

BOSNA I HERCEGOVINA



БОСНА И ХЕРЦЕГОВИНА

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СУД БОСНЕ И ХЕРЦЕГОВИНЕ

Case Number: S1 1 K 008793 12 krl

Date: Pronounced: 28 August 2013
Written Verdict Issued: 20 November 2013

Before the Trial Panel composed of: Judge Mira Smajlović, Presiding Judge
Judge Zoran Božić, member
Judge Enida Hadžiomerović, member

CASE OF PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA

v.

GORAN SARIĆ

VERDICT

Prosecutor of the Prosecutor's Office of Bosnia-Herzegovina:

Munib Halilović

Defense Counsel for the Accused:

Ozrenka Jakšić

Refik Serdarević

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Sarajevo, 28 August 2013

IN THE NAME OF BOSNIA AND HERZEGOVINA!

The Court of Bosnia and Herzegovina, sitting on the Panel composed of Judge Mira Smajlović, as the Presiding Judge, and Judge Zoran Božić and Judge Enida Hadžiomerović, as the Panel members, with the participation of Legal Advisor Sanida Vahida-Ramić, as the record-taker, in the criminal case conducted against the Accused Goran Sarić for the criminal offense of Crimes against Humanity, in violation of Article 172(1)(h), as read with Article 180 of the Criminal Code of Bosnia and Herzegovina (CC B-H), under the Indictment by the Prosecutor's Office of Bosnia and Herzegovina No. T20 0 KTRZ 0001272 07, dated 26 January 2012 (confirmed on 31 January 2012), following the public main trial, which was partially closed to the public, held in the presence of Munib Halilović, Prosecutor for the Prosecutor's Office of B-H, the Accused Goran Sarić, and Defense Counsel for the Accused, Attorney Ozrenka Jakšić and Attorney Refik Serdarević, rendered and the Presiding Judge on 28 August 2013 publicly announced the following:

VERDICT

THE ACCUSED:

GORAN SARIĆ, son of Savo and Mara nee Kujundić, born on 18 September 1964 in Jezero, Konjic Municipality, living at ..., married, ethnic ..., citizen of ..., retired, graduated from the Military Academy in Belgrade, indigent,

I

HAS BEEN FOUND GUILTY

Of the following:

During the period from the beginning of June 1992 to the end of July 1992, within a widespread and systematic attack of the Army of Republika Srpska [VRS], police and paramilitary units against the Bosniak civilian population of the Sarajevo Municipality of

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Centar, aware of that attack and that his acts made a part of it, as the Chief of the newly-established Centar SJB (Public Security Station) for the territory of the Serb Municipality of Centar which was located within the compound of the former *Jagomir* Psychiatric Hospital in Sarajevo, together with members of the Koševo (Koševska) Brigade and paramilitary formations, carried out persecution of the Bosniak population on ethnic and religious grounds by murders, imprisonment and forcible transfer of population, in the following manner:

1. on 19 June 1992, all Bosniak male inhabitants of Nahorevo and Nahorevska Brda were summoned by police officers of the Centar SJB and soldiers to gather on the premises of the Nahorevo Local Community, and after around 100 Bosniaks came to the referenced premises, the police officers of the Centar SJB, in cooperation with soldiers of the Koševo Brigade, surrounded the Local Community building and forced the Bosniaks to get on two trucks on board of which they transported them to the *Jagomir* Psychiatric Hospital compound and detained them in several rooms on the upper floor of a building called *Pavilion*, where members of the police and soldiers of the Koševo Brigade guarded them. On the same day, after they detained all men, the police officers of the Centar SJB subordinate to him and soldiers of the VRS Koševo Brigade called all remaining Bosniaks of Nahorevo, the elderly, women and children, more than 200 in total, to gather in front of the Nahorevo Local Community, and after they all gathered, the police officers and soldiers forcibly transported them by trucks and passenger vehicles to the line of separation and sent them across the frontline to the territory under the control of the Army of B-H, forcing them to leave behind all movable and immovable property;
2. on 21 June 1992, on the premises of the *Jagomir* Psychiatric Hospital he carried out and supervised a division of the detained Bosniak civilians into three groups pursuant to a list from which their names were called out, in the following manner:
 - a) A group of around 60 detained Bosniaks, including Salko Pandžić, witness S1, Halid Muharemović, witness S3, Šaban Pandžić, Derviš Pandžić, Ramiz Pandžić, Munib Gljiva, witness S4, Adil Pandžić, Mehmed Pandžić, Ismet Gljiva, Jusuf Gljiva, witness S6, Ismet Čormehmedović, Derviš Pandžić, Ismet Pandžić, Muhamed Pandžić, Murat Pandžić, Rašid Pandžić, Ragib Kožljak, Smajo Pandžić, Omer Muharemović, Hasib Muharemović, Mujo Pandžić, Ferid Pandžić, Sudo Pandžić, Fuad Pandžić,

Ibro Pandžić, Sefer Pandžić, Bešir Pandžić, Abid Muharemović, Ahmed Muharemović, Ramo Pandžić, Ramiz Pandžić, Effendi Zuhdija Hasanović and others, were called out by a member of the military, so they got out and lined up in front of the *Pavilion*, whereupon Goran Sarić delivered a speech to them explaining that they would go to Sarajevo and that they should not grieve for their houses and tractors, after which members of the army and the police forcibly escorted them to the separation line and dispatched them to the territory under the control of the Army of B-H upon his order;

- b) After the first group was forcibly relocated to the territory under the control of the Army of B-H, another group of the detained Bosniaks, 29 in total, were called out and they were designated for the *Bunker* camp. Those were: Ševko Bošnjak, Šerif Đanović, Fikret Išerić, Mustafa Muharemović, Edhem Muharemović, Ragib Muharemović, Zejnil Muharemović, Rasim Muharemović, Nezir Muharemović, Hasan Muharemović, Avdija Medić, Asim Pandžić, Ismet Pandžić, Amir Pandžić, Nedim Pandžić, Abid Pandžić, Miralem Pandžić, Sakib Pandžić, Hasan Pandžić, Đemal Pandžić, Mensur Pandžić, witness S2, Enver Pandžić, Muhamed Ruhotina, Zijad Selimanović, S-10, Nahid Kožljak, Kasim Muharemović and Miralem Kokić. Goran Sarić ordered them to climb on board a truck and before the truck set out he took off of it his pre-war colleague Nahid Kožljak, and following Sakib Pandžić's plea he also took off the truck Sakib's son, S-10, and allowed Kasim Muharemović to get off the truck as well, whereupon he ordered the remaining 26 detainees to be escorted by the police to the *Bunker* camp in Vogošća, where the policemen handed over the detained Bosniaks to camp warden Branko Vlačo, in which camp they were detained for a considerable period of time. In the company of another policeman he drove Nahid Kožljak, S-10 and Kasim Muharemović, whom he had singled out from the group dispatched to the *Bunker*, by a passenger vehicle to the separation line and forcibly dispatched them to the territory under the control of the Army of B-H;
- c) From a third group of 11 detained Bosniaks who were labeled as "extremists" and who were in the pre-fabricated houses near the *Pavilion* in the compound of the *Jagomir* Psychiatric Hospital, Goran Sarić singled out witness S-1 and Jusuf Glijiva and shifted them to the group of detainees who were then forcibly transferred to the territory under the control of the Army of B-H, singled out Ismet Pandžić and delivered him to be detained in the *Bunker* camp in Vogošća where Pandžić was killed after a few days, and kept Đulaga Pandžić, Hamid Pandžić, Esad Pandžić, Sanel Pandžić,

