craters in the surrounding fields.⁵¹⁶⁸ He stated that the hospital was in a

⁵¹⁶⁰ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 13; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 6; P755 (Video of Berikoff recounting his experience with the shelling of the intersection and of refugees arriving at the UN Compound), pp. 1-2.

⁵¹⁶¹ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (j); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 13; Philip Berikoff, T. 7608, 7612, 7711, 7713-7715, 7721; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 2 (c); P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 4; P747 (Report by Berikoff on HV/HVO activities 4-20 August 1995), para. 1 (b); P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 7; P755 (Video of Berikoff recounting his experience with the shelling of the intersection and of refugees arriving at the UN Compound), p. 2.

⁵¹⁶² P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (j); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 13; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7608; P743 (Report by Berikoff on his activities 4-12 August 1995), para. 2 (b); P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 4; P755 (Video of Berikoff recounting his experience with the shelling of the intersection and of refugees arriving at the UN Compound), p. 1.

⁵¹⁶³ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 13.

⁵¹⁶⁴ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (k); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 14; Philip Berikoff, T. 7714-7717, 7721, 7910-7911; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 7.

⁵¹⁶⁵ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 14; Philip Berikoff, T. 7715.

⁵¹⁶⁶ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (k); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 14; Philip Berikoff, T. 7643, 7647, 7718, 7726, 7729; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 7.

⁵¹⁶⁷ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (k); P741 (Philip Berikoff, witness statement, 11 December 2007), para. 5; D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 14; Philip Berikoff, T. 7643, 7647, 7717-7723, 7726, 7728, 7739-7740; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 7.

⁵¹⁶⁸ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 14; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 1; Philip Berikoff, T. 7596, 7696-7697.

residential area and that there were no military installations anywhere near it.⁵¹⁶⁹ He estimated that up to approximately 1,000 shells had hit Knin on 5 August 1995 when the HV entered Knin, after which he heard no further shelling in Knin.⁵¹⁷⁰

1326. **Robert Williams** testified that at 5:20 a.m. on 5 August 1995, the HV began heavily shelling Knin again.⁵¹⁷¹ He observed the shelling from the balcony of the main building of the UN compound. Williams saw that several shells landed close to the UN compound.⁵¹⁷² At 6:10 a.m., the witness saw eight SVK tanks, one APC, and a truck pass the UN compound at a speed of around 30-50 kilometres per hour.⁵¹⁷³ According to the witness, they came from the direction of Drniš and headed north through Knin, though without stopping in the town.⁵¹⁷⁴ Williams did not see any attempt to attack these vehicles with artillery although he heard some small arms fire from the tanks while they passed downtown.⁵¹⁷⁵ At about 8:30 a.m., Philip Berikoff told the witness that he had seen some bodies at the junction outside the UN compound.⁵¹⁷⁶ In order to prevent the spread of diseases, Williams and other UN officers went to the junction to put the bodies in body bags.⁵¹⁷⁷ The witness stated that when he approached the bodies he saw that two of them had SVK uniforms.⁵¹⁷⁸ The witness testified that the other four dead men were civilians.⁵¹⁷⁹ One of the civilians was carrying documents which identified him as Ljubomir Djapić from Drniš (born 1 April 1933).⁵¹⁸⁰ Williams could not identify the others as they were not carrying identification, but he understood from a grieving woman at the site that her husband and son were amongst the dead men.⁵¹⁸¹

⁵¹⁶⁹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 14.

⁵¹⁷⁰ D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7695.

⁵¹⁷¹ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P925 (Robert Williams, witness statement, 22 August 1996), p. 5; Robert Williams, T. 9535, 9538; P928 (Aerial map of Knin, marked by Robert Williams), areas marked in green; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 2.

⁵¹⁷² P925 (Robert Williams, witness statement, 22 August 1996), p. 6.

⁵¹⁷³ P925 (Robert Williams, witness statement, 22 August 1996), p. 6; P927 (Robert Williams, supplemental information sheet, 23 September 2008), pp. 1-2; Robert Williams, T. 9536, 9607.

⁵¹⁷⁴ P925 (Robert Williams, witness statement, 22 August 1996), p. 6.

⁵¹⁷⁵ P925 (Robert Williams, witness statement, 22 August 1996), p. 6; P927 (Robert Williams, supplemental information sheet, 23 September 2008), p. 2.

⁵¹⁷⁶ P925 (Robert Williams, witness statement, 22 August 1996), p. 6; Robert Williams, T. 9538-9539.

⁵¹⁷⁷ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P925 (Robert Williams, witness statement, 22 August 1996), p. 6; Robert Williams, T. 9538-9539; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 2.

⁵¹⁷⁸ P925 (Robert Williams, witness statement, 22 August 1996), p. 6; Robert Williams, T. 9539, 9626.

⁵¹⁷⁹ P925 (Robert Williams, witness statement, 22 August 1996), p. 6; Robert Williams, T. 9539.

⁵¹⁸⁰ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; Robert Williams, T. 9539, 9622; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 2.

⁵¹⁸¹ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 2.

According to the witness, five of the men were killed by a mortar blast earlier that morning, whereas one of the civilian men seemed to have been killed earlier.⁵¹⁸² He made this assessment on the fact that the blood on the man's body was not fresh and was more burgundy in colour, and that the body was stiffer than the other ones.⁵¹⁸³ The witness concluded that this man died as a result of an apparent gunshot wound to the chest.⁵¹⁸⁴ While at the junction, Williams and the other UN officers were subjected to "air burst" mortar fire.⁵¹⁸⁵ The witness did not know who was firing.⁵¹⁸⁶ At 9:30 am, an SVK soldier arrived at the gate of the UN compound seeking to surrender and take refuge, though he was turned away as it was thought that his presence could endanger the civilians taking shelter there.⁵¹⁸⁷ At 2 p.m., Williams went to the junction outside the UN compound.⁵¹⁸⁸ One of the bodies that he had placed in a bag earlier, although not the one of Ljubomir Djapić but of one of the SVK soldiers, had been taken out of the bag and appeared to the witness to have been run over by two tanks which were standing at the junction.⁵¹⁸⁹

1327. **Andries Dreyer** testified that on 5 August 1995, the closer the Croatian army came to Knin, the greater the variety of weapons they used, including 120-millimetre and 81-millimetre mortars and tank fire. The witness further stated that this bombardment continued in spite of it being clearly visible that the ARSK had withdrawn from Knin.⁵¹⁹⁰ From about 5:25 a.m., artillery impacted Knin with the same intensity as had been experienced the previous early morning.⁵¹⁹¹ Dreyer saw from his vantage point of the UN building that the shelling was predominantly hitting

⁵¹⁸² P924 (Robert Williams, witness statement, 5 November 1995), p. 2; Robert Williams, T. 9539; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 2.

⁵¹⁸³ Robert Williams, T. 9539, 9622.

⁵¹⁸⁴ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 2.

⁵¹⁸⁵ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P925 (Robert Williams, witness statement, 22 August 1996), p. 6; P927 (Robert Williams, supplemental information sheet, 23 September 2008), p. 3; Robert Williams, T. 9539-9540; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 2.

⁵¹⁸⁶ P927 (Robert Williams, supplemental information sheet, 23 September 2008), p. 3.

⁵¹⁸⁷ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; Robert Williams, T. 9549; P930 (Chronology of events in Sector South prepared by Robert Williams, 4-7 August 1995), p. 2.

⁵¹⁸⁸ P925 (Robert Williams, witness statement, 22 August 1996), p. 7.

⁵¹⁸⁹ P924 (Robert Williams, witness statement, 5 November 1995), p. 2; P925 (Robert Williams, witness statement, 22 August 1996), p. 7; P927 (Robert Williams, supplemental information sheet, 23 September 2008), p. 1; Robert Williams, T. 9540.

⁵¹⁹⁰ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 8; D109 (Andries Dreyer, witness statement, 4 February 1996), p. 3.

⁵¹⁹¹ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 19; Andries Dreyer, T. 1737; D109 (Andries Dreyer, witness statement, 4 February 1996), p. 2; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 2; Andries Dreyer, T. 1737.

downtown.⁵¹⁹² At about 10 a.m., a mortar impacted on the corner of the UN compound where Serb civilians had gathered, and killed five civilians.⁵¹⁹³ Dreyer assumed that this fire came from an 80-81-millimetre mortar (or smaller) which he estimated would have a range of about five kilometres.⁵¹⁹⁴ As the mortar fire was incrementally corrected several times prior to the fatal shelling, Dreyer believed that this was an intentional effort to target these civilians.⁵¹⁹⁵ UN soldiers placed the deceased in body bags along the roadside which the Croatian Military, upon arriving at the edge of the compound in Knin, placed on the road and drove over with their tanks.⁵¹⁹⁶ When shown photographs, Dreyer confirmed that one body had on a camouflage jacket, while another deceased person was wearing a holster of some kind.⁵¹⁹⁷ Dreyer confirmed that these bodies were the ones that the UN soldiers placed in body bags.⁵¹⁹⁸

1328. **John Hill** testified that at about 5:10 a.m. on 5 August 1995, the heavy shelling by the HV started again.⁵¹⁹⁹ He added that the shelling now also came from the south, from the direction of Drniš, whereas the day before it came from the east and south-south-east.⁵²⁰⁰ Hill testified that, as he was talking with Forand at the main gate of the UN compound at around 9:30 a.m. on 5 August 1995, a shell hit the wall of the UN compound and killed six Serbs and wounded four.⁵²⁰¹ Forand told Hill to go to the scene with Berikoff and two corporals.⁵²⁰² Hill saw the casualties and Berikoff and other

⁵¹⁹² Andries Dreyer, T. 1737-1738.

⁵¹⁹³ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 19; D109 (Andries Dreyer, witness statement, 4 February 1996), p. 2; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 2; Andries Dreyer, T. 1720, 1726-1727, 1735-1736, 1743, 1842; P78 (Aerial photograph of Knin marked by Dreyer in February 2008).

⁵¹⁹⁴ Andries Dreyer, T. 1837-1838.

⁵¹⁹⁵ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 19; D109 (Andries Dreyer, witness statement, 4 February 1996), pp. 2, 4; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 2; Andries Dreyer, T. 1735-1736.

⁵¹⁹⁶ P72 (Andries Dreyer, witness statement, 22 February 2008), para. 19; D109 (Andries Dreyer, witness statement, 4 February 1996), p. 2; D110 (Andries Dreyer, witness statement, 8 November 1995), p. 2; Andries Dreyer, T. 1744, 1826, 1842.

⁵¹⁹⁷ Andries Dreyer, T. 1825-1826.

⁵¹⁹⁸ Andries Dreyer, T. 1826.

⁵¹⁹⁹ P291 (John Hill, witness statement, 23 August 1996), p. 5; P292 (John Hill, witness statement, 21 January 1998), p. 14; John Hill, T. 3747, 3897; P301 (UNCRO Military Police report, 4-7 August 1995), p. 3; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

⁵²⁰⁰ P291 (John Hill, witness statement, 23 August 1996), p. 5; P292 (John Hill, witness statement, 21 January 1998), pp. 14-15; John Hill, T. 3897.

⁵²⁰¹ P291 (John Hill, witness statement, 23 August 1996), pp. 3, 5; P292 (John Hill, witness statement, 21 January 1998), p. 17; P294 (John Hill, witness statement, 6 March 2008), para. 2; John Hill, T. 3748, 3780-3781, 3830-3831, 3866, 3895-3897; P306 (Report by John Hill on HV activities from 4-11 August 1995), p. 1; D273 (Photograph marked by John Hill of the location of six bodies found on 5 August 1995); D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

⁵²⁰² P291 (John Hill, witness statement, 23 August 1996), p. 5; P292 (John Hill, witness statement, 21 January 1998), p. 17; John Hill, T. 3748; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

soldiers bagged the bodies.⁵²⁰³ Hill testified that the bagged bodies were put by the side of the road where they stayed for several days, and he was told that the HV had urinated and defecated on the bodies and also shot at them.⁵²⁰⁴ He saw one of the bodies at a later date and saw that it was shot upon and that it had faeces on it.⁵²⁰⁵ According to an UNCRO Military Police report, four of the six killed Serbs were SVK soldiers whose weapons were collected and taken to the UN compound by UNCRO soldiers, and the remaining two casualties were elderly civilians.⁵²⁰⁶ Also according to that report, one civilian, a woman, was wounded in this incident.⁵²⁰⁷ Hill stated that shortly after the shelling incident at the wall of the UN compound, the shelling stopped.⁵²⁰⁸

1329. **Murray Dawes** On 5 August 1995, the shelling started again at 5 a.m. with heavy and direct tank fire, which the witness heard coming from outside of town.⁵²⁰⁹ The salvos were just as heavy as the day before.⁵²¹⁰ Dawes remained intermittently at the main gate of the UN compound that entire morning until about lunchtime.⁵²¹¹ About 50 civilians, mainly old people, gathered in front of the main gate.⁵²¹² When the shelling started, several others came from downtown Knin trying to get into the UN compound.⁵²¹³ One of the witness's tasks was overseeing the process of informing individuals that they would need to be searched before they were allowed to enter the barracks and then searching them.⁵²¹⁴ The witness heard from someone that weapons, including a handgun and a grenade, were taken off some of the individuals searched.⁵²¹⁵ People continued gathering outside the UN compound and were let in after being searched.⁵²¹⁶ Dawes was aware that many fighting-age males were also being let into

⁵²⁰³ P291 (John Hill, witness statement, 23 August 1996), p. 5; John Hill, T. 3748-3750; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

⁵²⁰⁴ John Hill, T. 3749-3750, 3832-3834; P301 (UNCRO Military Police report, 4-7 August 1995), p. 3.

⁵²⁰⁵ John Hill, T. 3750.

⁵²⁰⁶ P292 (John Hill, witness statement, 21 January 1998), p. 3; John Hill, T. 3780-3781, 3836, 3895-3897; P301 (UNCRO Military Police report, 4-7 August 1995), p. 3; P306 (Report by John Hill on HV activities from 4-11 August 1995), p. 1.

⁵²⁰⁷ P301 (UNCRO Military Police report, 4-7 August 1995), p. 3.

⁵²⁰⁸ P291 (John Hill, witness statement, 23 August 1996), p. 5; P292 (John Hill, witness statement, 21 January 1998), pp. 17-18; John Hill, T. 3750; P301 (UNCRO Military Police report, 4-7 August 1995), p. 3; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

⁵²⁰⁹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7; Murray Dawes, T. 10381.

⁵²¹⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7.

⁵²¹¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7; Murray Dawes, T. 10514.

⁵²¹² P980 (Murray Dawes, witness statement, 22 August 1996), p. 7; Murray Dawes, T. 10381.

⁵²¹³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7.

⁵²¹⁴ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7; Murray Dawes, T. 10511, 10513-10514.

⁵²¹⁵ Murray Dawes, T. 10514.

⁵²¹⁶ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7.

UN compound at that time.⁵²¹⁷ He also saw heavy weaponry pass by the UN compound from the direction of Drniš, and Serbian soldiers unhooking guns from the back of trucks and then leaving hurriedly. The shelling continued; it appeared to the witness that the firing was being concentrated toward the intersection outside the UN compound. Dawes estimated that about ten rounds of shells landed in the vicinity of the UN compound.⁵²¹⁸ Sometime that day, at the intersection near the corner of the UN compound, seven people were killed by a mortar shell hitting their tractor.⁵²¹⁹ Although he ended up returning to the UN compound due to the small arms fire coming from the direction of Drniš municipality, Dawes was present when the dead bodies were bagged. From what the witness could see, the corpses did not look like soldiers, but rather elderly farmers in their late fifties. They placed the body bags along a fence five metres from the main gate of the UN compound.⁵²²⁰ At about 11 a.m., a young girl came to the main gate in a panic and was let in after informing Dawes and others that the HV was at the hospital killing everybody there.⁵²²¹ The “Croats” arrived at the UN compound around noon.⁵²²² The first of the tanks to arrive were marked with a yellow circle. According to the witness, the body bags containing the tractor victims had been placed to the side of the road out of the way.⁵²²³ When he examined them later, he saw that the soldiers had driven over the body bags with tanks.⁵²²⁴

1330. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,⁵²²⁵ testified that from about 5:10 a.m. on 5 August 1995, the shelling was especially intense for about one hour, coming from all directions, before reverting into a similar pattern as the day before: sporadic but

⁵²¹⁷ Murray Dawes, T. 10514.

⁵²¹⁸ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7.

⁵²¹⁹ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 5, 7; P981 (Murray Dawes, witness statement, 2 April 2008), para. 26; P984 (Map of Knin with various locations marked by Murray Dawes), area where seven people were killed by mortar shell marked K.

⁵²²⁰ P980 (Murray Dawes, witness statement, 22 August 1996), p. 7.

⁵²²¹ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8; P981 (Murray Dawes, witness statement, 2 April 2008), para. 28.

⁵²²² P980 (Murray Dawes, witness statement, 22 August 1996), p. 7.

⁵²²³ P980 (Murray Dawes, witness statement, 22 August 1996), p. 8.

⁵²²⁴ P980 (Murray Dawes, witness statement, 22 August 1996), pp. 7-8; P981 (Murray Dawes, witness statement, 2 April 2008), para. 27.

⁵²²⁵ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

consistent.⁵²²⁶ Roberts observed the shelling for about ten minutes from the top floor balcony of the UN headquarters which faced north. From there he could clearly see the puffs of smoke of the gun positions in the Dinara mountains to his right, and the impacts of the landing shells a few moments later in front and to his left. Some shells landed about 200-300 metres in front of him in the wasteland close to the town, while others landed on buildings in town. Once again, Roberts did not see any returning fire from any positions in Knin.⁵²²⁷ As the Croatian tanks advanced on Knin in the morning of 5 August 1995, the shelling increased, especially from the Drniš road.⁵²²⁸ At that time, Roberts heard from his office in the UN compound the sound of what appeared to be rocket or cannon fire coming from that direction.⁵²²⁹ Roberts assumed that this was the sound of heavy military armour that the HV fired as it advanced along the road.⁵²³⁰ Some of the shells sounded very close as if they roared over the UN compound, which was only 100 metres away from the junction of the Drniš road.⁵²³¹ They impacted in town or on the edge of town.⁵²³² On 5 August 1995, Roberts saw two male bodies lying outside the UN compound, one of which lay on a tractor trailer.⁵²³³ On the same day, UN personnel saw four male bodies outside the UN compound, killed by a Croat mortar which fell 200 metres from the compound.⁵²³⁴

1331. **Alain Gilbert** testified that on 5 August 1995, there was an intense burst of shelling in the morning, with approximately 300-400 shells falling in a six minute period between 5:19 a.m. and 5:25 a.m.⁵²³⁵ Following that, the witness estimated that another 300 shells fell on the morning of 5 August 1995, falling at a reduced intensity

⁵²²⁶ P676 (Alun Roberts, witness statement, 31 July 1998), p. 5; P677 (Alun Roberts, witness statement, 28 February 2007), p. 5; P678 (Alun Roberts, witness statement, 7 February 2008), para. 8.

⁵²²⁷ P678 (Alun Roberts, witness statement, 7 February 2008), para. 8.

⁵²²⁸ P676 (Alun Roberts, witness statement, 31 July 1998), p. 5.

⁵²²⁹ P678 (Alun Roberts, witness statement, 7 February 2008), para. 9.

⁵²³⁰ P676 (Alun Roberts, witness statement, 31 July 1998), p. 5; P678 (Alun Roberts, witness statement, 7 February 2008), para. 9.

⁵²³¹ P676 (Alun Roberts, witness statement, 31 July 1998), p. 5; P678 (Alun Roberts, witness statement, 7 February 2008), para. 9; D1367 (Reuters news article, 5 August 1995), p. 2.

⁵²³² P676 (Alun Roberts, witness statement, 31 July 1998), p. 5.

⁵²³³ P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 3, photographs A1, A2; D1367 (Reuters news article, 5 August 1995), p. 2.

⁵²³⁴ P677 (Alun Roberts, witness statement, 28 February 2007), p. 8; P700 (UNCRO photographs of bodies and crime sites in Sector South), pp. 1, 3-4, photographs A3, A4; D1367 (Reuters news article, 5 August 1995), p. 2.

⁵²³⁵ P589 (Alain Gilbert, witness statement, 5 February 2008), paras 21-23; P593 (Article in a military magazine authored by Alain Gilbert, 7 August 1995), p. 4.

for the rest of the morning, until the HV arrived in Knin at approximately 12 p.m.⁵²³⁶ Gilbert stated that he did not know how he estimated the number of shells that fell.⁵²³⁷ He testified that the artillery fire that reached Knin on 4 and 5 August 1995 came over the UN compound from the south.⁵²³⁸

1332. **Jan Elleby**, Deputy Chief and later Chief of UNCIVPOL Sector South in Knin between 15 May and 1 or 2 October 1995,⁵²³⁹ testified that at approximately 9:30 a.m. on 5 August 1995, six Canadian soldiers saw and bagged six male bodies near the junction of the military barracks in Knin, near the UN compound. In a UNCIVPOL incident report, dated 6 August 1995, three of the men are described as civilian men, two of the men as military men, and one as a “male about 60-70 years [old]”, although the report does not explain how the categorization is made. According to the same report, four of the men had wounds as a result of mortar.⁵²⁴⁰ According to Elleby, the shelling stopped at about 11 a.m. on 5 August 1995 and Croatian tanks advanced through the town.⁵²⁴¹

1333. **Andrew Leslie** testified that on 5 August 1995, the same pattern of shelling as had occurred on the previous day was repeated.⁵²⁴² Leslie testified that the headquarters of the North Dalmatian Corps as well as the RSK Ministry of Defence and SVK main headquarters, did not appear to be heavily hit when Leslie drove by on the morning of 5 August 1995 (on the way to the hospital).⁵²⁴³ In news articles by Reuters and the Toronto Star dated 5 August 1995, Andrew Leslie was quoted as saying that Serb tanks were returning fire right outside the UN compound, but that generally the Serb forces did not appear to have been putting up any great resistance.⁵²⁴⁴ In Court, Leslie testified

⁵²³⁶ P589 (Alain Gilbert, witness statement, 5 February 2008), paras 21-23; P593 (Article in a military magazine authored by Alain Gilbert, 7 August 1995), p. 4.

⁵²³⁷ P589 (Alain Gilbert, witness statement, 5 February 2008), para. 21.

⁵²³⁸ Alain Gilbert, T. 6423-6424; P593 (Article in a military magazine authored by Alain Gilbert, 7 August 1995), p. 4.

⁵²³⁹ P214 (Jan Elleby, witness statement, 17 September 1995), p. 1; P215 (Jan Elleby, witness statement, 14 September 1997), pp. 1-3; P216 (Jan Elleby, witness statement, 10 October 2005), pp. 1-2; Jan Elleby, T. 3361-3362, 3469.

⁵²⁴⁰ P220 (UNCIVPOL incident report, 6 August 1995).

⁵²⁴¹ P214 (Jan Elleby, witness statement, 17 September 1995), p. 2; P215 (Jan Elleby, witness statement, 14 September 1997), p. 3.

⁵²⁴² Andrew Leslie, T. 1965-1966; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 1; D124 (UNMO Sector South daily situation report, 7 p.m., 5 August 1995), p. 1.

⁵²⁴³ Andrew Leslie, T. 2132, 2151, 2153-2154; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2; D131 (Maps of Knin identifying “legitimate military targets”), headquarters of the North Dalmatia Corps marked A1, RSK Ministry of Defence and SVK main headquarters marked B1.

⁵²⁴⁴ D1367 (Reuters news article, 5 August 1995); D120 (Toronto Star news article, 5 August 1995).

that he did not recall seeing SVK tanks outside the UN compound on 5 August 1995, nor could he recall whether he was quoted correctly in the news.⁵²⁴⁵ At approximately 9 a.m. on 5 August 1995, Leslie participated in the evacuation of 30-40 patients in critical condition from the Knin hospital to the UN compound.⁵²⁴⁶ During the trip to the hospital Leslie got the impression that the town was essentially deserted and he observed 15-20 dead bodies, including those of women, children, and elderly, along the road and occasionally up the side streets.⁵²⁴⁷ At the hospital Leslie observed a number of bodies, which he assessed to be between 30 and 60, of dead men, women, and children stacked in a pile in the hospital corridor.⁵²⁴⁸ Leslie did not observe any shell damage on the hospital.⁵²⁴⁹ However some splinters had hit the building and some of the windows were broken due to impact close by.⁵²⁵⁰ The witness's impression was that the HV made an effort not to hit the hospital.⁵²⁵¹ When the witness and others were loading patients into armed vehicles around 10:30 a.m., the witness observed a tank approximately 400 metres north-east of the hospital firing into Knin.⁵²⁵² The witness could not observe to which armed forces that tank belonged.⁵²⁵³ Leslie testified that at around 11 a.m. on 5 August 1995, the first HV troops from the Puma Brigade entered Knin and started mopping up operations which lasted for three days.⁵²⁵⁴ Artillery fire on Knin ceased as of noon on that day.⁵²⁵⁵

1334. In a Canadian radio programme broadcasted on 21 July 2003, Andrew Leslie stated that during Operation Storm there was a deliberate targeting of residential areas on a massive scale which resulted in the deaths of an estimated 10,000-25,000 people.⁵²⁵⁶ He further stated that there were Special Police teams dressed in distinct blue

⁵²⁴⁵ Andrew Leslie, T. 2065-2067.

⁵²⁴⁶ Andrew Leslie, T. 1966-1968, 2009-2010, 2077, 2081; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

⁵²⁴⁷ Andrew Leslie, T. 1967, 1992-1993; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2; D115 (Aerial Photograph marked by Andrew Leslie), route marked in blue.

⁵²⁴⁸ Andrew Leslie, T. 1967-1968.

⁵²⁴⁹ Andrew Leslie, T. 1968-1969.

⁵²⁵⁰ Andrew Leslie, T. 1968-1970.

⁵²⁵¹ Andrew Leslie, T. 1969.

⁵²⁵² Andrew Leslie, T. 1969; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 2.

⁵²⁵³ Andrew Leslie, T. 1969.

⁵²⁵⁴ Andrew Leslie, T. 1970; P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 1; D124 (UNMO Sector South daily situation report, 7 p.m., 5 August 1995), p. 1.

⁵²⁵⁵ P84 (Report on possible violations of international humanitarian law, signed by Andrew Leslie, 12 August 1995), p. 1.

⁵²⁵⁶ D329 (Canadian Broadcasting Cooperation radio programme of 21 July 2003), pp. 1-2.

uniforms who hunted and killed Serb civilians in the mountains. Leslie also said that he saw dozens of farmhouses and villages burning for many days.⁵²⁵⁷

1335. A Sector South situation report for 5 August 1995 recorded that at about 3 p.m. on 5 August 1995, UNMOs observed tanks, mortars, and SVK soldiers of unknown strength occupying defensive positions in the general area of Strmica in Knin municipality. The situation report further recorded that at 6:15 p.m. on 5 August 1995, the SVK fired twelve rounds of artillery from Strmica towards Knin.⁵²⁵⁸

1336. **Alain Forand** testified that at 5:20 a.m. on 5 August 1995 heavy shelling recommenced in Knin.⁵²⁵⁹ Initially, hundreds of rounds fell in a few minutes, followed by sporadic shelling.⁵²⁶⁰ Forand stated that at about 9 a.m. on that day HV tanks coming from the direction of Vrlika arrived at the outskirts of Knin. He also stated that although little if any fighting occurred in Knin, the direct fire from tank guns and infantry mortar fire added to the destruction being inflicted by the artillery. According to Forand, an estimated 2,000 rounds of artillery fell on Knin in 27 hours. He stated that on the morning of 5 August 1995, a shell landed at the front gate of the UN compound and killed seven civilians and wounded three others.⁵²⁶¹ Forand stated that until that moment, no shells had landed closer than 300-400 metres from the UN compound.⁵²⁶² Forand then decided to evacuate as many moveable patients as possible from the hospital to the UN compound, and at around 10 a.m. went with a convoy of APCs to the hospital, from which he eventually evacuated 35 wounded or sick patients.⁵²⁶³ While driving hurriedly down the main road of Knin on this occasion, Forand saw the bodies

⁵²⁵⁷ D329 (Canadian Broadcasting Cooperation radio programme of 21 July 2003), p. 3.

⁵²⁵⁸ D89 (UNCRO situation report, 5 August 1995), p. 4.

⁵²⁵⁹ P330 (Alain Forand, witness statement, 20 August 1996), p. 7; P331 (Alain Forand, witness statement, 29 September 1997), p. 12; P344 (UNCRO Sector South update situation report, 8 a.m., 5 August 1995), p. 1; P399 (Video and transcript of an interview with Alain Forand), p. 2; P401 (Presentation by Alain Forand, 24 June 1996), p. 28.

⁵²⁶⁰ P331 (Alain Forand, witness statement, 29 September 1997), p. 12; P344 (UNCRO Sector South update situation report, 8 a.m., 5 August 1995), p. 1; P399 (Video and transcript of an interview with Alain Forand), p. 2.

⁵²⁶¹ P330 (Alain Forand, witness statement, 20 August 1996), p. 7; Alain Forand, T. 4452-4453; P401 (Presentation by Alain Forand, 24 June 1996), p. 28.

⁵²⁶² P330 (Alain Forand, witness statement, 20 August 1996), p. 7; P331 (Alain Forand, witness statement, 29 September 1997), p. 9; P401 (Presentation by Alain Forand, 24 June 1996), p. 28.

⁵²⁶³ P330 (Alain Forand, witness statement, 20 August 1996), p. 7; P331 (Alain Forand, witness statement, 29 September 1997), p. 12; Alain Forand, T. 4121, 4445, 4448-4450; P399 (Video and transcript of an interview with Alain Forand), pp. 2-3; P345 (UNCRO Sector South update situation report, 12 p.m., 5 August 1995), p. 2; P401 (Presentation by Alain Forand, 24 June 1996), pp. 28-29.

of 22 individuals who appeared to have been killed where they lay.⁵²⁶⁴ They included three military people but were mostly civilians.⁵²⁶⁵ In Forand's view, the shelling of Knin on 4 and 5 August 1995 was indiscriminate and directed against the civilian population to create mass panic.⁵²⁶⁶

1337. **Joseph Bellerose** testified that on 5 August 1995 the shelling of Knin started at about 5:15 a.m. and that it was intense for about one hour and then became sporadic, at a rate of approximately a shell every ten to fifteen minutes.⁵²⁶⁷ He testified that shells were landing all over town "in a random fashion and at random intervals".⁵²⁶⁸ Bellerose did not see shells hitting what he considered to be military targets in Knin, namely the north camp adjacent to the UN compound or the RSK north barracks or the RSK headquarters.⁵²⁶⁹ Bellerose thought that the shelling was intended to drive out the civilian population out of Knin because it did not aim at or damage military targets.⁵²⁷⁰ The shelling stopped at 11 a.m.⁵²⁷¹

1338. **Roland Dangerfield** testified that on 5 August 1995 at 5:20 a.m., for about 30 minutes, Knin was again shelled, starting with rockets and followed by heavy artillery fire.⁵²⁷² The intensity of the firing then decreased and at 10 a.m. increased again for about 45 minutes with heavy artillery fire, after which Dangerfield primarily heard tank and small arms fire.⁵²⁷³

1339. **Hussein Al-Alfi** testified that on 5 August 1996, Knin was also shelled and the radio station was hit, but the shelling was less intensive than it had been the previous day.⁵²⁷⁴

⁵²⁶⁴ P330 (Alain Forand, witness statement, 20 August 1996), p. 7; P331 (Alain Forand, witness statement, 29 September 1997), p. 12; Alain Forand, T. 4099-4101, 4490; P399 (Video and transcript of an interview with Alain Forand), p. 3.

⁵²⁶⁵ P399 (Video and transcript of an interview with Alain Forand), p. 3.

⁵²⁶⁶ P330 (Alain Forand, witness statement, 20 August 1996), p. 12; P331 (Alain Forand, witness statement, 29 September 1997), p. 9; Alain Forand, T. 4114, 4433, 4475; P341 (UNCRO Sector South update situation report, 1 p.m., 4 August 1995), p. 1; D346 (Alain Forand's interview in Globus newspaper, 12 March 2004), p. 5.

⁵²⁶⁷ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 5; Joseph Bellerose, T. 5870.

⁵²⁶⁸ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 5; Joseph Bellerose, T. 5870-5871.

⁵²⁶⁹ Joseph Bellerose, T. 5871-5872.

⁵²⁷⁰ Joseph Bellerose, T. 5871-5872, 5934.

⁵²⁷¹ P546 (Joseph Bellerose, witness statement, 2 November 1999), p. 5.

⁵²⁷² P695 (Roland Dangerfield, witness statement, 21 December 1995), para.33; Roland Dangerfield, T. 7149; P699 (Fall of the Republic of Serb Krajina, authored by Roland Dangerfield), p. 4.

⁵²⁷³ P695 (Roland Dangerfield, witness statement, 21 December 1995), para. 33; P699 (The Fall of the Republic of Serb Krajina, authored by Roland Dangerfield, undated), p. 5.

⁵²⁷⁴ Hussein Al-Alfi, T. 13808-13809.

1340. **Ivica Luković**, the Chief of the Croatian Department for Cooperation with the UN and EC for Sector South from 1992 and during 1995,⁵²⁷⁵ testified that he flew by helicopter to Knin on 5 August 1995.⁵²⁷⁶ Luković landed in Knin on a football field which had a crater in it and he also saw that a building he referred to as the so-called JNA home and as Dom JNA had been hit by artillery.⁵²⁷⁷ Luković further saw that a civilian building across the street from the Dom JNA, where Luković and Čermak would later set up their offices, had also been hit by artillery and its roof was on fire.⁵²⁷⁸ Luković walked around at least half of Knin town later that evening and climbed to the fortress, from where he had a panoramic view of Knin, and did not see any other artillery damage or any houses burning other than the civilian building across the street from the Dom JNA.⁵²⁷⁹

1341. The Trial Chamber has received evidence from several witnesses of artillery impacts and other damage caused by artillery observed in Knin after 5 August 1995.

1342. **John Hill** testified that on 6 August 1995, when he went into Knin with Corporal Trembly and a Croatian soldier, he thought that the damage was not as severe as he had expected based on the amount of rounds he saw shot into the town.⁵²⁸⁰ Hill saw Forand's house and found it to be ransacked.⁵²⁸¹ He found two rocket tubes on a lawn next to the house.⁵²⁸² When driving by the South Barracks, Hill did not see any damage there.⁵²⁸³ He stated that the hospital seemed to be undamaged on the side of the main entrance, which faces north-east. He saw some broken glass but no impacts on the

⁵²⁷⁵ D1687 (Ivica Luković, witness statement, 1 October 2004), p. 1, paras 8, 13, 17; D1688 (Ivica Luković, witness statement, 13 August 2009), p. 1, paras 4, 6; Ivica Luković, T. 22385.