Ahmed Pandžić, Sejo Gljiva, Ramiz Smajlović and Mustafa Kožljak within the compound of the *Jagomir* hospital knowing they would be killed, whereupon they were taken and executed at an unknown location and their bodies were later exhumed at the locality of Lisičine – Skakavac, Municipality of Centar Sarajevo;

Therefore, within a widespread and systematic attack against the civilian population in the territory of Sarajevo Municipality of Centar, aware of that attack and that his acts constituted a part thereof, he carried out persecution of the entire Bosniak population on ethnic and religious grounds,

whereby

he committed the criminal offense of **Crimes against Humanity in violation of Article 172(1)(h) of the Criminal Code of B-H by perpetrating the following acts:**

- Under Count 1) – imprisonment and forcible transfer of population
- Under Count 2a) -- forcible transfer of population
- Under Count 2b) -- imprisonment
- Under Count 2c) -- murder, imprisonment and forcible transfer of population,

all as read with Article 29 of the CC B-H,

hence for the referenced criminal offense, pursuant to Article 285 of the Criminal Procedure Code of Bosnia and Herzegovina (CPC B-H) and in application of Articles 39, 40 and 48 of the CC B-H, the Panel of the Court of B-H

S E N T E N C E S
the Accused
TO IMPRISONMENT FOR A TERM OF
14 (FOURTEEN) YEARS

Pursuant to Article 56 of the CC B-H, the time the Accused spent in custody in the period from 2 November 2011 to 16 November 2012 shall be credited toward the imprisonment sentence.

II

Pursuant to Article 284(c) of the CPC B-H,

the Accused Goran Sarić,

IS HEREBY ACQUITTED OF THE CHARGES

That,

1. On or about 14 June 1992, Goran Sarić deprived Zahid Pandžić of liberty and took him to the compound of the *Jagomir* hospital where the Centar SJB was deployed, wherefrom every trace of his has been lost and he is still unaccounted for;

whereby,

he would have committed the criminal offense of Crimes against Humanity in violation of Article 172(1)(h) by perpetrating the act of enforced disappearance, all as read with Article 180(1) of the CC B-H.

III

Pursuant to Article 188(4) of the CPC B-H, the Accused is relieved of the duty to reimburse the costs of the criminal proceedings, which shall be paid from the budget of the Court.

IV

Pursuant to Article 198(2) of the CPC B-H, the injured parties are instructed to pursue their claims under property law in civil action.

Reasoning

I. PROCEDURAL HISTORY (INDICTMENT)

1. The Indictment by the Prosecutor's Office of Bosnia and Herzegovina number T20 0 KTRZ 0001272 07, dated 26 January 2012 (confirmed on 31 January 2012), charged the Accused Goran Sarić with the criminal offense of Crimes against Humanity in violation of

Article 172(1)(h), as read with Article 180(1) of the CC B-H.

2. The main trial in this case commenced on 8 May 2012.

II. ADDUCED EVIDENCE

3. An itemized list of the evidence adduced in these proceedings is provided in the separate section of the Verdict (**Annex I**). With a view to avoiding an unnecessary load to the master text of the Verdict, the Panel provided the respective lists of evidence by the Prosecution, the Defense and the Court in a separate section that makes a component part of this Verdict.

III. PROCEDURAL DECISIONS

A. DECISION ON THE ESTABLISHED FACTS

4. By the Decision number S1 1 K 008793 12 Krl of 3 December 2012, the Court partially granted the Motion of the Prosecutor's Office of B-H No. T20 0 KTRZ 0001272 07 of 30 August 2012 to admit as proven the facts established in the Judgments of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the cases of *Prosecutor v. Momčilo Krajišnik*¹, *Prosecutor v. Stanislav Galić*² and *Prosecutor v. Radoslav Brđanin*³.

5. An itemized list of admitted facts is provided in **Annex II** that makes a component part of this Verdict.

1. Prosecution Motion

6. In the case against the Accused Goran Sarić, on 30 August 2012 the Prosecutor's Office of B-H filed a Motion to admit established facts pursuant to Article 4 of the Law on the Transfer of Cases from the ICTY to the Prosecutor's Office of B-H and the Use of Evidence Collected by ICTY in Proceedings Before the Courts in B-H (Law on Transfer).

¹ **Prosecutor v. Momčilo Krajišnik**, case No. IT-00-39, Trial Judgment of 27 September 2006, and case No. IT-98-33-A, Appeals Judgment of 17 March 2009.

² **Prosecutor v. Stanislav Galić**, case No. IT-98-29, Trial Judgment of 5 December 2003, and case No. IT-02-60-A, Appeals Judgment of 30 November 2006.

The Motion contains a total of 56 facts. The facts that the Prosecution proposed were originally from the Judgments by the ICTY Trial and Appeals Chambers in the cases as follows: *Prosecutor v. Momčilo Krajišnik*, No. IT-00-39, Trial Judgment of 27 September 2006, and case No. IT-98-33-A, Appeals Judgment of 17 March 2009; *Prosecutor v. Stanislav Galić*, case No. IT-98-29, Trial Judgment of 5 December 2003, and case No. IT-02-60-A, Appeals Judgment of 30 November 2006; and *Prosecutor v. Dragomir Milošević*, case No. IT-98-29/1, Trial Judgment of 12 December 2007, and case No. IT-98-29/1-A, Appeals Judgment of 12 November 2009.

7. The Motion reads that the proposed facts that the ICTY established in the referenced cases concern the existence of a state policy of persecution of the non-Serb population inaugurated by the self-proclaimed Serb Bosnia and Herzegovina, and the results of that policy are visible from a large number of detention facilities for civilians in and around Sarajevo. Also, the Prosecution states that the admission of these facts would not either directly or indirectly incriminate the Accused Goran Sarić in any way, given that they do not prove that the Accused knew that such policy existed, which, in any way, constitutes a subjective element of the criminal offense of Crimes against Humanity.

2. Response of the Defense

8. In her response to the Prosecution Motion to admit established facts of 8 October 2012, Attorney Ozrenka Jakšić, Defense Counsel for the Accused Goran Sarić, stressed that all proposed facts concerned the circumstances that constituted a direct incrimination of the Accused Sarić or concerned legal conclusions from other proceedings, and were unacceptable as such, and that their admission would constitute a violation of the right of the Accused to a fair trial, that is, Article 6 of the European Convention on Human Rights and Fundamental Freedoms (ECHR).

9. In her response Defense Counsel elaborated in detail on each fact providing the reasons why she considered that the facts did not satisfy the criterion of acceptability, and moved the Court to refuse the Prosecution Motion as inadmissible.

³ **Prosecutor v. Radoslav Brđanin**, case No. IT-99-36, Trial Judgment of 1 September 2004, and case No. IT-99-36-A, Appeals Judgment of 3 April 2007.

3. Decision of the Court

(a) Legal Grounds

10. Article 15 of the CPC B-H sets forth that the right of the Court (...) to evaluate the existence or non-existence of facts shall not be related or limited to special formal evidentiary rules (free evaluation of evidence). The admission of an established fact as proven inherently contains a presumption of the fact's legal value. In other words, it constitutes evidence in the proceedings, whereby it may be disqualified by the opposite party, while it shall be evaluated upon the conducted evidentiary procedure following the principle of free evaluation of evidence, pursuant to the quoted provision of Article 15 of the CPC B-H.

11. However, in the case at hand the Law on Transfer is a *lex specialis*, specifically, its Article 4, stipulating that, at the request of a party (which is the case in the situation at hand), or *proprio motu*, the Court, after hearing the parties, may decide to accept as proven those facts that are established by legally binding decisions in any other proceedings by the ICTY or to accept documentary evidence from proceedings of the ICTY relating to matters at issue in the current proceedings.

12. The principal goal of admission of established facts as proven is to ensure the efficiency and economy of the proceedings on the one hand, while simultaneously protecting the right of the accused person to a fair trial, on the other. Moreover, that prevents a retraumatization of a witness as the witness would be spared a repeated testifying about the same events. Finally, such conduct also guarantees the right of the Accused to trial within a reasonable time, as guaranteed in Article 13 of the CPC B-H and Article 6(1) of the ECHR.

13. With respect to the right of the Accused pursuant to Article 6(2) of the CPC B-H, the Defense has a possibility to challenge with its evidence an established fact admitted as proven in the proceedings before this Court.

14. Also, Article 3 of the Law on Transfer sets forth that evidence collected in accordance with the ICTY Statute and the Rules of Procedure and Evidence (RoPE) may be used in proceedings before the courts in B-H, but the courts shall not base a conviction of a person solely or to a decisive extent on the prior statements of witnesses who did not give oral evidence at trial. By analogy, and related to the circumstances in the specific

situation, the Court shall not base a conviction solely or to a decisive extent on the evidence or -- in the case at hand -- the facts that were not directly adduced at the main trial. Thus the Court shall not violate the presumption of innocence of the Accused under Article 3(1) of the CPC B-H and Article 6(2) of the ECHR.

(b) Criteria for deciding about the proposed facts

15. Neither Article 4 of the Law on Transfer nor the CPC B-H provides guidelines for the Panel to evaluate such facts. However, criteria for admissibility of proposed established facts were listed in the case of *Prosecutor v. Momčilo Krajišnik*⁴ and these criteria were accepted in the case law of this Court, and this Panel has also accepted them in the case at hand.

(i) A fact must be distinct, concrete and identifiable

16. A fact must be taken from one or more specific paragraphs of a trial or appeal judgment of the ICTY and must not be vaguely or generally related to the judgment. It must be comprehensible in its own right, that is, even if taken out of its context. Its form must be similar to the original one, but it may be modified slightly in order to ensure comprehensibility. The Panel states that the majority of the facts listed in the Annex to the Decision satisfy this criterion, except for facts number 35, 38 and 41 in the Motion, given that they do not indicate which municipalities they pertain to, which makes them unclear.

(ii) A fact must be pertinent to the case

17. The Panel finds that certain proposed facts are irrelevant to the case at hand and, therefore, restricted its decision to the facts listed in the Annex to the Decision. The Panel finds that facts number 8, 10, 12, 14, 15, 18, 19, 29, 34 and 42 are irrelevant to the criminal event concerned in terms of both its narrow and wide context. On the other hand, although the essence of the procedure of admitting established facts is to “save” the time and resources that would have been used for proving the context of events, the parties

⁴ Case number IR-00-39-T, Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts and for Admission of Written Statements of Witnesses Pursuant to Rule 92*bis*, of 28 February 2003.

and the Defense will prove the facts that the Court has found to be relevant by way of direct confrontation of (counter-)evidence at the main trial.

(iii) A fact forms part of the original judgment which has either not been appealed, or has been finally settled on appeal, or falls within issues which are not in dispute during the appeal

18. All facts proposed by the Prosecutor's Office of B-H and admitted by the Court satisfy this criterion. Having inspected the trial and appeal judgments in *Krajišnik, Galić* and *Brđanin*, the Panel established that all proposed facts satisfied this criterion as well, that is, that the proposed facts constituted authentic facts from the final judgments, and as such they have been admitted as proven on the basis of this criterion.

(iv) A fact must not be based upon an agreement between parties to previous proceedings

19. The Panel established that the facts did not originally come from judgments based on plea agreements.

(v) A fact is not the subject of reasonable dispute between the parties

20. The Panel reviewed and considered the reasons indicated by the Defense Counsel for the Accused and established that at this stage of the proceedings the Defense did not generate a reasonable dispute with respect to any fact. Contrary to the reasons indicated in the response to the Motion, the Court does not find that certain facts that it admitted as proven are incriminating for the Accused.

(vi) A fact cannot relate to the acts, conduct or mental state of the Accused

21. The Defense did not at all challenge the validity of any fact in terms of this criterion, and the Panel has not established that any of the admitted facts was in contravention of this criterion.

(vii) A fact must be restricted to factual findings and must not include legal characterizations

22. The Panel found that the proposed and admitted facts satisfied this criterion as well. However, the Panel found that certain facts did not satisfy this criterion, such as facts number 50, 51, 52, 53, 54 and 56 (partially also fact number 49), due to which the Panel did not admit them. In other words, establishing the status of civilians, the elements of prosecution and the character of attack all constitute legal characterizations that need to be established *in concreto* given that they constitute essential elements of the criminal offense that the Accused is tried for.

23. The Panel found that proposed facts number 4, 13 and 16, and partially also number 17, 20, 30, 43, 48, 49 and 55, contained legal conclusions on facts due to which it did not admit them.

B. RESUMPTION OF ADJOURNED MAIN TRIAL (ARTICLE 251(2) CPC B-H)

24. Article 251(2) of the CPC B-H sets forth that the main trial that has been adjourned must recommence from the beginning if the composition of the Panel has changed or **if the adjournment lasted longer than 30 days, but that, with consent of the parties and the defense attorney, the Panel may decide that in such a case the witnesses and experts shall not be examined again and that the new crime scene investigation shall not be conducted but the minutes of the crime scene investigation and testimony of the witnesses and experts given at the prior main trial shall be used.**

25. More than 30 days elapsed between successive main trial hearings of 2 July and 13 August 2012, as well as of 24 December 2012 and 28 January 2013.

26. The parties and the Defense did not object, and stated on that occasion that they would not use the referenced situation as the ground to appeal the verdict. The parties and the Defense also agreed that it was not necessary to read out the Indictment in this case again. With that respect, the Panel rendered a decision, which the Presiding Judge publicly announced, to admit all previously adduced evidence, that is, the evidence adduced during the main trial before the adjournment.

C. PROTECTION MEASURES FOR WITNESSES S8, S9 AND S10

27. At the main trial held on 31 August 2012, at a part that was closed to the public and just before the testimony of witness S8, the Prosecutor's Office of B-H moved the Court to grant protection measures to the witness, that is, to assign a pseudonym to him as protection of his identity. The Prosecutor explained that, when providing personal information during the examination in the investigation stage, the witness had stated he wanted to be granted protection measures. However, in the further course of conversation with the witness the Prosecutor realized that the witness actually did not feel fear and that there was no particular need for granting protection measures, for which reason they had not been requested originally. Just before the resumption of the main trial on 31 August 2012, the witness told the Prosecutor that he wanted protection measures and that he dared not testify without them as his safety would otherwise be jeopardized.

28. At the hearing held on 30 November 2012, at a part closed to the public, witness S-9 requested just before testifying to be granted identity protection measure, which the Prosecutor in conduct of the case also announced. Explaining his request, the witness stated that he often travelled around the whole B-H, including Republika Srpska, and that he did not want any trouble that might occur as a result of his testifying in this case. The witness stated that he did not fear to testify publicly about the event concerned, but that, due to the foregoing, he thought the measure of protection of his identity was justifiable.

29. Also, at the hearing held on 25 March 2013, the Prosecution proposed protection measures for the witness whose evidence was planned for the referenced date (witness S-10). The witness requested the measures of protection of his identity and prohibition of public display of his image, justifying it with objective reasons. The witness is an employee of a foreign embassy and he travels very frequently within the scope of his duties, so he thought that public dissemination of his personal data (and image) relative to the contents of the testimony might cause him certain unpleasant situations.