⁵²⁷⁶ D1687 (Ivica Luković, witness statement, 1 October 2004), para. 25; Ivica Luković, T. 22418-22419.

⁵²⁷⁷ D1687 (Ivica Luković, witness statement, 1 October 2004), para. 25; Ivica Luković, T. 22419.

⁵²⁷⁸ D1687 (Ivica Luković, witness statement, 1 October 2004), paras 25, 33; Ivica Luković, T. 22419, 22422.

⁵²⁷⁹ D1687 (Ivica Luković, witness statement, 1 October 2004), para. 25; D1688 (Ivica Luković, witness statement, 13 August 2009), para. 11; Ivica Luković, T. 22420, 22422.

⁵²⁸⁰ P291 (John Hill, witness statement, 23 August 1996), pp. 5-6; P292 (John Hill, witness statement, 21 January 1998), pp. 21, 25; John Hill, T. 3841; P292 (John Hill, witness statement, 21 January 1998), p. 22; P301 (UNCRO Military Police report, 4-7 August 1995), p. 4.

⁵²⁸¹ P291 (John Hill, witness statement, 23 August 1996), p. 6; John Hill, T. 3754-3755; D274 (John Hill's diary, entries from 5-13 August 1995), p. 2.

⁵²⁸² P292 (John Hill, witness statement, 21 January 1998), pp. 22, 100; John Hill, T. 3754-3755, 3759, 3840; P300 (Aerial photo of Knin with markings by John Hill), area of Forand's residence marked D. In their closing arguments, the Gotovina Defence contend that Hill incorrectly identified the location of Forand's residence on P300, citing Dawes's testimony. See T. 29235-29236. The Trial Chamber notes that Dawes did not mark Forand's residence on a map, but testified that he entered a residential area north of the TVIK factory, from a road close Forand's house. Although Dawes's route as marked on D586 appears to relate to an area east of that marked by Roberts on P300, having compared the two witnesses' testimonies, the Trial Chamber cannot establish that the testimonies are contradictory.

⁵²⁸³ P291 (John Hill, witness statement, 23 August 1996), p. 6.

hospital.⁵²⁸⁴ Hill stated that the parliament building and the military headquarters in Knin were both hit once, and that the majority of civilian homes in Knin, especially in the centre, were destroyed.⁵²⁸⁵

1343. **Lennart Widén**, a UNCIVPOL member stationed in Knin in the beginning of August 1995,⁵²⁸⁶ testified that at 7 a.m. on 6 August 1995, the witness left for the UN headquarters.⁵²⁸⁷ Around 10 a.m. on 6 August 1995 the witness and UNCIVPOL chief, Normand Boucher, went on a foot patrol in Knin.⁵²⁸⁸ The witness observed that a lot of detached houses behind the school in the centre of Knin had been hit by shells.⁵²⁸⁹ The witness also observed that, although the police station bore no signs of having been hit, the block on the other side of the street had been hit by several shells.⁵²⁹⁰ The witness also observed shell impacts near a row of houses on the road leading to the UN headquarters.⁵²⁹¹ As far as the witness could observe, no public buildings in Knin had been hit.⁵²⁹² Having moved around in Knin five to fifteen times during a period of seven days after Operation Storm, but without visiting the eastern part of town, the witness's assessment was that most shells had landed in residential areas.⁵²⁹³

⁵²⁸⁴ P291 (John Hill, witness statement, 23 August 1996), p. 6; P292 (John Hill, witness statement, 21 January 1998), p. 98.

⁵²⁸⁵ P292 (John Hill, witness statement, 21 January 1998), pp. 99-100.

⁵²⁸⁶ P721 (Lennart Widén, witness statement, 14 December 1995), paras 2-3; P722 (Lennart Widén, witness statement, 27 February 2008), p. 1, para. 4.

⁵²⁸⁷ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), para. 7; Lennart Widén, T. 7316-7317, 7387.

⁵²⁸⁸ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), para. 21; Lennart Widén, T. 7375.

⁵²⁸⁹ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), paras 15-16, 24, p. 10 (Aerial photograph of Knin, marked by Lennart Widén), houses behind school marked G; D718 (Aerial photograph of Knin, with Lennart Widén's marking), p. 1, houses behind school marked G.

⁵²⁹⁰ P721 (Lennart Widén, witness statement, 14 December 1995), para. 3; P722 (Lennart Widén, witness statement, 27 February 2008), para. 30, p. 10 (Aerial photograph of Knin, marked by Lennart Widén), police station marked H; Lennart Widén, T. 7310; D718 (Aerial photograph of Knin, with Lennart Widén's marking), police station marked H, p. 1; D719 (Lennart Widén, supplemental information sheet, 23 August 2008), p. 1.

⁵²⁹¹ P722 (Lennart Widén, witness statement, 27 February 2008), para. 17, p. 10 (Aerial photograph of Knin, marked by Lennart Widén), row of houses marked E.

⁵²⁹² P721 (Lennart Widén, witness statement, 14 December 1995), para. 6; P722 (Lennart Widén, witness statement, 27 February 2008), para. 11; Lennart Widén, T. 7354.

⁵²⁹³ P721 (Lennart Widén, witness statement, 14 December 1995), para. 6; P722 (Lennart Widén, witness statement, 27 February 2008), paras 26, 38, p. 10 (Aerial photograph of Knin, marked by Lennart Widén), areas marked C, D, F, J; Lennart Widén, T. 7351, 7367-7368, 7384; D718 (Aerial photograph of Knin, with Lennart Widén's marking), p. 1, areas marked C, D, F, J.

1344. **Emin Teskeredžić**, a leader of an explosives-removal team operating in and around Knin between 6 August and 30 October 1995,⁵²⁹⁴ testified that upon his arrival in Knin, he observed the city to be practically intact, with approximately six houses having been hit by shells.⁵²⁹⁵ A shell that had fallen on the radio station building had gone through the top floor and exploded on the floor below in Milan Martić's office. Two Croatian houses were also hit by shells, one immediately next to the Staff building and the other at the exit of the town near the TVIK factory.⁵²⁹⁶

1345. **Edward Flynn**, a Human Rights Officer with the Office of the UNHCHR and the leader of one of the HRATs in the former Sector South from 7 August to mid-September 1995,⁵²⁹⁷ arrived in Knin by helicopter with Akashi and others on 7 August 1995 and saw smoke rising in a couple of places in Knin.⁵²⁹⁸ Very shortly thereafter, they drove down the main street of Knin, where Flynn saw shattered shop windows, buildings with signs of ballistics impacts and a lot of persons in military uniform.⁵²⁹⁹ He also saw many buildings which appeared to have been left untouched by the fighting.⁵³⁰⁰ Flynn went to the hospital, where a nurse told him that at one point during Operation Storm an SVK tank had been firing from a position very close to the hospital, and had received fire in return.⁵³⁰¹ Flynn saw only one impact, with minor damage, to the hospital.⁵³⁰²

1346. **Søren Liborius** testified that on 7 or 8 August 1995, he conducted a crater analysis of four craters which were between 40 and 200 metres away from the ECMM RC building and south and south-west of it, one of those being the artillery shell

⁵²⁹⁴ D1732 (Emin Teskeredžić, witness statement, 26 May 2009), p. 1, paras 1-4, 6, 11, 13, 19; Emin Teskeredžić, T. 23242-23243, 23260, 23263-23264, 23274-23275; D1027 (Request by Čermak for Teskeredžić to be relieved of his employment, 19 August 1995).

⁵²⁹⁵ D1732 (Emin Teskeredžić, witness statement, 26 May 2009), para. 6; Emin Teskeredžić, T. 23274-23276.

⁵²⁹⁶ D1732 (Emin Teskeredžić, witness statement, 26 May 2009), para. 6.

⁵²⁹⁷ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 1-2, 6, 13, 23; P21 (Edward Flynn, witness statement, 26-27 February 2008), p. 1, paras 3-4, 36; Edward Flynn, T. 1044, 1270, 1291-1292, 1312, 1325.

⁵²⁹⁸ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 2-3, 5, 16, 25; Edward Flynn, T. 1109, 1141, 1298, 1301, 1303; D29 (Cable from Akashi to Annan regarding his trip to Knin, 7 August 1995), para. 1.

⁵²⁹⁹ P20 (Edward Flynn, witness statement, 29 June 1997), pp. 3, 19; Edward Flynn, T. 1307; D29 (Cable from Akashi to Annan regarding his trip to Knin, 7 August 1995), paras 1-2.

⁵³⁰⁰ Edward Flynn, T. 1156, 1302, 1307; D29 (Cable from Akashi to Annan regarding his trip to Knin, 7 August 1995), para. 2.

⁵³⁰¹ P20 (Edward Flynn, witness statement, 29 June 1997), p. 3; Edward Flynn, T. 1302-1303, 1307; D29 (Cable from Akashi to Annan regarding his trip to Knin, 7 August 1995), paras 1, 3.

⁵³⁰² P20 (Edward Flynn, witness statement, 29 June 1997), pp. 3-4; Edward Flynn, T. 1301-1302, 1355; D29 (Cable from Akashi to Annan regarding his trip to Knin, 7 August 1995), para. 3.

detonation on the grass field which he observed on 4 August 1995.⁵³⁰³ The analysis finally led him to conclude that the shelling must have come from the mountain area east of Knin.⁵³⁰⁴

1347. **Stig Marker Hansen** testified that during patrols of Knin on 7 and 8 August 1995, the witness saw shell impacts in the streets and in residential areas.⁵³⁰⁵ He saw shell impacts in the general area of the hospital, but did not observe any direct hits and was not aware of any structural damage to the hospital.⁵³⁰⁶ While patrolling a residential area close to the TVIK factory, the witness observed signs of shrapnel damage to the facades of buildings in the area, but did not observe structural damage.⁵³⁰⁷ According to the witness, military targets including the SVK headquarters and the military bakery were not targeted, and the witness did not observe any structural damage to the Northern Barracks while driving past them.⁵³⁰⁸ On 8 August 1995, the witness went on patrol in Knin with his interpreter to his interpreter's house, which was located in the residential area north of the TVIK factory.⁵³⁰⁹ The house had shrapnel on its walls and was damaged by shell impacts although it did not appear to have been directly hit.⁵³¹⁰

1348. **Bert Dijkstra** testified that he was surprised by the discrepancy between the large extent of the shelling he had heard and the limited damage he saw in Knin after 8 August 1995.⁵³¹¹ The damage was all over town and was not just concentrated around the military targets.⁵³¹² There were hardly any fires or structural damage to these military targets, such as the Northern Barracks or the logistics base, and the witness saw that the Croats were already occupying those buildings.⁵³¹³ The witness testified that he

⁵³⁰³ P799 (Søren Liborius, witness statement, 2 November 1995), p. 4; P802 (Søren Liborius, witness statement, 20 June 2008), paras 4-6; Søren Liborius, T. 8240-8241, 8250.

⁵³⁰⁴ Søren Liborius, T. 8241.

⁵³⁰⁵ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3; P1285 (Stig Marker Hansen, witness statement, 24 April 2008), paras 20-21; P1293 (Aerial photo of Knin with markings by Stig Marker Hansen), areas where witness observed shelling damage marked III.

⁵³⁰⁶ Stig Marker Hansen, T. 14903; P1293 (Aerial photo of Knin with markings by Stig Marker Hansen), areas where witness observed shelling damage marked III.

⁵³⁰⁷ Stig Marker Hansen, T. 14904; P1293 (Aerial photo of Knin with markings by Stig Marker Hansen), areas where witness observed shelling damage marked III.

⁵³⁰⁸ P1283 (Stig Marker Hansen, witness statement, 18 December 1995), p. 3; Stig Marker Hansen, T. 14904, 15073.

⁵³⁰⁹ P1285 (Stig Marker Hansen, witness statement, 24 April 2008), paras 20-21; Stig Marker Hansen, T. 14917; P1292 (Stig Marker Hansen, personal diary), pp. 6-7; P1293 (Aerial photo of Knin with markings by Stig Marker Hansen), areas where witness observed shelling marked III.

⁵³¹⁰ P1285 (Stig Marker Hansen, witness statement, 24 April 2008), para. 20.

⁵³¹¹ P429 (Bert Dijkstra, witness statement, 12 March 2008), paras 31-32; Bert Dijkstra, T. 4763-4764.

⁵³¹² Bert Dijkstra, T. 4761.

⁵³¹³ P428 (Bert Dijkstra, witness statement, 7 December 1995), pp. 2, 4; P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 33; Bert Dijkstra, T. 4761.

only saw superficial damage, such as holes in some roofs and some potholes that looked like they were caused by grenades and he did not see any house that had been destroyed by grenades.⁵³¹⁴

1349. **Alun Roberts** testified that from 8 August 1995, on regular journeys into town Roberts observed civilian buildings damaged by shell fire in different parts of Knin which according to Roberts were nowhere near the RSK government, military or police locations.⁵³¹⁵ From these observations, Roberts estimated that the shelling hit about 200 civilian locations over the entire area of Knin, though it was concentrated in the centre of town.⁵³¹⁶ Roberts identified specific shell damage on five civilian buildings at different locations: a house on the road 200 metres from the UN compound; an apartment building in the centre on the street behind the main RSK political and administrative buildings, which had a large shell impact hole in the upper wall; two civilian houses on the dirt road below the castle which had had their roofs damaged; and a house at the far end of the town near the main school, which had also had its roof damaged.⁵³¹⁷ He made these observations shortly after Operation Storm and later.⁵³¹⁸ According to Roberts, shells fell on several shops and apartments located above them on the main road in the centre causing them to catch fire.⁵³¹⁹ Roberts testified that shells hit the courts and judiciary office building up the main road from the centre.⁵³²⁰ He submitted a photograph showing destroyed apartment buildings in Knin taken in late August 1995.⁵³²¹

⁵³¹⁴ P429 (Bert Dijkstra, witness statement, 12 March 2008), paras 31-33; Bert Dijkstra, T. 4764.

⁵³¹⁵ P676 (Alun Roberts, witness statement, 31 July 1998), p. 4; P677 (Alun Roberts, witness statement, 28 February 2007), p. 5; P678 (Alun Roberts, witness statement, 7 February 2008), para. 8; Alun Roberts, T. 6819, 7062, 7072-7074; P702 (Report from Alun Roberts to UN Chief Spokesperson Phillip Arnold on looting, 9 August 1995), para. 6.

⁵³¹⁶ P676 (Alun Roberts, witness statement, 31 July 1998), p. 4; Alun Roberts, T. 6819, 7061-7063, D276 (Video of Knin from Knin castle on 5 August 1995).

⁵³¹⁷ P676 (Alun Roberts, witness statement, 31 July 1998), p. 4; P680 (Alun Roberts, witness statement, 1 July 2008), paras 19, 32, nos 1-3; Alun Roberts, T. 6819, 6823-6825, 6827-6830, 7063-7066; P681 (Aerial map marking civilian buildings hit by shells), house on road near UN compound marked H, apartment building in the centre marked I, house below the castle marked K, house near the main school marked L; P683 (Various photographs of destruction, looting and killing in Knin and in villages taken between 10 August and mid-October 1995), pp. 1-6; D276 (Video of Knin from Knin castle on 5 August 1995).

⁵³¹⁸ Alun Roberts, T. 6819, 6824-6825, 6827-6828, 7074.

⁵³¹⁹ P676 (Alun Roberts, witness statement, 31 July 1998), p. 4; P680 (Alun Roberts, witness statement, 1 July 2008), para. 19; P681 (Aerial map marking civilian buildings hit by shells), shops marked M.

⁵³²⁰ P676 (Alun Roberts, witness statement, 31 July 1998), p. 4; P680 (Alun Roberts, witness statement, 1 July 2008), para. 19; P681 (Aerial map marking civilian buildings hit by shells), judiciary building marked N.

⁵³²¹ P678 (Alun Roberts, witness statement, 7 February 2008), para. 34, no. 3; P709 (Photographs destruction in Knin and countryside and displaced persons in UN compound), second row, right picture; P713 (Photograph destroyed apartment buildings in Knin, late August 1995).

1350. **Jan Elleby** testified that he noticed that most destruction in Knin had occurred in the areas around the Serb military barracks and the government buildings while, for example, the area around the Knin hospital and the UN compound was completely or partially unharmed.⁵³²² According to a UNCIVPOL memo, dated 18 August 1995, two UNCIVPOL officers surveyed all of Knin and observed several impacts of shells in Knin, around the TVIK factory, the “milicija” headquarters, in the general direction of the Northern barracks, and between the Government House (White House), the Knin Radio/TV building, and the hillside below Knin castle. The officers found the area south of Knin hospital unharmed.⁵³²³

1351. **Kari Anttila**, an UNMO in Sector South from 14 August 1995 until 27 November 1995,⁵³²⁴ was tasked by the Senior Military Observer Steinar Hjertnes to carry out a crater analysis in Knin on 17 August 1995 together with Tor Munkelien.⁵³²⁵ Anttila testified that there were a total of six impacts caused by the rockets, three of which were analyzed by himself, the remaining three by Munkelien.⁵³²⁶

1352. **Tor Munkelien**, an UNMO based in Knin from 14 August 1995 to 1 December 1995,⁵³²⁷ testified that on 17 August 1995, Steinar Hjertnes assigned Tor Munkelien and Kari Anttila to conduct crater analyses at a location in Knin.⁵³²⁸ They found a total of six impacts.⁵³²⁹

⁵³²² P214 (Jan Elleby, witness statement, 17 September 1995), p. 2; P215 (Jan Elleby, witness statement, 14 September 1997), p. 2; Jan Elleby, T. 3341-3342, 3368-3369; P284 (Aerial photograph of Knin, marked by Jan Elleby), areas where Elleby observed damage by shelling marked D, E, F.

⁵³²³ P228 (UNCIVPOL memo from Steinar Hagvag to UNCIVPOL chief of Sector South, 18 August 1995), p. 1.

⁵³²⁴ P171 (Kari Anttila, witness statement, 8 January 1996), p. 1; P172 (Kari Anttila, witness statement, 16 October 1997), pp. 1-2; P173 (Kari Anttila, witness statement, 12 December 2007), p. 1, para. 2; Kari Anttila, T. 2508.

⁵³²⁵ P173 (Kari Anttila, witness statement, 12 December 2007), para. 3; Kari Anttila, T. 2515-2519; P60 (Tor Munkelien, witness statement, 18 December 1995, co-signed by Kari Anttila); P174 (Aerial photograph of Knin, marked by Kari Anttila), “A” marking location of crater analysis.

⁵³²⁶ Kari Anttila, T. 2545-2546.

⁵³²⁷ P60 (Tor Munkelien, witness statement, 18 December 1995, co-signed by Kari Anttila), p. 1; P61 (Tor Munkelien, witness statement, 10 January 2008), paras 1, 3; Tor Munkelien, T. 1514, 1546; D91 (Tor Munkelien, witness statement, 4 September 1999), p. 3.

⁵³²⁸ P60 (Tor Munkelien, witness statement, 18 December 1995, co-signed by Kari Anttila), p. 3; P61 (Tor Munkelien, witness statement, 10 January 2008), paras 16-18; D91 (Tor Munkelien, witness statement, 4 September 1999), p. 2; Tor Munkelien, T. 1502, 1511, 1536, 1540-1541, 1556, 1558; P70 (Aerial map of Knin, marked by Tor Munkelien), “A” marking the area where he conducted crater analyses; D83 (Photograph of rocket remains).

⁵³²⁹ P60 (Tor Munkelien, witness statement, 18 December 1995), p. 3; P61 (Tor Munkelien, witness statement, 10 January 2008), paras 16-18; Tor Munkelien, T. 1502, 1511, 1536, 1540-1541, 1556, 1558; P70 (Aerial map of Knin marked by Tor Munkelien), “A” marking the area where he conducted crater analyses; D83 (Photograph of rocket remains).

1353. The Trial Chamber has carefully considered the testimony of Anttila and Munkelien in respect of the crater analyses they conducted on 17 August 1995. Munkelien and Anttila's analysis concluded that a rocket recovered was from a 128-millimetre M-63 MBRL, fired from the direction of approximately 20 degrees North-North-East.⁵³³⁰ Based on the testimony of Munkelien and Anttila, the Trial Chamber considers that their reported findings on the location of the impact, as well as the type of rocket (M-63), appear to have been faulty. Neither witness had the required expertise or experience to conduct professional artillery crater analyses. Consequently, the Trial Chamber deems the results of their crater analysis to be unreliable. In their final briefs, the Gotovina Defence contend that this crater analysis, and in particular the length of the 128 mm rocket, indicate that the SVK fired this rocket from the direction of Strmica.⁵³³¹ In light of the errors in the crater analysis regarding the location and type of rocket, the Trial Chamber considers the testimony of Munkelien and Anttila, their crater analysis report, and the photographs tendered through these witnesses, to be insufficiently reliable to establish the length and calibre of the rocket they recovered. Consequently, the Trial Chamber is unable to conclude on the basis of this evidence which forces fired the recovered rocket.

1354. A report prepared by the UNMO Steinar Hjertnes, dated 18 August 1995, recorded a provisional assessment of damage caused by HV operations in Knin on 4-6 August 1995, stating that in general, the shelling on Knin was concentrated against military objectives, with only a few impacts (three to five) observed in other urban areas.⁵³³² The report further stated that the UNMO team observed 44 shelled buildings, of which 21 were severely damaged and 23 were slightly damaged.⁵³³³

1355. Commenting on the report on provisional assessment of damage caused by the HV operations on 4 to 6 August 1995, which states that the operations by the HV on those days were limited to military targets, **Kari Anttila** stated that it was based on a very brief assessment of only 70 per cent of Knin town, carried out by UNMO Team Podkonje of which he was a part, on information collected in just one afternoon.⁵³³⁴

⁵³³⁰ P60 (Tor Munkelien, witness statement, 18 December 1995, co-signed by Kari Anttila), p. 3.

⁵³³¹ Gotovina Defence Final Trial Brief, para. 318 and footnote 554. See also closing arguments T. 29230-29231.

⁵³³² P61 (Tor Munkelien, witness statement, 10 January 2008), para. 40; Tor Munkelien, T. 1690-1691; P64 (Report of provisional assessment of damage to Knin, dated 18 August 1995).

⁵³³³ P64 (Report of provisional assessment of damage to Knin, dated 18 August 1995).

⁵³³⁴ P171 (Kari Anttila, witness statement, 8 January 1996), paras 1-2; P173 (Kari Anttila, witness statement, 12 December 2007), paras 11-13; Kari Anttila, T. 2513-2516, 2568-2569; P63 (Instruction to

Anttila testified that he initially agreed with the provisional assessment, but that based on observations he made in Knin during patrols in the period of 18 August 1995 onwards, it became obvious to him that the shelling was more widespread than the earlier assessment had indicated, and that it was not concentrated only against military objectives.⁵³³⁵ Anttila estimated that out of a total of 660 houses in Knin reported by UNMO as totally (69 houses) or partially (591 houses) damaged in the list of damaged and destroyed houses compiled by the witness on 13 September 1995, around 40 per cent were damaged as a result of shelling.⁵³³⁶

1356. **Tor Munkelien**, who saw the report on provisional assessment of damage caused by the HV operations on 4 to 6 August 1995 for the first time on 19 January 2008, testified that the report was the result of the damage assessment that his UNMO team conducted on 17 August 1995, covering several areas in Knin, which he passed on to Steinar Hjertnes verbally.⁵³³⁷ The report states that the assessment was based on a rundown of 70 per cent of Knin, conducted by two UNMO teams, and only provides a brief overview of the situation.⁵³³⁸ Munkelien testified that this report cannot be regarded as an accurate description since the information which led to the provisional assessment was collected in a number of hours on 17 August 1995 in Knin town, due to the necessity to report back.⁵³³⁹ According to the witness, Hjertnes was very eager to have this information as soon as possible, as there was pressure being applied by Sector South, who reported directly to Zagreb, for a report to be submitted.⁵³⁴⁰ The patrols that were conducted after this date indicated that this provisional assessment was in fact

conduct damage survey, 17 August 1995); P64 (Report of provisional assessment of damage to Knin, dated 18 August 1995); P174 (Aerial photograph of Knin, marked by Kari Anttila), markings "A" through "D" marking areas searched for provisional assessment, and "E" marking the Northern Barracks.

⁵³³⁵ P171 (Kari Anttila, witness statement, 8 January 1996), paras 1-3; P173 (Kari Anttila, witness statement, 12 December 2007), paras 12, 14-15; Kari Anttila, T. 2521, 2524-2525, 2569-2572.

⁵³³⁶ Kari Anttila, T. 2528-2529, 2578, 2587-2589; P63 (Instruction to conduct damage survey, 17 August 1995); P98 (UNMO data on population left in Sector South and destroyed houses, 13 September 1995), p. 3.

⁵³³⁷ Tor Munkelien, T. 1507-1508, 1512, 1544-1545, 1689-1690; P70 (Aerial map of Knin, marked by Tor Munkelien), "PA" marking areas where witness and his UNMO team searched for shelling damage on 17 August 1995.

⁵³³⁸ Tor Munkelien, T. 1585, 1690-1691; P64 (Report of provisional assessment of damage to Knin, dated 18 August 1995), p. 1.

⁵³³⁹ P61 (Tor Munkelien, witness statement, 10 January 2008), para. 41; Tor Munkelien, T. 1508-1510, 1585-1586; P70 (Aerial map of Knin marked by Tor Munkelien), "PA" marking areas where witness and his UNMO team searched for shelling damage on 17 August 1995.

⁵³⁴⁰ P61 (Tor Munkelien, witness statement, 10 January 2008), para. 41; Tor Munkelien, T. 1541-1542.

inaccurate and that UNMOs found more damage caused by shelling on the days following 17 August 1995.⁵³⁴¹

1357. An UNMO report dated 27 August 1995 recorded that UNMO patrols observed, throughout Knin, that several houses were damaged as a result of shelling; on 19 August 1995, an UNMO patrol observed six houses destroyed by shelling in the north-west of Knin, on 20 August 1995 an UNMO patrol observed 16 houses destroyed by shelling and another 16 houses partly destroyed by shelling in the south-west of Knin town, and on 21 August 1995, an UNMO patrol including the witness saw damage to 16 houses due to shelling in the north-east of Knin.⁵³⁴² On 23 August 1995, the team leaders of the various UNMO teams met with Steinar Hjertnes and submitted their findings, so that, according to the witness, at least by 23 August 1995, he would have had sufficient information to indicate that the provisional assessment of shelling damage was inaccurate.⁵³⁴³

1358. **Alexander Tchernetsky** testified that on 25 August 1995 he observed two houses severely damaged by shelling and ten houses slightly damaged by shelling in the south-west of Knin.⁵³⁴⁴

1359. **Philip Berikoff** testified that on 31 August and 1 September 1995, Master Bombardier Parlee and Berikoff entered Knin and travelled along many of its streets taking pictures of the destruction caused by shelling.⁵³⁴⁵ Berikoff testified that shells had landed throughout the city, and he gained the impression that many shells had landed in residential areas, or the downtown commercial area, and nowhere near military targets.⁵³⁴⁶ However, Berikoff later realized that many of the civilian areas in which he had seen shelling damage were in fact close to military targets.⁵³⁴⁷ He saw plenty of craters, shrapnel, and damaged cars and houses.⁵³⁴⁸ At the time Berikoff

⁵³⁴¹ P61 (Tor Munkelien, witness statement, 10 January 2008), para. 41; Tor Munkelien, T. 1585-1586.

⁵³⁴² P61 (Tor Munkelien, witness statement, 10 January 2008), para. 41; Tor Munkelien, T. 1586-1589; P67 (UNMO Team Podkonje report, 27 August 1995), paras 11-13.

⁵³⁴³ P61 (Tor Munkelien, witness statement, 10 January 2008), para. 42.

⁵³⁴⁴ P205 (Alexander Tchernetsky, witness statement, 6 December 2007), para. 18; P67 (UNMO Team Podkonje report, 27 August 1995), para. 17.

⁵³⁴⁵ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (w); D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 44; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 3; Philip Berikoff, T. 7651-7652, 7703-7704; P748 (Berikoff's daily journal, 17 July – 6 September 1995), pp. 15-16; P751 (Photos), p. 6.

⁵³⁴⁶ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (w); D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 8, 17, 44; Philip Berikoff, T. 7649-7650, 7708-7709, 7740-7741.

⁵³⁴⁷ P741 (Philip Berikoff, witness statement, 11 December 2007), para. 2.

⁵³⁴⁸ Philip Berikoff, T. 7652, 7891; P748 (Berikoff's daily journal, 17 July – 6 September 1995), p. 15.

gained the impression that the shelling had been indiscriminate, but later when he reconsidered the same information about shelling that was at his disposal, he concluded that it was not indiscriminate but, rather, used an unnecessary quantity of shells.⁵³⁴⁹

Berikoff stated that he saw shelling damage around the railway system, in the POL station area, the residential area between the Dalmatian corps barracks / Knin army barracks and the Knin General Supply, the downtown residential area around the parliament and the RSK Ministry of Defence, the hospital (only a few shells) and its immediate surroundings, the area around Knin castle, the residential area north of the POL station and TVIK factory, the northern end of the city and (other) civilian areas.⁵³⁵⁰

1360. The Trial Chamber has received forensic evidence in relation to three bodies of persons who allegedly were killed in Knin on 4 or 5 August 1995.

1361. Body KN01/432B, exhumed in the summer of 2001 from a cemetery in Knin, with clothing that included a long-sleeved light blue shirt, brown or green trousers, and one left military boot, was an approximately 1.72-1.88-metre-tall male between 45 and 65 years old, with blunt force trauma from the front right side to both thighs and to the right rear side of the chest, a front-to-back gunshot injury to the right knee area, and a probable high velocity gunshot injury to the frontal right side of the head, of which the latter was found by the forensic pathologist to be the cause of death.⁵³⁵¹ Body KN01/432B was identified on 28 April 2004 as Ljubomir Đapić.⁵³⁵² According to a report of the Zagreb Institute for Forensic Medicine, dated 28 April 2004 and based on data provided by his daughter, Ljubomir Đapić, a Serb of Yugoslav nationality born on 1 April 1933, died from a gunshot injury to the head in Knin, on 5 August 1995.⁵³⁵³

⁵³⁴⁹ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 3; P741 (Philip Berikoff, witness statement, 11 December 2007), paras 2-3; D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 17, 44; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 2; Philip Berikoff, T. 7648-7651, 7676, 7680, 7740, 7911-7912.

⁵³⁵⁰ P739 (Philip Berikoff, witness statement, 24 August 1996), p. 3; P741 (Philip Berikoff, witness statement, 11 December 2007), paras 2, 4; D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 8, 17, 61-63; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 1; Philip Berikoff, T. 7616-7617, 7697-7700, 7704-7709, 7883; P746 (Aerial photo of Knin with marked locations), railway station marked F, POL station marked G, Dalmation Corps barracks marked H, parliament marked I, civilian areas marked J-Q; P749 (Photos), pp. 1-7, 9-18, 20-27; P750 (Photos of shelling impacts in Knin), pp. 1-18.

⁵³⁵¹ P1621 (Autopsy report of KN01/432B, 23 July 2001), pp. 1-5, 7-8, 11-14, 16, 19; P1256 (Photographs of bodies and bones), p. 3; P1904 (Photograph of skull, KN01/432B); P1905 (Photograph of skull, KN01/432B); P1906 (Photograph of exhumation site, KN01/432).

⁵³⁵² P2006 (List of identified persons exhumed at the new cemetery in Knin and Gračac).

⁵³⁵³ P2095 (Report on circumstances of death of Ljubomir Đapić, 28 April 2004), pp. 66-68.

1362. Decomposing body KN01/422B, numbered 402, approximately 1.80 metres long, was found in Knin on 18 August 1995 with a black wool jumper and a black skirt, identified as Ankica Tomić born on 27 March 1948, and buried at a city cemetery in Knin.⁵³⁵⁴ Body KN01/422B, exhumed in the summer of 2001 from a cemetery in Knin with a metal tag marked “402”, remnants of a pair of trousers and a white bra, was an approximately 1.58-1.72-metre-tall female between 40 and 60 years old, with possibly post-mortem shrapnel injury to the right rear side of the pelvis.⁵³⁵⁵ Body KN01/422B was identified on 28 April 2004 as Ana Tomić.⁵³⁵⁶ According to a report of the Zagreb Institute for Forensic Medicine, dated 28 April 2004 and based on data provided by her daughter, Ankica Tomić, a Serb of Yugoslav nationality born 27 March 1948, died from unknown causes in Knin on 4 August 1995.⁵³⁵⁷

1363. A decomposing body, numbered 485 and approximately 1.70 metres long, was retrieved on 18 August 1995 from the Pathology Department of the Knin Hospital, identified as Nikola Grujić, and buried at a city cemetery in Knin.⁵³⁵⁸ The Trial Chamber considers that the forensic evidence does not establish a cause of death for Nikola Grujić. Under these circumstances, the Trial Chamber will not further consider his death in relation to the alleged unlawful attack against civilians and civilian objects in Knin.

1364. The Trial Chamber considers that the forensic evidence does not establish a cause of death for Nikola Grujić or Ankica Tomić. The forensic evidence indicates that Ljubomir Đapić died as a result of a gunshot injury to the head. There is insufficient evidence as to the circumstances under which or by whom Ljubomir Đapić was killed. The evidence received does not establish a link between any of these three deceased and the shelling of Knin on 4 and 5 August 1995. Under these circumstances, the Trial Chamber will not further consider the deaths of Nikola Grujić, Ankica Tomić, and Ljubomir Đapić in relation to the alleged unlawful attack against civilians and civilian objects in Knin.

1365. The Trial Chamber will first consider the intensity of the shelling of Knin on 4 and 5 August 1995, and then address the methods and means employed during the

⁵³⁵⁴ P1433 (Information on body KN01/422B, ID No. 402, with photograph).

⁵³⁵⁵ John Clark, T. 14167-14168; P1633 (Autopsy report of KN01/422B, 25 July 2001), pp. 1-5, 8, 10-13, 16; P1256 (Photographs of bodies and bones), p. 11; P1918 (Photograph of bone, KN01/422B).

⁵³⁵⁶ P2006 (List of identified persons exhumed at the new cemetery in Knin and Gračac).

⁵³⁵⁷ P2104 (Report on circumstances of death of Ankica Tomić, 28 April 2004), pp. 22-24.

attack. The Trial Chamber has received evidence from a relatively large number of witnesses who were present in Knin when it was shelled on 4 and 5 August 1995. The witnesses consistently testified that an initial period of very heavy shelling commenced at 5 a.m. on 4 August 1995. According to several witnesses, including Leslie, Dreyer, and Hill, the intense shelling lasted for up to one and a half or two hours. By most accounts, shelling of a lesser intensity continued intermittently for the rest of the morning and the afternoon and lasted until around midnight. Berikoff, Roberts, and Hill observed a short period of artillery fire of increased intensity around midnight.

1366. The witnesses also provided estimates of how many shells fell on Knin during different periods, based on their own observations. These estimates vary widely, from 200-300 between 5 and 10 a.m. according to SVK intelligence report D389 to almost 30,000 between 5 and 8 a.m., according to Al-Alfi. The Trial Chamber considers that it is difficult to accurately estimate high numbers of impacts while experiencing the duress of incoming artillery fire. Most of the witnesses had little or no artillery training or experience. Further, artillery projectiles which impacted outside of the town proper may have been audible within Knin. In this respect, the Trial Chamber notes the evidence of Marti, who testified that he was able to hear the shells falling in Knin from a house in Podkonje, some two kilometres from Knin. The Trial Chamber further notes that Dawes, Dijkstra, and Hill testified that they were surprised to see that the damage they observed in Knin after 5 August 1995 was less than they had expected based on the number of artillery projectiles they believed had impacted on Knin.

1367. The Trial Chamber has received only very limited evidence of crater analyses performed in Knin after 5 August 1995, mainly from witnesses Roberts, Liborius, Munkelien and Anttila, and has above expressed its reservations regarding the reliability of the crater analysis conducted by the latter two witnesses. As the Trial Chamber has found above, the TS-3, TS-4 and the 4th and 7th Guards Brigades reported firing approximately 600 projectiles at targets in Knin on 4 August 1995. Many of the witnesses present in Knin provided estimates which were substantially higher than this number. The Trial Chamber's findings regarding the incomplete nature of the reporting above and the careful examination of the locations of impacts below, indicate that the number of projectiles fired into Knin exceeded what was reported. However, for the aforementioned reasons and in light of the limited crater analysis evidence the Trial

⁵³⁵⁸ P1450 (Information on body, ID No. 485, with photograph), p. 1.

Chamber has received, the Trial Chamber is unable to conclusively determine how many more projectiles were fired into Knin than was reported. Consequently, based on the HV artillery reports and having considered the evidence of the witnesses present in Knin that day, the Trial Chamber finds that the HV fired at least 600 artillery projectiles into Knin from 5 a.m. on 4 August 1995, at least 300 of which were fired during the first two or three hours of the attack. Further, based on the testimony of the witnesses present in Knin, the Trial Chamber finds that the shelling lasted until around midnight. Based specifically on the testimony of Berikoff, Roberts, and Hill, the Trial Chamber finds that the shelling ended with a short period of shelling of increased intensity.

1368. The witnesses present in Knin further consistently testified that shelling started again from around 5 a.m. on 5 August 1995 with an initial period of heavy shelling. The shelling then became sporadic, and ended between 11 a.m. and noon. The Trial Chamber notes that the TS-3, TS-4 and the 4th and 7th Guards Brigades reported firing approximately 300 artillery projectiles into Knin on 5 August 1995. There is further evidence indicating that mortars also impacted in Knin on 5 August 1995. Based on the structure of the HV's artillery and its reporting system, the Trial Chamber understands that such mortar fire would not have been included in the artillery reports in evidence. However, in light of the limited crater analysis evidence the Trial Chamber has received and in the absence of other reliable evidence as to how many additional projectiles may have been fired, based on the HV artillery reports and having considered the evidence of the witnesses present in Knin that day, the Trial Chamber finds that at least 300 artillery projectiles were fired into Knin from 5 a.m. on 5 August 1995, at least 100 of which fell during the first hour of the attack, which lasted until approximately noon that day.

1369. With regard to the methods and means employed, the Trial Chamber notes that Hill and Dawes testified that they observed sporadic or 'harassment' fire in Knin on the morning of 4 August 1995. Both Forand and Roberts testified of sporadic or intermittent artillery fire throughout the day. Williams testified that he observed sporadic artillery fire, which he considered 'harassment' fire after 2 p.m. on 4 August 1995. According to Rajčić, the TS-3 fired 130-millimetre shells on Knin in salvos of two shells every three minutes for about an hour, by which the HV aimed to disrupt the SVK's coordination, command, and planning. TS-3 commander Goran Mamić noted in the TS-3 war diary that from 12:30 p.m. on 4 August 1995 the TS-3 would fire twice at Knin every 15 minutes. Further, TS-4 reported firing at least 18 shells at irregular intervals at Knin

from 3 p.m. on 4 August 1995. Rajčić testified that the use of the T-130 millimetre guns for artillery support for units at a tactical level also resulted in gaps in their firing on military objectives in Knin. Based on the observations of Hill, Dawes, Forand, Roberts, and Williams, combined with the artillery reports, the Trial Chamber finds that on 4 August 1995 the HV deliberately fired artillery projectiles into Knin at defined intervals, which intervals were often apparently defined in advance.

1370. Hill testified that on 4 August 1995, he observed air-burst artillery exploding above Knin. Williams testified that on 5 August 1995, at an intersection near the UN compound, he came under air-burst mortar fire. However, Berikoff, who was also present at the intersection on that day, testified that a mortar round hit near their location, but did not mention any air-burst fire. Rajčić testified that the HV did not use proximity-sensor fuses, only contact ignition fuses, during Operation Storm. No other witness testified that they observed air-burst artillery exploding above Knin on 4 or 5 August 1995, nor was this recorded in any contemporaneous documentation. Under these circumstances, the Trial Chamber is not satisfied that Hill and Williams correctly identified air-burst artillery fire on 4 and 5 August 1995.

1371. Dawes testified that on 4 August 1995, while travelling with Dreyer, he saw what he believed to be 20-30 bomblets from cluster munitions in a street in Knin. Dawes could not remember the exact location of these objects. Dreyer did not mention observing such bomblets. The Trial Chamber notes that Dawes is not an expert in recognizing different types of munitions and that his testimony indicates that he only briefly observed the objects from a distance. Rajčić testified that the HV neither used nor had cluster munitions during Operation Storm. No other witness testified that they observed cluster munitions exploding in Knin on 4 or 5 August 1995, nor was the use of such munitions recorded in any contemporaneous documentation. Under these circumstances, the Trial Chamber is not satisfied that Dawes correctly identified the 20-30 objects he saw in the road in Knin on 4 August 1995 as bomblets emanating from cluster munitions.

1372. The witnesses who were present in Knin on 4 and 5 August 1995 also testified about where artillery projectiles impacted within Knin. Several witnesses provided general characterisations of the shelling, such as being all over Knin (by Novaković and Mrkšić) or as being, in their opinion, indiscriminate. While the Trial Chamber did not consider such general impressions to be irrelevant to establishing the overall picture of

the shelling of Knin, it has focussed on the evidence which provided specific locations of impacts. A large number of witnesses indicated the specific locations where they observed impacts by marking such areas on aerial photographs of Knin. The Trial Chamber considers that such markings are approximations. The markings do not reflect how many projectiles impacted in the marked areas, nor where within the marked area the projectile(s) landed, unless the witness specified otherwise. The Trial Chamber has carefully considered such markings and, relying in part on maps P2340 and D1261, established their approximate distances from other objects within Knin. The Trial Chamber has further received photographs of damage to buildings in Knin caused by artillery, including photographs taken in what Berikoff referred to as residential areas.

1373. The Trial Chamber will first address the evidence of impacts observed in the downtown area of Knin, south of the railway tracks which run through the centre of town. Based on the evidence of Mrkšić, Novaković, and SVK intelligence report D389, the Trial Chamber finds that on 4 August 1995, including at or shortly after 5 a.m., the HV fired artillery projectiles, including rockets, which impacted in the immediate vicinity of the SVK headquarters (marked H on P1095). One of these projectiles impacted in the SVK headquarters parking lot, damaging several vehicles there, while others impacted on buildings next to and across the street from the adjacent Army Hall (marked I on P1095). Further, based on the evidence of Mrkšić, Novaković, Witness 56, Dawes, Leslie, Dangerfield and Bellerose, the Trial Chambers finds that on 4 August 1995, the HV fired artillery projectiles which struck the railway station (marked E8 on D131), which was less than 100 metres north of the SVK headquarters. Based on the evidence of Dawes, Roberts, Al-Alfi, and Novaković, the Trial Chamber finds that the HV fired artillery projectiles which struck the Radio TV Knin building (marked A on P1095), located less than 100 metres south-west of the SVK headquarters.

1374. Rajčić identified the SVK headquarters, the post office, and railway station as targets fired at during Operation Storm. The Trial Chamber recalls that the TS-3, the TS-4, and the 7th Guards Brigade reported firing 130-millimetre shells and 122-millimetre rockets at the SVK headquarters, the post office, and the railway station on 4 August 1995. The 7th Guards Brigade also reported firing at “S-54” on that day, which, based on map Ivančića P2338, the Trial Chamber understands to refer to an area around the train station. This reporting and the finding that artillery projectiles impacted on or in the immediate vicinity of these buildings on 4 August 1995, indicates that the HV

deliberately fired shells targeting the SVK headquarters, the post office, and the railway station on that day. The evidence of Dawes, Roberts, and Leslie, indicates that there were a small number of SVK soldiers and police in the streets in the downtown area on the morning of 4 August 1995, including six SVK soldiers as well as a number of policemen in a residential area (marked B on P984) near the Radio TV Knin building.

1375. Artillery impacts and/or damage to buildings near (roughly within a 200-metre radius of⁵³⁵⁹) the SVK headquarters or the railway station were further observed on 4 August 1995 by several witnesses, including Berikoff, Leslie, Dreyer (see P78), Dawes (markings A, B, D, and F on P984), Witness 54 (marking B on P189), Witness 56, Witness 6 (marking F on P17), Roberts (C on P682), Dangerfield, Liborius, Bellerose (A and C on P547), Al-Alfi, and Witness 136 (B on P4). Further, based on the evidence of Dawes, Al-Alfi, and Leslie, the Trial Chamber finds that there were a number of dead bodies, some in civilian clothes, some in at least partial military uniform, immediately next to and in an area (marked B on P984) within approximately 200 metres of the SVK headquarters on 4 August 1995. Based on the aforementioned evidence, the Trial Chamber finds that the HV fired the artillery projectiles which impacted in this area.

1376. Based on the evidence of Dreyer and Al-Alfi, the Trial Chamber finds that on 5 August 1995 the HV fired artillery projectiles which impacted in the downtown area of Knin, including on or in the immediate vicinity of the Radio TV Knin building. On 5 August 1995, the TS-3 reported firing at the SVK headquarters and the post office. Artillery impacts and/or damage near (roughly within a 200-metre radius of) the SVK headquarters or the railway station were observed after 5 August 1995 by other witnesses, including Luković, Teskeredžić, Widén (C and D on P722, p. 10), Roberts (I, M, N, K on P681), and Berikoff (F, M, and L on P746), as well as reported in UNCIVPOL report P228.

1377. Based on the testimony of Witness 56 (see P289, p. 11) and Dreyer (see P78), the Trial Chamber finds that the HV fired artillery projectiles which impacted on the intersection in the centre of town marked E-15 on D131 on 4 August 1995. Rajčić identified this intersection as an artillery objective for Operation Storm. On 4 August 1995, the 7th Guards Brigade reported firing at “S-15”, which the Trial Chamber

⁵³⁵⁹ In light of the evidence received from witnesses Konings, Corn, Rajčić and Leslie regarding the accuracy of the artillery weapons the HV had at its disposal during Operation Storm, the Trial Chamber has generally not further specified in its factual findings the locations of impacts within a 200 metre range of relevant objects.

understands, based on the Ivančića map P2338, to refer to an area around this intersection. This evidence indicates that the HV deliberately fired shells targeting the cross-roads on that day. Artillery impacts and/or damage to buildings near (roughly within a 200-metre radius of) the cross-roads were further observed by witnesses including Dreyer (see P78), Dawes (H on P984), Mira Grubor (marking 6 on P58), Witness 6 (marking A on P17), and Roberts (markings B, D, and E on P682) on 4 August 1995. Further, based on the evidence of Roberts and Bellerose, the Trial Chamber finds that there were a number of dead bodies, some in civilian clothes, some in partial military uniform, in an area (marked B1, F, and G on P682 and marked A on P547) within approximately 200 metres of the intersection. On 5 August 1995, the TS-4 reported firing at this intersection. Artillery impacts and/or damage near (roughly within a 200-metre radius of) the intersection E-15 on D131 were observed after 5 August 1995 by Roberts (O on P681), Widén (J on P722, p. 10), and Berikoff (N on P746). Based on the aforementioned evidence, the Trial Chamber finds that the HV fired the artillery projectiles which impacted in this area.

1378. Based on the evidence of Dreyer and Al-Alfi, the Trial Chamber finds that on 5 August 1995 the HV fired artillery projectiles which impacted in the downtown area of Knin, including on or in the immediate vicinity of the Radio TV Knin building. On 5 August 1995, the TS-3 reported firing at the SVK headquarters and the post office. Artillery impacts and/or damage near (roughly within a 200-metre radius of) the SVK headquarters or the railway station were observed after 5 August 1995 by other witnesses, including Luković, Teskeredžić, Widén (C and D on P722, p. 10), Roberts (I, M, N, K on P681), and Berikoff (F, M, and L on P746), as well as reported in UNCIVPOL report P228.

1379. The Trial Chamber will now address the evidence of shells impacting in the centre of town, north of the railway tracks. Based on the testimony of Witness 56 and Witness 6, the Trial Chamber finds that on 4 August 1995, the HV fired artillery projectiles which impacted on the police station and houses within 20 metres from the police station (markings K and F on P289, p. 10, several markings in blue on p. 11). Based on the media interview of Martić D1449 and the observations of impacts by Widén (F on P722, p. 10) and Stig Marker Hansen (one of four areas marked III on P1293) on 6 and 7 August 1995, the Trial Chamber finds that artillery projectiles impacted in the immediate vicinity of Martić's residence on 4 August 1995.

1380. Rajčić identified the police station and Milan Martić's residence as targets fired at during Operation Storm. The TS-3 and the TS-4 reported firing at the police station and at Milan Martić's residence on 4 August 1995. This reporting and the finding that artillery projectiles impacted on or in the immediate vicinity of these buildings on 4 August 1995, indicate that the HV deliberately fired shells targeting the police station and Milan Martić's residence on that day. The 7th Guards Brigade reported firing at "right from the bridge S-16" on 4 August 1995. The Trial Chamber understands S-16 to be a reference to coded map Ivančića (P2338), on which S-16 is a circle covering an area located roughly between the Northern and Senjak barracks, within which area the police station was located.

1381. Artillery projectile impacts and damage to buildings near (roughly within a 200-metre radius) the police station and Milan Martić's residence were further observed on or after 4 August 1995 by witnesses including Dangerfield (marking A on P697), Boucher (A, E, and K on P1179), Mira Grubor (4 and 10 on P58), Widén (G, H, and F on P722, p. 10), Dreyer (G on P78, including MBRL impacts, see P79), Berikoff (P on P746), Roberts (who found two rocket tubes at location marked D on P300), and by Liborius (who testified that on his way to the Southern barracks from the ECMM building, he observed damaged buildings just before the main railway bridge in Knin). Based on the aforementioned evidence, the Trial Chamber finds that the HV fired the artillery projectiles which impacted in this area.

1382. Based on the testimony of Witness 56 (see P289, p. 11), Dreyer (see P78), Mrkšić and SVK intelligence report D389, the Trial Chamber finds that the HV fired artillery projectiles which landed within the compound of the Northern barracks on 4 August 1995. Rajčić testified that the Northern barracks was an artillery target fired at during Operation Storm. On 4 August 1995, the TS-3 and the 4th and 7th Guards brigades reported firing at the Slavko Rodić or Northern barracks.

1383. Further, Mauro testified of intense shelling on 4 August 1995, close to a school in which she had previously seen some military equipment, and which area she tentatively marked on D955. The Trial Chamber recalls its finding that on 4 August 1995 there was an SVK mortar section at the school marked F on P1095, and in light of the similarities in the evidence, understands Mauro's testimony to refer to an area near that school. Ermolaev testified that a shell hit his house (marked A on P96), which was located between this school and the Northern barracks. Grubor testified to observing

artillery impacting just north of this school (see marking 11 on P58). Based on the evidence of Mauro, Grubor, and Ermolaev, the Trial Chamber finds that the HV fired artillery projectiles which impacted within 200 metres of the school, including in the area north of the school marked 11 on P58. Rajčić identified the field immediately north of this school as a target known as “Hospital”, which the TS-4 reported firing at on 4 August 1995. This evidence indicates that the HV deliberately targeted the Northern barracks and the field referred to as target “Hospital”, on 4 August 1995. On 5 August 1995, the TS-4 and 4th and 7th Guards Brigades reported firing at the Northern barracks as well.

1384. Based on the evidence of Witness 6, Dawes, Stig Marker Hansen, Liborius, Mrkšić, UNCIVPOL report P228, and SVK intelligence report D389, the Trial Chamber finds that the HV fired artillery projectiles which struck the TVIK factory (marked O on P1095) in Knin on 4 August 1995. Further, based on the evidence of Witness 6 and Novaković, the Trial Chamber finds that artillery projectiles also impacted on or in the immediate vicinity of the Senjak barracks (marked D on P1095). Rajčić testified that the TVIK factory and the Senjak barracks were artillery targets fired at during Operation Storm. TS-4 reported firing at the TVIK factory on 4 August 1995. The HV artillery reports of 4 August 1995 do not mention firing at the Senjak barracks. The TS-4 reported firing at the Senjak barracks on 5 August 1995.

1385. Several witnesses testified to observing artillery impacts and/or damage in a residential area practically all of which area lies within 200 metres north of the TVIK factory and the POL station (which according to Berikoff was a fuel storage area), and 200 metres east of the Senjak barracks, on 4 August 1995. These witnesses included Dreyer (marking H on P78), Dawes (see P984), Berikoff, Liborius, Dijkstra (marked as “living” on P430), and Dangerfield (A on P697). Artillery damage and impacts were also observed in this area after 5 August 1995, by Teskeredžić, Marker Hansen (one of four areas marked III on P1293), and Berikoff. Based on the aforementioned evidence, the Trial Chamber finds that the HV fired the artillery projectiles which impacted in these areas. The Trial Chamber notes the testimony of Dawes that a few members of a unit of the RSK special police, referred to as the Earring wearers or Mindusari, and four SVK trucks carrying lightly wounded soldiers passed through this area in the morning of 4 August 1995, travelling on the road by the Senjak barracks, the POL station, and the TVIK factory (see markings on P985 and D864).

1386. The Trial Chamber will now address the evidence of shell impacts in the north-eastern part of Knin. The Trial Chamber notes at the outset that Rajčić did not identify any artillery objectives in the area to the north and east of target “Hospital” in Knin. None of the HV artillery reports refer to firing at targets in this north-eastern part of Knin.

1387. Based on the testimony of Roberts regarding his observations after 8 August 1995, the Trial Chamber finds that on 4 or 5 August 1995, an artillery projectile damaged a house located in a residential area approximately 300 metres east of the Northern barracks and approximately 350 metres north-east of the police station (marking L on P681). This location borders on the area marked S-16 on the coded map Ivančića. The 7th Guards Brigade reported firing at “right from the bridge S-16” on 4 August 1995. Based on the foregoing evidence, the Trial Chamber finds that the HV fired the projectile which damaged the house identified by Roberts.

1388. Marker Hansen testified that on 4 August 1995 artillery impacted 20 metres from the ECMM building (marked I on P1293), as well as on houses around 100 metres from the ECMM building. Dawes testified that on 4 August 1995, shells⁵³⁶⁰ fell in front of, on, and behind the APC he was travelling in near the ECMM building, as well as in the parking area of the ECMM building. Dawes described the shelling in this area as heavy and intense and testified that around 40 rounds impacted in this area. Liborius testified that on 4 August 1995, he observed at least one shell impacting on a field south-west of the ECMM building, which caused fragmentation damage to the ECMM building, and that on 7 or 8 August 1995, he analysed four craters which were between 40 and 200 metres south of the ECMM building. Based on the testimony of Marker Hansen, Liborius, Dawes, and Hendriks, the Trial Chamber finds that on 4 August 1995, the HV fired artillery projectiles which impacted in the immediate vicinity of the ECMM building. Based in particular on Dawes’s account of this shelling, the Trial Chamber finds that these projectiles included approximately 40 shells. Further, based on the evidence of Dawes, the Trial Chamber finds that there were two dead civilians by the side of the road near the ECMM building. Based on the aforementioned evidence, the Trial Chamber finds that the HV fired the artillery projectiles which impacted in this

⁵³⁶⁰ The Trial Chamber notes that Dawes testified that he believed these shells to have been mortar shells and not rockets, based on the distinctive sound of rockets. Considering the basis for his belief that these were mortar shells specifically and that Dawes did not have any particular artillery expertise, the Trial Chamber understands his evidence to refer to artillery or mortar shells, to the exclusion of rockets.

area. The Trial Chamber notes that the ECMM building is approximately 300 metres from the nearest artillery target identified by Rajčić, namely the field designated as target “Hospital”.

1389. Novaković and Marker Hansen testified that artillery projectiles impacted in the immediate vicinity of the hospital (see one of four areas marked III on P1293) on 4 August 1995. Mira Grubor testified that projectiles impacted the area of the hospital, where she was present. Mira Grubor further observed artillery projectiles hitting areas near the hospital (marked 7 and 9 on P58). Artillery damage to and/or near the hospital was observed by Bellerose, Berikoff, Leslie, Flynn, and Hill between 4 and 7 August 1995. Specifically, Bellerose testified that a corner of the hospital looked as though it had been hit by a shell. Berikoff observed shell marks on the hospital wall and saw a few shell impacts in the surrounding fields (marked Q on P746). Flynn saw only one impact, with minor damage, to the hospital. Leslie did not see direct damage to the building, but saw splinters which had hit it and believed that its windows were broken due to nearby impacts. Hill likewise observed broken glass, but no direct impacts on the building. The Trial Chamber has considered the testimony of Elleby and the UNCIVPOL report P228, both of which contended that the hospital and the area south of the hospital were completely or partially unharmed. Nonetheless, based on the more detailed observations of the other witnesses mentioned in this paragraph, the Trial Chamber finds that on 4 and/or 5 August 1995, the HV fired artillery projectiles which impacted in the immediate vicinity of the hospital in Knin. Mira Grubor did not testify about how many impacts she observed. Considering the evidence indicating limited damage in the area, the Trial Chamber finds that the HV fired at least four artillery projectiles which impacted in the immediate vicinity of the hospital, one of which was close enough to cause blast damage to the hospital building. The Trial Chamber notes that the hospital is approximately 450 metres away from the nearest artillery target identified by Rajčić, namely the field designated as target “Hospital”. On 7 August 1995, a nurse told Flynn that at one point during Operation Storm an SVK tank had been firing from a position very close to the hospital, and had received fire in return. The Trial Chamber notes that there is no other evidence supporting the presence of an SVK tank at the hospital on 4 or 5 August 1995. Mira Grubor, who was at the hospital on both days, did not recall seeing any SVK vehicles or group of SVK soldiers in the town. Further, based on the observations of Bellerose (see marking B on P547) and

Dreyer (see P78), the Trial Chamber finds that during Operation Storm, the HV fired artillery projectiles which impacted near the Knin cemetery approximately 700 metres north of the nearest artillery target identified by Rajčić, namely the field designated as target “Hospital”.

1390. The Trial Chamber has received evidence from several witnesses, including Mira Grubor, Dawes, Berikoff, Bellerose, Leslie, and Novaković regarding wounded and deceased civilians and SVK members at the hospital. These persons were believed to have been injured or to have died as a result of shelling. Leslie, Forand, Bellerose, and Berikoff further testified to seeing dead bodies, dressed in civilian and military clothing, in Knin on 4 August 1995, without providing a specific location. The evidence does not establish where, in Knin or elsewhere, these persons were when they suffered injuries from or died as a result of artillery impacts.

1391. The Trial Chamber will now consider the evidence of artillery impacts on the eastern outskirts of Knin and in the southern part of Knin near the UN compound. Based on the testimony of Dawes and Dreyer, the Trial Chamber finds that the HV fired artillery projectiles which impacted on an area to the east of Knin (see area marked on P78 and marked J on P984), which area included the railway fuel storage yard marked R on P1095. The Trial Chamber notes that this area is at least 350 metres from the nearest target identified by Rajčić, namely the TVIK factory. Further, based on the testimony of Dawes and Dreyer, the Trial Chamber finds that in the morning of 4 August 1995 a police car was destroyed and two police officers were killed by an artillery projectile impact. The Trial Chamber notes that Dreyer’s marking of this location as F on P78 is significantly further north than Dawes’s marking of the same location as I on P984. The Trial Chamber finds that the police car was located to the north-east of the TVIK factory, but is unable to further determine the specific location.

1392. Based on the evidence of Leslie, the Trial Chamber finds that the HV fired artillery projectiles which impacted on the SVK anti-aircraft facility south-east of the UN compound, marked C4 on D131. The Trial Chamber notes that this was not an artillery objective identified by Rajčić or reported as fired at in the HV artillery reports in evidence. Further, based on the testimony of Dawes, Dreyer, Dijkstra, Dangerfield, Berikoff, Widén, Williams, and Roberts, the Trial Chamber finds that on 4 and 5 August 1995, the HV fired artillery projectiles which impacted near the UN compound, including on and near an intersection closeby the UN compound (area marked E on

P722, p. 10 and H on P681) and in the empty field in front of the compound (marked 6 on P430, J on P746 and marked in green on P928). Dijkstra testified that a shell hit this empty field every 15-20 minutes for an unspecified period of time after 8 a.m. on 4 August 1995, while Berikoff testified that a few rounds struck this field. Based on this evidence, the Trial Chamber finds that at least three artillery projectiles landed in this field at different times on the morning of 4 August 1995. The Trial Chamber notes that the north-western edge of this field is approximately 200 metres south of the St Ante Monastery.

1393. Based on the evidence of Dawes, Berikoff, Bellerose, Witness 136 and UNMO report D5, the Trial Chamber finds that between two and four SVK soldiers placed anti-vehicle mines outside the UN compound in the morning of 4 August 1995, which the UN removed shortly thereafter. Based on the evidence of Williams and Dawes, the Trial Chamber finds that around 6 a.m. on 5 August 1995, eight SVK tanks, one APC, and a truck passed the UN compound and headed north through Knin. According to two news articles of 5 August 1995, Leslie said that Serb tanks were returning fire right outside the UN compound. However, in Court, Leslie did not recall whether there were such Serb tanks outside the UN compound that today, nor whether he was correctly quoted in the articles. The Trial Chamber has received no other evidence indicating that any SVK tanks were present near the UN compound on 5 August 1995, other than those which moved through the town early that morning. Consequently, on the basis of the two news articles alone, the Trial Chamber is unable to conclusively establish that any Serb tanks outside the UN compound returned fire on 5 August 1995.

1394. According to D89, a Sector South situation report, on 5 August 1995 at 6:15 p.m., the SVK fired twelve rounds of artillery from Strmica towards Knin. The Trial Chamber considers that the report indicates only that the rounds were fired in the general direction of Knin. The witnesses present in Knin consistently testified that the shelling of Knin ended prior to or around noon on 5 August 1995. The Trial Chamber has received no evidence of shells impacting within the town of Knin that evening. Consequently, the Trial Chamber cannot establish based only on D89 whether these projectiles were fired at Knin rather than just in the direction of Knin, nor where these projectiles impacted.

1395. The Trial Chamber has received evidence from several witnesses with regard to a specific incident in which an artillery projectile killed a group of people near the UN

compound on 5 August 1995. The evidence on the composition as well as the size of the group differs. Berikoff testified that on 5 August 1995, between 8 and 9 a.m., one mortar shell hit the main intersection in front of the UN compound, killing five persons: three SVK soldiers and two civilians. Berikoff's testimony on the composition of the group is corroborated by an UNCRO report of 4-7 August 1995. Williams also observed dead bodies at this location shortly after 8:30 a.m. that day. However, according to Williams, only two of the deceased wore SVK uniforms, while the remaining three were civilians. Williams' account of the composition of the group is corroborated by an UNCIVPOL incident report of 6 August 1995. Both Berikoff and Williams testified that a sixth body lying at that location had died of a gunshot wounds. According to Williams, this body carried identification documents identifying him as Ljubomir Djapić. Their testimony in respect of this sixth body is supported by the forensic evidence related to the body of Ljubomir Djapić. Dreyer, who observed the incident from a vantage point at the UN building, testified that incrementally corrected mortar fire killed five civilians around 10 a.m. Dawes, who was present during the bagging of the bodies, testified that seven persons were killed by a mortar shell that morning, and that the corpses did not look like soldiers, but rather like farmers in their late fifties. Based on this evidence, the Trial Chamber finds that on 5 August 1995, between 8 and 10 a.m., a mortar shell struck and killed a group of five persons, consisting of either two or three SVK members and two or three civilians. Further, based on the evidence of Berikoff and Williams, the Trial Chamber finds that while they were placing these bodies in body bags, another round of mortar fire impacted within 25 metres of their location.

1396. The evidence does not establish from which direction the mortar was fired. The Trial Chamber considers that by 8 a.m. on 5 August 1995, HV units had advanced near enough to Knin to be within mortar firing range of the UN compound. However, the Trial Chamber has also received evidence indicating that the previous day, on 4 August 1995, around 6 a.m., the SVK had fired a mortar and a grenade from a portable rifle from their facility at the Southern barracks, which impacted within the UN compound. The evidence further indicates that on the evening of 4 August 1995, the SVK command and most SVK soldiers left Knin, heading north, and Mrkšić ordered the SVK to defend Knin from the elevations above the city, from where it was possible to direct fire at Knin and stop the further advance of the Croatian forces. In light of the evidence of

Mrkšić's order and the SVK use of mortars on 4 August 1995, and in the absence of crater analysis evidence, the Trial Chamber is unable to conclusively determine which forces fired the mortar which impacted outside the UN compound between 8 and 10 a.m. on 5 August 1995.

1397. The Trial Chamber has also received evidence indicating SVK troop presence in Knin on 4 August 1995. Leslie testified that there were Serb soldiers in Knin throughout 4 August 1995. Marker Hansen testified that there were SVK troops moving through Knin on 4 August 1995. Leslie and Dangerfield both testified that SVK troops and tanks withdrew through Knin after 5 p.m. and in the evening of 4 August 1995. Berikoff testified that on 4 August 1995, at an unspecified location when driving from the Hospital to the Jordanian Chief of Staff's residence in Knin, he observed an SVK soldier who fired a hand-held rocket at Berikoff's APC; he also observed two or three check-points manned with lightly armed SVK soldiers.

1398. The Trial Chamber will further consider the alleged unlawful attack on civilians and civilian objects in Knin in chapter 5.8.2 (i), below.

4.4.4 Benkovac town

1399. The Trial Chamber has received relevant evidence with regard to the alleged unlawful attack against civilians and civilian objects in Benkovac through the testimonies of numerous witnesses as well as military and other documentation.

1400. On 2 and 3 August 1995, Gotovina, Rajčić, and Firšt ordered that TS-5 be composed of five 130-millimetre guns, two 203-millimetre howitzers, three 122-millimetre D-30 Howitzers and one 122-millimetre self-propelled multiple rocket launcher.⁵³⁶¹ Rajčić and Firšt ordered that the TS-5 command post be located in the area of Gornji Debeljak, in Sukošan municipality. They further ordered that the firing position of the three 130-millimetre artillery pieces was to be situated in the area of Gvozdanka, while the firing position of the 122-millimetre D-30 howitzers was to be located in the area of Vučje Polje, in Jasenica municipality. The firing position of the two remaining 130-millimetre guns was to be situated in Gornji Debeljak while the

⁵³⁶¹ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 14; P1201 (Order for attack for the artillery, by Marijan Firšt, 3 August 1995), pp. 2-3; D970 (Order to attack attachment for the artillery, by Marko Rajčić, 2 August 1995), p. 2.

firing position of the 203-millimetre howitzers was in the area of Čičhan.⁵³⁶² Firšt ordered that the expected area of operations of the 122-millimetre MBRLs would be in Rovanjaska in Jasenice municipality.⁵³⁶³ According to both Firšt and Rajčić's order, the main observation post was to be in Skradelovac and the auxiliary observation post in the area of Vrčevo, trigger point 230. Rajčić and Firšt appointed Ante Kardum, the commander of the 2nd company 14th artillery Battalion, as commander of TS-5 and ordered him to form a command with a communications squad and one to two operations officers from sections of the TS-5.⁵³⁶⁴

1401. On 2 August 1995, Gotovina ordered support for the attack by OG Zadar forces to be provided by TS-5.⁵³⁶⁵ This order from Gotovina also contained information that the SVK 92nd Benkovac motorized brigade was mobilized along an axis in Zadar and Šibenik municipality and Nadinsko Blato in Benkovac municipality. The SVK 3rd Benkovac Infantry Brigade was mobilized along the axis Petrim-Miranje Donje-Kolarina-Morpolača all in Benkovac municipality. The SVK 2nd Đevrske Infantry Brigade was mobilized along the axis of Morpolača and places in Zadar and Šibenik municipality and in Bosnia-Herzegovina.⁵³⁶⁶ The Trial Chamber refers to further relevant evidence on troop presence in Benkovac from the Brioni meeting, reviewed in chapter 6.2.2.

1402. On 3 August 1995, Marijan Firšt, chief of artillery for the OG Zadar, ordered TS-5 to provide artillery support and anti-tank combat to the units of the OG Zadar.⁵³⁶⁷ Firšt ordered the artillery-rocket group to break up, neutralize and destroy the enemy combat disposition at tactical and operative levels in fierce artillery attacks. The artillery attacks were to be focussed on the main axis of attack of the HV forces towards Gračac and towards Debelo Brdo in Gospić municipality.⁵³⁶⁸ Firšt further tasked TS-5 with preventing the movement of fresh enemy forces from Gračac-Obrovac and Bruška in Benkovac municipality-Benkovac, neutralizing the enemy battery positions and destroying their communications centres and command posts. TS-5 was further required

⁵³⁶² P1201 (Order for attack for the artillery, by Marijan Firšt, 3 August 1995), p. 3; D970 (Order to attack attachment for the artillery, by Marko Rajčić, 2 August 1995), p. 3.

⁵³⁶³ P1201 (Order for attack for the artillery, by Marijan Firšt, 3 August 1995), p. 3.

⁵³⁶⁴ P1201 (Order for attack for the artillery, by Marijan Firšt, 3 August 1995), p. 3; D970 (Order to attack attachment for the artillery, by Marko Rajčić, 2 August 1995), p. 3.

⁵³⁶⁵ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 12.

⁵³⁶⁶ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 3.

⁵³⁶⁷ P1201 (Order for attack for the artillery, by Marijan Firšt, 3 August 1995).