30. The Defense did not object to the referenced proposals for protection measures for witnesses S-8 through to S-10, and the decision of the Panel to grant the proposed measures was preceded by the relevant consent of witnesses S-8 through to S-10.

31. Having reviewed the circumstances presented in the individually argued cases of

witnesses S-8 through to S-10, in accordance with Article 3(1) of the Law on the Protection of Witnesses reading that a witness under threat is a witness whose personal security or the security of his family is endangered through his participation in the proceedings, as a result of threats, intimidation or similar actions pertaining to his testimony **or a witness who has reasonable grounds to fear that such a danger is likely to result from his testimony**, the Court found it justified to grant the witnesses the requested pseudonyms by which they were to be addressed in the further course of the proceedings.

D. EXCLUSION OF PUBLIC

32. At the resumptions of the main trial held on 31 August and 30 November 2012 the public was partially excluded with a view to protecting the private life of a witness pursuant to Article 235 of the CPC B-H. The parties did not have any objections to this procedural decision of the Court.

33. The public was partially excluded pursuant to the requested protection measures for witnesses S-8 and S-9, to whom protection measures had not been granted originally, as explained clearly in the section entitled Protection Measures for Witnesses S-8, S-9 and S-10.

E. DEPARTURE FROM THE REGULAR ORDER OF PRESENTATION OF EVIDENCE

34. At the resumed main trial the Panel rendered a decision, upon the Motion of the Prosecution, to depart from the regular order of presentation of evidence with respect to the testimonies of witnesses S-10 and Suad Masnopita, pursuant to Article 240 of the CPC B-H. Having in mind a notification by the Witness Support Section that witness S-10 was not in B-H and that he could come to the Court only after 20 December 2012, and that witness Masnopita had difficulties to find someone to replace him at work from which he would be absent in order to testify in the proceedings at hand, the Court granted the referenced Motion. In the case at hand, the Court also took into account the previous averments of the Prosecution that because witness Suad Masnopita could not objectively respond to the Court's summons, the Prosecution retained the right to propose another witness in his stead to testify about the same circumstances, which was eventually done by way of examination of witness Halid Masnopita. The Defense did not object to this

decision of the Panel. Finally, witnesses S-10 and Halid Masnopita testified at the hearing held on 25 March 2013.

F. ARTICLE 276 – SUPPLEMENT TO THE EVIDENTIARY PROCEEDINGS

35. At the hearing held on 22 April 2013, the Prosecutor proposed that the evidentiary proceedings be supplemented by examining two witnesses, Milorad Zuber and Nedeljko Milić, stating that the Prosecution was conducting an investigation against another person related to the identical event as well, due to which the statements of the proposed witnesses had not previously been available to the Prosecution. The Prosecution added that these witnesses' statements were significant for the events covered by the Indictment.

36. The Defense objected to the referenced proposal arguing that it repeatedly requested the disclosure of all statements at the disposal of the Prosecution, but that the Prosecution did not respond positively to this request, as well as that the statements of witnesses were dated 22 February and 5 April 2012 respectively, since when the Prosecution objectively could have submitted the said evidence for the Defense's perusal.

37. In the specific case the Court granted the Prosecution motion appreciating the Prosecution arguments and guided by the fact that the statements of the witnesses whose examination the Prosecution proposed were given after the Indictment had been filed in these proceedings.

G. EXCEPTIONS FROM THE DIRECT PRESENTATION OF EVIDENCE (ARTICLE 273(2) OF THE CPC B-H)

38. In the course of the proceedings the Court, pursuant to Article 273(2) of the CPC B-H, permitted that Exhibit T-70⁵ be read out. Article 273(2) of the CPC B-H stipulates that, notwithstanding the other provisions, records on testimony given during the investigative phase, if the judge or the Panel of judges so decides, may be read or used as evidence at the main trial only if the persons who gave the statements are dead, which is the situation in the case at hand.

⁵ Statement of witness Milorad Zuber of 22 February 2012, No. 16-13/3-1-49/12; Extract from the Register of Deaths for Milorad Zuber No. 06/4-202-219/13 of 10 May 2013 (T-70).

39. The Panel adds that although this exhibit makes a reference to Miroslav Krajišnik as the suspect, and not to the suspect/accused Goran Sarić, this Record carries the number of the case of the Prosecutor's Office of B-H against the Accused Goran Sarić, due to which it can be regarded as a statement given in the investigative stage, referred to in Article 273(1) of the CPC B-H (and also in exceptional cases Article 273(2)).

40. However, in that respect the Panel took into account the probative value of the statement referenced in T-70, given the fact that a verdict cannot be based on such evidence in decisive part, of which the Panel was mindful in any case.

H. ANNOUNCEMENT OF THE VERDICT - ARTICLE 286 (1) (DATE AND PLACE OF THE ANNOUNCEMENT OF THE VERDICT)

41. Article 286(1) of the CPC B-H reads: "After the pronouncement of the verdict, the Court shall announce the verdict immediately. If the Court is unable to pronounce the verdict the same day the main trial was completed, the judge may postpone the announcement of the verdict for a maximum of three (3) days and shall set the date and place when the verdict shall be announced."

42. On 24 June 2013, a hearing was held at which Defense Counsel finished their closing arguments, and since the Panel could not pronounce the verdict at the same hearing, the pronouncement of the verdict was postponed. The hearing for pronouncement of the verdict was, therefore, held on 28 August 2013 since the Panel could not pronounce the verdict within the statutory deadline due to the busy schedule of its members working on other cases. The Panel notes that neither the parties nor the Defense had any objections to that decision of the Court. The Panel also took into account the fact that the case at hand was not a custody case, which was another reason why it was not necessary to act urgently. Also, such procedure of the Panel is in accordance with the Court's jurisprudence in war crime cases.⁶

⁶ See, e.g, the legally binding rulings in *Albina Terzić* (S1 1 K 005665 11 krl), *Jasko Gazdić* (S 1 1 K 005718 11 krl), and other.

IV. CLOSING ARGUMENTS

A. PROSECUTOR'S OFFICE OF B-H

43. The Prosecution stressed in the closing argument that the acts undertaken by the Accused satisfied all essential elements of the criminal offense of Crimes against Humanity in violation of Article 172(1)(h), as read with Article 180(1) of the CC B-H.

44. The Prosecution moved the Trial Panel to find the Accused guilty and impose on him a sentence of imprisonment within the statutory limits.

45. The Prosecution stressed that there were neither any pronounced aggravating nor extenuating circumstances for the Accused. In the opinion of the Prosecution, the fact that the Accused helped certain civilians by transferring them to a "milder" group does not deserve to be considered an extenuating circumstance, since the Accused did it solely for the civilians with whom he had been friends or at the request of his subordinates and, therefore, did not show in any way that he disagreed with such treatment of the civilians, that is, that he generally had the need to help those civilians.

46. Finally, the Prosecution moved the Court to order the Accused into custody should he be convicted, pursuant to Article 138(1) of the CPC B-H.

B. DEFENSE FOR THE ACCUSED

47. In her closing argument, Attorney Ozrenka Jakšić, Defense Counsel for the Accused, stated that the Accused was not guilty of the offense he was charged with under the Indictment.

48. After a detailed comment on the adduced evidence, Defense Counsel moved the Court to acquit the Accused in application of the principle of *in dubio pro reo* and pursuant to Article 284(c) of the CPC B-H, and to render a decision terminating all prohibiting measures imposed on the Accused.