⁵³⁶⁸ P1201 (Order for attack for the artillery, by Marijan Firšt, 3 August 1995), p. 3.

to secure the 1st combat echelon units' flanks in attack and to put the towns of Benkovac, Obrovac, and Gračac under artillery fire.⁵³⁶⁹ Firšt further noted that the chiefs of artillery of the OGs were to draft all relevant documents for carrying out the attack operations at their respective levels.⁵³⁷⁰

1403. **Marko Rajčić**, the chief of artillery of the Split MD from April 1993 to June 1996,⁵³⁷¹ testified that the HV planned to fire at the following targets in Benkovac, in order of importance: the Slobodan Macura barracks, the police station; the cross-roads; and another barracks.⁵³⁷² According to Rajčić, an unsigned, undated list of objects, code named "Jagoda", which specifies target names and in most cases locations and coordinates, was the type of document that formed part of a database of intelligence assessments which units used to create target lists.⁵³⁷³ He further testified that such lists could also be used to identify the coordinates of targets that come up during combat.⁵³⁷⁴ Rajčić testified that he had not seen this document before, but that he had seen target lists of this type and formatting in the intelligence department of the Split MD forward command post in Zadar, and assumed that this list was also drafted by the intelligence department.⁵³⁷⁵ Rajčić testified that the place names or targets on the list code-named "Jagoda" were in the area of TS-5.⁵³⁷⁶ Rajčić believed the "Jagoda" list related to TS-5 and not TS-3 and testified that TS-3 was renamed TS-5 at the time of Operation Storm.⁵³⁷⁷ The Brigade Command Post Slobodan Macura barracks and an armoured mechanized company (without coordinates) of the SVK 92nd Motorized Brigade, both in Benkovac, were listed on the "Jagoda" list.⁵³⁷⁸ The list also contained an additional

⁵³⁶⁹ P1201 (Order for attack for the artillery, by Marijan Firšt, 3 August 1995), p. 4. The Trial Chamber has decided to rely on the CLSS translation of the word "udare" in P1201, as clarified in the Request for Verification of English Translation of Exhibit D970 of 12 January 2010.

⁵³⁷⁰ P1201 (Order for attack for the artillery, by Marijan Firšt, 3 August 1995), p. 5.

⁵³⁷¹ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 1; Marko Rajčić, T. 16236, 16275; P2323 (Military Police official note of Rajčić interview, 11 July 2008), p. 1.

⁵³⁷² Marko Rajčić, T. 16306-16308, 17677-17678; P2327 (Map of Benkovac area with Rajčić markings), Slobodan Macura barracks marked 1, police station marked 2, cross-roads marked 3, another barracks located north of marking 4; P2435 (Table of barracks in Split MD), p. 3; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 9; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 13; D1446 (Maps of Benkovac, with overlay of Jagoda list objects), pp. 3, 5, 7, 9-14; D1447 (Jagoda list of objects of the TS-3 of OG Zadar, 30 July 1995), pp. 13, 27; D1459 (List of targets in OG Zadar, 12 April 1995), pp. 6-7; D1460 (Maps of Benkovac, Obrovac and Gračac, with overlay of Jagoda list objects and Rajčić markings), pp. 1-2.

⁵³⁷³ Marko Rajčić, T. 17637; D1447 (Jagoda list of objects of the TS-3 of OG Zadar, 30 July 1995).

⁵³⁷⁴ Marko Rajčić, T. 17648-17649, 17654-17655.

⁵³⁷⁵ Marko Rajčić, T. 17636-17638, 17675.

⁵³⁷⁶ Marko Rajčić, T. 17638.

⁵³⁷⁷ Marko Rajčić, T. 17648-17649, 17654-17655, 17666.

⁵³⁷⁸ D1447 (Jagoda list of objects of the TS-3 of OG Zadar, 30 July 1995), pp. 13-14.

entry for an unspecified barracks in Benkovac, with the annotation “old one” and with x and y coordinates placing it at the same location as the Brigade Command Post Slobodan Macura barracks.⁵³⁷⁹ The Trial Chamber understands these two entries to refer to the same object, namely the Slobodan Macura barracks. In addition, Benkovačko Selo, the police station, a wine cellar, the cool storage, the “Kepol” glue factory, the “Plodine” food warehouse and the firemen’s hall, all of which were in Benkovac, were also listed, all with the annotation “old one”.⁵³⁸⁰ These locations were listed as “old one”.⁵³⁸¹ According to Rajčić, the addition “old one” to a target on the “Jagoda” list probably meant it was based on old information; for example, target 681, Pjevčevo brdo, was a deserted firing position and it was left on the database in case the enemy might capture it again, in which case the HV would have the coordinates ready.⁵³⁸² The dimensions of targets were not entered on the “Jagoda” list, although it was normal practice to have such numbers for artillery purposes.⁵³⁸³ Where only a village name and coordinates appeared on a target list, further information would be needed for tactical and technical preparation of the target, which could be sought from the intelligence services, who would provide confirmation as to what type of target it was.⁵³⁸⁴ Each unit had its own lists of targets, with numbers used to identify targets within an artillery unit; for instance, based on his reading of the “Jagoda” list, Rajčić testified that the Slobodan Macura barracks was designated number 491 on the “Jagoda” list and number 147 on the target list of the 7th Home Guards Regiment.⁵³⁸⁵ Benkovac was within the range of two 130-millimetre HV artillery pieces of the TS-5 from the firing position in the

⁵³⁷⁹ D1460 (Maps of Benkovac, Obrovac and Gračac, with overlay of Jagoda list objects and Rajčić markings) pp. 1-2; D1446 (Maps of Benkovac, with overlay of Jagoda list), pp. 5, 7, 11-14; D1447 (Jagoda list of objects of the TS-3 of OG Zadar, 30 July 1995), pp. 13, 27.

⁵³⁸⁰ D1460 (Maps of Benkovac, Obrovac and Gračac, with overlay of Jagoda list objects and Rajčić markings) pp. 1-2; D1446 (Maps of Benkovac, with overlay of Jagoda list), pp. 5, 7, 11-14; D1447 (Jagoda list of objects of the TS-3 of OG Zadar, 30 July 1995), pp. 27, 29-30.

⁵³⁸¹ D1447 (Jagoda list of objects of the TS-3 of OG Zadar, 30 July 1995), pp. 27, 29-30.

⁵³⁸² Marko Rajčić, T. 17643-17645.

⁵³⁸³ Marko Rajčić, T. 17649.

⁵³⁸⁴ Marko Rajčić, T. 17709, 17711-17712.

⁵³⁸⁵ Marko Rajčić, T. 17637, 17651-17652; D1447 (Jagoda list of objects of the TS-3 of OG Zadar, 30 July 1995), p. 13. The Trial Chamber notes that Rajčić’s testimony regarding this exhibit was affected by an error in the English translation, which incorrectly lists the barracks as number 147 on the target list of the 7th Home Guards Regiment. The Trial Chamber will rely on the BCS original in this respect.

village of Gornji Debeljak in Sukošan municipality.⁵³⁸⁶ According to Rajčić, the TS-5 fired at the Slobodan Macura barracks in Benkovac during Operation Storm.⁵³⁸⁷

1404. A map named “Poskok-93”, signed by Gotovina and Brigadier Milan Mihić, listed the following as targets in Benkovac: Benkovac barracks; the police station; “Benkovac village – north of the city, combat position”; and a hotel.⁵³⁸⁸

1405. On 3 August 1995, Mladen Fuzul, commander of the OG Zadar, issued an order for an attack, deciding to break up enemy front-line forces by frontal and flanking attacks by all OG Zadar forces with powerful artillery and missile support.⁵³⁸⁹ The order noted that the HV was confronted in the OG Zadar area by part of the forces of the 7th North Dalmatian Corps, specifically the 4th Obrovac Light Brigade, the 92nd Benkovac Motorised Brigade, and the 3rd Benkovac Brigade.⁵³⁹⁰ Fuzul ordered the attack to commence at 5 a.m. on 4 August 1995 and ordered the 2nd Battalion of the 9th Guards Brigade, the 112th Brigade HV, and the 134th Home Guard Regiment 1st Battalion to attack in the areas of certain villages, to break up enemy forces and to capture certain features, with the support of TRS-5.⁵³⁹¹ Fuzul further ordered units to use their own artillery resources to form artillery groups within units conducting combat assault operations, with the aim of effective and precise fire on the enemy and creating conditions for a rapid breach of the enemy front defence lines. The order established the Artillery Group TRS-5, comprising five 130-millimetre M46 field guns from the 14th artillery battery, two 122-millimetre D-30 Howitzers from the 112th pbr HV and one 122-millimetre self-propelled multiple rocket launcher. Fuzul ordered artillery groups to provide artillery support for the main forces in assault operations by striking the enemy front line, the command post, the communications centre, and the artillery firing positions, and to lay down fire on the towns of Benkovac and Obrovac.⁵³⁹²

⁵³⁸⁶ D1425 (Marko Rajčić, witness statement, 13 February 2009), p. 24; P2322 (Map showing HV artillery positions and sectors of fire), p. 21; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 9; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 13.

⁵³⁸⁷ Marko Rajčić, T. 17639, 17692-17693.

⁵³⁸⁸ P1273 (Map Poskok-93), p. 8.

⁵³⁸⁹ P1263 (Order for attack, OG Zadar, 3 August 1995), pp. 1-4, 17.

⁵³⁹⁰ P1263 (Order for attack, OG Zadar, 3 August 1995), p. 2.

⁵³⁹¹ P1263 (Order for attack, OG Zadar, 3 August 1995), pp. 3, 5-7.

⁵³⁹² P1263 (Order for attack, OG Zadar, 3 August 1995), p. 8.

1406. The HV Main Staff directive on Operation Storm of 26 June 1995 noted that the SVK had positioned its light artillery and ammunition up to ten kilometres behind the line at several locations, including in the Benkovac barracks.⁵³⁹³

1407. According to the order for attack of 4 August 1995, the task for the 134th Home Guard Regiment was to launch an organized attack, using the forces of the 134th Home Guard Regiment (2nd Infantry Battalion) in the area of responsibility, onto the villages of Velim, Morpolča, Biovičino Selo, Vinterinci, and Šopot, all in Benkovac municipality. The task was to destroy the enemy's forces at the frontline in cooperation with the 7th Infantry Battalion and the 113th HV Brigade.⁵³⁹⁴ In a report to, among others, the Split MD dated 23 August 1995, Commander Colonel Josip Čerina of the 134th Home Guard Regiment stated that on 4 August 1995, his Regiment had no support from the Zadar OG, except for the shelling of the general area of Benkovac without monitoring, and the message at 5:30 a.m.: "Is anything falling on Benkovac?"⁵³⁹⁵

1408. **Mile Mrkšić**, the commander of the SVK Main Staff from May 1995,⁵³⁹⁶ testified that when he toured the Benkovac position, he saw that there were no combat elements in the town, as they were all on the front lines or on other lines of defence.⁵³⁹⁷ There were barracks in Benkovac, although Mrkšić did not know whether it was in use.⁵³⁹⁸ The Trial Chamber has also considered evidence of this witness, reviewed in chapter 4.4.3.

1409. **Kosta Novaković**, who was a member of the SVK General Staff and assistant commander to Mile Mrkšić during Operation Storm,⁵³⁹⁹ testified that on 4 August 1995 in the Slobodan Macura barracks, which was located on the edge of Benkovac town in the direction of Zadar, there were no combat units, but there were logistics support units such as the medical corps, kitchen staff, a quartermaster's premises and a technical and

⁵³⁹³ D956 (HV Main Staff directive on Operation Storm, Staff General Janko Bobetko, 26 June 1995), pp. 1, 3.

⁵³⁹⁴ D1443 (Order to attack of 134th Home Guard Regiment commander to units, 4 August 1995), p. 3.

⁵³⁹⁵ P1200 (Report to the Split MD on carrying out a combat task, Josip Čerina, 23 August 1995), pp. 2, 8.

⁵³⁹⁶ Mile Mrkšić, T. 18751, 18993.

⁵³⁹⁷ Mile Mrkšić, T. 19057.

⁵³⁹⁸ Mile Mrkšić, T. 19057-19058

⁵³⁹⁹ P1092 (Kosta Novaković, witness statement, 5 April 2001), pp. 1-2; P1093 (Kosta Novaković, witness statement, 8 March 2007), paras 4-5; Kosta Novaković, T. 11708, 11711, 11775-11776, 11858.

clothes-mending workshop.⁵⁴⁰⁰ Neither were there combat units stationed in the Army Hall in Benkovac, where in August 1995, several wounded persons had been put up.⁵⁴⁰¹ There was a 3rd Brigade command/communications centre in Benkovac which was manned by a couple of people.⁵⁴⁰² Novaković was not aware of the SVK using either the fireman's hall, which was out of the town and close to a railway station, or the nun's convent, the post office, or the hotel in Benkovac.⁵⁴⁰³ According to Novaković, the SVK 7th Corps had had a forward command post in Biljane village for several months following January 1993, but this post no longer existed in August 1995.⁵⁴⁰⁴ According to Novaković, there were no combat units anywhere in Benkovac town and the nearest SVK combat unit was 15 to 20 kilometres away.⁵⁴⁰⁵ According to reports Mrkšić received on 4 August 1995, which he relayed to Novaković, more than 700 projectiles were fired on Benkovac in an indiscriminate, scatter-shot manner.⁵⁴⁰⁶

1410. On 25 August 1995, Uzelac, the Commander of the SVK 92nd Motorized Brigade, reported to the SVK Main Staff that on 4 August 1995 at 5:10 a.m. Croatian forces commenced combat activities in the direction of Benkovac town and the Brigade forward line defences.⁵⁴⁰⁷ On the basis of the artillery fire flashes, Uzelac and others determined that the artillery was coming from an area in the direction of Debeljak, in Sukošan municipality. According to Uzelac's report, prior to 8 a.m. 80 shells were fired on Benkovac town and 100 shells were fired on the Brigade forward line defences.⁵⁴⁰⁸ From 2 p.m. onwards, Croatian forces intensified their artillery fire, particularly from a multiple rocket launcher, and prior to 4 p.m. fired about 120 rockets on and around Benkovac and 600-700 rockets on the area of the Brigade's responsibility.⁵⁴⁰⁹ At midnight, 3rd Infantry Brigade Commander Đurica informed Uzelac that he was withdrawing to a reserve line just outside Benkovac and on 5 August 1995 between 4

⁵⁴⁰⁰ P1093 (Kosta Novaković, witness statement, 8 March 2007), para. 10; Kosta Novaković, T. 11749-11750; D248 (Maps of the city of Benkovac and area), p. 3, Slobodan Macura barracks marked "B. Macura" barracks.

⁵⁴⁰¹ Kosta Novaković, T. 11750-11751.

⁵⁴⁰² Kosta Novaković, T. 11751; D248 (Maps of the city of Benkovac and area), p. 3, marked communications centre and command of the 3rd IBR ARSK.

⁵⁴⁰³ Kosta Novaković, T. 11752, 11917-11918.

⁵⁴⁰⁴ Kosta Novaković, T. 11750.

⁵⁴⁰⁵ P1093 (Kosta Novaković, witness statement, 8 March 2007), para. 10.

⁵⁴⁰⁶ Kosta Novaković, T. 11753.

⁵⁴⁰⁷ D828 (Report by the commander of the 92nd Motorized Brigade to the SVK Main Staff on the period from 4 to 10 August 1995, 25 August 1995), pp. 1, 8.

⁵⁴⁰⁸ D828 (Report by the commander of the 92nd Motorized Brigade to the SVK Main Staff on the period from 4 to 10 August 1995, 25 August 1995), p. 1.

and 6:45 a.m., upon Uzelac's order, the units withdrew to their reserve positions.⁵⁴¹⁰ At 5:15 a.m., Uzelac left the command post at Biljane Gornje, in Benkovac municipality, and went to the Benkovac barracks. Uzelac did not find anyone at the logistics section of the barracks at 5:25 a.m. At 6 a.m., Croatian forces fired at Benkovac and the Brigade's area of responsibility and Uzelac ordered the withdrawal of the units towards Debelo Brdo, in Kistanje municipality, Bukovički Gaj, and Bruška, in Lisičić municipality.⁵⁴¹¹

1411. According to the HV operations diary of the first sector from 20 June to 20 October 1995, at 6:55 a.m. on 4 August 1995, people were fleeing from Benkovac.⁵⁴¹²

1412. **Dušan Sinobad**, Director of a state-run transport company called "Zagrebacki Transporti" and as of 1990 "Auto Transport Benkovac" from 1984 to 1995 at the branch office in Benkovac,⁵⁴¹³ testified that on 4 August 1995 at 4 a.m. the HV started shelling Benkovac.⁵⁴¹⁴ According to the witness, the shelling was coming from different directions and lasted much longer than on previous occasions.⁵⁴¹⁵ Sinobad testified that he saw that the holes caused by the shells were much larger than the ones that had fallen on Benkovac prior to 4 August 1995.⁵⁴¹⁶ The witness went to his office at about 6 a.m.⁵⁴¹⁷ On his way to the office he could see that three to four shells were falling around the residential area of Barice and not in the town centre itself.⁵⁴¹⁸ Sinobad stated that in previous shelling from the direction of Biograd, the shells would mainly fall in the park area of the town and then a few hours later the shells would hit the centre of the town.⁵⁴¹⁹ The witness testified that the centre of the town was between the barracks and the residential quarters of Barice.⁵⁴²⁰ Sinobad saw these three to four shells landing in front of apartment buildings in Barice, located just above the letter 'A' on map P2363,

⁵⁴⁰⁹ D828 (Report by the commander of the 92nd Motorized Brigade to the SVK Main Staff on the period from 4 to 10 August 1995, 25 August 1995), p. 3.

⁵⁴¹⁰ D828 (Report by the commander of the 92nd Motorized Brigade to the SVK Main Staff on the period from 4 to 10 August 1995, 25 August 1995), pp. 4-5.

⁵⁴¹¹ D828 (Report by the commander of the 92nd Motorized Brigade to the SVK Main Staff on the period from 4 to 10 August 1995, 25 August 1995), p. 5.

⁵⁴¹² P2436 (Operations diary first sector, June to October 1995), pp. 1, 6.

⁵⁴¹³ P2362 (Dušan Sinobad, witness statement, 7 March 2007), p. 1, paras 1-4; Dušan Sinobad, T. 16938.

⁵⁴¹⁴ P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 14.

⁵⁴¹⁵ P2362 (Dušan Sinobad, witness statement, 7 March 2007), paras 11, 14; Dušan Sinobad, T. 16944.

⁵⁴¹⁶ P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 14.

⁵⁴¹⁷ P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 15.

⁵⁴¹⁸ P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 15; Dušan Sinobad, T. 16942, 17027-17029.

⁵⁴¹⁹ P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 15.

⁵⁴²⁰ Dušan Sinobad, T. 16941, 16943; P2363 (Map of Benkovac marked by the witness), town centre marked B.

damaging the façade and the window panes.⁵⁴²¹ Sinobad also saw shells falling in the area of the villages around the town.⁵⁴²²

1413. At around 11 a.m., the witness went towards his village, Kolarina in Benkovac municipality, which was seven kilometres south-east of the town of Benkovac, to check on his brother, sister-in-law, and father, as well as his wife's family.⁵⁴²³ On his way there, he met Major Miloš Ostojić who told him not to go any further because all the villages surrounding Benkovac had been shelled the whole morning.⁵⁴²⁴ However, Sinobad decided to continue towards Kolarina and when he was at the entrance of the village he saw that it was still being shelled.⁵⁴²⁵ The witness then returned to Benkovac.⁵⁴²⁶ Sinobad testified that the shelling continued all day in the villages surrounding Benkovac since he was able to hear the shells but also because people who had left the villages for Benkovac told him so.⁵⁴²⁷ According to the witness, the shelling of the residential quarters had stopped when people from other villages arrived in Benkovac.⁵⁴²⁸ The Trial Chamber has further considered the evidence by this witness, reviewed in chapter 4.5.2.

1414. **Đuro Vukašinić**, the Serb acting Deputy Chief of the Public Security Station for the RSK in Benkovac during Operation Storm,⁵⁴²⁹ testified that on 4 August 1995 the HV had artillery in the following positions: a battleship with a cannon in Drage; 130-millimetre howitzers in Jankolovica; howitzers in Raštane Gornje near Gorica, Sukošan municipality; howitzers in Poličnik; tanks in Paljuv; and a tank position in Podgradina.⁵⁴³⁰ According to the witness, Benkovac was about seven kilometres from the nearest front line.⁵⁴³¹ The witness testified that he was woken at around 5 a.m. by explosions from shelling and that he could see, from his balcony, shells coming from all around Benkovac.⁵⁴³² He saw shells landing at the petrol station; the firemen's hall

⁵⁴²¹ Dušan Sinobad, T. 16942-16943, 17027-17029; P2363 (Map of Benkovac marked by the witness), Barice marked A.

⁵⁴²² P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 17.

⁵⁴²³ P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 18; Dušan Sinobad, T. 16944-16945.

⁵⁴²⁴ P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 18; D1443 (Order to attack of 134th Home Guard Regiment commander to units, 4 August 1995), p. 3; Dušan Sinobad, T. 16945, 16962.

⁵⁴²⁵ P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 19; Dušan Sinobad, T. 16945.

⁵⁴²⁶ P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 20.

⁵⁴²⁷ P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 23; Dušan Sinobad, T. 16946.

⁵⁴²⁸ P2362 (Dušan Sinobad, witness statement, 7 March 2007), para. 23.

⁵⁴²⁹ D1499 (Đuro Vukašinić, witness statement, 3 April 2007), p. 1, paras 1, 4; Đuro Vukašinić, T. 18533, 18537, 18566.

² D1499 (Đuro Vukašinić, witness statement, 3 April 2007), para. 2.

⁵⁴³¹ Đuro Vukašinić, T. 18541.

⁵⁴³² D1499 (Đuro Vukašinić, witness statement, 3 April 2007), paras 2-3.

which contained the offices of the TO (on the first floor), the Secretariat of National Defence, the early warning centre and the Red Cross; and the Bagat and Kepol factories.⁵⁴³³ According to the witness there were no military units at the firemen's hall.⁵⁴³⁴ Also according to the witness, there was no military production at the Bagat and Kepol factories, or at the cool storage.⁵⁴³⁵ The witness testified that the petrol station, the fire brigade and the two factories were in a civilian residential neighbourhood.⁵⁴³⁶ Vukašinić also testified that he could hear that shells were landing in the direction of the Benkovac barracks ("Slobodan Macura barracks"), which was fitted for repairing armaments and which was the only military facility in Benkovac according to him.⁵⁴³⁷ The witness further testified that he called the police station to obtain information as to what was happening and the duty officer informed him that this was a massive attack by the HV. According to the witness, the police officer received information about the Croatian attack through the radio and a Special Police phone line. Men in the trenches informed the police officer that they could see the HV advancing.⁵⁴³⁸ The witness immediately went to the police station and on his way he could hear that the shelling was becoming more intense.⁵⁴³⁹ Vukašinić also saw that the HV were shelling the Benkovačko Selo area as well as the pine wood area in Ristići.⁵⁴⁴⁰ The witness estimated that between 5 a.m. and 7 a.m. about 100 shells landed on the areas of the two factories, the cool storage, the petrol station, the barracks, the police station in Benkovac, Benkovačko Selo, the Ristić hamlet and the pine woods.⁵⁴⁴¹

1415. Just after 7 a.m., Vukašinić went with a mechanic from the police station toward Zadar to see what was happening. They drove to the front line at Zemunik where the command of the 2nd Battalion of the 92nd Brigade was located and he spoke with

⁵⁴³³ D1499 (Đuro Vukašinić, witness statement, 3 April 2007), para. 3, p. 8; Đuro Vukašinić, T. 18544-18548, 18574; D1500 (Map of Benkovac), petrol station marked A, firemen's hall marked B, Bagat factory marked D, Kepol factory next to it.

⁵⁴³⁴ D1499 (Đuro Vukašinić, witness statement, 3 April 2007), p. 8; Đuro Vukašinić, T. 18546, 18574; D1500 (Map of Benkovac), firemen's hall marked B.

⁵⁴³⁵ Đuro Vukašinić, T. 18547, 18574-18575; D1500 (Map of Benkovac), cool storage marked C, Bagat factory marked D.

⁵⁴³⁶ Đuro Vukašinić, T. 18545-18547, 18575; D1500 (Map of Benkovac), petrol station marked A, firemen's hall marked B, Bagat factory marked D.

⁵⁴³⁷ D1499 (Đuro Vukašinić, witness statement, 3 April 2007), para. 3; Đuro Vukašinić, T. 18574, 18585-18586.

⁵⁴³⁸ D1499 (Đuro Vukašinić, witness statement, 3 April 2007), para. 4.

⁵⁴³⁹ D1499 (Đuro Vukašinić, witness statement, 3 April 2007), paras 4-6.

⁵⁴⁴⁰ D1499 (Đuro Vukašinić, witness statement, 3 April 2007), para. 5; Đuro Vukašinić, T. 18551-18553; D1501 (Map of Benkovac town), Ristići forested area marked B.

the commander who stated that they were under attack and that the HV had taken over the Gorleš hamlet.⁵⁴⁴² The witness left Zemunik and at around 8:20 a.m. reached the intersection of roads leading to Benkovac, Obrovac, and Knin.⁵⁴⁴³ The intersection was under severe attack and trees were on fire.⁵⁴⁴⁴ As soon as the witness arrived at the Obrovac police station, he heard on the radio someone say that they were being attacked. A policeman at the station told the witness that the person relaying the message was in Čelavac, in Lovinac municipality, and that aircraft were shelling Čelavac. According to the witness, the RSK had ordinary and special radio, television and special telephone communications equipment in Čelavac.⁵⁴⁴⁵ Then, at the police station all the communications went dead.⁵⁴⁴⁶ Vukašinović arrived back at Benkovac around 10:30 a.m. and spent the rest of the day at the police station, constantly attempting to find out more information about the situation by phoning the barracks and the civil protection. According to the witness, the barracks were used as a warehouse from where the Serbian units received their supplies. Their main storage place however was in Strmica. Vukašinović also testified that the HV quickly occupied the warehouse and cut off the supplies.⁵⁴⁴⁷ At around 4:30 p.m. the shelling started again with a shell falling within two metres of the police station, hitting the ticket office of the stadium.⁵⁴⁴⁸ Additionally, according to Vukašinović a shell fell on the stadium hitting the benches where the players sit.⁵⁴⁴⁹ The witness also testified that he saw ten more shells hit the area of Ristić, which was about 800 metres north of the stadium.⁵⁴⁵⁰ The police station employees later told the witness that five or six shells had also landed on the nearby high school building, which was in the immediate vicinity of the football stadium.⁵⁴⁵¹ The witness estimated that between 10:30 a.m. and 5 p.m. that day, 30-40 shells landed

⁵⁴⁴¹ D1499 (Đuro Vukašinović, witness statement, 3 April 2007), para. 5, p. 8; Đuro Vukašinović, T. 18545, 18547, 18553, 18576-18577; D1500 (Map of Benkovac), petrol station marked A, cool storage marked C, Bagat factory marked D; D1501 (Map of Benkovac town), Ristići forested area marked B.

⁵⁴⁴² D1499 (Đuro Vukašinović, witness statement, 3 April 2007), para. 7.

⁵⁴⁴³ D1499 (Đuro Vukašinović, witness statement, 3 April 2007), para. 7; Đuro Vukašinović, T. 18554.

⁵⁴⁴⁴ D1499 (Đuro Vukašinović, witness statement, 3 April 2007), para. 7; Đuro Vukašinović, T. 18554, 18576.

⁵⁴⁴⁵ D1499 (Đuro Vukašinović, witness statement, 3 April 2007), para. 9; Đuro Vukašinović, T. 18568.

⁵⁴⁴⁶ D1499 (Đuro Vukašinović, witness statement, 3 April 2007), para. 9; Đuro Vukašinović, T. 18565.

⁵⁴⁴⁷ D1499 (Đuro Vukašinović, witness statement, 3 April 2007), para. 10.

⁵⁴⁴⁸ D1499 (Đuro Vukašinović, witness statement, 3 April 2007), para. 12; Đuro Vukašinović, T. 18577, 18580-18581.

⁵⁴⁴⁹ D1499 (Đuro Vukašinović, witness statement, 3 April 2007), para. 12; Đuro Vukašinović, T. 18577-19578, 18580-18581.

⁵⁴⁵⁰ D1499 (Đuro Vukašinović, witness statement, 3 April 2007), para. 12; Đuro Vukašinović, T. 18580.

⁵⁴⁵¹ Đuro Vukašinović, T. 18577-18579.

on the stadium, Ristić, barracks and other above-mentioned facilities.⁵⁴⁵² The Trial Chamber has also considered evidence of this witness, reviewed in chapter 4.5.2.

1416. Vukašinić stated that a large number of RSK police officers were deployed in units on the Dinara Mountains and also there was a unit deployed in the village of Pridraga.⁵⁴⁵³ The witness stated that the military command had requested as many men as possible from the police to defend the RSK after the fall of Bosanko Grahovo.⁵⁴⁵⁴ Vukašinić testified that the chief of police, Lakić, was in the Dinara near Bosanko Grahovo with the rest of the police officers on the morning of 4 August 1995.⁵⁴⁵⁵ The witness also testified that on 4 August 1995, RSK police officers left their positions on the Dinara Mountains and walked 30 kilometres to Kistanje.⁵⁴⁵⁶ The witness also testified that the police was one of the defence components of the JNA and that this remained that way at the time of the conflicts from 1991 to 1995.⁵⁴⁵⁷ Vukašinić testified that the SVK issued to the RSK policemen, personnel weaponry consisting of automatic or semi-automatic rifles and pistols.⁵⁴⁵⁸ The witness testified that the police armaments were stored in the police building in Benkovac.⁵⁴⁵⁹ According to the witness the SVK communications system had been destroyed in the early morning hours on 4 August 1995.⁵⁴⁶⁰

1417. **Witness 56**, a Serb policeman in Knin between May 1994 and 5 August 1995,⁵⁴⁶¹ testified that there was a police station in Benkovac, as well as a building nearby, a Catholic church, which housed a platoon of the special police, and that there were large SVK barracks in the suburbs.⁵⁴⁶² There was also a JNA centre (on the main road) and a post office.⁵⁴⁶³ Two to three kilometres outside of Benkovac, in Sopot, the command of the 3rd Infantry Brigade was stationed in a compound of two to three

⁵⁴⁵² Đuro Vukašinić, T. 18580-18581.

⁵⁴⁵³ D1499 (Đuro Vukašinić, witness statement, 3 April 2007), para. 6.

⁵⁴⁵⁴ D1499 (Đuro Vukašinić, witness statement, 3 April 2007), para. 6.

⁵⁴⁵⁵ Đuro Vukašinić, T. 18538.

⁵⁴⁵⁶ D1499 (Đuro Vukašinić, witness statement, 3 April 2007), para. 16; T. 18538

⁵⁴⁵⁷ Đuro Vukašinić, T. 18566.

⁵⁴⁵⁸ Đuro Vukašinić, T. 18567.

⁵⁴⁵⁹ Đuro Vukašinić, T. 18567.

⁵⁴⁶⁰ D1499 (Đuro Vukašinić, witness statement, 3 April 2007), para. 9; T. 18564-18565.

⁵⁴⁶¹ P286 (Witness 56, witness statement, 5 December 1996), pp. 1-2; P287 (Witness 56, witness statement, 18 September 2000), p. 1; P288 (Witness 56, witness statement, 12 June 2007), p. 1, para. 2; P289 (Witness 56, witness statement, 21 May 2008), p. 1; Witness 56, T. 3686.

⁵⁴⁶² Witness 56, T. 3538, 3560, 3625-3626; D248 (Maps of the city of Benkovac and area), p. 3, police station marked "police station", church marked "nuns convent", SVK barracks marked "B. Macura barracks".

⁵⁴⁶³ Witness 56, T. 3626; D248 (Maps of the city of Benkovac and area), p. 3.

private homes.⁵⁴⁶⁴ The Trial Chamber has also considered evidence of this witness, reviewed in chapter 4.5.2.

1418. **Bert Dijkstra**, an UNMO in Sector South from 14 June 1995 until approximately 1 December 1995,⁵⁴⁶⁵ was stationed in Benkovac from 14 June 1995 to 26 July 1995 and testified that, at the time, there were three SVK battalions based around Benkovac.⁵⁴⁶⁶ The SVK 92nd Brigade was based near Obrovac, the SVK 2nd Brigade was based near Đevrske in Kistanje municipality, and the SVK 3rd Brigade was based south of Benkovac near Cista Mala. There were 100-200 men in each of the battalions. There was also a training camp in Donji Bruška for, according to the witness, the Red Berets of the SVK.⁵⁴⁶⁷ The witness visited this camp only once.⁵⁴⁶⁸ The witness testified that he was not aware of any military structures in Benkovac itself, but stated that on the road to Rastević and Zadar, coming from Benkovac on the right-hand side of the road, there were military barracks guarded by SVK soldiers.⁵⁴⁶⁹ Dijkstra recalled that in Benkovac, there was a police station behind their office and a fireman's hall.⁵⁴⁷⁰ The witness observed individual SVK soldiers in Benkovac and based on his observations of them, it appeared to the witness that these soldiers lived in the town or close by; they walked around with women and children, shopped, sat in bars or cafés, and talked to civilians as well as to other individuals in uniforms.⁵⁴⁷¹ Dijkstra testified that he never saw soldiers organized as a platoon or group walking around, and that the biggest convoy of vehicles he saw in Benkovac consisted of a maximum of three or four trucks.⁵⁴⁷²

1419. In addition to the above evidence, the Trial Chamber has considered the evidence of Konstantin Drča reviewed in chapter 4.2.8 (Parčić) and Alun Roberts and D737 reviewed in chapter 4.2.2 (Benkovac town), as well as P1125, D956, D970, all reviewed in chapter 4.4.3.

⁵⁴⁶⁴ Witness 56, T. 3627, 3716; D248 (Maps of the city of Benkovac and area), p. 3.

⁵⁴⁶⁵ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 2; P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 2.

⁵⁴⁶⁶ P428 (Bert Dijkstra, witness statement, 7 December 1995), p. 2; P429 (Bert Dijkstra, witness statement, 12 March 2008), paras 2, 5-6.

⁵⁴⁶⁷ P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 6.

⁵⁴⁶⁸ Bert Dijkstra, T. 4788-4789.

⁵⁴⁶⁹ P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 7; Bert Dijkstra, T. 4752-4753; P433 (Colour map of Benkovac marked by Bert Dijkstra); D248 (Maps of the city of Benkovac and area) barracks marked "B. Macura" barracks.

⁵⁴⁷⁰ P429 (Bert Dijkstra, witness statement, 12 March 2008), para. 7; Bert Dijkstra, T. 4754-4757; D248 (Maps of the city of Benkovac and area), p. 3, firemen's hall marked.

⁵⁴⁷¹ Bert Dijkstra, T. 4757-4759.

1420. Based on the evidence of Sinobad, Vukašinović, Drča and exhibits P1263 and D828, the Trial Chamber finds that shells began falling on Benkovac between 4 a.m. and 5:10 a.m. on 4 August 1995. According to an SVK combat activities report, D828, between 5:10 a.m. and 8 a.m. on 4 August 1995, approximately 80 shells were fired at Benkovac town, and between 2 and 4 p.m. on 4 August 1995, approximately 120 rockets were fired on and around Benkovac. Vukašinović testified that that around 100 shells landed on Benkovac town, Benkovačko Selo and Ristić hamlet between 5 a.m. and 7 a.m. on 4 August 1995, and that at least 30-40 shells landed on various facilities in Benkovac between 10:30 a.m. and 5 p.m. on that day. In addition, Novaković testified that according to various reports he received on 4 August 1995, which are not in evidence before the Trial Chamber, more than 700 projectiles were fired at Benkovac. Further, exhibit D828 indicates that at 6 a.m. on 5 August 1995, projectiles were fired at Benkovac. According to D737, Captain Grancarić's report, at 3:30 p.m. on 5 August 1995 four VP members and members of other units entered Benkovac town. Based on the above evidence and its findings on the locations of impacts below, the Trial Chamber finds that at least 150 projectiles impacted in Benkovac and its immediate vicinity from approximately 5 a.m. on 4 August 1995 until sometime between 6 a.m. and 3:30 p.m. on 5 August 1995.

1421. The Trial Chamber will now turn to the question of who fired these projectiles, and which weapons they used. According to exhibits P1125, D970, P1201, P1263, the TS-5 of OG Zadar was ordered to fire artillery projectiles at Benkovac town from 5 a.m. on 4 August 1995. According to the 134th Home Guard Regiment report, P1200, on 4 August 1995, OG Zadar was shelling the general area of Benkovac. Based on orders P1125, P1201, P1263 and D970, the Trial Chamber finds that the TS-5 comprised at least five 130-millimetre guns, two or three 122-millimetre D-30 Howitzers, one 122-millimetre self-propelled multiple rocket launcher, and also two 203-millimetre howitzers. According to Rajčić and exhibits P1201 and D970 Benkovac was in range of at least two of the 130-millimetre HV artillery pieces of the TS-5, which were located in the village of Gornji Debeljak in Sukošan municipality. Based on the aforementioned evidence, the Trial Chamber finds that the TS-5 fired the at least 150 artillery projectiles identified above. The Trial Chamber further finds, based on D828 and the evidence of the weapons comprising TS-5, that at least prior to 8 a.m. on 4 August 1995, these

⁵⁴⁷² Bert Dijkstra, T. 4757, 4798.

projectiles included shells from 130-millimetre guns located in the village of Gornji Debeljak in Sukošan municipality, at a distance of approximately 19 kilometres from Benkovac, and/or 203-millimetre howitzers, and that at least between 2 and 4 p.m. on 4 August 1995, these projectiles included rockets from a 122-millimetre MBRL.

1422. The Trial Chamber now turns to the question of which objects the HV identified as designated targets in and in the immediate vicinity of Benkovac town. The Trial Chamber has considered the aforementioned orders of Gotovina, Rajčić, and Firšt (P1125, D970, and P1201 respectively) to put the town of Benkovac under artillery fire, without further specifying what should be targeted. The Trial Chamber has also considered Fuzul's order, P1263, to lay down fire on Benkovac. The Trial Chamber also considers the 134th Home Guard Regiment report, P1200, which states that on 4 August 1995 OG Zadar was shelling, without monitoring, the general area of Benkovac, without further specifying what was being targeted. The same report recorded the following message sent at 5:30 a.m. that day: "Is anything falling on Benkovac?". The Trial Chamber will consider in chapter 5.8.2 (i) whether the attack orders should be interpreted to mean that the town of Benkovac as such was identified as a target.

1423. In relation to specific planned targets within Benkovac, the Trial Chamber finds, based on the evidence of Rajčić, that the HV planned to fire at the Slobodan Macura barracks, the police station, and a cross-roads in Benkovac. The Trial Chamber also notes that according to HV Main Staff order D956, artillery and rocket support were to focus on *inter alia* neutralising artillery, including ammunition and fuel depots, in the area of Benkovac and preventing an enemy counter attack from the direction of Benkovac. The Trial Chamber has also received evidence from D1447 and P1273 on other objects in and around Benkovac which were identified by the HV prior to Operation Storm. The "Jagoda" list, D1447, lists the following objects in and around Benkovac: the Slobodan Macura barracks, Benkovačko Selo, the police station, a wine cellar, the cool storage, the 'Kepol' (glue) factory, the 'Plodine' (food warehouse), and the fireman's hall. Further, the following objects in Benkovac were listed as targets on P1273, the "Poskok-93" map: the Benkovac barracks, the police station, "Benkovac village – north of the city, combat position", and a hotel. The Trial Chamber considers that the "Jagoda" list and "Poskok-93" map contain information regarding objects in Benkovac and its immediate surroundings that was available to the HV and its artillery units at some point prior to Operation Storm. The Trial Chamber has received no

evidence indicating whether, and if so for what purpose, D1447 and P1273 were used in relation to the shelling of Benkovac during Operation Storm.

1424. The Trial Chamber will now turn to the locations of the designated targets and other relevant objects in Benkovac. Based on the evidence of Vukašinić, Novaković, Dijkstra, Rajčić, Roberts and Witness 56, the Trial Chamber finds that the SVK “Slobodan Macura” barracks was located in western Benkovac at marking 1 on map P2327. Based on the evidence of Rajčić, the Trial Chamber finds that the cross-roads designated as a target was located at marking 3 on map P2327. The Trial Chamber notes that these cross-roads correspond to the location of the object listed as Benkovačko Selo on the Jagoda list (marking 693 on D1460 and D1446).

1425. The Trial Chamber finds, based on the testimony of Witness 56 and Vukašinić, that the police station was located in the centre of Benkovac, roughly 150 metres north of the main road, approximately at the location indicated on map D248, p. 3. Based on maps D1460 and D1446, the Trial Chamber finds that the coordinates of the police station entered on the “Jagoda” list place the police station along the main road in Benkovac, approximately 150 metres south of the location indicated on D248, p. 3 (see marking 695 on maps D1460 and D1446). This suggests that at some point prior to Operation Storm, the HV may have believed the police station to be located at the location along the main road entered on the “Jagoda” list. The Trial Chamber notes that the location Rajčić provided, namely marking 2 on map P2327, roughly covers both the location marked on D248, p. 3 and that provided by the Jagoda list. In the absence of any additional evidence indicating where the HV believed the police station to be located at the time of Operation Storm, the Trial Chamber will continue to consider both identified locations. Based on the testimony of Vukašinić, the Trial Chamber finds that RSK policemen were supplied with weapons by the SVK, and that these were stored in the police station. Further, despite Novaković’s testimony that he was unaware of any SVK use of a church in Benkovac, the Trial Chamber finds that, based on the testimony of Witness 56, there was a Catholic church close to the police station, which housed a platoon of RSK special police.

1426. In addition, the Trial Chamber finds, based on the evidence of Dijkstra, Vukašinić and Novaković, that there was a firemen’s hall located in southern Benkovac at a location marked B on map D1500 (see also D248 p. 3). The Trial Chamber finds, based on the testimony of Vukašinić, that this hall contained the

offices of the TO, the Secretariat of National Defence, the early warning centre and the Red Cross. Based on the testimony of Vukašinić and Novaković, the Trial Chamber finds that there were no SVK military units stationed in the firemen's hall. Also based on the evidence of Vukašinić, the Trial Chamber finds that there was a Bagat and Kepol factory at location D on map D1500, a cool storage at location C on map D1500, and a petrol station at location A on map D1500. The Trial Chambers finds, based on Vukašinić's testimony and in the absence of any evidence indicating otherwise, that there was no military production at the cool storage or the Bagat and Kepol factories.

1427. The Trial Chamber will now consider which objects or areas in and around Benkovac were impacted by artillery projectiles. The following estimates of distances between locations are based on comparisons of maps D1500, D1501, D248, D1446, D1460, and P2363 (for scale). Based on the evidence of Sinobad, the Trial Chamber finds that at around 6 a.m. on 4 August 1995, three to four shells fell in front of apartment buildings in the Barice residential area (marked A on P2363), damaging their façades and window panes. The Trial Chamber finds that this area in Barice where shells fell was located approximately 250 metres south-east of the location of the police station as provided by the "Jagoda" list, and approximately 400 metres south-east of the location of the police station on D248, p. 3. Based on the evidence of Vukašinić, the Trial Chamber finds that at approximately 4:30 p.m. on 4 August 1995, a shell hit the ticket office of the stadium, which was within two metres of the police station as identified on D248, p. 3, and another shell fell within the stadium. Also based on the evidence of Vukašinić, the Trial Chamber finds that sometime after 4:30 p.m. on 4 August 1995, five or six shells fell on the high school building, which was in the immediate vicinity of the stadium. The evidence does not establish what use, if any, was made of the apartment buildings, nor whether the high school and stadium were used for purposes other than their primary function.

1428. The Trial Chamber has considered the evidence of Witness 56 who, after having left Knin around 1 a.m. on 5 August 1995, arrived in Benkovac and saw two houses on fire. Based on this evidence and considering its above finding on when Benkovac was shelled, the Trial Chamber finds that these two houses, both marked X on map P290, were impacted by artillery projectiles sometime before Witness 56's arrival in Benkovac. The Trial Chamber finds that one of these houses was located less than 100 metres west of the location of the police station indicated on the "Jagoda" list, and

approximately 250 metres south-west of the location of the police station on D248, p. 3. The other house was located approximately 250-300 metres west of the location of the police station on D248, p. 3 and a similar distance north-west of the location of the police station as provided by the “Jagoda” list. The Trial Chamber further notes the evidence of exhibit D737 that when Captain Grancarić entered Benkovac at 3:30 p.m. on 5 August 1995, one building was on fire. Although the Trial Chamber is satisfied that this building was hit by artillery projectiles, it has received no further evidence indicating the location of the building in Benkovac. Consequently, the Trial Chamber is unable to establish location of this building and/or whether it is among the buildings identified above as having been hit with artillery projectiles.

1429. Based on the evidence of Vukašinić, the Trial Chamber finds that between 5 a.m. and 7 a.m. on 4 August 1995, approximately 100 shells landed on the following locations: around the areas of the Bagat and Kepol factories; the cool storage; the petrol station; the Slobodan Macura barracks; the police station; Benkovačko Selo; the Ristić hamlet; and the pine woods in Ristić (marked B on map D1501). The Ristić hamlet was around 800 metres north of the Benkovac stadium and therefore at least this distance from the location of the police station on D248, p. 3. Sometime after 5 a.m. on 4 August 1995, shells fell around the firemen’s hall. The Trial Chamber recalls that the firemen’s hall was listed on the “Jagoda” list, and finds that the petrol station was located approximately 150 metres north-west of the firemen’s hall. The Trial Chamber further finds that the petrol station and the fireman’s hall were at least 600 metres south-west of the location of the police station on D248, p. 3, and at least 500 metres south-west of the location of the police station as provided by the “Jagoda” list. The Trial Chamber recalls that the cool storage and Kepol factory were listed on the “Jagoda” list. The Trial Chamber further finds that the cool storage and Bagat and Kepol factories were at least 800 metres south of the location of the police station on D248, p. 3 and at least 700 metres south of the location of the police station as provided by the “Jagoda” list. The Trial Chamber finds that the pine woods in Ristić were approximately 500 metres west of the “Plodine” food warehouse listed on the “Jagoda” list and of the cross-roads identified by Rajčić as a target (listed as Benkovačko Selo on the “Jagoda” list). Also based on the evidence of Vukašinić, the Trial Chamber finds that sometime after 4:30 p.m. on 4 August 1995, approximately ten shells fell in the area of Ristić and that between 10:30 a.m. and 5 p.m. on that day, a total of 30-40 shells landed in the areas of

the stadium, Ristić, the Slobodan Macura barracks and other facilities in Benkovac. The Trial Chamber has received no evidence of what these projectiles impacted in these areas, other than what has been identified above. The Trial Chamber has considered Novaković's testimony that according to various reports received on 4 August 1995, a large number of projectiles were fired on Benkovac in an indiscriminate, scatter-shot manner. However, the Trial Chamber has received no further evidence on what information these reports were based on. In light of this, and given the other evidence received, the Trial Chamber is unable to assess the veracity of these claims.

1430. The Trial Chamber will now turn to the question of military and civilian presence in Benkovac on 4 and 5 August 1995. The Trial Chamber has considered the evidence of Vukašinović, that Benkovac was approximately seven kilometres from the nearest front line, and the evidence of Novaković that there were no SVK combat units in Benkovac town, and that the nearest unit was between 15 and 20 kilometres away. This evidence is supported by evidence from Roberts and Mrkšić, as well as Fuzul's 3 August 1995 order, P1263, Gotovina's remarks at the Brioni meeting of 31 July 1995 and his order of 2 August 1995, P1125. Based on the foregoing evidence, and the SVK report D828 (which indicates that at 5:25 a.m. on 5 August 1995, the logistics section of the Benkovac barracks was unmanned), the Trial Chamber finds that on 4 and 5 August 1995 there was minimal SVK presence in Benkovac town. The Trial Chamber refers to its findings under chapter 4.5.3 (Benkovac municipality) regarding the civilian presence in Benkovac on 4 and 5 August 1995. The Trial Chamber will further consider the alleged unlawful attack on civilians and civilian objects in Benkovac in relation to Count 1 of the Indictment in chapter 5.8.2 (i) below.

4.4.5 Gračac town

1431. The Trial Chamber has received evidence on the alleged unlawful attack against civilians and civilian objects in Gračac from several witnesses, including members of the Special Police, as well as from documentary evidence. The Trial Chamber has reviewed evidence on the ethnic composition of Gračac town in chapter 4.2.7 (Gračac town).

1432. **Marko Rajčić**, the chief of artillery of the Split MD from April 1993 to June 1996,⁵⁴⁷³ testified that he planned for the TS-5 to fire on targets in Gračac, but had no role in overseeing the plan's execution.⁵⁴⁷⁴ According to Rajčić, the only planned military targets in Gračac were three sets of cross-roads and the police station.⁵⁴⁷⁵ Gračac was in range of three 130-millimetre HV artillery pieces of the TS-5, from firing positions at Gvozdanka, in the Rovanjaska area, in Jasenica municipality, three 122-millimetre D30 from Vučje Polje, in Jasenica municipality, and one 122-millimetre MB21 MBRL from the area of Southern Velebit.⁵⁴⁷⁶ These artillery pieces had been attached to the Special Police, under the command of Mladen Markač.⁵⁴⁷⁷ The Trial Chamber has also considered evidence of this witness, reviewed in chapters 3.1.1 and 4.4.4. The Trial Chamber has further considered Červenko's order of 29 July 1995 as reviewed in chapter 3.3.

1433. Map "Poskok-93", which is signed by Gotovina and Brigadier Milan Mihić, lists the gas station and the intersection turning towards Knin as targets in Gračac.⁵⁴⁷⁸ The "Jagoda" list specifies four objects in Gračac; namely the railway station, a railway crossing over the road, a factory near the east cross-roads, and another factory near the west cross-roads.⁵⁴⁷⁹

1434. **Josip Turkalj**, commander of the Anti-Terrorist Unit Lučko and commander of the Special Police artillery unit during Operation Storm,⁵⁴⁸⁰ testified that for the advance on Gračac his task was to take positions from which attacking units could be

⁵⁴⁷³ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 1; Marko Rajčić, T. 16236, 16275; P2323 (Military Police official note of Rajčić interview, 11 July 2008), p. 1.

⁵⁴⁷⁴ Marko Rajčić, T. 16264, 16363, 17683-17684.

⁵⁴⁷⁵ Marko Rajčić, T. 16363, 16365; P2329 (Map of Gračac area with Rajčić markings); P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 9; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 13; D1460 (Maps of Benkovac, Obrovac and Gračac, with overlay of Jagoda list targets and Rajčić markings), pp. 5-6.

⁵⁴⁷⁶ D1425 (Marko Rajčić, witness statement, 13 February 2009), p. 24; P2322 (Map showing HV artillery positions and sectors of fire), p. 15; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 9; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 14.

⁵⁴⁷⁷ Marko Rajčić, T. 16362; P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 9; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), p. 14.

⁵⁴⁷⁸ P1273 (Map Poskok-93), p. 8.

⁵⁴⁷⁹ D1460 (Maps of Benkovac, Obrovac and Gračac, with overlay of Jagoda list objects and Rajčić markings), pp. 5-6; D1447 (Jagoda list of objects of the TS-3 of OG Zadar, 30 July 1995), p. 32.

⁵⁴⁸⁰ P1149 (Josip Turkalj, witness statement, 4 February 2004), paras 11, 31; P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 14-15, 34; Josip Turkalj, T. 13541, 13551.

supported.⁵⁴⁸¹ The witness plotted certain positions for all artillery groups.⁵⁴⁸² The attack plan was to come in from five or six directions.⁵⁴⁸³ Each direction had one appointed commander, two or three Special Police units (300-600 members), and the support of one specific artillery group.⁵⁴⁸⁴ The direction commanders had coded maps and were in radio contact with their corresponding artillery commanders and acted, together with the unit commanders accompanying them, as forward-spotters for the artillery and reported back about possible firing corrections.⁵⁴⁸⁵ The witness stated that there was no specific advance plan but rather a more *ad hoc* plan with actions to be taken depending on the circumstances.⁵⁴⁸⁶ One of the direction commanders was Norac who was with the 9th Guards Brigade.⁵⁴⁸⁷

1435. Turkalj received from the Internal Control Department a topographical map with potential target information, such as military targets, and on the basis of this map determined the targets to be engaged.⁵⁴⁸⁸ The witness plotted in total over 100 targets along the frontline and some beyond.⁵⁴⁸⁹ The targets included warehouses, command posts, and assembly posts.⁵⁴⁹⁰ The witness stated that he had no particular information as to any civilian presence close to the targets, but could, to a certain extent, see on a map how close civilian settlements were to the targets.⁵⁴⁹¹ The witness informed Sačić of the targets to be engaged and stated that Markač trusted Turkalj and hence did not have cause to check his judgement.⁵⁴⁹² Targets deep behind the front line were fired at with smaller numbers of projectiles so as to disrupt them, whereas targets on the front line, such as enemy strongholds firing upon the Croatian forces, were fired at with much more projectiles in order to neutralize them.⁵⁴⁹³ There were no rules of engagement for

⁵⁴⁸¹ P1150 (Josip Turkalj, witness interview of 11 March 2005), p. 78; Josip Turkalj, T. 13556.

⁵⁴⁸² P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 95-96, 126.

⁵⁴⁸³ P1150 (Josip Turkalj, witness interview of 11 March 2005), p. 79.

⁵⁴⁸⁴ P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 79-80, 96; Josip Turkalj, T. 13700-13701, 13757; see also D1205 (Order by Červenko within letter from Rakić to Ademi, 29 July 1995), p. 2.

⁵⁴⁸⁵ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 34; P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 80-82, 89-92; P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 23-24; Josip Turkalj, T. 13597-13598

⁵⁴⁸⁶ P1150 (Josip Turkalj, witness interview of 11 March 2005), p. 81.

⁵⁴⁸⁷ P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 93-94. There is no indication in Turkalj's evidence that the 9th Guards Brigade shelled Gračac on 4-5 August 1995, nor did the Trial Chamber find any such indication in other evidence or in the final submissions of the parties.

⁵⁴⁸⁸ Josip Turkalj, T. 13552, 13554-13555, 13567, 13590-13592, 13702-13703.

⁵⁴⁸⁹ Josip Turkalj, T. 13555.

⁵⁴⁹⁰ Josip Turkalj, T. 13703.

⁵⁴⁹¹ Josip Turkalj, T. 13553-13554, 13568.

⁵⁴⁹² Josip Turkalj, T. 13552, 13592-13593.

⁵⁴⁹³ Josip Turkalj, T. 13704-13705, 13767.

artillery *per se*, but “artillery tactics” which the witness followed.⁵⁴⁹⁴ Turkalj testified that artillery has a psychological effect by way of demoralizing enemy forces and causing fear among the population, in particular in a mountainous terrain with valleys and echoes.⁵⁴⁹⁵ The witness stated that one day before Operation Storm he had a conversation with Markač, wherein he advised the witness that when selecting targets he should make sure that civilians would not come in harm’s way.⁵⁴⁹⁶

1436. Turkalj testified that on 4 August 1995 in the early morning hours, one or two aircrafts of the HV flew over the area and shelled the repeater on the mountain Čelavac.⁵⁴⁹⁷ According to a Special Police war path, these were two “MIG” aircrafts.⁵⁴⁹⁸ The witness testified that after the shelling of the repeater, Sačić issued the order for the attack on Gračac, and the advance started.⁵⁴⁹⁹ The Special Police forces advanced down the Velebit in the general direction of Gračac.⁵⁵⁰⁰ The witness stated that he used artillery, mostly in the area of Mali Alan, where there were combat activities.⁵⁵⁰¹ One enemy howitzer battery close to Sveti Rok was targeted at the beginning of the operation; thereafter artillery was only used upon requests by the commanders.⁵⁵⁰² Every commander had an artillery battery following him, which included a 128-millimetre multi-barrel rocket launcher of the “RAK” type.⁵⁵⁰³ Artillery support from these batteries did not require Turkalj’s authorisation, however, if support from 130-millimetre cannons was requested, this could only be authorized by the witness.⁵⁵⁰⁴

1437. Turkalj testified that there were three targets inside civilian settlements which were fired upon with a very small number of 130-millimetre cannon projectiles, around three or four rounds, in order to only neutralize the target and to minimize collateral damage.⁵⁵⁰⁵ The three targets were the 9th Gračac Brigade command, the main cross-

⁵⁴⁹⁴ Josip Turkalj, T. 13556, 13565-13566.

⁵⁴⁹⁵ Josip Turkalj, T. 13719-13721.

⁵⁴⁹⁶ Josip Turkalj, T. 13567.

⁵⁴⁹⁷ P1150 (Josip Turkalj, witness interview of 11 March 2005), p. 114.

⁵⁴⁹⁸ P1242 (War path of Dubrava-Neretva Special Police unit), p. 5.

⁵⁴⁹⁹ P1150 (Josip Turkalj, witness interview of 11 March 2005), p. 114.

⁵⁵⁰⁰ P1150 (Josip Turkalj, witness interview of 11 March 2005), p. 116.

⁵⁵⁰¹ P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 117-118; P1153 (Combat path of the Special Police unit Bjelovar and Bilogora 1991-1995), pp. 2-4.

⁵⁵⁰² P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 117-120; Josip Turkalj, T. 13588-13589, 13594, 13716.

⁵⁵⁰³ Josip Turkalj, T. 13594-13595, 13757, 13760.

⁵⁵⁰⁴ Josip Turkalj, T. 13594-13595; see also D1206 (Report on the participation of the artillery battery of the Brod-Posavina police administration in Operation Storm, 18 August 1995), p. 2.

⁵⁵⁰⁵ Josip Turkalj, T. 13584-13586, 13772-13773.

roads, and a police station housing some of the active operational forces in the area.⁵⁵⁰⁶ Multi-barrel rocket launchers, which according to the witness are used to cover a target area rather than a target point, were exclusively used to engage the enemy frontline and up to two kilometres beyond.⁵⁵⁰⁷ Turkalj acknowledged that the use of 400 pieces of 128-millimetre missiles on the first day of the operation could be feasible, in any event, according to the witness, most artillery was used to break through the first line of defence.⁵⁵⁰⁸ The witness acknowledged that around 15 shells could have fallen on Gračac itself.⁵⁵⁰⁹ Turkalj confirmed that there were some targets in the centre of Gračac itself, such as a police station, the municipal building, a railway station, a cross-roads, and a depot.⁵⁵¹⁰ The witness stated that multiple rocket fire was not used in relation to Gračac.⁵⁵¹¹

1438. The Special Police forces moved down the slopes of the Velebit mountain at a considerable pace and reached Mali Alan around 12:30 to 1 p.m. on 4 August 1995, but only entered the suburbs of Gračac at 2 p.m. on 5 August 1995.⁵⁵¹² As the Croatian forces advanced toward the foot of the Velebit mountain and due to the limited range of the Special Police artillery, artillery support had to be provided by the HV artillery unit attached to the Special Police until the artillery units had redeployed.⁵⁵¹³ Turkalj entered Gračac about six hours after the Special Police forces.⁵⁵¹⁴ The witness did not see any civilians in Gračac and stated that he was surprised about this, as from his experience, when the SVK used to target Croatian-held territory with artillery fire, the Croatian civilians would seek shelter and not evacuate.⁵⁵¹⁵ The witness stated that the quick advancement of the HV and the Special Police forces during Operation Storm necessitated search and mop-up operations in the “liberated areas” to be carried out by

⁵⁵⁰⁶ Josip Turkalj, T. 13585, 13776.

⁵⁵⁰⁷ Josip Turkalj, T. 13572, 13581-13582, 13602.

⁵⁵⁰⁸ Josip Turkalj, T. 13608, 13706, 13760; P1154 (Replenishment request by Markač to Červenko, 5 August 1995), p. 1; see also P1233 (Report of used material during Operation Storm from Požega Special Police unit, 18 August 1995), p. 2; P1246 (Report on combat operations by Požega Special Police unit, 17 August 1995), p. 2; P1247 (Combat path of the Požega Special Police unit), p. 2.

⁵⁵⁰⁹ Josip Turkalj, T. 13706-13707.

⁵⁵¹⁰ Josip Turkalj, T. 13584-13585, 13707, 13766.

⁵⁵¹¹ Josip Turkalj, T. 13599-13600, 13605.

⁵⁵¹² P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 120-124; Josip Turkalj, T. 13706, 13709; see also P1153 (Combat path of the Special Police unit Bjelovar and Bilogora 1991-1995), pp. 4-5; P1237 (War path of Varaždin Special Police unit), p. 3.

⁵⁵¹³ P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 122-123; Josip Turkalj, T. 13706.

⁵⁵¹⁴ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 33; P1150 (Josip Turkalj, witness interview of 11 March 2005), p. 124.

⁵⁵¹⁵ Josip Turkalj, T. 13771-13773.

the Special Police, in order to detect any cut-off enemy soldiers.⁵⁵¹⁶ According to combat reports, Markač was present in Gračac around 6 p.m. on 5 August 1995.⁵⁵¹⁷ The Trial Chamber has further considered evidence by this witness, reviewed in chapter 3.3.

1439. The operations diary of the first sector reported that on 4 August 1995, at 5 a.m., the 130s “have been put into operation”, at 5:25 a.m., the 130 “commences - two a minute”, and at 5:48 a.m., that the 130 was to cease fire.⁵⁵¹⁸ The diary further reported that on the same day, the HV fired four shells of 130 millimetres at Gračac, at 9:55 a.m.; five shells of 130 millimetres at Gračac in rapid fire at 11:33 a.m.; and fired another eight shells at Gračac at 7:20 p.m.⁵⁵¹⁹ The operations diary further reported that on the same day, there were requests for 130-millimetre artillery fire at 9 and 9:05 a.m. in the direction of Gračac, and for five shells at a target in or near Gračac at 11:45 a.m.⁵⁵²⁰

1440. According to a log of Special Police movements and activities during Operation Storm, on 4 August 1995 at 5:15 a.m. artillery preparation commenced.⁵⁵²¹ At 8:55 a.m. the Special Police fired artillery targeting Gračac and Medak, in Gospić municipality, and at 9 a.m. the Special Police fired artillery at two enemy trucks headed from Gračac to Medak.⁵⁵²² At 11:30 a.m., the Special Police fired artillery targeting Gračac.⁵⁵²³

1441. On 4 August 1995, Colonel Mladen Fuzul, Commander of the OG Zadar, reported that the artillery attack started at 5:07 a.m. and lasted until 5:46 a.m.⁵⁵²⁴ According to the report, the Special Units of the MUP were supported by 130-millimetre guns and 122-millimetre Howitzers in the 1st sector engaging Gračac and the area behind the lines. Fuzul reported that the self-propelled multiple rocket launcher and ammunition arrived late, which weakened the support. Around 1 p.m., the 130-millimetre gun jammed and it was repaired around 6 p.m. The 203-millimetre Howitzer broke down around 4:42 p.m. and was still being repaired at the time of the report.

⁵⁵¹⁶ Josip Turkalj, T. 13727-13728; P1153 (Combat path of the Special Police unit Bjelovar and Bilogora 1991-1995), p. 8.

⁵⁵¹⁷ P1153 (Combat path of the Special Police unit Bjelovar and Bilogora 1991-1995), p. 5; P1237 (War path of Varaždin Special Police unit), p. 5.

⁵⁵¹⁸ P2436 (Operations diary first sector, June to October 1995), pp. 1, 4.

⁵⁵¹⁹ P2436 (Operations diary first sector, June to October 1995), pp. 5-7.

⁵⁵²⁰ P2436 (Operations diary first sector, June to October 1995), pp. 5-6.

⁵⁵²¹ P2385 (Log of Special Police activities during Operation Storm), p. 1.

⁵⁵²² P2385 (Log of Special Police activities during Operation Storm), p. 2.

⁵⁵²³ P2385 (Log of Special Police activities during Operation Storm), p. 3.

⁵⁵²⁴ D1095 (Daily combat report, Mladen Fuzul, 4 August 1995).

Fuzul reported that the artillery engaged the frontline and the area deep behind enemy lines the entire day.⁵⁵²⁵

1442. **Dragutin Repinć**, Chief of the Planning Department in the HV Main Staff and an expert on military training and planning,⁵⁵²⁶ testified that the attack by the Collective Special Police Forces began as planned at 5:15 a.m. on 4 August 1995.⁵⁵²⁷ Special Police units operated along one main axis of attack and four auxiliary axes.⁵⁵²⁸ The units operating on each axis of attack were supported by rocket and artillery fire, in total six 120-millimetre mortar batteries, one 128/12 M-91 multiple rocket launcher rocket battalion, three 130-millimetre guns, three 122-millimetre D-30 Howitzers, one GRAD 122-millimetre multiple rocket launcher, and ten 107-millimetre light rocket launchers.⁵⁵²⁹ The artillery support was to be reinforced by HV rocket and artillery forces, specifically one 130-millimetre gun platoon, one reinforced 122-millimetre D-30 Howitzer platoon and one 122-millimetre GRAD rocket system.⁵⁵³⁰ Repinć testified that on 5 August 1995 the Collective Special Police Forces' attack, assisted by artillery support, proceeded on the same axes.⁵⁵³¹ According to an intelligence assessment made by the Inner Control Department and presented by its Chief Ante Šoljić to Special Police commanders on 2 August 1995, the Collective Special Police forces faced the Gračac 9th Motorized Brigade, whose Command Post was located in Gračac, as well as the 3rd battalion of the 4th Light Brigade of the 7th Knin Corps.⁵⁵³² Repinć testified that by 11:30 a.m. on 5 August 1995, the Collective Special Police Forces had taken control of the town of Gračac, without encountering significant resistance.⁵⁵³³ As soon as Gračac was taken, the Collective Forces Staff moved into the Gračac municipal court building, where it became operational at 4 p.m.⁵⁵³⁴

⁵⁵²⁵ D1095 (Daily combat report, Mladen Fuzul, 4 August 1995), p. 1.

⁵⁵²⁶ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 1-16; Dragutin Repinć, T. 26661-26665.

⁵⁵²⁷ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 118-119.

⁵⁵²⁸ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 119-121; Dragutin Repinć, T. 26722; D2078 (Order for Attack for the Joint Special Police Forces), pp. 1-15.

⁵⁵²⁹ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 119; D2078 (Order for Attack for the Joint Special Police Forces), pp. 17-18.

⁵⁵³⁰ D2078 (Order for Attack for the Joint Special Police Forces), p. 18.

⁵⁵³¹ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 129.

⁵⁵³² D1932 (Dragutin Repinć, Expert Report, December 2009), para. 81, 86; Dragutin Repinć, T. 26706-26707, 26710-26712, 26714.

⁵⁵³³ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 129-131; D2081 (Report from the Chief of Staff of the HV to President Tuđman, 5 August 1995), p. 1; Dragutin Repinć, T. 26726-26727.

⁵⁵³⁴ D1932, (Dragutin Repinć, Expert Report, December 2009), para. 136.

1443. **Mile Mrkšić**, the commander of the SVK Main Staff from May 1995,⁵⁵³⁵ testified that on 29 July 1995, he ordered the commander of the Special Units Corps to move the 2nd Guards Brigade to Bruvno, in Gračac municipality, to prevent the HV cutting off the corps and encircling the SVK and to prevent the HV from entering Srb from behind.⁵⁵³⁶ If Mrkšić were to order these forces to go to Knin or the Dinara, they would have to pass through an intersection in the road from Bruvno to Gračac and turn left to Knin.⁵⁵³⁷ The Gračac brigade protected the Velebit area, towards the Gospić-Gračac road.⁵⁵³⁸ As the Gračac brigade was positioned in the direction of Gospić, Mrkšić believed there were no SVK forces in Gračac town on 4 August 1995.⁵⁵³⁹ According to a 9 August 1995 report by Ševo, the commander of the SVK 15th Corps, from 5 a.m. on 4 August 1995, Croatian forces launched artillery attacks mainly on civilian objects in inhabited areas of Gračac and elsewhere, and, together with tank and infantry fire, on the forward line of defence.⁵⁵⁴⁰

1444. **Kosta Novaković**, who was a member of the SVK General Staff and assistant commander to Mile Mrkšić during Operation Storm,⁵⁵⁴¹ testified that there were no military units based in Gračac town itself and the closest troops were positioned some 10-15 kilometres away from the town.⁵⁵⁴² The 9th Motorized Brigade of the 15th Lika Corps was positioned in the area of Medak, in Gospić municipality, to protect towns in that region, including Gračac.⁵⁵⁴³ The 9th Motorized Brigade consisted of between 1,000 and 1,200 men and was supported by the 4th Light Obrovac Brigade, which was a smaller and poorly armed brigade.⁵⁵⁴⁴

1445. **Mile Sovilj**, a Serb journalist from Gračac,⁵⁵⁴⁵ testified that he heard the explosion of a shell landing in the town centre at around 5 a.m. on 4 August 1995, about

⁵⁵³⁵ Mile Mrkšić, T. 18751, 18993.

⁵⁵³⁶ Mile Mrkšić, T. 18830, 18874, 18915, 18962, 19130; D1510 (Order to the commander of the Special Units Corps from Mile Mrkšić, 29 July 1995).