V. EVALUATION OF EVIDENCE – IN GENERAL TERMS

49. Having evaluated each piece of the adduced evidence individually and its correspondence with the rest of the evidence, the Panel rendered a decision referred to in

the enacting clause for the reasons that follow:

50. The Panel primarily notes that, when evaluating the evidence, it was guided by the principle of free evaluation of evidence referred to in Article 15 of the CPC B-H and that it was mindful of Article 290(7) of the CPC B-H. It stresses that, when rendering the decision, it did not rely on the evidence that was not relevant for adjudication in this criminal case. In addition to the relevance, the Panel was also mindful of the legality and credibility of the evaluated evidence, and it focused only on essential elements of the criminal offense that the Accused was tried for.

A. CONVICTING PART

51. The Accused Goran Sarić has been found guilty of the commission of the criminal offense of Crimes against Humanity in violation of Article 172(1)(h) of the CC B-H by the acts of imprisonment, forcible transfer of population and murders, all as read with Article 29 of the CC B-H.

52. The referenced provision reads as follows:

“Whoever, with a view to destroying, in whole or in part, a national, ethnical, racial or religious group, orders perpetration or perpetrates any of the following acts:

...

h) Persecutions against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious or sexual gender or other grounds that are universally recognised as impermissible under international law, in connection with any offense listed in this paragraph of this Code, any offense listed in this Code or any offense falling under the competence of the Court of Bosnia and Herzegovina;

shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.“

B. ESSENTIAL ELEMENTS OF THE CRIMINAL OFFENSE OF CRIMES AGAINST HUMANITY IN VIOLATION OF ARTICLE 172 OF CC B-H

53. To characterize the acts of the Accused as “crimes against humanity” pursuant to Article 172 of the CC B-H, it was necessary to establish that the following essential

elements of this criminal offense were satisfied:

1. The existence of a widespread or systematic attack
2. That the attack was directed against civilian population
3. That the Accused knew of the attack and that his acts constituted a part of that attack (nexus)

1. The existence of a widespread or systematic attack

54. In order to establish the character of the attack against the civilian population, the Panel also took into account the views expressed in the ICTY judgments defining the factors for evaluation of the widespread or systematic nature of an attack, hence: "[For] the assessment of what constitutes a 'widespread' or 'systematic' attack ... a Trial Chamber must ... 'first identify the population which is the object of the attack and, in light of the means, methods, resources and result of the attack upon the population, ascertain whether the attack was indeed widespread or systematic'. The consequences of the attack upon the targeted population, the number of victims, the nature of the acts, the possible participation of officials or authorities or any identifiable patterns of crimes, could be taken into account to determine whether the attack satisfies either or both requirements of a 'widespread' or 'systematic' attack vis-à-vis this civilian population."⁷

55. The phrase "'widespread' refers to the large-scale nature of the attack and the number of victims". Also, a crime may be widespread or committed on a large-scale by "the cumulative effect of a series of inhumane acts or the singular effect of an inhumane act of extraordinary magnitude." The phrase "systematic" refers to "the organized nature of the acts of violence and the improbability of their random occurrence".⁸

56. When analyzing the character of the attack, the Panel took into consideration a wider context of the situation in the territory of the Centar Municipality in the period relevant to the Indictment. The Panel had in mind the numerous facts established in the trials before the ICTY that were admitted in the case at hand, from which it follows that an armed conflict broke out after the European Community recognized B-H as a sovereign state on 6 April 1992. Also, it was established following the witnesses' statements that

⁷ ICTY Appeals Judgment in *Kunarac et al.* (para.95).

⁸ Trial Judgment in *Tadić*, para. 648; Appeals Judgment in *Kunarac et al.* (para. 94); Trial Judgment in *Blaškić* (para.206).

there existed a widespread and systematic attack in the territory of the Centar Municipality. Witness Ibro Pandžić stated in his evidence that in April 1992 they had joint village guards with their Serb neighbors. However, on 12 June 1992, a tank from Nahorevska Brda [Nahorevo Hills] shelled his village Nahorevo, so four shells hit his neighbors' houses that day. After that a curfew was imposed and it was in effect for seven days.

57. Likewise, witness Hasan Pandžić stated that he had gone freely to work until barricades were erected by the Serb police near *Bosnafilm*, at the locality of the *Lipov hlad* (The Linden Shade) catering facility which later became the separation line between the territories controlled respectively by the Serb authorities and the Army of the Republic of B-H. He also stated that the Muslim and Serb neighbors had organized joint village guards before Nahorevo fell.

58. Witness Muhamed Ruhotina stated in his testimony that he went freely to work until 31 May 1992. That day he was stopped and asked for his ID at the barricade at *Lipov hlad*, whereupon he was told by two uniformed members of the Serb army that he had to report to Goran Sarić at the *Jagomir* hospital, room number 12, who would issue him with a movement permit so that he could go to work. He was then told that Goran Sarić was the commander, that is, the officer in charge. The witness did so, but, when he entered the office on whose door it was written *Goran Sarić*, Goran Sarić told him that he could not give him the movement permit, whereupon the witness set off to the village (of Nahorevo) at his own risk. The witness did not go to work any longer. A few days later, an attack was carried out on Nahorevo. Houses were under artillery fire. At one moment his neighbor Đemal Pandžić took a white bed sheet out of the house as a sign that the village inhabitants were surrendering. The shooting stopped and then they were told via megaphone to surrender hunting rifles and similar weapons if they had any next to the school, which they did.

59. Then the Serb army came into the village and soldiers were called by nicknames Zoka, Zorka, Kupres and Oliva. After a while, the soldiers directed the women, children and men to go to the hamlet of Nahorevska Brda, where the witness' house was located. The soldiers lined them up. Some came in a red *Golf* automobile and said they would shoot them all. After that one truck arrived and 18 men from the village were loaded on board and driven in the direction of Pale. Among those men were Šaban Pandžić, Zejnil Pandžić, Hasan Pandžić and Mustafa Kožljak. The truck was driven by the neighbor S-5. He knows that they were then transported to Pale, but that they returned after a while.

The witness then saw that artillery was deployed approximately 300-400 meters above his house. Then the remaining inhabitants were taken to Nahorevo and told that they must not go up there any longer, and that they could move until 17.00 hrs at daytime, whereupon they had to be inside their homes. This situation lasted for 5-7 days.

60. Witness Nahid Kožljak stated in his testimony that he could go to work until 26 May 1992 after which barricades (a checkpoint) were erected close to the *Jagomir* hospital and it was no longer possible to go toward the city. After that the Serb authorities took control in Nahorevo. When the attack on the village was carried out, they were told to get out to the locality of Nahorevska Brda so that houses could be searched, and only women with small children and the elderly were allowed to stay inside.

61. Witness Halid Muharemović very vividly described in his testimony that movement was normal before the beginning of the conflict, and that after the conflict first the radius of movement was narrowed and then their Serb neighbors were forbidden to communicate with them, the non-Serbs. The police confiscated their official and then their private vehicles and did not issue them with any receipts for it. Until the beginning of the conflict the ethnic composition of the population was fifty-fifty (half Serbs, half Bosniaks), and “the coexistence was super, we used to visit each other for weddings, patron saints’ celebrations, and so on“.

62. An identical sequence of events of erecting barricades at the locality of *Lipov hlad* and the attack on the village on 12 June 1992, the subsequent imposition of curfew and restricted movement, and an order to the population to gather in front of the Local Community building on 19 June 1992, which will be elaborated on in detail below, was also confirmed by witnesses Abid Pandžić, Ibro Pandžić, Halid Muharemović, Nahid Kožljak, Adil Pandžić, Fadila Pandžić, Fikret Išerić and others.