⁵⁵³⁷ Mile Mrkšić, T. 19130-19131; D1529 (Map of Gračac municipality).

⁵⁵³⁸ Mile Mrkšić, T. 18997.

⁵⁵³⁹ Mile Mrkšić, T. 19059.

⁵⁵⁴⁰ D1521 (Report on combat operations to the SVK Main Staff, Stevo Ševo, 9 August 1995), pp. 1, 3.

⁵⁵⁴¹ P1092 (Kosta Novaković, witness statement, 5 April 2001), pp. 1-2; P1093 (Kosta Novaković, witness statement, 8 March 2007), paras 4-5; Kosta Novaković, T. 11708, 11711, 11775-11776, 11858.

⁵⁵⁴² P1093 (Kosta Novaković, witness statement, 8 March 2007), paras 8, 14.

⁵⁵⁴³ P1093 (Kosta Novaković, witness statement, 8 March 2007), para. 8.

⁵⁵⁴⁴ Kosta Novaković, T. 11960-11961.

⁵⁵⁴⁵ P86 (Mile Sovilj, witness statement, 22 February 2007), p. 1, paras 1-4; P87 (Mile Sovilj, witness statement, 23 April 2008), p. 1; Mile Sovilj, T. 2216, 2238-2239; P88 (Map of Gračac area, marked by Mile Sovilj), location "A"; D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), paras 2, 7.

100 metres from his apartment.⁵⁵⁴⁶ The witness testified that he heard approximately 15 shells falling on Gračac, at intervals, throughout the day until he left the town that afternoon at 4 p.m.⁵⁵⁴⁷ According to the witness, several areas of the town were shelled.⁵⁵⁴⁸ Sovilj testified that in 1995 there were around 5,000 people living in Gračac, 95 per cent of Serb ethnicity.⁵⁵⁴⁹ Aside from a few persons at the police station and the municipal assembly building, everyone of military age and capable of carrying a rifle had been mobilized and sent to the frontline some ten to fifteen days prior to the attack, and only the civilian population remained.⁵⁵⁵⁰ Villagers started to leave Gračac during the afternoon of 4 August 1995.⁵⁵⁵¹ According to the witness, there were no military facilities or targets in Gračac.⁵⁵⁵² Sovilj testified that some locations in the area of the metalworking plant, located near the mill and the railway station in Gračac, had been used as temporary depots for ammunition and other military equipment, and that some small military units had been housed there during the early stages of the war in 1991, though he did not know what happened to these once the frontline moved towards Gospić in the later stages of the war.⁵⁵⁵³ The witness testified that there was a TO office in the municipal assembly building in Gračac.⁵⁵⁵⁴

1446. **Vida Gaćeša**, a Serb woman from Gračac,⁵⁵⁵⁵ testified that she was awakened at 5:05 a.m. on 4 August 1995 by a shell that landed close to her house.⁵⁵⁵⁶ After hearing the sound of planes and explosions around 5:15 a.m., the witness turned on her radio

⁵⁵⁴⁶ P86 (Mile Sovilj, witness statement, 22 February 2007), para. 5; P87 (Mile Sovilj, witness statement, 23 April 2008), para. 7; Mile Sovilj, T. 2213-2214, 2216-2218, 2247-2248; P88 (Map of Gračac area, marked by Mile Sovilj), witness's apartment marked A, impact of shell marked B; D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), para. 5.

⁵⁵⁴⁷ P86 (Mile Sovilj, witness statement, 22 February 2007), para. 6; P87 (Mile Sovilj, witness statement, 23 April 2008), para. 8; Mile Sovilj, T. 2214-2215, 2239-2241; D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), para. 6.

⁵⁵⁴⁸ P86 (Mile Sovilj, witness statement, 22 February 2007), para. 6; Mile Sovilj, T. 2214, 2217; P88 (Map of Gračac area, marked by Mile Sovilj), location "C"; D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), para. 5.

⁵⁵⁴⁹ Mile Sovilj, T. 2211-2212, 2241; D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), para. 2.

⁵⁵⁵⁰ Mile Sovilj, T. 2217-2219; P88 (Map of Gračac area, marked by Mile Sovilj), municipal assembly building marked D and police station marked E; D134 (Mile Sovilj, supplemental information sheet, 18 April 2008), para. 4.

⁵⁵⁵¹ Mile Sovilj, T. 2219.

⁵⁵⁵² P86 (Mile Sovilj, witness statement, 22 February 2007), para. 5; Mile Sovilj, T. 2218-2219.

⁵⁵⁵³ Mile Sovilj, T. 2218, 2243-2244, 2249; P88 (Map of Gračac area, marked by Mile Sovilj), railway station marked F; D135 (Map of Gračac and surroundings, marked by Mile Sovilj), Mlin warehouse marked A.

⁵⁵⁵⁴ Mile Sovilj, T. 2217, 2245-2246; P88 (Map of Gračac area, marked by Mile Sovilj), municipal assembly building marked D.

⁵⁵⁵⁵ P191 (Vida Gaćeša, witness statement, 4 April 2007), p. 1, para. 1.

and got no reception.⁵⁵⁵⁷ The witness testified that a TV and radio transmitter was located on the Čelavac hill, close to Gračac.⁵⁵⁵⁸ The witness heard several shells landing, including the sound of a shell that fell between her house and her neighbour's house.⁵⁵⁵⁹ The shells caused fragments to fly away from the witness's house, damage to the house's exterior, a crack in the paint on the interior of the house, and tiles to slide off the roof of the house.⁵⁵⁶⁰ The witness felt frightened because the shelling was more intense than what she had experienced regularly (at least once a week) between 1993 and 1995 in Gračac.⁵⁵⁶¹ At 7 a.m., the witness observed that about 50-70 metres away from her house, a veterinary operating room was on fire and smoke was coming from a warehouse.⁵⁵⁶² The witness took shelter in the basement of her neighbour's house with eight other people.⁵⁵⁶³ When leaving Gračac between 9:30 and 10 a.m., the witness avoided certain roads and the centre of town because they were being shelled.⁵⁵⁶⁴ The witness estimated that around 100 shells had fallen in Gračac by the time she left the town.⁵⁵⁶⁵ From 11 or 11:30 a.m., the witness observed from a vantage point in Vučipolje in Gračac municipality that Gračac was being shelled with short breaks of about 15 minutes.⁵⁵⁶⁶ Shells were falling on the eastern part of Gračac around a Catholic cemetery, an Orthodox Christian cemetery, a football pitch, a leather factory, the witness's house, and an intersection of roads east of Gračac.⁵⁵⁶⁷ Around 1 p.m., she entered her parents' house situated just outside of Vučipolje, but could still hear explosions thereafter.⁵⁵⁶⁸ Around 6 p.m., a woman from Vučipolje warned the witness to leave the village before night-time and informed her that people from Gračac and its

⁵⁵⁵⁶ P191 (Vida Gaćeša, witness statement, 4 April 2007), para. 5; Vida Gaćeša, T. 2886, 2888-2889, 2898-2899; P192 (Map of Gračac area, marked by Vida Gaćeša), witness's house marked A.

⁵⁵⁵⁷ P191 (Vida Gaćeša, witness statement, 4 April 2007), para. 9; Vida Gaćeša, T. 2899, 2905, 2917.

⁵⁵⁵⁸ Vida Gaćeša, T. 2905-2906.

⁵⁵⁵⁹ P191 (Vida Gaćeša, witness statement, 4 April 2007), para. 5; Vida Gaćeša, T. 2886; P192 (Map of Gračac area, marked by Vida Gaćeša), witness's house marked A.

⁵⁵⁶⁰ P191 (Vida Gaćeša, witness statement, 4 April 2007), para. 5.

⁵⁵⁶¹ P191 (Vida Gaćeša, witness statement, 4 April 2007), paras 4 -5, 11; Vida Gaćeša, T. 2889-2892, 2894, 2899.

⁵⁵⁶² P191 (Vida Gaćeša, witness statement, 4 April 2007), para. 6; Vida Gaćeša, T. 2887, 2907; P192 (Map of Gračac area, marked by Vida Gaćeša), veterinary building marked C and warehouse marked D.

⁵⁵⁶³ P191 (Vida Gaćeša, witness statement, 4 April 2007), para. 7; Vida Gaćeša, T. 2886-2887; P192 (Map of Gračac area, marked by Vida Gaćeša), neighbour's house marked B.

⁵⁵⁶⁴ P191 (Vida Gaćeša, witness statement, 4 April 2007), para. 10; Vida Gaćeša, T. 2902-2905; D185 (Map of Gračac town, marked by Vida Gaćeša), witness's route marked in blue.

⁵⁵⁶⁵ P191 (Vida Gaćeša, witness statement, 4 April 2007), para. 10; Vida Gaćeša, T. 2898-2899.

⁵⁵⁶⁶ P191 (Vida Gaćeša, witness statement, 4 April 2007), para. 12; Vida Gaćeša, T. 2913-2915; P193 (Map of Gračac municipality, marked by Vida Gaćeša), witness's parents' village marked in red.

⁵⁵⁶⁷ P191 (Vida Gaćeša, witness statement, 4 April 2007), para. 12; Vida Gaćeša, T. 2913-2915; P193 (Map of Gračac municipality, marked by Vida Gaćeša); D188 (Aerial photograph of Gračac, marked by Vida Gaćeša), cross-roads marked in blue.

nearby villages were departing from those areas.⁵⁵⁶⁹ The witness's concern that she would be left alone in Vučipolje, coupled with the panic amongst the people around her, drove the witness and her companions to leave that village even though they did not know their next destination.⁵⁵⁷⁰ After leaving Vučipolje whilst on the main road towards Sučevići, in Gračac municipality, the witness saw a convoy of tractor trailers, cars, cattle, and tractors. In Sučevići and in Srb in Donji Lapac municipality, the convoy was joined by more people.⁵⁵⁷¹ The witness observed that some people tried turning back from the convoy, but found it impossible to do so because of the large number of people that clogged the road.⁵⁵⁷² The witness testified that they were not told to go anywhere but simply followed the convoy.⁵⁵⁷³ The witness's family was not with her during her journey with the convoy and she had no information about what had happened to them.⁵⁵⁷⁴ The witness arrived in Serbia on 9 August 1995.⁵⁵⁷⁵

1447. **Herman Steenbergen**, an UNMO in Team Gračac from 5 May until 24 October 1995,⁵⁵⁷⁶ testified that on 4 August 1995 around 5 a.m. shells fell on Gračac and exploded near the house in which he stayed.⁵⁵⁷⁷ Initially Steenbergen took shelter, but later he stood in the doorway of his house and heard shells flying over and observed shrapnel hitting houses in the street.⁵⁵⁷⁸ Shrapnel also impacted on his house.⁵⁵⁷⁹ The shelling was regular, roughly two shells per minute, and lasted approximately two hours.⁵⁵⁸⁰ The witness thought the shelling was aimed at two cross-roads.⁵⁵⁸¹ Other

⁵⁵⁶⁸ P191 (Vida Gačeša, witness statement, 4 April 2007), para. 12; Vida Gačeša, T. 2912.

⁵⁵⁶⁹ P191 (Vida Gačeša, witness statement, 4 April 2007), para. 12; Vida Gačeša, T. 2917.

⁵⁵⁷⁰ P191 (Vida Gačeša, witness statement, 4 April 2007), para. 13.

⁵⁵⁷¹ P191 (Vida Gačeša, witness statement, 4 April 2007), para. 15; Vida Gačeša, T. 2917.

⁵⁵⁷² P191 (Vida Gačeša, witness statement, 4 April 2007), para. 16.

⁵⁵⁷³ P191 (Vida Gačeša, witness statement, 4 April 2007), para. 15; Vida Gačeša, T. 2917.

⁵⁵⁷⁴ P191 (Vida Gačeša, witness statement, 4 April 2007), para. 16.

⁵⁵⁷⁵ P191 (Vida Gačeša, witness statement, 4 April 2007), para. 17.

⁵⁵⁷⁶ P516 (Herman Steenbergen, witness statement, 18 July 2007), p. 1, paras 1-5, 7; P517 (Herman Steenbergen, witness statement, 18 September 2007), p. 1, para. 1; P518 (Herman Steenbergen, witness statement, 10 March 1996), p. 1; Herman Steenbergen, T. 5408, 5442, 5461-5462; P519 (Incident report by Steenbergen regarding lost items due to Operation Storm, 21 September 1995), p. 1.

⁵⁵⁷⁷ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 20-21; P518 (Herman Steenbergen, witness statement, 10 March 1996), p. 1; Herman Steenbergen, T. 5419-5420, 5457; P519 (Incident report by Steenbergen regarding lost items due to Operation Storm, 21 September 1995), p. 1; P538 (Map of Gračac municipality marked by Herman Steenbergen), house marked G.

⁵⁵⁷⁸ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 24; Herman Steenbergen, T. 5422-5423, 5469-5470, 5498; P519 (Incident report by Steenbergen regarding lost items due to Operation Storm, 21 September 1995), p. 1.

⁵⁵⁷⁹ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 24; Herman Steenbergen, T. 5498.

⁵⁵⁸⁰ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 21; Herman Steenbergen, T. 5465-5466.

UNMO team members living in various parts of town informed Steenbergen via hand-held radio that shells were falling close to their houses too.⁵⁵⁸² Around 7 a.m., during the first lull in the shelling, Steenbergen observed a Croatian MIG-21 attack a communications centre on a hill six to seven kilometres west-south-west of Gračac.⁵⁵⁸³ Steenbergen instructed his team to report to the UNMO office, and while driving there he observed a number of shell craters, including craters on the road.⁵⁵⁸⁴ The shelling started again around 8 a.m. and lasted approximately two hours after which the team, following an evacuation order from Knin headquarters Sector South, drove at 11 a.m. to the Jordanian Battalion III camp in Štikada in Gračac municipality.⁵⁵⁸⁵ On their way, they observed groups of Serbian soldiers on the Štikada-Gračac road about two to three kilometres out of Gračac who were withdrawing from the frontline on foot.⁵⁵⁸⁶ Once at the compound, Team Gračac sheltered and had limited ability to observe the situation.⁵⁵⁸⁷ Between 12 and 2:20 p.m. they heard fire originating from the direction of Mali Alan in Lovinac municipality.⁵⁵⁸⁸ Between 2 and 5 p.m. they heard 15 artillery impacts in Gračac town.⁵⁵⁸⁹ On 5 August 1995, Steenbergen observed a group of SVK soldiers travelling over a ridge north of the Jordanian Battalion III compound in the direction of east-south-east and some time later saw an incoming artillery shell in the vicinity of that spot.⁵⁵⁹⁰

⁵⁵⁸¹ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 22; Herman Steenbergen, T. 5419; P536 (Map of Gračac municipality marked by Herman Steenbergen), cross-roads marked D and E; P537 (Map of Gračac municipality marked by Herman Steenbergen, computer version), cross-roads marked D and E.

⁵⁵⁸² P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 25-26; P517 (Herman Steenbergen, witness statement, 18 September 2007), para. 17.

⁵⁵⁸³ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 27.

⁵⁵⁸⁴ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 28; Herman Steenbergen, T. 5498; P519 (Incident report by Steenbergen regarding lost items due to Operation Storm, 21 September 1995), p. 1.

⁵⁵⁸⁵ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 10, 32, 34-35; P518 (Herman Steenbergen, witness statement, 10 March 1996), p. 1; Herman Steenbergen, T. 5409; P519 (Incident report by Steenbergen regarding lost items due to Operation Storm, 21 September 1995), p. 1.

⁵⁵⁸⁶ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 37; Herman Steenbergen, T. 5466-5467; D435 (Report by the 9th Mountain Brigade to the 15th Corps Command, 9 August 1995), p. 2.

⁵⁵⁸⁷ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 36, 40; Herman Steenbergen, T. 5457-5458, 5466, 5468-5469; P519 (Incident report by Steenbergen regarding lost items due to Operation Storm, 21 September 1995), p. 1.

⁵⁵⁸⁸ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 38; Herman Steenbergen, T. 5423, 5449, 5497; D433 (Map of Gračac and surrounding area); D435 (Report by the 9th Mountain Brigade to the 15th Corps Command, 9 August 1995), p. 1.

⁵⁵⁸⁹ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 39; P102 (UNMO Sector South daily situation report, 8 p.m., 4 August 1995), pp. 1-3.

⁵⁵⁹⁰ Herman Steenbergen, T. 5412, 5424, 5467.

1448. On 6 August 1995, UNMO Team Gračac resumed patrol and observed extensive damage and shell craters throughout Gračac.⁵⁵⁹¹ Steenbergen stated that most streets had shelling damage, and that there were 10-20 craters around one cross-road.⁵⁵⁹² All houses in Gračac were damaged, and Steenbergen stated that it was difficult to distinguish between damage caused by shelling and that caused by arson.⁵⁵⁹³ According to an UNMO Sector South report of 7 August 1995, UNMO Team Gračac reported that the main HV artillery impacts were located around a main junction in Gračac, which the coordinates (WK6805) indicate was in eastern Gračac.⁵⁵⁹⁴ According to Steenbergen there were no operative barracks in Gračac, but he once saw SVK military trucks entering and exiting a factory located in town.⁵⁵⁹⁵ There was also a police station in the centre of Gračac, and Steenbergen stated that the RSK police were often engaged in military activities as well.⁵⁵⁹⁶

1449. **Alun Roberts**, Press and Information Officer for UN Sector South in Knin from mid-September 1993 until about mid-October 1995,⁵⁵⁹⁷ stated in a media interview held on 4 August 1995, that on the same day Benkovac and Gračac had been subject to significant shelling by the HV.⁵⁵⁹⁸ Roberts testified that he visited Gračac on at least three occasions in the weeks following Operation Storm, and found that the roof tops of several houses clearly showed shell damage, while other houses showed clear signs of

⁵⁵⁹¹ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 44-46.

⁵⁵⁹² P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 45; P517 (Herman Steenbergen, witness statement, 18 September 2007), para. 4; Herman Steenbergen, T. 5498; P523 (Photograph of shell impacts at cross-road "D", taken by Steenbergen on 6 August 1995); P524 (Photograph of shell impacts at cross-road "D", taken by Steenbergen on 6 August 1995); P536 (Map of Gračac municipality with markings by Herman Steenbergen), cross-road marked D; P537 (Map of Gračac municipality with markings by Herman Steenbergen, computer version), cross-road marked D.

⁵⁵⁹³ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 45, 51-52.

⁵⁵⁹⁴ P111 (UNMO Sector South daily situation report, 8 p.m., 7 August 1995), pp. 1, 3.

⁵⁵⁹⁵ P516 (Herman Steenbergen, witness statement, 18 July 2007), paras 12, 14; Herman Steenbergen, T. 5419, 5441, 5443-5444, 5485, 5494-5495; P536 (Map of Gračac municipality marked by Herman Steenbergen), factory marked C; P537 (Map of Gračac municipality marked by Herman Steenbergen, computer version), factory marked C; D439 (Map of Gračac with military targets), marking 5.

⁵⁵⁹⁶ P516 (Herman Steenbergen, witness statement, 18 July 2007), para. 15; P517 (Herman Steenbergen, witness statement, 18 September 2007), para. 16; Herman Steenbergen, T. 5445; P538 (Map of Gračac municipality with markings by Herman Steenbergen), police station marked F.

⁵⁵⁹⁷ P675 (Alun Roberts, witness statement, 27 August 1997), p. 1, para. 1; P676 (Alun Roberts, witness statement, 31 July 1998), p. 1; P677 (Alun Roberts, witness statement, 28 February 2007), pp. 1-2; P678 (Alun Roberts, witness statement, 7 February 2008), p. 1, paras 3-4, 6; P680 (Alun Roberts, witness statement, 1 July 2008), p. 1.

⁵⁵⁹⁸ D1374 (Croatia's Ministry of Defence note featuring an interview of Alun Roberts with a reporter of Slobodna Dalmacija on 4 August 1995), pp. 4, 6.

looting.⁵⁵⁹⁹ From his many visits, Roberts assessed that there was no SVK military equipment or personnel stationed in Gračac.⁵⁶⁰⁰

1450. In addition to the above evidence, the Trial Chamber has considered evidence of Zdravko Janić, Zoran Cvrk, Dragutin Vurnek, Ivan Herman, John Hill, Dražen Vitez, and P583, all reviewed in chapter 4.2.7 (Gračac town). The Trial Chamber has further considered P1125 and D970 reviewed in chapter 3.1.1 and 4.4.3 and P1201 reviewed in chapter 4.4.4.

1451. The Trial Chamber finds, based in particular on evidence from Sovilj, Gaćeša, Steenbergen, Janić, Repinć, and combat reports D1521 and D1905, that artillery projectiles were fired at Gračac town from approximately 5 a.m. on 4 August 1995. Several residents of Gračac testified about their experiences in this regard. According to Steenbergen, between approximately 5 and 7 a.m. on 4 August 1995 there was regular shelling of about two shells per minute, followed by a break and then further shelling between approximately 8 and 10 a.m. According to Gaćeša, when leaving Gračac between 9:30 and 10 a.m., she avoided certain roads and the centre of town because they were being shelled, and she estimated that by then around 100 shells had fallen in Gračac. Also according to Gaćeša, from 11 or 11:30 a.m., Gračac was being shelled with short breaks of about 15 minutes and shelling continued beyond 1 p.m. According to Steenbergen, between 2 and 5 p.m. there were approximately 15 artillery impacts in Gračac, and by 6 August 1995 there were between ten and twenty craters around an intersection in Gračac. However, Sovilj testified that he heard approximately 15 shells falling on Gračac between 5 a.m. and 4 p.m. on 4 August 1995. From the perspective of those firing artillery at Gračac on that day, according to P2385, artillery was fired at Gračac at 8:55 and 11:30 a.m., and according to P2436, four 130-millimetre shells were fired at Gračac at 9:55 a.m., five 130-millimetre shells were fired at 11:33 a.m., and at 7:20 p.m. eight shells were fired. Turkalj testified that approximately three or four rounds of 130-millimetre cannon shells were fired upon three targets inside Gračac, and acknowledged that around 15 shells could have fallen on Gračac itself. On the basis of all this evidence, the Trial Chamber finds that Gračac was shelled intermittently between approximately 5 a.m. and the evening of 4 August 1995. The Trial Chamber notes the significant differences between the various indications of how many shells fell

⁵⁵⁹⁹ P677 (Alun Roberts, witness statement, 28 February 2007), p. 12, no. 2.

⁵⁶⁰⁰ P677 (Alun Roberts, witness statement, 28 February 2007), p. 12.

on Gračac on 4 August 1995. Considering all this evidence together, and its findings below on locations in Gračac that were hit by artillery projectiles, the Trial Chamber finds that Sovilj must have underestimated the number of shells that fell on Gračac. Considering also that it is difficult for witnesses to estimate the number and proximity of artillery impacts occurring around them and that none of the sources of evidence appear to provide a full picture of the amount of shelling on that day, the Trial Chamber finds that no less than 150 projectiles fell on Gračac and its immediate vicinity on 4 August 1995.

1452. The Trial Chamber now turns to the questions of who fired the artillery projectiles which impacted Gračac town on 4 August 1995, and what kind of weapons they used. The Trial Chamber notes the orders of Gotovina, Rajčić and Firšt, P1125, D970 and P1201 respectively, to put the town of Gračac under artillery fire. The Trial Chamber further notes the evidence of Turkalj, commander of the Special Police artillery unit during Operation Storm, that the attack plan was to approach Gračac from five or six directions and that each direction had one appointed commander, two or three Special Police units, and the support of one specific artillery group. Based on the evidence of Turkalj, Vitez and Repinć, the Trial Chamber finds that each Special Police unit advancing towards Gračac had artillery support. In this regard, the Trial Chamber notes the evidence of Rajčić that on 3 August 1995, Gotovina ordered him to detach elements of artillery from TRS-5 and attach them to the Special Police, under the command of Markač, for operational purposes. According to evidence from Rajčić, read together with P1201 and D970, Gračac was in range of three 130-millimetre HV artillery pieces from the TRS-5/TS-5, which were located in firing positions in Gvozdanka, three 122-millimetre Howitzers D30 located in Vučje Polje, and one 122-millimetre MB21 MBRL in Rovanjaska, all in Jasenice municipality. This evidence is corroborated by attack order D2078, Janić and Repinć. The Trial Chamber will now examine whether some or all of these weapons were indeed fired at Gračac. According to D1095, the artillery attack started at 5:07 a.m. on 4 August 1995 and lasted until 5:46 a.m., and the Special Police units were supported by 130-millimetre guns and 122-millimetre Howitzers in the first sector engaging Gračac. According to P2385, the Special Police fired artillery at Gračac on 4 August 1995, and according to P2436, the HV did so too, including with 130-millimetre shells. Turkalj testified that approximately three or four rounds of 130-millimetre shells were fired at targets in Gračac. Based on

all this evidence, the Trial Chamber finds that the artillery projectiles which impacted Gračac town on 4 August 1995 were fired by Special Police artillery pieces, including by HV artillery pieces attached to the Special Police. The Trial Chamber further finds that these artillery projectiles included 130-millimetre shells fired from the three 130-millimetre artillery pieces of the TS-5/TRS-5, which were located in firing positions in Gvozdanka, approximately 23 kilometres from Gračac.⁵⁶⁰¹ Having also considered Turkalj's evidence that multi-barrel rocket fire was not used in relation to Gračac, the Trial Chamber finds that the evidence is insufficient to establish whether rockets were fired at Gračac.

1453. The Trial Chamber now turns to the question of which objects the HV designated as targets in, and in the immediate vicinity of, Gračac. The Trial Chamber has considered the aforementioned orders of Gotovina, Rajčić and Firšt, P1125, D970 and P1201 respectively, to put the town of Gračac under artillery fire, without further specifying what should be targeted. On 29 July 1995, Červenko ordered the Special Police to work in constant coordination with the Split MD command. The Trial Chamber has not received any documentary evidence containing specific artillery orders issued by the Special Police in relation to Gračac. P2436 reported that on 4 August 1995 at three separate times that day, the HV fired shells at Gračac, without any further specification of targets. Similarly, P2385 reported that twice on 4 August 1995, the Special Police fired artillery targeting Gračac, without further specifying the targets fired at within Gračac. Finally, Mladen Markač reported in P583 that the Special Police Joint Forces had launched artillery preparations on targets in the battle range, including Gračac, also without further specifying targets. The Trial Chamber will consider in chapter 5.8.2 (i) whether these attack orders and reports should be interpreted to mean that the town of Gračac as such was identified as a target.

1454. In relation to specific designated targets within Gračac, the Trial Chamber notes the evidence of Rajčić that the planned military targets in Gračac were three intersections and the police station. According to the evidence of Turkalj, the military targets in and in the immediate vicinity of Gračac were the police station, a municipal building (where, according to one possible understanding of his evidence, Turkalj believed the 9th Gračac Brigade command was located), a railway station, an intersection, and a depot. While noting the significant discrepancies in the evidence of

⁵⁶⁰¹ The evidence as a whole also strongly indicates that they included mortars.

these two witnesses, the Trial Chamber finds that the Croatian forces had designated targets in and in the immediate vicinity of Gračac, which included several intersections, the police station, a municipal building, the railway station, and a depot. In this regard, the Trial Chamber notes that further evidence from Turkalj supports the finding that there were specific targets within Gračac, notably his use of a topographical map to plot targets such as warehouses and command posts, as well as the use of forward-spotters to correct artillery fire. Recalling its finding in 4.4.4, the Trial Chamber considers that the “Jagoda” list and “Poskok-93” map contain information regarding objects in Gračac and its immediate surroundings that was available to the HV and its artillery units at some point prior to Operation Storm. A railway crossing over the road, a factory near the west cross-roads, and a factory near the east cross-roads were listed on the “Jagoda” list D1447. Further, the gas station was listed on the “Poskok-93” map P1273. The Trial Chamber has received no evidence indicating whether, and if so how and for what purpose, D1447 and P1273 were used in relation to the shelling of Gračac during Operation Storm.

1455. The Trial Chamber now turns to the locations of the designated targets in and in the immediate vicinity of Gračac. The Trial Chamber finds that the intersections designated as targets include the ones marked on map P2329. The Trial Chamber further finds, based on the evidence of Sovilj, that the railway station was at a location marked F on map P88, and that the municipal building, which also contained a TO office, was at a location marked D on map P88. As for the police station, Sovilj placed it at location E on map P88, while Steenbergen placed it in a different location, marked F on map P538. Considering that Steenbergen spent less than six months in Gračac while Sovilj was from Gračac, the Trial Chamber finds that the police station was at the location marked E on map P88. The Trial Chamber has considered the evidence of intelligence assessment D549 and Repinć that the command post of the 9th Motorized Brigade was in Gračac. However, although in one possible understanding of Turkalj’s evidence he believed that the 9th Gračac Brigade command was located in the municipal building, the Trial Chamber has received insufficient evidence to be able to conclude where in Gračac this command post was located. The Trial Chamber also notes the evidence of Steenbergen that he once saw SVK military trucks entering and exiting a factory (marked C on map P537). Further, according to Sovilj, some locations in the area of the metalworking plant, near the mill (marked A on map D135), and the railway station,

had been used as temporary depots for ammunition and other military equipment and had housed some military units during the war in 1991. The locations mentioned by Sovilj are very close to where Vurnek, on 5 August 1995, entered a factory (located near the house marked X on D1900) with hangars in which he found a large amount of weapons, pieces of weapons, and ammunition crates. On the basis of this evidence, the Trial Chamber finds that on 5 August 1995 there was a military depot near the house marked X on D1900. However, the Trial Chamber has received insufficient evidence to be able to conclude whether this depot or any of the other buildings mentioned in this paragraph correspond with the depot which Turkalj testified was a designated target. Finally, the Trial Chamber notes that the factory by the east cross-roads, the factory by the west cross-roads and the rail cross-road, all identified on the “Jagoda” list with coordinates, have been plotted on map D1460. The Trial Chamber has received no evidence on the location of the gas station in Gračac, listed on the “Poskok-93” map.

1456. The Trial Chamber now turns to where artillery projectiles impacted in Gračac. The Trial Chamber has identified several distinct objects or areas where artillery projectiles impacted. The Trial Chamber finds, based on evidence from Steenbergen, that around 5 a.m. on 4 August 1995 artillery projectiles exploded near the house where he was staying in Gračac (marked G on P538), and shrapnel hit his house, and other houses in his street. Based on map P538, and its above finding on the locations of designated targets in Gračac, the Trial Chamber finds that Steenbergen’s house was located approximately 800 metres from the nearest designated targets in Gračac, namely the municipal building to the north-west and intersection “D” to the north-east. Based on maps P538 and D1460, the Trial Chamber finds that his house was located approximately 450 metres south of the factory by the east cross-roads, as identified on the “Jagoda” list. The Trial Chamber further finds, based on evidence from Gaćeša, that from 5:05 a.m. on 4 August 1995, several artillery projectiles landed near her house (marked A on P192) in Gračac town, damaging it, including one artillery projectile which landed between her house and her neighbour’s house. Based on maps P192 and P538 (for scale), and its above finding on the locations of designated targets in Gračac, the Trial Chamber finds that Gaćeša’s house was located approximately 300 metres south-west of the nearest designated artillery target in Gračac, namely intersection “D”. Based on maps D1460, P192 and P538 (for scale), the Trial Chamber finds that her house was located approximately the same distance east of the factory by the east cross-

roads, as identified on the “Jagoda” list. Further, based on maps P538 and P192, the Trial Chamber finds that although the locations of the above-mentioned impacts are in the eastern part of Gračac town, they are sufficiently far apart that Steenbergen and Gaćeša were referring to different houses. According to Sovilj, at around 5 a.m. on 4 August 1995, a shell exploded approximately 100 metres from his apartment (place of impact marked B on P88). Based on maps P88, P538 and P192, the Trial Chamber finds that this artillery projectile also fell in the eastern part of Gračac, but in a third, different, location, which is approximately 100 metres north of an intersection that the Trial Chamber will call intersection “B”.

1457. According to Gaćeša, by 7 a.m. on 4 August 1995, a veterinary operating room was on fire (marked C on P192), and smoke was coming from a warehouse in eastern Gračac (marked D on P192). Based on this evidence and its finding above on when artillery projectiles fell on Gračac, and considering that neither Sovilj, Gaćeša nor Steenbergen, who were residents of Gračac at that time, reported any burning in Gračac prior to 5 a.m. on that day, the Trial Chamber finds that on 4 August 1995 between 5 a.m. and 7 a.m., artillery projectiles struck these buildings. Based on maps P192, P88 and (for scale) P537, and the evidence of Gaćeša that these buildings were approximately 50-70 metres from her house, the Trial Chamber finds that these buildings were, respectively, immediately adjacent to, and approximately 100 metres to the south of, intersection “B” in eastern Gračac. The evidence does not establish what use, if any, was made of the veterinary operating room or the warehouse at the time. The Trial Chamber notes that intersection “B” was not one of the three intersections marked by Rajčić on map P2329 as planned military targets. Based on maps P192, P538 and D1460, the Trial Chamber finds that the impact at marking D on P192, at intersection “B”, was approximately 400 metres west of intersection “D”, which Rajčić did mark on map P2329, and approximately 350 metres north-east of the factory near the east cross-roads, as identified on the “Jagoda” list. Based on maps P192, P538 and D1460, the Trial Chamber further finds that the impact at marking C on P192 was approximately 400 metres west of intersection “D”, and approximately 300 metres north-east of the factory near the east cross-roads, as identified on the “Jagoda” list.

1458. According to Vurnek, who entered Gračac at approximately 2 p.m. on 5 August 1995, there was a house on fire that was mostly burned down (marked X on D1900) located near a factory with hangars containing weapons and ammunition crates. Based

on this evidence and the finding above on when artillery projectiles fell on Gračac, the Trial Chamber finds that sometime between 5 a.m. on 4 August and the evening of the same day, one or more artillery projectiles struck this house. Based on map D1900, the Trial Chamber finds that this house was located in western Gračac, and was not in one of the locations the Trial Chamber has identified above as having been impacted by artillery. The evidence does not establish what use, if any, was made of the house. However, based on maps D1900, P88, D135 and (for scale) D439, the Trial Chamber finds that it was located at a distance of approximately 300 metres from the railway station (marked F on P88) and a mill (marked A on D135).

1459. According to evidence from Steenbergen, by 6 August 1995 there were between ten and twenty craters around the intersection marked “D” on maps P537 and D439. In this regard, the Trial Chamber also notes that this was one of three intersections in Gračac that were marked by Rajčić as planned targets on map P2329. Based on this evidence, and its finding above on when artillery projectiles fell on Gračac, the Trial Chamber finds that sometime between 5 a.m. on 4 August 1995 and the evening of the same day, between ten and twenty artillery projectiles landed on and around intersection “D”. The Trial Chamber notes the evidence of Hill that on 10 August 1995 he saw artillery holes in the fields leading into Gračac. Based on photographs P523 and P524 taken by Steenbergen, which show holes in the fields around intersection “D”, and map P307, which shows the route taken by Hill into Gračac, the holes seen by Hill were likely the same as those seen by Steenbergen in the fields surrounding intersection “D”. The Trial Chamber further notes UNMO report P111 stating that artillery impacts were located around a main junction in Gračac, and the evidence of Steenbergen, Vurnek, Cvrk and Herman that by 6 August 1995 there were craters or similar shelling-related damage on several roads and two or more intersections in Gračac. Based on this evidence, the Trial Chamber finds that by 6 August 1995, artillery projectiles had struck several roads and intersections, including intersection “D”, in Gračac.

1460. The Trial Chamber further finds, based on evidence from Cvrk and its finding above on when artillery projectiles fell on Gračac, that ‘the enemy command building’, which the Trial Chamber understands to refer to the command post of the Gračac Brigade, and the police station were hit by artillery on 4 August 1995.

1461. The Trial Chamber notes the evidence of Steenbergen that after 5 a.m. on 4 August 1995, shells fell close to the houses of other UNMO team members, which were

located in various parts of Gračac town, and that UNMO observed shell craters throughout Gračac on 6 August 1995, and the evidence of Sovilj that several areas of Gračac town were shelled. While this evidence is suggestive of widespread shelling, the Trial Chamber has received insufficient evidence indicating the location of the other UNMO houses, and the locations in which UNMO and Sovilj saw artillery impacts. The Trial Chamber further notes that Steenbergen testified that it was difficult to distinguish between damage caused by shelling and damage caused by arson and recalls its finding in chapter 4.2.7 that sometime between the afternoon of 5 August and 6 August 1995, there was an increase in the number of buildings which were burnt or on fire. Consequently, the Trial Chamber is unable to conclude where in Gračac these artillery projectiles fell, and whether the locations were the same as the others identified above. Further evidence from Steenbergen, Herman, Roberts and Cvrk indicates that by 6 August 1995, several buildings in Gračac had been hit by artillery. However, the evidence is insufficient for the Trial Chamber to establish which specific buildings, if any, were hit by artillery in addition to those identified above and, if so, where in Gračac town they were located and what use, if any, was made of them.

1462. The Trial Chamber has considered the evidence of Janić and Vurnek indicating that Gračac had little, if any, artillery damage on the afternoon of 5 August 1995. However, in light of the other evidence considered above and without further information as to where and how thoroughly Janić and Vurnek looked for artillery damage in Gračac, the Trial Chamber finds that their observations do not prevail over the other evidence pertaining to artillery damage in Gračac. According to SVK combat report D1521, from 5 a.m. on 4 August 1995, Croatian forces launched artillery attacks mainly on civilian objects in inhabited areas of Gračac and elsewhere. However, it is unclear for the Trial Chamber to which objects this report was referring, and on which basis the report qualified the objects as "civilian". The Trial Chamber will therefore not on the basis of this report adopt the conclusions contained therein.

1463. The Trial Chamber finally turns to civilian and/or military presence in Gračac on 4 August 1995. In relation to military presence, the Trial Chamber notes the evidence of Mrkšić, Novaković, Steenbergen and Roberts indicating that there were no SVK military units, including the Gračac Brigade, in Gračac town at the relevant times. Similarly, according to Sovilj, with the exception of a few individuals in the police station and municipal assembly building, all Serbs of military age who were able to hold

a rifle had been mobilized and sent to the frontline approximately ten to fifteen days prior to the attack, and only the civilian population remained in Gračac town on 4 August 1995. Based on all this evidence, the Trial Chamber finds that there was minimal, if any, SVK military presence in Gračac on 4 August 1995. In relation to civilian presence, the evidence of Sovilj and Gaćeša indicates that civilians began leaving Gračac on the morning of 4 August 1995, and were still leaving during the afternoon of 4 August 1995. On the basis of this evidence, and considering the testimony of Turkalj and Vurnek indicating that they encountered no civilians when they entered Gračac around 2 p.m. on 5 August 1995, the Trial Chamber finds that there was a civilian population in Gračac when the shelling began on 4 August 1995, many of whom had left by 2 p.m. on 5 August 1995.

1464. The Trial Chamber will further consider the alleged unlawful attack on civilians and civilian objects in Gračac in relation to Count 1 of the Indictment in chapter 5.8.2 (i) below.

4.4.6 Obrovac town

1465. The Trial Chamber has received evidence on the alleged unlawful attack against civilians and civilian objects in Obrovac primarily through the testimonies of Marko Rajčić, Jovan Dopud, and Witness 56 as well as through military documentation. According to the 1991 Population Census, the population of Obrovac consisted of 1,253 Serbs out of a total 1,660 persons in 1991.⁵⁶⁰²

1466. **Marko Rajčić**, the chief of artillery of the Split MD from April 1993 to June 1996,⁵⁶⁰³ testified that he planned the artillery targets in Obrovac for the artillery rocket groups, but was not aware of which targets were fired at.⁵⁶⁰⁴ Obrovac was within range of the TS-5.⁵⁶⁰⁵ The bridge at Obrovac was a planned target for shelling, as were a number of cross-roads in the area.⁵⁶⁰⁶ The bridge in Obrovac is listed, together with a

⁵⁶⁰² C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 136.

⁵⁶⁰³ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 1; Marko Rajčić, T. 16236, 16275; P2323 (Military Police official note of Rajčić interview, 11 July 2008), p. 1.

⁵⁶⁰⁴ Marko Rajčić, T. 16326-16237.

⁵⁶⁰⁵ D1425 (Marko Rajčić, witness statement, 13 February 2009), p. 24.

⁵⁶⁰⁶ Marko Rajčić, T. 16326-16237, 16330-16331; P2328 (Map of Obrovac area with Rajčić markings), bridge marked 1, cross-roads marked with circles; D1459 (List of targets in OG Zadar, 12 April 1995), p. 26; D1460 (Maps of Benkovac, Obrovac and Gračac, with overlay of Jagoda list targets and Rajčić markings), pp. 3-4.

gas station, as a potential artillery target also in a map named Poskok-93, signed by Gotovina and Brigadier Milan Mihić. Aside from the bridge and gas station, the map also lists the Glinica alumina factory.⁵⁶⁰⁷ The bridge, the alumina factory and cross-roads are also included in a list named “Jagoda”.⁵⁶⁰⁸ The Trial Chamber has further considered evidence of this witness, reviewed in chapters 4.4.3 and 4.4.4.

1467. With regard to SVK presence in Obrovac, **Mile Mrkšić**, the commander of the SVK Main Staff from May 1995,⁵⁶⁰⁹ testified that the Obrovac brigade held the Zub feature, which was on an elevation of some 1,800 metres.⁵⁶¹⁰ There were no troops in Obrovac town on 4 August 1995.⁵⁶¹¹ The SVK units who had previously been in Obrovac before combat began were at their positions on the Velebit and a brigade command had been relocated outside of the town.⁵⁶¹²

1468. In his order for an offensive operation, dated 2 August 1995, Gotovina included information on the presence and location of enemy brigades, and specified that the 4th Obrovac Light Infantry Brigade of the SVK had been mobilized along an axis which included the Velebit and Mali Alan, in Lovinac municipality.⁵⁶¹³

1469. **Jovan Dopuđ**, the commander of the SVK 4th Light Infantry Brigade until 1993 and a representative of the Obrovac Municipal Assembly in August 1995,⁵⁶¹⁴ testified that on 3 August 1995 he and his family observed UNCIVPOL leave Obrovac which made them suspect that something was about to happen.⁵⁶¹⁵ On 4 August 1995 at around 5 a.m. the shelling of the villages around Obrovac, including Bilišane, Muškovci, and Zaton in Obrovac municipality and Kruševo and Zelengrad in Kruševo municipality, commenced while the shelling of the town itself only began around 7 a.m.⁵⁶¹⁶ The witness testified that from around 6:30 a.m., the people in Obrovac were unable to use the radio or telephone due to the fact that the repeater on the Velebit had been

⁵⁶⁰⁷ P1273 (Map Poskok-93), p. 8.

⁵⁶⁰⁸ D1447 (Jagoda list of targets of the TS-3 of OG Zadar, 30 July 1995), pp. 26-27.

⁵⁶⁰⁹ Mile Mrkšić, T. 18751, 18993.

⁵⁶¹⁰ Mile Mrkšić, T. 18997.

⁵⁶¹¹ Mile Mrkšić, T. 19058.

⁵⁶¹² Mile Mrkšić, T. 19058.

⁵⁶¹³ P1125 (Offensive Operation Order by Ante Gotovina, 2 August 1995), p. 3.

⁵⁶¹⁴ P548 (Jovan Dopuđ, witness statement, 21 February 2007), para. 1; Jovan Dopuđ, T. 5993, 6005-6006, 6064.

⁵⁶¹⁵ P548 (Jovan Dopuđ, witness statement, 21 February 2007), para. 2; Jovan Dopuđ, T. 6031-6032.

⁵⁶¹⁶ P548 (Jovan Dopuđ, witness statement, 21 February 2007), paras 2, 4; Jovan Dopuđ, T. 5981, 6000-6001; P551 (Map of Obrovac and surrounding area). See also D520 (Combat report by the command of the SVK 4th Light Brigade, 9 August 1995), p. 1.

destroyed.⁵⁶¹⁷ When the shelling started, the population started moving to the nearby villages.⁵⁶¹⁸ According to the witness, at around 6 p.m. the shelling extended further away from Obrovac and targeted the villages of Žegar and Bogatnik in Nadvoda municipality.⁵⁶¹⁹

1470. Dopud testified that during the shelling of the town of Obrovac, the Trio textile factory, the health clinic, a restaurant in the centre of town, the movie theatre (called the “culture club”), and the bus station were hit.⁵⁶²⁰ According to the witness, the movie theatre was 150 metres east of the police station.⁵⁶²¹ He also added that none of these buildings were used by the military.⁵⁶²² At this time, the command of the SVK 4th Light Infantry Brigade was not based in Obrovac but on the Velebit mountains to the north of town.⁵⁶²³ It had been based in the Glinica factory north of Obrovac until January 1993.⁵⁶²⁴ The witness also testified that the hotel in the centre of town was not used by the SVK special police, and that the Glinica alumina factory, which according to exhibit D249 was located about one kilometre north of the centre of Obrovac, had not been in use for several years.⁵⁶²⁵ On the days leading up to and including 4 August 1995 the witness did not see any tanks or APCs in Obrovac.⁵⁶²⁶ The witness was not aware of any SVK air defence position south of Obrovac.⁵⁶²⁷ Dopud testified that with the exception of the Trio factory branch in Žegar, which prepared food for the SVK 4th Light Infantry Brigade, and a military depot in the old school building in Žegar, to his knowledge there were no military facilities in any of the villages mentioned above.⁵⁶²⁸ The witness further testified that on 4 August 1995, he travelled out of the town of Obrovac twice to

⁵⁶¹⁷ P548 (Jovan Dopud, witness statement, 21 February 2007), para. 4; Jovan Dopud, T. 6033-6034.

⁵⁶¹⁸ P548 (Jovan Dopud, witness statement, 21 February 2007), para. 3.

⁵⁶¹⁹ P548 (Jovan Dopud, witness statement, 21 February 2007), para. 4; Jovan Dopud, T. 6000-6001; P551 (Map of Obrovac and surrounding area).

⁵⁶²⁰ P548 (Jovan Dopud, witness statement, 21 February 2007), para. 2; Jovan Dopud, T. 5983-5989; P549 (Photograph of Obrovac with markings made by Jovan Dopud), A indicates the location of the Trio factory; B indicates the centre of Obrovac, where the restaurant was hit by shelling; C indicates the location of the health clinic; and D indicates the location of the police station.

⁵⁶²¹ Jovan Dopud, T. 5988.

⁵⁶²² Jovan Dopud, T. 5984-5987, 5989, 6044-6047.

⁵⁶²³ Jovan Dopud, T. 5993-5994, 5999, 6023-6024, 6051, 6069; P551 (Map of Obrovac and surrounding area).

⁵⁶²⁴ Jovan Dopud, T. 5993-5994; D249 (Maps of Obrovac).

⁵⁶²⁵ Jovan Dopud, T. 5991-5993, 6046; D249 (Maps of Obrovac).

⁵⁶²⁶ Jovan Dopud, T. 6047.

⁵⁶²⁷ Jovan Dopud, T. 5995-5996, 6028; D249 (Maps of Obrovac).

⁵⁶²⁸ Jovan Dopud, T. 6001-6002, 6030, 6050, 6055, 6069; D525 (Various maps of the Maslenica and Obrovac areas).

visit his family, each time for a period of approximately one hour, but did not see any SVK T-34 tanks or APCs.⁵⁶²⁹

1471. **Witness 56**, a Serb policeman in Knin between May 1994 and 5 August 1995,⁵⁶³⁰ testified that there were no military facilities in Obrovac, except for the police station.⁵⁶³¹ There was also a headquarters of a special police platoon in a hotel across the Zrmanja river, around 150 metres from the municipal building.⁵⁶³² There was also a factory in Obrovac called “Glinica”.⁵⁶³³ **Kosta Novaković**, who was a member of the SVK General Staff and assistant commander to Mile Mrkšić during Operation Storm,⁵⁶³⁴ testified there were no military facilities in Obrovac town and that the nearest combat units were at least ten kilometres away.⁵⁶³⁵ The Trial Chamber has considered further evidence of this witness, reviewed in chapter 4.5.2.

1472. In addition to the above evidence, the Trial Chamber has considered P1125 and D970 reviewed in chapter 4.4.3 and P1201 and P1263 reviewed in chapter 4.4.4.

1473. Based on Dopud’s testimony, the Trial Chamber finds that the shelling of Obrovac began at 7 a.m. on 4 August 1995, and that artillery projectiles hit the Trio textile factory, the health clinic, a restaurant in the centre of town, the movie theatre, and the bus station. Exhibits P1125, D970, P1201 orders issued before the beginning of Operation Storm by Gotovina, Rajčić, and Firšt, respectively, show that the HV formation TS-5, which according to map D971 was positioned west of Obrovac, was ordered, *inter alia*, to put the town of Obrovac under artillery fire. The Trial Chamber also considers Fuzul’s order, P1263, to lay down fire on Obrovac. The Trial Chamber will consider in 5.8.2 (i) whether these attack orders should be interpreted to mean that the town of Obrovac as such was identified as a target. According to Rajčić, Obrovac was within TS-5’s range. On this basis, the Trial Chamber finds that the artillery projectiles which impacted on the buildings in Obrovac listed above were fired by the TS-5 formation of the HV. The evidence does not indicate which of the artillery pieces

⁵⁶²⁹ Jovan Dopud, T. 6024, 6049, 6065.

⁵⁶³⁰ P286 (Witness 56, witness statement, 5 December 1996), pp. 1-2; P287 (Witness 56, witness statement, 18 September 2000), p. 1; P288 (Witness 56, witness statement, 12 June 2007), p. 1, para. 2; P289 (Witness 56, witness statement, 21 May 2008), p. 1; Witness 56, T. 3686.

⁵⁶³¹ Witness 56, T. 3537, 3632; D249 (Map of Obrovac), p. 1.

⁵⁶³² Witness 56, T. 3560, 3633; D249 (Map of Obrovac), p. 1.

⁵⁶³³ Witness 56, T. 3633. D249 (Map of Obrovac), p. 2.

⁵⁶³⁴ P1092 (Kosta Novaković, witness statement, 5 April 2001), pp. 1-2; P1093 (Kosta Novaković, witness statement, 8 March 2007), paras 4-5; Kosta Novaković, T. 11708, 11711, 11775-11776, 11858.

⁵⁶³⁵ P1093 (Kosta Novaković, witness statement, 8 March 2007), para. 11.

at TS-5's disposal were used against Obrovac. The evidence does not establish the number of artillery projectiles fired on Obrovac.

1474. P1125, D970, P1201, and P1263 do not specify which targets TS-5 should have fired at in Obrovac. Rajčić testified that the bridge and cross-roads, marked on P2328 as 1 and 2 respectively, were artillery targets in Obrovac. The bridge in Obrovac is listed as a potential artillery target also in P1273, a map named Poskok-93, signed by Gotovina and Brigadier Milan Mihić. Aside from the bridge, the map also lists a gas station and the alumina factory as potential targets. The bridge, the alumina factory, and cross-roads are also included in D1447, the Jagoda list. However, with regard to P1273, the Trial Chamber has received insufficient evidence indicating for which purpose it was used during Operation Storm; and with regard to D1447, it has received insufficient evidence indicating who produced it and whether, or for what purpose, it was used during Operation Storm. On this basis, the Trial Chamber finds that the HV had identified at least the bridge and the cross-roads in Obrovac as potential artillery targets.

1475. With regard to military presence in Obrovac, Dopuđ testified that none of the buildings hit in town were used by the military at the time, and that there were no SVK troops or APCs in Obrovac on 4 August 1995. According to Dopuđ and Mrkšić, the command of the SVK 4th light Infantry Brigade was located in the Velebit area, and according to Novaković the nearest SVK combat units were at least 10 km away from Obrovac. According to Dopuđ, the only military facilities in the vicinity of Obrovac were another branch of the Trio Factory and a military depot in an old school, both situated in Zegar. Aside from the bridge and cross-roads indicated by Rajčić, the Trial Chamber has considered that Witness 56 listed the police station and two other facilities in Obrovac town. These were a hotel across the Zrmanja river, where according to Witness 56 a platoon of the special police was headquartered, and a factory called Glinica, which the Trial Chamber finds was outside of Obrovac town. However, according to Dopuđ, in August 1995 the RSK special police was never in the hotel in Obrovac, and the Glinica factory had not been in use for several years. On this basis, the Trial Chamber finds that RSK special police was headquartered in the hotel in Obrovac prior to August 1995, but that there were no SVK units in Obrovac on 4 August 1995. With regard to civilian presence in Obrovac on 4 August 1995, on the basis of Dopuđ and Novaković's testimonies the Trial Chamber finds that when the shelling of Obrovac began civilians were still in town, and that they started leaving after the shelling started.

1476. Based on D249 and P2328, the Trial Chamber finds that the bridge designated as an artillery target in Obrovac was in the town centre, while the cross-roads were about 800 metres further south. Based on Dopud's testimony and on P549, the Trial Chamber finds that three of the buildings hit by artillery fire, namely the restaurant, the health clinic, and the movie theatre were also located in the centre of Obrovac. Based on P2328 and P549, the Trial Chamber finds that the health clinic was about 200 or 300 metres from the bridge. The Trio factory was further away, approximately 450 metres from the bridge, outside the centre and at the western edge of the town. The Trial Chamber received no evidence on the location of the bus station. While the evidence indicates certain proximity between the restaurant and the movie theatre, on the one hand, and the bridge, on the other, the Trial Chamber is unable to determine with any higher degree of precision the distance between the former and the latter. The Trial Chamber further finds that the police station and the hotel used prior to August 1995 by the RSK special police were in the town centre, and that the police station was 150 metres from the movie theatre hit by the shelling. The Trial Chamber will further consider this incident in relation to Count 1 of the Indictment in chapter 5.8.2 (i) below.

4.4.7 Donji Lapac town

1477. The Trial Chamber has received evidence on the alleged unlawful attack against civilians and civilian objects in Donji Lapac through the testimonies of several witnesses, including members of the Special Police, as well as from documentary evidence. The Trial Chamber has reviewed evidence on the ethnic composition of Donji Lapac in chapter 4.2.4 (Donji Lapac town).

1478. **Zdravko Janić**, the chief of the Anti-Terrorist Department of the Special Police Sector in 1995,⁵⁶³⁶ testified that once the Special Police's objectives were reached on 5 August 1995, the witness received the order from Mladen Markač, at a meeting between the Command of the Operations including Mladen Markač and Chief of Sector Željko Sačić, and the Special Police unit commanders in Gračac, for the main line of attack to advance towards the border with Bosnia-Herzegovina and cut communication between Donji Lapac, Srb in Donji Lapac municipality, and Kulen Vakuf in Bosnia-

⁵⁶³⁶ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 13; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 25; Zdravko Janić, T. 6099.

Herzegovina, and to advance on Donji Lapac.⁵⁶³⁷ According to the witness, on 7 August 1995 he led the main line of attack on Donji Lapac.⁵⁶³⁸ The witness testified that 19 Special Police units participated in the operation.⁵⁶³⁹ Janić testified that the HV provided additional artillery support of 128-millimetre rockets and 130-millimetre cannons to the Special Police for the purpose of the attack, but that the Special Police forces on his axis of attack did not use artillery to take over the town as they did not encounter any resistance.⁵⁶⁴⁰ On his way to Donji Lapac, Janić heard artillery fire.⁵⁶⁴¹ In a 10 October 1995 report to Željko Sačić, Janić reported that during the attack along the axis from Bruvno, in Gračac municipality, to Donji Lapac, the advance of the Joint Forces was supported by rocket and artillery fire which was carried out at the request of the commander of the axis and targeted previously identified military and police facilities in Donji Lapac.⁵⁶⁴² The Special Police entered Donji Lapac around noon on 7 August 1995.⁵⁶⁴³ As soon as the units reached the town, Janić's authority over the units ended and the command over them was taken over by Željko Sačić.⁵⁶⁴⁴ The witness testified that while he did not go through the whole town, what he saw of it was not badly damaged.⁵⁶⁴⁵ In the town centre, Janić saw three to four burning buildings, including the police station, which he heard was a result of the shelling.⁵⁶⁴⁶ While Janić was in town, the HV began to shell Donji Lapac.⁵⁶⁴⁷ According to the witness, the HV had not been informed that the Special Police had already taken the town.⁵⁶⁴⁸ According to a MUP Special Police Sector report of 16 September 1995, at 2:10 p.m. on 7 August

⁵⁶³⁷ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 34; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, pp. 105-120; D552 (HV order to continue combat operations, Zvonimir Červenko, 6 August 1995); D556 (Report from Zdravko Janić to Željko Sačić, 9 October 1995).

⁵⁶³⁸ P552 (Zdravko Janić, witness statement, 14 January 2004), paras 34-35; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 113; part II, p. 11; D556 (Report from Zdravko Janić to Željko Sačić, 9 October 1995).

⁵⁶³⁹ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, p. 20.

⁵⁶⁴⁰ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 35; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part I, p. 59, part II, pp. 11-14, 17; Zdravko Janić, T. 6218-6219.

⁵⁶⁴¹ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 35; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, p. 14.

⁵⁶⁴² D556 (Report from Zdravko Janić to Željko Sačić, 9 October 1995).

⁵⁶⁴³ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, p. 17; Zdravko Janić, T. 6218, 6363; D556 (Report from Zdravko Janić to Željko Sačić, 9 October 1995).

⁵⁶⁴⁴ P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 20-21, 27-28.

⁵⁶⁴⁵ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 36; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, p. 24; D556 (Report from Zdravko Janić to Željko Sačić, 9 October 1995).

⁵⁶⁴⁶ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 36; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, p. 24; D556 (Report from Zdravko Janić to Željko Sačić, 9 October 1995).

⁵⁶⁴⁷ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 37; Zdravko Janić, T. 6363.

1995, after the liberation of Donji Lapac, the Special Police suffered a heavy artillery attack from HV artillery firing positions in the Udbina area, which stopped at 2:40 p.m. after the operation commander, Mladen Markač, intervened.⁵⁶⁴⁹ Although the witness did not see any enemy soldiers during the attack he testified to seeing some elderly civilians in the valley in front of the town, as well as around ten civilians in the main square of the town itself.⁵⁶⁵⁰ The witness testified that some of the civilians in the valley stated that they had remained because of President Tuđman's announcement on the radio telling Serbs not to leave.⁵⁶⁵¹ Janić added that the Special Police ignored the civilians as their orders did not involve having to deal with them.⁵⁶⁵² The witness presumed that the regular police would deal with the civilians upon their arrival.⁵⁶⁵³ In a 2 October 1995 report to Željko Sačić, Acting Chief of the Logistics Section Branislav Bole stated that logistics support arrived in Donji Lapac at 4 p.m. on 7 August 1995 and that two houses were burning in the centre of town as a result of artillery-rocket support actions.⁵⁶⁵⁴

1479. According to a MUP Special Police Sector report of 16 September 1995, at 7:45 p.m. on 7 August 1995, the enemy opened artillery fire on the general area of Donji Lapac, Gornji Lapac, and Boričevac village, both in Donji Lapac municipality, from firing positions in Bosnia-Herzegovina, using high-calibre artillery and multiple rocket launchers.⁵⁶⁵⁵ According to documentary evidence, that evening, the 9th Guards Brigade and the 118th Home Guard Regiment of the HV entered Donji Lapac from the direction of Udbina.⁵⁶⁵⁶ Upon entry into town these units began shooting, throwing bombs, and setting houses on fire, and this went on throughout the night.⁵⁶⁵⁷ Further according to documentary evidence, Special Police units did not take part in the burning of Donji

⁵⁶⁴⁸ Zdravko Janić, T. 6363-6364.

⁵⁶⁴⁹ P621 (MUP analysis of Operation Storm, 16 September 1995), pp. 1, 7, 14-15.

⁵⁶⁵⁰ P552 (Zdravko Janić, witness statement, 14 January 2004), paras 36-37; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 29, 31-35.

⁵⁶⁵¹ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 36; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 29, 31.

⁵⁶⁵² P552 (Zdravko Janić, witness statement, 14 January 2004), paras 36-38; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 56-58.

⁵⁶⁵³ P552 (Zdravko Janić, witness statement, 14 January 2004), para. 37; P553 (Zdravko Janić, Prosecution interview, 15 March 2005), part II, pp. 57-59.

⁵⁶⁵⁴ P586 (Report to Sector Chief of the Special Police Željko Sačić, 2 October 1995).

⁵⁶⁵⁵ P621 (MUP analysis of Operation Storm, 16 September 1995), pp. 1, 14, 16.

⁵⁶⁵⁶ P586 (Report to Sector Chief of the Special Police Željko Sačić, 2 October 1995); P621 (MUP analysis of Operation Storm, 16 September 1995), p. 16; D556 (Report from Zdravko Janić to Željko Sačić, 9 October 1995).

⁵⁶⁵⁷ Zdravko Janić, T. 6220-6221; P586 (Report to Sector Chief of the Special Police Željko Sačić, 2 October 1995); D556 (Report from Zdravko Janić to Željko Sačić, 9 October 1995).

Lapac, because except for the staff and the logistic personnel, all the other units were positioned out of town or at its edges.⁵⁶⁵⁸ Janić testified that he had requested that the military put an end to this, and later informed Mladen Markač of what had occurred.⁵⁶⁵⁹

1480. **Josip Turkalj**, commander of the Anti-Terrorist Unit Lučko and commander of the Special Police artillery unit during Operation Storm,⁵⁶⁶⁰ testified that after the fall of Gračac, Sačić distributed new orders and maps for the advance toward Donji Lapac.⁵⁶⁶¹ There was no intelligence on any particular enemy positions in Donji Lapac, only information that there were rather strong forces there.⁵⁶⁶² Around noon on 6 or 7 August 1995, Turkalj's unit upon request shelled the area in front of the advancing units to clear the terrain.⁵⁶⁶³ During the advance on Donji Lapac, close to Mazin in Gračac municipality, the witness saw a group of 15-20 elderly civilians sitting next to the road, eating from cans.⁵⁶⁶⁴ Turkalj stated that his artillery units did not target Donji Lapac itself, but only the mountainous terrain in front of it.⁵⁶⁶⁵

1481. In the afternoon of 7 August 1995, the Special Police forces entered Donji Lapac and the witness who followed behind them was one of the last Special Police members to enter the village.⁵⁶⁶⁶ The witness stated that he did not know of any fighting in Donji Lapac.⁵⁶⁶⁷ Turkalj did not see any civilians in Donji Lapac, but saw one truck full of shells, one motel, and two or three houses, all burning.⁵⁶⁶⁸ He also saw a damaged business building in the centre of town.⁵⁶⁶⁹ Turkalj did not see any markings on houses

⁵⁶⁵⁸ P586 (Report to Sector Chief of the Special Police Željko Sačić, 2 October 1995, p. 2; D556 (Report from Zdravko Janić to Željko Sačić, 9 October 1995), p. 2.

⁵⁶⁵⁹ Zdravko Janić, T. 6220-6221; D556 (Report from Zdravko Janić to Željko Sačić, 9 October 1995).

⁵⁶⁶⁰ P1149 (Josip Turkalj, witness statement, 4 February 2004), paras 11, 31; P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 14-15, 34; Josip Turkalj, T. 13541, 13551.

⁵⁶⁶¹ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 33; P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 14-15.

⁵⁶⁶² P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 21-22.

⁵⁶⁶³ P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 5-7, 9-10, 18-19, 21-23, 32.

⁵⁶⁶⁴ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 36; P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 65-67, 69.

⁵⁶⁶⁵ P1151 (Josip Turkalj, second witness interview of 11 March 2005), p. 32; Josip Turkalj, T. 13612, 13713.

⁵⁶⁶⁶ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 36; P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 5-7, 9-10, 18-19, 27, 35; Josip Turkalj, T. 13611, 13713; see also P1239 (Combat path of the Lika and Senj Special Police unit, 5 May 1998), p. 5; P1241 (Combat path of the Sisak and Moslavina Special Police unit), pp. 5-6; P1242 (War path of Dubrava-Neretva Special Police unit), p. 7.

⁵⁶⁶⁷ Josip Turkalj, T. 13612.

⁵⁶⁶⁸ P1149 (Josip Turkalj, witness statement, 4 February 2004), paras 36, 39; P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 35-36.

⁵⁶⁶⁹ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 39; P1151 (Josip Turkalj, second witness interview of 11 March 2005), p. 36.

in Donji Lapac.⁵⁶⁷⁰ Even though initially the Special Police was not supposed to take Donji Lapac, the Special Police forces arrived in Donji Lapac before the HV.⁵⁶⁷¹ Dražen Ćurković, the acting commander of the Lučko unit at the time, requested Markač or Sačić to contact the military in order to let them know that the Special Police had already entered Donji Lapac, so that HV artillery fire from Udbina on the entrance to Donji Lapac would stop.⁵⁶⁷² After some minutes, the shelling stopped.⁵⁶⁷³ Turkalj testified that there were only around ten shells fired at the roads at the entrance of the town, and that the town itself was neither destroyed nor burnt, apart from a few exceptions.⁵⁶⁷⁴

1482. On the night of 7 August 1995, there was limited enemy shooting on the Special Police's artillery positions, with some shells falling.⁵⁶⁷⁵ There was also, at Sačić's request, Croatian artillery shooting towards the river crossing.⁵⁶⁷⁶ The witness believed that the aim was to have Special Police forces destroy the nearby bridge over the Una river, so as to prevent the possibility for the enemy soldiers to return across the bridge.⁵⁶⁷⁷ On 8 August 1995, the witness attended a meeting to which commanders of all units, around 20-30, were called, and at which Markač was not present.⁵⁶⁷⁸ The meeting was cut short by nearby tank shelling.⁵⁶⁷⁹ On that same day, the witness saw Markač go towards a building at the river Una in Donji Lapac but testified that Markač arrived in Donji Lapac with all other forces already on 7 August 1995.⁵⁶⁸⁰ Around noon on 8 August 1995, the HV took over the Special Police's positions.⁵⁶⁸¹

⁵⁶⁷⁰ P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 53-54.

⁵⁶⁷¹ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 37; P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 33-34, 37.

⁵⁶⁷² P1149 (Josip Turkalj, witness statement, 4 February 2004), paras 35, 37; P1150 (Josip Turkalj, witness interview of 11 March 2005), pp. 86-88; P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 32-34; Josip Turkalj, T. 13614, 13714.

⁵⁶⁷³ P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 34-35; Josip Turkalj, T. 13714.

⁵⁶⁷⁴ P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 46, 55; Josip Turkalj, T. 13714.

⁵⁶⁷⁵ P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 5-7, 9-10, 18-19, 40, 47-48. Although Turkalj dated this event one day earlier, considering the chronology of other related evidence and P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 6-10, the Trial Chamber is convinced that the event described by Turkalj took place on the date indicated in the summary.

⁵⁶⁷⁶ P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 39-41.

⁵⁶⁷⁷ P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 38-41.

⁵⁶⁷⁸ P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 43-44. Although Turkalj dated this event one day earlier, considering the chronology of other related evidence and P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 6-10, the Trial Chamber is convinced that the event described by Turkalj took place on the date indicated in the summary.

⁵⁶⁷⁹ P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 43-44.

⁵⁶⁸⁰ P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 44-45. Although Turkalj dated this event one day earlier, considering the chronology of other related evidence and P1151 (Josip Turkalj,

1483. **Josip Čelić**, an assistant commander of the Lučko Anti-Terrorist Unit in 1995,⁵⁶⁸² testified that in the morning of 7 August 1995, his unit travelled in vehicles from Štikada, in Gračac municipality, via Gračac, Bruvno, Mazin, and Podselo, in Gračac municipality, and Udbina along the main road and exited their vehicles near Donji Lapac, left the main road on foot, and arrived at Donji Lapac in the early afternoon together with several other Special Police units.⁵⁶⁸³ During their advance to Donji Lapac, Čelić's unit received strong artillery support in the form of mortar fire from Special Police mortar units and his unit did not encounter any resistance or come under enemy fire when entering and during their stay in Donji Lapac.⁵⁶⁸⁴ When Čelić's unit entered Donji Lapac along the road which leads to Gornji Lapac, in Donji Lapac municipality, the town was deserted.⁵⁶⁸⁵ Čelić's unit stayed on the edge of Donji Lapac town and spent the night there.⁵⁶⁸⁶ HV units in HV vehicles arrived in Donji Lapac on either 7 or 8 August 1995, after the Special Police units.⁵⁶⁸⁷ While in Donji Lapac, the men of Čelić's unit were free to move around the town.⁵⁶⁸⁸ Čelić did not see buildings on fire in Donji Lapac on 7 August 1995, although he did hear explosions and gunfire during his stay there.⁵⁶⁸⁹ On 8 August 1995, Čelić saw quite a few structures on fire.⁵⁶⁹⁰ According to Čelić, the Special Police did not set fire to any buildings in Donji Lapac.⁵⁶⁹¹ That evening his unit left Donji Lapac and returned to Zagreb.⁵⁶⁹²

second witness interview of 11 March 2005), pp. 6-10, the Trial Chamber is convinced that the event described by Turkalj took place on the date indicated in the summary.

⁵⁶⁸¹ P1149 (Josip Turkalj, witness statement, 4 February 2004), para. 37. Although Turkalj dated this event one day earlier, considering the chronology of other related evidence and P1151 (Josip Turkalj, second witness interview of 11 March 2005), pp. 6-10, the Trial Chamber is convinced that the event described by Turkalj took place on the date indicated in the summary.