63. Therefore, the shelling was directed at the area populated by Bosniaks, and after the attack of 12 June 1992 a curfew was introduced and control of movement established in that way. Such treatment was directed at one part of the population only – the Bosniaks. Following the witnesses’ statements, the Muslim civilians were removed from the social and professional life of the community and their freedom of movement was drastically restricted even before the official conflict in the village (12 June).

64. All witnesses who testified about these circumstances stated in accord that on the day of the attack on the village from Nahorevska Brda (12 June 1992) they were

disarmed by way of surrendering their weapons (mostly hunting rifles they possessed at their homes). In accordance with the witnesses' statements and the Panel's direct inspection pursuant to Exhibit S-1⁹, the locality of Nahorevska Brda is above the village of Nahorevo. From that locality one has an unhindered view on the village of Nahorevo and the neighboring places.

65. That Nahorevo and Nahorevska Brda fell on the referenced occasion is also corroborated by Exhibit T-47¹⁰, reading, *inter alia*, in the relevant part: "after Nahorevo and Nahorevska Brda were captured and taken control of..."

66. Also, many Serb witnesses who had been members of the police or the Koševo Brigade at the time of the relevant events testified about their direct or indirect knowledge of the artillery fire from Nahorevska Brda on the relevant occasion.

67. All witnesses (Ismet Gljiva, Meho Pandžić, S-7 and others) agree that on the day of the attack, in addition to the Serb neighbors who arrived at Nahorevska Brda, they also saw soldiers "from the outside", who introduced themselves as Arkan's or Šešelj's men and that, generally speaking, there was a great variety of uniforms.

68. Relying on the adduced evidence the Panel established that the attack on the village of Nahorevo, in the Centar Municipality of Sarajevo, was *widespread*.

69. Its widespread character primarily refers to its scope, that is, the fact that it encompassed a wide locality, the area of Nahorevo and Nahorevska Brda where Bosniaks made the majority. It is also reflected in the number of victims. The entire Bosniak population, around 300 in total, was expelled from their homes in the following way – first they came under an artillery attack from Nahorevska Brda, then their life was controlled by the introduction of the curfew and issuance of appropriate movement permits, and they were finally expelled on 19 and 21 June 1992. The Panel concluded that they had not been given any choice and did not find acceptable the justification of such treatment of the civilians with security concerns. Finally, it was established during the proceedings that at least eight Bosniaks were killed, which the Panel will explicitly elaborate on in Section 2c) of the convicting part of the enacting clause.

⁹ Evidence of the Court: S-1 (Site visit).

¹⁰ Operations Report for the period 25 June–6 July 1992, Command of Vogošća Operations Group (OG), strictly confidential No. 75/92, 7 July 1992 – Military secret, strictly confidential (T-47).

70. Having analyzed the character and circumstances of the attack, the Panel ruled out any possibility that the attack on the civilian population happened at random, given that all of the foregoing developed under a routine and continuous pattern of conduct, which gives it a *systematic* character. The Panel established that the attack, which consisted of an artillery attack, disarming of the population, introduction of curfew, displacing of the population from their homes, selective separating of the men from the women, taking the men to the Local Community and then to *Jagomir*, and their subsequent division into three groups, had the characteristics and aspects of an organization and a pre-planned system. This is also corroborated by the fact that the foregoing was happening in front of and with the participation of the police and the local Serb authorities, which is indicative of the involvement of politics in the execution of the described events.

71. Therefore, having relied on the adduced evidence the Panel found it proven that at the time relevant to the Indictment there existed a widespread and systematic attack in the area of Nahorevo, Centar Municipality.

2. The attack was directed against the civilian population

72. An attack is directed against a civilian population if the population is the primary object of the attack. The expression “directed against” implies that the civilian population was not randomly selected as the object of the attack, while the expression “population” does not mean that the entire population of the geographical entity in which the attack is taking place must have been subjected to that attack.¹¹

73. With respect to the status of the persons against whom the acts were committed, the Panel primarily refers to the general provision of Common Article 3 of the Geneva Conventions according to which civilians are “*persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed 'hors de combat' by sickness, wounds, detention, or any other cause*”.¹² In case of a doubt whether or not a person is a civilian, that person will be considered a civilian.

¹¹ See *Kunarac et al.*, ICTY Appeals Chamber Judgment, para. 90.

¹² Article 3(1)(a) of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War stipulates that the referenced category of population shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

74. Based on the facts which were elaborated on in detail when evaluating the existence and character of the attack, the Panel finds that there is no doubt that all persons that were the target of the attack, including the injured parties referred to in the enacting clause of the Verdict, were civilians. All Prosecution witnesses confirmed that the attack was carried out exclusively against the civilian population that did not have either weapons or uniforms and did not act within a combat context, either. When the artillery attack on the village of Nahorevo from Nahorevska Brda started, the villagers were told to surrender the weapons in their possession, which they did, so they surrendered the weapons, mostly hunting rifles, at the designated locality in front of the Local Community. The quantity of the surrendered weapons was visible, so it was not only the injured parties that testified about that aspect of the event, but the police and army members did it as well. The artillery attack ended after a representative of the Bosniak population of Nahorevo displayed a white bed sheet as a sign of surrender.

75. Witness Radmilo Močević confirmed that while there was shooting from Nahorevska Brda he descended to the village with Ahmed nicknamed Amena¹³ to tell the villagers to surrender the weapons, which was eventually done, so he also had an opportunity to see the lined weapons at the locality of the elementary school.

76. Witness Nahid Kožljak stated in his testimony that he possessed an official 7.62-mm pistol, but that he surrendered it when he was captured, and that he knew that his neighbor had a hunting rifle. Many other witnesses also stated that they mostly had hunting rifles at their homes, and added that many were into hunting since that peripheral part of Centar Municipality was famous for hunting.

77. Notwithstanding the fact that in the course of the artillery attack the local population had obviously possessed certain weapons at their homes, it was established that they had not resisted the attack and that any resistance would be impossible given the attacker's geographical advantage. Also, well-equipped troops were on top of the high ground above the village which commanded a good visibility, while the population was at a lower altitude, due to which potential resistance would certainly have been successfully crushed. Many witnesses also testified that, even before the official attack on the village on 12 June 1992, they heard from their Serb neighbors that the so-called Šešelj's and Arkan's men arrived in

¹³ Following the witness' statement the Panel established that the nickname Amena, that is, Amenja pertained to Ahmed Pandžić.

the village, so even if the villagers had intended to take part in the hostilities they would have done it earlier when they were on a more equal footing, conditionally speaking, with their enemies.

78. When it comes to the status of the 18 persons who were arrested immediately after the artillery operation, including almost all killed persons referred to in Section 2c) of the conviction part of the enacting clause, although the Defense tried to prove through certain statements that they were not civilians and that they were deprived of liberty in the context of exchange of fire, the Panel did not doubt at all that these persons were civilians. Having relied on the statements of witnesses S-1, Muhamed Pandžić, Salko Pandžić, Jusuf Gljiva and others, the Panel established that they made up a group of persons whom Miodrag Ćuković wanted to kill upon the arrival at the locality of Jagomir, in front of the Institute for Alcoholism [*Zavod za alkoholizam* in the vernacular; translator's note]. However, the Accused showed up at that moment and moved away his rifle telling him: "Miodrag, they are under my control, you have nothing to do with them, leave them alone". On that occasion the Accused introduced himself with his full name, telling them that he was the police chief and that they were under his control.

79. The Defense submitted Exhibit O-1, the testimony of witness Muhamed Pandžić¹⁴, related to the referenced circumstance. Although the witness described the event, he did not refer to the Accused as a person who opposed Miodrag Ćuković on the referenced occasion. He stated that he had heard about the Accused only during the event in front of Jagomir (the line-up and speech delivery), and that he learned from Nahid Kožljak (one or two years prior to the witness' evidence given on 13 August 2012) that that person had been Goran Sarić. However, the Panel is of the opinion that such identification does not essentially depart from the objective circumstances in which the referenced events happened. In other words, the witness had identified the image of the Accused just in front of the *Pavilion* of the *Jagomir* hospital, and it was only a few years ago that he learned of his identity. Given that he had not met or known him before, that only speaks in favor of the fact that he testified about the context of the event that he had experienced and not learned, due to which he talked openly at the trial about his entire knowledge about the events and the Accused.

¹⁴ Witness Examination Record for Muhamed Pandžić, No. 16-13/3-1-28/11, 3 February 2011.

80. Witness S-5 also mentioned the referenced event, stressing that he drove a group of around 20 captives together with Slavko Božić and another two policemen from Vogošća for an exchange, but, as the exchange did not happen, he drove them back to the original location, that is, the *Jagomir* compound.

81. Pursuant to the statements of the examined inhabitants of Nahorevo there was a number of persons who failed to obey the order to go to the Local Community on the referenced occasion (on 19 June 1992) and who set off toward some shelters, independently or in small groups, carrying the weapons they possessed, whereupon they were quickly deprived of liberty. Having relied on the adduced evidence, the Panel established that these persons were civilians, too. In other words, having relied on the body of evidence, the Panel concluded that these persons did not take part in the hostilities, whilst they took along the weapons for their own safety because of a huge number of various civilian and military formations that were in the village at the time, not for a potential military retribution. The Panel relied on the adduced evidence, primarily the statements of the witnesses from that group of 18 persons who survived, and established that during their arrest there was no open combat, that is, that they were deprived of liberty while *hors de combat*.

82. Therefore, the insistence of the Defense to prove that they, that is, the injured parties who had left the village before 19 June 1992, were deprived of liberty in the context of combat activities resulted in fragmented, superficial, unconvincing and vague averments of artillery and infantry conflicts as a potential legal justification of the arrest of these 18 persons.

83. Finally, the Panel established that there was no doubt that all persons against whom the attack was directed were civilians. Those were primarily men who were *hors de combat* although the majority were able-bodied. Also, around 200 women and children were forcibly transported to the territory under the control of the Army of the RB-H and they were certainly not militarily active or in uniforms or offering any resistance.

84. In view of the foregoing, the Panel finds it proven that the primary target of the attack, which was widespread and systematic, was the Bosniak civilian population of the Centar Municipality (Nahorevo).

85. The averments of the Prosecution witnesses that the artillery attack was carried out by the army and that between the attack and the expulsion they used to see in the

village members of the Serb military and paramilitary, who actively participated in all segments of the attack, cannot in any way exonerate the Accused of liability for the crimes committed in the Nahorevo area, Centar Municipality. Likewise, although following the finding and opinion of military forensic expert Miodrag Novokmet there was no coordination between the army and the Ministry of the Interior (MUP) members, that is, no resubordination of the MUP and the paramilitary, the Panel concluded that in the circumstances of the case at hand, which also imply extraordinary and not regular patterns of civilian and military organization, the shortage of personnel in the SJB was not even felt as the activities of the policemen of the Centar SJB, military and paramilitary were jointly directed toward the final goal – expulsion of the Bosniak civilian population from the area of Nahorevo, Centar Municipality, which was eventually achieved. The Panel also based this final conclusion on the fact that the apprehension, interrogation, introduction and monitoring of curfew, control of movement and other are typical civilian police activities, so the Panel concluded that a collusion of the civilian and military bodies *de facto* existed, notwithstanding its particular military or scholarly characterization or qualification.

86. Based on the evidence, the Panel also established that within the Centar SJB only the uniformed police component operated without hindrance and that it was critical for the execution of activities on the ground that have been established, while the functioning of the remaining two components (the administrative sector and the crime detection sector) was not necessary for the execution of the tasks within the facts of the case at hand.

87. Having in mind the foregoing, the Panel finds that it was established beyond doubt that in the period from early June to late July 1992, in the territory of Sarajevo's Centar Municipality, in the Nahorevo Local Community, there existed a widespread and systematic attack by the VRS, paramilitary and police units against the Bosniak civilian population.

3. Acts of the Accused constituted a part of the attack and he knew of the attack
(nexus)

88. When the Panel evaluated whether the acts of the Accused constituted a part of the described attack and whether he knew of the attack, two facts were decisive: (1) membership of the Accused in the forces that carried out the attack against the village of Nahorevo, and (2) the capacity in which the Accused acted on those occasions. The Panel

will not treat individually these important factors on the side of the Accused, but will later analyze them together and render its factual and legal conclusions accordingly. The Panel will also do it by commenting on the individual criminal acts of the Accused based on the established state of facts.

89. The Panel primarily notes that by using the word “attack” in the specific case it does not imply the armed attack on the village of Nahorevo which happened on 12 June 1992, according to the witnesses, but a wider context of the attack on the civilian population that implies the detaining of the able-bodied men on the premises of the *Jagomir* hospital, the killing of the detainees (Count 2c), relocation of the population, looting of property, and so on. Therefore, the attack does not only imply its armed/combat component, that is, the use of armed force, but a number of activities that include acts of violence against the population, which is also in accordance with the ICTY jurisprudence (*Kunarac et al.*, *Kordić and Čerkez*).

90. With respect to the evidence supporting the Panel’s conclusion that the acts of the Accused constituted a part of the attack and the *nexus* of his acts and the attack, the Panel analyzed three groups of evidence relative to the capacity of the Accused, as follows:

- the evidence indicating how the witnesses, primarily those who are the injured parties, perceived the Accused,
- the evidence indicating how the Accused perceived himself,
- the correspondence, that is, the documentary evidence indicating how the Accused was perceived by other members of the police or the army.

91. The Panel primarily notes that in its conclusions it did not at all rely on the part of the record of the questioning of the Accused (in the capacity of a suspect at the time) conducted in the investigation stage without the presence of Defense Counsel. Finally, in the first part of the statement by the suspect (given in the absence of Defense Counsel), the only issue addressed was the appointing of *ex officio* Defense Counsel for the suspect, whereas the facts of the case were not discussed.

92. Based on the foregoing, it follows from the statement of the Accused in the investigation¹⁵, the examined witnesses and the documentary evidence (T-34, T-38)¹⁶, that at the time of the perpetration the Accused was on the strength of the forces that participated in the widespread and systematic attack on the territory of Centar Municipality (Nahorevo), that is, that he was a member of the MUP of the then Serb Republic of Bosnia and Herzegovina and subsequently of Republika Srpska¹⁷.

93. In his statement given in the investigation (T-26), having been cautioned about the provisions of Article 78 of the CPC B-H, the Accused said in the presence of his Defense Counsel that after 15 April 1992 he had come to Vraca, where he had been deployed as an ordinary police officer of the then MUP of the Serb Republic of B-H (RS MUP). There he stayed for some 20 days. In early or mid-May, Zoran Cvijetić, Chief of the newly-formed Security Services Center (CSB) sent him to the Centar Municipality since he had been a Deputy Commander of the Marijin Dvor Police Station (PS) of Centar Municipality before the war. According to the Accused, during his stay in the Centar Municipality he was never appointed the Chief of the SJB. His first next appointment (after the appointment as a police officer) happened in mid-August (1992) to the post of inspector in the Police Department of the RS MUP. Asked whether he had been in the Centar Police Station in Nahorevo during the period from 5 May to 5 August 1992, the Accused said that he had stayed there but not uninterruptedly since he had visited his family from time to time. He added that three other active police officers were together with him during his stay in Nahorevo, which made a total of four police officers. He stated that they had the identical status as subordinates, given the fact that he was not in a position to issue orders to any of them. He also stated that he was present at the locality of Jagomir when a group of people were leaving for the city, saying that he was glad that people were going to the city, but that he could not remember that he delivered any speech in front of the *Jagomir* [hospital] building.