⁵⁶⁸² P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, pp. 5, 58; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 9, 16-17, 135, 161, Part III, pp. 6, 181-182; Josip Čelić, T. 7928.

⁵⁶⁸³ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, pp. 36, 38-43, 47; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 45-48, 55-57, 64-65, 73, 90-91, 96, 109, 127.

⁵⁶⁸⁴ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, pp. 43-44, 46; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 66, 111, 117.

⁵⁶⁸⁵ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, pp. 43-44, 51; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 83-84, 87, 91-92, 106-108, 111-112.

⁵⁶⁸⁶ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, pp. 42, 46; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 103-105, 112, 115-116, 124, 127.

⁵⁶⁸⁷ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, p. 45; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 83, 113, 121, 125-126, 128.

⁵⁶⁸⁸ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, p. 47; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 112, 120.

⁵⁶⁸⁹ P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, pp. 47, 54-55; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 112, 118, 120.

⁵⁶⁹⁰ P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, p. 119.

⁵⁶⁹¹ P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 122-123.

⁵⁶⁹² P761 (Josip Čelić, witness interview of 25-26 November 2002), Part I, pp. 46, 54; P762 (Josip Čelić, witness interview of 13-14 January 2005), Part I, pp. 65, 115, 129-130.

1484. According to a 9 August 1995 report by Ševo, the commander of the SVK 15th Corps, on 5 August 1995, at 5 p.m., his command decided to pull out its units from the Titova Korenica and Udbina area and commit them to the persistent defence of an area of Donji Lapac municipality, but this decision was not carried out due to the general withdrawal of forces and civilian population in the area of Donji Lapac.⁵⁶⁹³ Ševo further reported that on the night of 5 August 1995, all units withdrew to the area of Donji Lapac municipality and some units independently decided to follow the civilian population to Bosansko Petrovac, in Bosnia-Herzegovina.⁵⁶⁹⁴

1485. **Dragutin Repinć**, Chief of the Planning Department in the HV Main Staff and an expert on military training and planning,⁵⁶⁹⁵ testified that on 7 August 1995 before the Special Police launched an attack to liberate Donji Lapac, the commander of the Jordanian Battalion of UNCRO was notified of the Special Police Forces' plan to use artillery and rocket fire on the attack axes in direction of Donji and Gornji Lapac.⁵⁶⁹⁶ Repinć referred to an analysis by Markač that noted that between 2 and 2:40 p.m., after the liberation of Donji Lapac, the Collective Special Police Forces were exposed to fierce friendly artillery fire, whereas the War Diary of the Artillery and Rocket Battalion of the 9th Guards Brigade of the HV reports the fire to have started at 1:30 p.m. on 7 August 1995 and to be have directed 175 rockets or missiles at targets in Gornji Lapac.⁵⁶⁹⁷ According to Repinć, this discrepancy is likely due to an erroneous entry in the War Diary, or possibly because artillery was used both against Donji and Gornji Lapac, but the former was not recorded.⁵⁶⁹⁸ According to Repinć this incident revealed a lack of sufficient co-ordination between the Gospić MD and the Special Police and of specific boundaries in which the units were supposed to operate.⁵⁶⁹⁹

1486. On 7 August 1995 at 8:35 a.m., JORBAT reported that the HV artillery shelled Donji Lapac from Udbina.⁵⁷⁰⁰ On the same day, at 1:35 p.m., JORBAT reported extensive artillery shelling against Donji Lapac.⁵⁷⁰¹

⁵⁶⁹³ D1521 (Report on combat operations to the SVK Main Staff, Stevo Ševo, 9 August 1995), pp. 4-5.

⁵⁶⁹⁴ D1521 (Report on combat operations to the SVK Main Staff, Stevo Ševo, 9 August 1995), p. 5.

⁵⁶⁹⁵ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 1-16; Dragutin Repinć, T. 26661-26665.

⁵⁶⁹⁶ D1932 (Dragutin Repinć, Expert Report, December 2009), paras 149-151.

⁵⁶⁹⁷ D1932 (Dragutin Repinć, Expert Report, December 2009), para. 152; D1923 (War Diary of the Artillery Rocket Battalion of the 9th Guards Motorized Brigade, entry of 7 August 1995), p. 2.

⁵⁶⁹⁸ Dragutin Repinć, T. 26733-26734.

⁵⁶⁹⁹ Dragutin Repinć, T. 26734-26735.

⁵⁷⁰⁰ P110 (UNMO Sector South update situation report, noon, 7 August 1995); P111 (UNMO Sector South daily situation report, 8 p.m., 7 August 1995), pp. 1, 4.

1487. In addition to the above evidence, the Trial Chamber has considered the evidence of Davorin Pavlović, Ivan Herman, Dražen Vitez, Zoran Cvrk, Željko Sačić, Witness 82, and the Markač interviews, all reviewed in chapter 4.2.4 (Donji Lapac). It has also considered the evidence of Milan Ilić reviewed in chapter 4.1.4 (Marko Ilić and others - Schedule no. 10) and Witness MM-25 reviewed in chapter 4.5.3 (Donji Lapac).

1488. The Trial Chamber has considered the evidence of a number of witnesses in relation to artillery projectiles impacting in Donji Lapac on 7 August 1995. The Trial Chamber will first address the evidence in relation to the police station and a transport truck. According to Ilić, around 9 or 10 a.m. on 7 August 1995, sporadic shelling hit Donji Lapac and shells fell near a police station, a municipal building, and a “committee” building in the centre of town. Janić observed that the police station was on fire when he entered town around noon, as did Sačić. Pavlović and Cvrk observed that the police station had been hit by one or more artillery shells. Based on the aforementioned evidence, the Trial Chamber finds that on 7 August 1995, before Janić’s arrival around noon, artillery projectiles struck the police station in the centre of Donji Lapac. Further, based on the evidence of Turkalj, Pavlović, and Cvrk, the Trial Chamber finds that on 7 August 1995, before Pavlović’s arrival around 3 or 3:30 p.m., artillery projectiles struck a heavy-duty army transport truck at the entrance to Donji Lapac.

1489. The Trial Chamber will now address the evidence in relation to a hotel or motel and a number of houses in Donji Lapac. Witness MM-25 testified that on the Sunday following the start of Operation Storm, he observed a municipal building, a motel near a petrol station, and two or three houses on fire in Donji Lapac. Witness MM-25 did not further specify the location of these buildings. According to the 1995 calendar, this Sunday fell on 6 August in 1995, which date is further supported by Witness MM-25’s testimony that he did not see any Croatian troops and that Witness MM-25 did not mention seeing or hearing any shelling in Donji Lapac on that day. With regard to the hotel or motel, Pavlović testified that a hotel was on fire when he entered Donji Lapac around 3 – 3:30 p.m. on 7 August 1995. Turkalj and Cvrk also observed a hotel or motel on fire in Donji Lapac later that day. Neither Pavlović, Turkalj, nor Cvrk testified about what caused this fire. The evidence does not clearly establish the location of the hotel or motel observed by these witnesses, nor whether it is the same building as the motel

⁵⁷⁰¹ P111 (UNMO Sector South daily situation report, 8 p.m., 7 August 1995), pp. 1, 4.

Witness MM-25 observed on fire on 6 August 1995, prior to shells impacting the town. Under these circumstances, the Trial Chamber cannot conclusively determine whether the hotel or motel observed on fire on 7 August 1995 was struck by artillery on that day.

1490. The Trial Chamber now turns to the evidence concerning a number of houses in Donji Lapac observed on fire or otherwise damaged in the morning and early afternoon of 7 August 1995. Ilić testified that he saw some houses destroyed by shelling on the morning of 7 August 1995. Janić and Vitez saw two or three burning or smouldering buildings (excluding the police station) in the centre of Donji Lapac early that afternoon. Janić was told that this was a result of shelling. Pavlović testified that a building behind the police station was on fire when he entered Donji Lapac around 3 or 3:30 p.m. Branislav Bole reported in P586 that at 4 p.m. two houses in the centre of town were burning as a result of artillery-rocket support actions. Turkalj and Markač saw a small number of houses burning, while Herman testified that a few buildings had sustained minor damage in Donji Lapac that afternoon. Markač stated that some houses in Donji Lapac were damaged or destroyed by artillery. The Trial Chamber has considered that the houses observed on fire in the early afternoon were located in the centre of town, in which area Ilić observed shells falling, and near the police station, which was struck by artillery projectiles. The Trial Chamber has further considered that Ilić's testimony, Markač's suspect interview, the information Janić received, and Bole's report P586 all contend that the shelling caused the damage or fire to these houses. On the basis of the aforementioned evidence, the Trial Chamber finds that on 7 August 1995, in the morning and early afternoon, artillery projectiles struck between one and three houses in the centre of Donji Lapac, one of which was behind the police station. The evidence does not conclusively establish what use, if any, was made of these houses at the time.

1491. The Trial Chamber will now address fires and damage observed later that day. Witness 82, who entered Donji Lapac on 7 August 1995 after the Special Police units did, testified that he saw five houses burned or burning upon arrival. Herman also saw a number of haystacks on fire in Donji Lapac that afternoon. Cvrk saw up to nine houses on fire in Donji Lapac when he arrived late in the evening. Turkalj further testified that a business building in the centre of town was damaged. The evidence does not establish whether these additional fires and damage observed by Witness 82, Cvrk, Herman, and Turkalj were the result of shelling.

1492. The Trial Chamber has considered several sources of evidence in relation to who fired the artillery projectiles which impacted in Donji Lapac on 7 August 1995. The Trial Chamber considered that on 10 October 1995, Janić reported to Sačić in D556 that the Special Police advance on Donji Lapac was supported by rocket and artillery fire which targeted previously identified military and police facilities in Donji Lapac. The Trial Chamber turns first to the evidence of HV artillery fire on Donji Lapac. Janić testified that the HV provided additional artillery support of 128-millimetre rockets and 130-millimetre cannons to the Special Police for the purpose of the attack on Donji Lapac. JORBAT reported that on 7 August 1995 the HV shelled Donji Lapac from Udbina at 8:35 a.m. According to Ilić, the shells he observed around 9-10 a.m. came from the direction of Udbina, as well as from Mazin and Korenica. Further, according to the evidence of Turkalj, Pavlović, Vitez, Witness 82, Janić, Repinć, MUP analysis report P621, and a JORBAT report, on 7 August 1995, for a period of approximately half an hour between 1 and 3 p.m., after the Special Police entered Donji Lapac, the HV fired artillery shells from Udbina at the entrance of Donji Lapac. Based on his monitoring of radio communications between Janić and Sačić, Pavlović testified that these shells were fired by the 118th Home Guard Regiment of the HV. According to documentary evidence P586, P621, and D556, that evening, the 9th and 118th Guards Brigades of the HV entered Donji Lapac from the direction of Udbina. Based on the aforementioned evidence, the Trial Chamber finds that on 7 August 1995, between 8:35 and 10 a.m. and again between 1 and 3 p.m., the 9th and 118th Home Guards Regiments of the HV fired shells from Udbina towards Donji Lapac, which impacted the objects identified above.

1493. The Trial Chamber now turns to evidence of Special Police artillery fire on Donji Lapac. The Trial Chamber considered that according to Repinć, the Special Police planned to use artillery and rocket fire on the attack axis to Donji Lapac. According to Sačić and Turkalj, on 7 August 1995 the Special Police artillery unit was tasked with providing support for the Special Police advance towards Donji Lapac. Sačić testified that this artillery unit consisted of mortar batteries and multiple rocket launchers. Čelić testified that his unit received strong artillery support in the form of mortar fire from Special Police mortar units during their advance on Donji Lapac. Turkalj testified that around noon on 6 or 7 August 1995, his unit targeted the mountainous terrain in front of Donji Lapac town to clear the terrain in front of the advancing troops, but did not target

the town itself. Based on this evidence, the Trial Chamber finds that around noon on 7 August 1995, the Special Police fired artillery projectiles, including at least mortars, at the mountainous terrain in front of Donji Lapac town. In light of Turkalj's testimony and considering its findings on the HV shelling Donji Lapac on 7 August 1995 above, the Trial Chamber cannot conclude whether shells fired by the Special Police impacted any objects within Donji Lapac town. The Trial Chamber will further consider this incident in relation to Count 1 of the Indictment in chapter 5.8.2 (i) below.

4.4.8 Strmica town

1494. The Trial Chamber has received evidence relating to alleged unlawful attacks against civilians and civilian objects in Strmica, Knin municipality, primarily through the testimonies of international observers and members of the HV and the SVK. According to the 1991 Population Census, the population of Strmica consisted of 1,298 Serbs out of a total of 1,334 persons in 1991.⁵⁷⁰²

1495. **Mikhail Ermolaev**, Deputy Senior UN Military Observer of Sector South from July 1995 to October 1995,⁵⁷⁰³ testified that in late July 1995 UN headquarters in Sector South received several official protests from SVK headquarters indicating that Croatian artillery was shelling the area of Strmica in Knin municipality.⁵⁷⁰⁴ A Kenyan battalion located in the Strmica area reported no serious problems.⁵⁷⁰⁵ In the morning of 31 July 1995, the witness ordered Alexander Tchernetsky and his team to go to Strmica to investigate.⁵⁷⁰⁶ At 10:30 a.m., Tchernetsky reported over the radio to Ermolaev that he was in Strmica and that the whole city was being shelled, which Ermolaev reported to General Forand.⁵⁷⁰⁷ On 2 August 1995, there were still exchanges of fire between HV/HVO and SVK in the Strmica area.⁵⁷⁰⁸

⁵⁷⁰² C5 (State Bureau of Statistics Population Census of 1991, National Structure of the Population of Croatia According to Settlement), p. 110.

⁵⁷⁰³ P94 (Mikhail Ermolaev, witness statement, 14 May 2002), pp. 1-2; P95 (Mikhail Ermolaev, witness statement, 2 December 2007), p. 1; Mikhail Ermolaev, T. 2285, 2371.

⁵⁷⁰⁴ P94 (Mikhail Ermolaev, witness statement, 14 May 2002), p. 4.

⁵⁷⁰⁵ P94 (Mikhail Ermolaev, witness statement, 14 May 2002), p. 4; Mikhail Ermolaev, T. 2446-2447.

⁵⁷⁰⁶ P94 (Mikhail Ermolaev, witness statement, 14 May 2002), p. 4; Mikhail Ermolaev, T. 2456-2457.

⁵⁷⁰⁷ P94 (Mikhail Ermolaev, witness statement, 14 May 2002), p. 4; Mikhail Ermolaev, T. 2445-2447, 2458-2459; D163 (UNCRO situation report, 11:59 p.m., 31 July 1995), p. 2.

⁵⁷⁰⁸ Mikhail Ermolaev, T. 2446-2447, 2461-2462; D164 (UNCRO situation report, 8:30 p.m., 2 August 1995), p. 2.

1496. **Alexander Tchernetsky**, an UNMO in Croatia from 20 June 1995 until December 1995,⁵⁷⁰⁹ patrolled the Strmica area, and went there at least twice to investigate alleged Croatian artillery attacks.⁵⁷¹⁰ He and his team found craters formed by shell explosions and damaged “residential houses”, buildings, and a school damaged by shrapnel.⁵⁷¹¹ At least some shelling had taken place prior to 29-30 July 1995.⁵⁷¹² He testified that around 30 July 1995 and prior to Operation Storm, there were no restrictions on UNMO’s movement in the Strmica area.⁵⁷¹³ The witness did indicate that the Golubić area south of Strmica was closed off to UNMO patrols.⁵⁷¹⁴ The witness testified that there were no military positions in Strmica, and that the closest SVK position was in the area of Golubić, in Knin municipality, to which his team did not have access.⁵⁷¹⁵ At the end of July 1995, the witness was on his way to investigate a Serb allegation that the Croats had shelled residential Strmica when the Croats began another heavy artillery attack on the area where his group was present in Strmica at a time when there was no military hardware and no SVK troop presence there.⁵⁷¹⁶ A liaison officer from the 7th Corps of the SVK was present with the witness’s group at the time of the investigation, to show them where the shelling had taken place.⁵⁷¹⁷ The witness and his group were forced to leave their vehicle and seek shelter in a cellar while the barrage continued for about 30 minutes.⁵⁷¹⁸ The witness testified that although he was unaware of any major troop movements, his patrols would occasionally come across some military vehicles or small columns of SVK soldiers that were moving toward Golubić, in Knin municipality, in the direction of Strmica at the end of July 1995.⁵⁷¹⁹ A letter from SVK Lieutenant-General Mile Mrkšić to UNPROFOR

⁵⁷⁰⁹ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), pp. 1-2; Alexander Tchernetsky, T. 3204, 3221.

⁵⁷¹⁰ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 2; Alexander Tchernetsky, T. 3178.

⁵⁷¹¹ Alexander Tchernetsky, T. 3178-3179, 3186.

⁵⁷¹² Alexander Tchernetsky, T. 3293.

⁵⁷¹³ Alexander Tchernetsky, T. 3179-3180, 3297.

⁵⁷¹⁴ Alexander Tchernetsky, T. 3303.

⁵⁷¹⁵ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 2; P205 (Alexander Tchernetsky, witness statement, 6 December 2007), para. 2; Alexander Tchernetsky, T. 3303-3304.

⁵⁷¹⁶ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 2; P205 (Alexander Tchernetsky, witness statement, 6 December 2007), para. 2; Alexander Tchernetsky, T. 3180-3187; 3293, 3304, 3307-3308, 3310; P208 (Map of Strmica, marked by Alexander Tchernetsky); P209 (Map of Strmica, with markings “R” and “R2” by Alexander Tchernetsky).

⁵⁷¹⁷ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 2; Alexander Tchernetsky, T. 3296-3298; 3308-3309.

⁵⁷¹⁸ P204 (Alexander Tchernetsky, witness statement, 18 May 2002), p. 2; Alexander Tchernetsky, T. 3180-3182, 3308-3311; P208 (Map of Strmica, marked by Alexander Tchernetsky).

⁵⁷¹⁹ Alexander Tchernetsky, T. 3305.

Command Zagreb indicated that the HV was shelling the Drvar-Grahovo-Knin road on 24-27 July 1995 and that this had “put in jeopardy the transport of humanitarian aid to the western part of the RSK”.⁵⁷²⁰

1497. **Peter Marti**, an UNMO and later a member of HRAT in Sector South from 19 June to 27 November 1995,⁵⁷²¹ testified that on 30 July 1995, at the request of the SVK, the witness and his team, which included Alexander Tchernetsky, picking up their Serb liaison officer on their way, went to conduct a crater analysis near Strmica, Knin municipality.⁵⁷²² Just before they reached Strmica, about 5-6 shells landed in a field nearby.⁵⁷²³ The shells came from the east, from the direction of Grahovo in Bosnia-Herzegovina.⁵⁷²⁴ An excerpt from Marti’s diary indicates that when they first observed shelling, it took place on the western hillside about a kilometre from their position.⁵⁷²⁵ Marti testified that there was a Serb check-point about 300-500 metres from where they stopped, on the road towards Strmica.⁵⁷²⁶ The SVK allowed the UN team up to the check-point, but not past it.⁵⁷²⁷ Marti was aware that there were SVK military barracks to the right of the road, when approaching Strmica from the south.⁵⁷²⁸

1498. **Philip Berikoff**, UN Military Information Officer for UN Sector South who was based in Knin between 21 July and 5 September 1995,⁵⁷²⁹ stated that on 30 July 1995, together with Captain Dangerfield and Sergeant Green, he spent the night at the border crossing in Strmica, Knin municipality, where Berikoff observed and heard an extensive exchange of artillery shelling in the vicinity of Bosansko Grahovo in Bosnia-

⁵⁷²⁰ Alexander Tchernetsky, T. 3300; D223 (Letter from Lieutenant General Mrkšić to UNPROFOR, 27 July 1995).

⁵⁷²¹ P415 (Peter Marti, witness statement, 13 February 1996), pp. 1-2; P416 (Peter Marti, witness statement, 29 June 1997), pp. 1, 6; P417 (Peter Marti, witness statement, 14 December 2007), paras 1, 5, 9, 17.

⁵⁷²² P417 (Peter Marti, witness statement, 14 December 2007), para. 28; Peter Marti, T. 4595-4597, 4598-4599, 4655, 4662; D224 (Portion of Peter Marti’s Diary, entry of 29 and 30 July 1995); Alexander Tchernetsky T. 3306.

⁵⁷²³ P417 (Peter Marti, witness statement, 14 December 2007), para. 28; Peter Marti, T. 4595-4597, 4598-4599; P419 (Aerial Map of Strmica, marked by Peter Marti); D224 (Portion of Peter Marti’s Diary, entry of 29 and 30 July 1995).

⁵⁷²⁴ P417 (Peter Marti, witness statement, 14 December 2007), para. 28.

⁵⁷²⁵ D224 (Excerpt from Peter Marti’s diary) ; Alexander Tchernetsky T. 3306-3307.

⁵⁷²⁶ P417 (Peter Marti, witness statement, 14 December 2007), para. 28; Peter Marti, T. 4657-4658, 4738-4739, 4741-4742; P419 (Aerial Map of Strmica, marked by Peter Marti).

⁵⁷²⁷ Peter Marti, T. 4653, 4655, 4660.

⁵⁷²⁸ Peter Marti, T. 4658-4660, 4737-4738; P427 (Aerial Map of Strmica, marked by Peter Marti).

⁵⁷²⁹ P739 (Philip Berikoff, witness statement, 24 August 1996), pp. 1-2; P740 (Philip Berikoff, witness statement, 21 May 1997), p. 1, paras 1-2; P741 (Philip Berikoff, witness statement, 11 December 2007), p. 1; D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 1-2, 45; Philip Berikoff, T. 7589, 7655-7656, 7734-7735, 7759-7760, 7768, 7776, 7813, 7823; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), pp. 2, 16.

Herzegovina, lasting approximately one and a half hours starting at 6:30 p.m.⁵⁷³⁰ In the afternoon of 3 August 1995, Captain Rob Williams came from Zagreb to Knin and informed General Forand, Colonel Leslie and Berikoff of a possible offensive in the Krajina in the next few days.⁵⁷³¹ This confirmed information from various sources, including “locals”, that the Croatian forces would attack, at least if the peace negotiations failed.⁵⁷³² Berikoff accompanied Williams to Strmica, where they saw the check-point and heard the shelling in the Bosansko Grahovo area.⁵⁷³³ Berikoff testified that he observed at least a company’s strength of SVK troops in the Strmica area at various times.⁵⁷³⁴ Berikoff stated that by 30 July 1995 there was no SVK presence in Strmica, but that there was a military camp not far outside it, and that, on several occasions including on 30 July 1995, he observed movements of various SVK vehicles including tanks between the camp and the area of Bosansko Grahovo.⁵⁷³⁵

1499. **Mile Mrkšić**, the commander of the SVK Main Staff from May 1995,⁵⁷³⁶ testified that between 28 July and 1 August 1995, after the HV and HVO took Grahovo, in Bosnia-Herzegovina, he transferred forces to undertake a two-day tactical action in the area of Strmica, in Knin municipality, although this was quickly abandoned when the corps commander saw they could not achieve anything.⁵⁷³⁷ The 7th Corps forward command post was located some 500 metres from the front line on the slopes of the Dinara, near Strmica along a stretch of road leading to Grahovo.⁵⁷³⁸ From 1 to 4 August 1995, Kovačević, the commander of the 7th corps, was at the forward command post on the Dinara slopes, conducting the fighting and slowing down the movements towards Strmica and Krno.⁵⁷³⁹ According to a 9 August 1995 report by Kovačević, at 10 a.m. on 4 August 1995, the police forces that had been holding positions on the Dinara mountain began retreating in an organized manner, which resulted in the retreat of the

⁵⁷³⁰ P740 (Philip Berikoff, witness statement, 21 May 1997), para. 2 (c); P741 (Philip Berikoff, witness statement, 11 December 2007), para. 1; D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 4; Philip Berikoff, T. 7669-7670; P744 (Report by Robert Williams on the situation in Sector South between 8 July and 18 August 1995), p. 2; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), p. 4.

⁵⁷³¹ D284 (Philip Berikoff, witness statement, 26-27 May 1997), pp. 6, 10; Philip Berikoff, T. 7909.

⁵⁷³² D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 10; Philip Berikoff, T. 7659, 7875, 7909-7910.

⁵⁷³³ D284 (Philip Berikoff, witness statement, 26-27 May 1997), p. 6.

⁵⁷³⁴ Philip Berikoff, T. 7671.

⁵⁷³⁵ P741 (Philip Berikoff, witness statement, 11 December 2007), para. 1; D735 (Philip Berikoff, witness statement, 30 August 2008), p. 1; Philip Berikoff, T. 7668, 7670-7672; P748 (Berikoff’s daily journal, 17 July – 6 September 1995), pp. 3-4.

⁵⁷³⁶ Mile Mrkšić, T. 18751, 18993.

⁵⁷³⁷ Mile Mrkšić, T. 18843-18845.

⁵⁷³⁸ Mile Mrkšić, T. 18879, 19042, 19044.

remaining 7th Corps units.⁵⁷⁴⁰ Mrkšić saw that the 7th Corps forces on the Dinara front line were under intense artillery fire.⁵⁷⁴¹ According to Kovačević's 9 August 1995 report, the 7th Corps units abandoned their dominant positions on the Dinara, in part because the unaccustomed soldiers felt pressured by the Croatian artillery, and only parts of units occupied the unprepared positions in the depth along the axis from Iгла, in Knin municipality to Crvena Zemlja to Knin, in a disorganized manner.⁵⁷⁴² Mrkšić testified that Kovačević moved from Strmica, in Knin municipality, and relocated to the command post at Pađene, in Ervenik municipality, above Knin, to supervise the pulling out of troops.⁵⁷⁴³

1500. **John Hill**, Commanding Officer of the International Military Police in Sector South from early June 1995 to 8 December 1995,⁵⁷⁴⁴ testified that some days before 4 August 1995, he and others went to Strmica to check on a Kenyan company position because the Croats had shelled Strmica.⁵⁷⁴⁵ He saw SVK tanks, APCs, and camouflaged soldiers in Strmica, and also cannon shells from cannons which were mounted on APCs, on the road which indicated to him that they had been fired from there.⁵⁷⁴⁶ Hill saw three dug-in SVK guns in a battery position above the waterfalls north-east of Knin near Strmica prior to Operation Storm.⁵⁷⁴⁷

1501. **Witness 56**, a Serb policeman in Knin between May 1994 and 5 August 1995,⁵⁷⁴⁸ testified that as a result of the shelling of Strmica, the overwhelming majority of the civilian population of the village fled to Knin and other villages further west.⁵⁷⁴⁹ There was a military barracks in the outskirts of Strmica towards the hills which was partly used by the Ministry of the Interior as a storage space.⁵⁷⁵⁰ Storage sites for e.g. ammunition were in Golubić in Knin municipality, in Strmica in Knin municipality, and

⁵⁷³⁹ Mile Mrkšić, T. 19027, 19029.

⁵⁷⁴⁰ D1516 (Report on the conduct of combat activities of the 7th Corps from 29 July to 6 August 1995, Slobodan Kovačević, 9 August 1995), p. 2.

⁵⁷⁴¹ Mile Mrkšić, T. 18926.

⁵⁷⁴² D1516 (Report on the conduct of combat activities of the 7th Corps from 29 July to 6 August 1995, Slobodan Kovačević, 9 August 1995), pp. 2-4.

⁵⁷⁴³ Mile Mrkšić, T. 18879, 19030, 19035, 19104.

⁵⁷⁴⁴ P291 (John Hill, witness statement, 23 August 1996), p. 2; P292 (John Hill, witness statement, 21 January 1998), pp. 3, 93; P293 (John Hill, witness statement, 2 November 1999), p. 3.

⁵⁷⁴⁵ P292 (John Hill, witness statement, 21 January 1998), p. 6; John Hill, T. 3898.

⁵⁷⁴⁶ P292 (John Hill, witness statement, 21 January 1998), p. 6; John Hill, T. 3732, 3812-3815.

⁵⁷⁴⁷ P291 (John Hill, witness statement, 23 August 1996), p. 3; John Hill, T. 3810-3812, 3815.

⁵⁷⁴⁸ P286 (Witness 56, witness statement, 5 December 1996), pp. 1-2; P287 (Witness 56, witness statement, 18 September 2000), p. 1; P288 (Witness 56, witness statement, 12 June 2007), p. 1, para. 2; P289 (Witness 56, witness statement, 21 May 2008), p. 1; Witness 56, T. 3686.

⁵⁷⁴⁹ P288 (Witness 56, witness statement, 12 June 2007), para. 8.

⁵⁷⁵⁰ Witness 56, T. 3620-3621.

in a tunnel called “Lička Kaldrma” close to Strmica on the border to Bosnia-Herzegovina.⁵⁷⁵¹ There was also a border post held by the military in Strmica.⁵⁷⁵²

1502. **Marko Rajčić**, the chief of artillery of the Split MD from April 1993 to June 1996,⁵⁷⁵³ testified that on 4 August 1995, the TS-3 fired, as artillery preparations, 30 shells of 130 millimetres at the main roads intersection in Drvar, in Bosnia Herzegovina, and fired 21 shells of 155 millimetres and 203 millimetres at targets in Strmica, in Knin municipality, and Korita, in Bosnia-Herzegovina.⁵⁷⁵⁴

1503. According to UNCRO Sector South update situation reports, on 4 August 1995, between 7:30 and 8 a.m., the SVK fired 100 artillery rounds from the general area of Strmica, Knin municipality, into Bosnia-Herzegovina.⁵⁷⁵⁵ At 10:30 a.m. on that day, the HV fired 30 artillery rounds into the general area of Strmica, to which the SVK retaliated by firing 20 artillery rounds and heavy machine gun fire from that area towards Bosnia-Herzegovina.⁵⁷⁵⁶ On 5 August 1995, Forand received information from the Kenyan battalion that between 5:30 a.m. and 7 a.m. on that day, Strmica was hit by 200 artillery rounds.⁵⁷⁵⁷

1504. In addition to the above evidence, the Trial Chamber has considered evidence of Đuro Vukašinović reviewed in chapter 4.4.4 and Mate Granić reviewed in chapter 5.1.2, as well as D89 and P1125 reviewed in chapter 4.4.3.

1505. The Trial Chamber has received evidence that shells fell on Strmica on 30 July 1995 as well as on 4 and 5 August 1995. The Trial Chamber will consider these incidents in turn.

1506. The Trial Chamber will first address the events of 30 July 1995 in Strmica. The Trial Chamber notes the several official protests filed by the SVK headquarters in late July alleging that Croatian artillery was shelling the area of Strmica, as well as Tchernetsky’s evidence that at least some shelling had taken place prior to 29 July 1995.

⁵⁷⁵¹ P286 (Witness 56, witness statement, 5 December 1996), p. 4; P288 (Witness 56, witness statement, 12 June 2007), para. 8; Witness 56, T. 3619.

⁵⁷⁵² Witness 56, T. 3622.

⁵⁷⁵³ D1425 (Marko Rajčić, witness statement, 13 February 2009), para. 1; Marko Rajčić, T. 16236, 16275; P2323 (Military Police official note of Rajčić interview, 11 July 2008), p. 1.

⁵⁷⁵⁴ P2336 (Analysis of Split MD actions from 4 to 9 August 1995, by Marko Rajčić, 17 October 2008), p. 10; P2340 (Reconstruction of the Split MD artillery from 4 to 9 August 1995, by Marko Rajčić, 28 November 2008), pp. 14-15; P2341 (Reconstruction of command and control of TS-3 and TS-4, by Marko Rajčić), pp. 2-3.

⁵⁷⁵⁵ P341 (UNCRO Sector South update situation report, 1 p.m., 4 August 1995), p. 3.

⁵⁷⁵⁶ P342 (UNCRO Sector South update situation report, 3 p.m., 4 August 1995), pp. 1-2.

⁵⁷⁵⁷ P345 (UNCRO Sector South update situation report, 12 p.m., 5 August 1995), p. 2.

Due to several similarities in the evidence given by Marti and Tchernetsky and given the fact that they were part of the same patrol, the Trial Chamber is satisfied that these witnesses refer to the same shelling incident on 30 July 1995 just outside of Strmica. Given their testimonies and also taking into account P419, P427, and P209, the Trial Chamber is satisfied that around 10:30 a.m. on 30 July 1995, shells were fired from the direction of Grahovo in Bosnia-Herzegovina into a field just south of Strmica. Based on the evidence of Granić that the HV was in Grahovo on 30 July 1995 indicates that the HV fired these shells.

1507. The above evidence, in particular that of Berikoff, Hill, and Witness 56, indicates that there was an SVK presence in the vicinity of Strmica around the end of July 1995. Additionally, on 30 July 1995, various SVK vehicles including tanks were moving between a SVK military camp near Strmica and Bosansko Grahovo. During the end of July 1995, international observers occasionally witnessed small columns of SVK soldiers moving toward Golubić in the direction of Strmica. Some days before 4 August 1995, in Strmica Hill observed SVK tanks, APCs and camouflaged soldiers, as well as shells from cannons which were mounted on APCs on the road. In addition, according to Witness 56 and Vukašinović an SVK storage site was located in Strmica. This evidence indicates that at least on 30 July 1995 there were military targets in Strmica, as well as SVK presence in the vicinity thereof. The Trial Chamber also notes the evidence of Witness 56 that, as a result of the shelling of Strmica, the overwhelming majority of the civilian population of the village fled to Knin and other villages further west, indicating that there was civilian presence in Strmica when the first shells fell. In relation to this incident, the Trial Chamber has received insufficient evidence regarding firstly, what the HV targeted when firing shells into the field near Strmica on 30 July 1995, and secondly, as to what was hit.

1508. The Trial Chamber will now turn to the events of 4-5 August 1995. The evidence of Rajčić indicates that on 4 August 1995, the TS-3 fired 21 shells of 155 millimetres and 203 millimetres at targets in Strmica and in Korita in Bosnia-Herzegovina. The Trial Chamber has also considered P341, P342 and P345. The evidence indicates that between 7:30 and 8 a.m. on 4 August 1995 the SVK fired 100 artillery rounds from the general area of Strmica into Bosnia-Herzegovina. Further, around 10 a.m. the HV fired 30 artillery rounds into the general area of Strmica to which the SVK retaliated by firing 20 artillery rounds and heavy machine gun fire from the Strmica area towards Bosnia-

Herzegovina. Finally, between 5:30 and 7 a.m. on 5 August 1995, Strmica was hit by 200 artillery rounds and, as indicated in D89, there was SVK military presence in the general area of Strmica on this day. This evidence indicates that shells fell on Strmica and its general area on 4 and 5 August 1995. However, the Trial Chamber has again received insufficient evidence which would allow it to conclude with sufficient certainty which structures in and around Strmica, if any, were hit on these dates. Under these circumstances the Trial Chamber will not further consider the above incidents in Strmica in relation to Count 1 of the Indictment.