¹⁵ Exhibit T-26.

¹⁶ T-34 (RS MUP Personal Questionnaire for Goran Sarić); T-38 (Employment Record Booklet of Goran Sarić); T-44 (Report on participation in combat operations and the work in 1992, dated 1 September 1993).

¹⁷ "On 9 January 1992, the SerBiH Assembly [Assembly of the Serb People] proclaimed the SerBiH [Serb Republic of Bosnia and Herzegovina], which on 12 August 1992 was renamed Republika Srpska ("RS")." (para. 71; Facts established in the ICTY Judgments in *Radoslav Brđanin*, No. IT-99-36 of 1 September 2004 and No. IT-99-36-A of 3 April 2007); "The parliament of Republika Srpska on 12 May 1992 ordered the formation of the Bosnian-Serb Army ("VRS")" (para. 201); Fact established in the ICTY Judgments in *Stanislav Galić*, No. IT-98-29 of 5 December 2003 and No. IT-02-60-A of 30 November 2006).

94. On the other hand, Defense expert witness Mile Matijević stated in his Finding that pursuant to the decision of Minister Mićo Stanišić, No. 01-25/92 of 25 April 1992, authority for coopting and assigning the employees of the former Ministry of the Interior of Bosnia and Herzegovina (B-H MUP) to the offices and tasks in Security Services Centers (CSBs) and Public Security Stations (SJBs) was also transferred on the CSB Chiefs, which is exactly what happened in the case of the Accused according to his statement. That the authorities of the Minister were also transferred in other cases is confirmed by the statement of Defense witness Radomir Njegus, who carried out the duty of the head of office of the RS MUP, that is, Deputy Minister in the relevant period, and who said that certain ministerial authorities related to personnel issues were also transferred onto him. That was the case with Defense witness Rade Radović, who received a decision on his appointment from witness Radomir Njegus.

95. It follows from Exhibit T-34¹⁸ that on 1 April 1992 the Accused was assigned to the post of Police Station commander, and from 5 May to 1 August 1992 to the post of the Chief of the Centar SJB.

96. Also, according to Exhibit T-38¹⁹, in the period from 4 April 1992 to 31 December 1998, the Accused was a member of the RS MUP.

97. Exhibit T-44²⁰ reads that from the beginning of the war until 5 May 1992 Goran Sarić was at Vraca on the strength of the police unit that manned barricades from the School to the Jewish Cemetery, and from 5 May to 5 August 1993 he was the Chief of the Centar Sarajevo SJB and also the commander of the intervention unit that took part in the defense of Centar Municipality and mopping-up of that territory as part of the Koševo Brigade. Given that this exhibit is consistent, contents-wise, with Exhibit T-34 with respect to his career, but not with respect to the indicated year, and also given that the report pertains to the Accused's work in 1992, the Panel finds that the reference to the year 1993 is an error in the document. The verification of the authenticity of the exhibit is beyond dispute given that it was done by the ICTY.

¹⁸ RS MUP Sarajevo Personal Questionnaire, No. of official ID 5555 (T-34).

¹⁹ Photocopy of Employment Record Booklet of Goran Sarić (4 pages) (T-38).

²⁰ Report on participation in combat operations and the work in 1992, forwarded by Senior Police Inspector Goran Sarić, dated 1 September 1993 (T-44).

98. Defense witness Nedo Đokić stated in his evidence that he had first met the Accused in May 1992 when he passed by the *Lipov hlad* checkpoint together with Tomo and Željko Grujić. He stated that it was a checkpoint at which reserve policemen stood guard in general, and also in that particular situation when the Accused came by. Some 4-5 days upon their arrival the Accused approached the witness with Boban Milinković requesting from the witness to give them a vehicle for the needs of the police. That was a white *Golf II* vehicle, an official vehicle of the *UNIS* company. The vehicle was returned to the witness in late July 1992 and the witness stated that Sarić and Tomo had already left by that time. Boban Milinković then called the witness and told him to come and pick up the car.

99. Relying on the statements of the witnesses who were members of the police from the territory of Centar Municipality (for example, Mišo Grujić and Nedeljko Milić), the Panel established that they actually perceived police officer Slavko Milinković aka Boban as a command-issuing authority, which the Panel found to be expected and logical given the fact that he was a local policeman due to which they knew him better and he had started gathering the manpower even before the Accused's arrival, which witness Milinković stated in his testimony. However, having relied on the adduced evidence, the Panel did not gain an impression that such perception of the situation by the police members who testified about the referenced circumstances actually corresponded with the situation on the ground. Corroborating it is a logical averment of several witnesses that the Accused, as a better educated professional than Milinković, had actually been dispatched to gather the manpower on the ground, and some of them were surprised when they learned during the examination by the parties that at that time the Accused had actually been issued with a decision to execute the duties of a police officer and they stated that it did not fit his qualifications.

100. Therefore, what was decisive for the Panel was the manner in which the injured parties, the inhabitants of the village of Nahorevo, perceived the Accused and how he was referred to in the documentary evidence. Some said that he had introduced himself openly to them, while the others had perceived him as "an important figure" exactly because of his behavior. Thus, for example, witnesses S-7 and Fadila Pandžić testified about the identical pattern of address by the Accused, who told them they should be grateful to God that he, not someone else, was there. Witness Ismet Glijiva, who had known the Accused from before, said that the Accused personally told him that he was the chief of police. That

happened at the time of the events as charged, when the witness met the Accused, who told him: “Gljiva, look what they have gotten me into“. Defense witness S-2 also said in his testimony that the Accused openly introduced himself and said that he was a commander when the witness saw him for the first time in front of the Local Community on the day of the attack on the village (12 June 1992) when civilians, including the witness, came down from Nahorevska Brda in front of the Local Community. The second time he saw him in front of Jagomir, when the respective lists were read out with the names of people who would go “to the city” and those who would go “to *Sonja’s*”, and when Sakib Pandžić pleaded with the Accused that his son not be sent “to *Sonja’s*” but “to the city”.

101. The Defense tendered a record of witness S-2 made in the investigation²¹ relative to the discrepancies in the statement concerning the described sighting of the Accused in front of the Local Community and later in front of the *Jagomir* hospital. However, the Defense failed to show to the witness his statement from the investigation so that he might clarify these discrepancies. In other words, in the examination made in the investigation the witness was asked if he was familiar with a person named Goran Sarić and his role in the events concerned and the witness said: “In my view, Goran Sarić was the number one person for the police in Jagomir, I think that he was responsible for everything concerning our stay in Jagomir and decisions as to where each of us would be taken” (p. 6, para. 11 of the Record). In the Panel’s view, this does not constitute a deviation in the narrative; at the main trial the witness was asked specifically in which situations he had seen the Accused and he explicitly explained it. The questions to the witness in the investigation concerned only his acquaintance with the Accused and the Accused’s role, while the question at the main trial was asked only with a view to clarifying such a statement of the witness, which does not constitute a deviation in the narrative, but an additional clarification of the statement given in the investigation.

102. Witness S-7 stated in her testimony that she saw the Accused twice at the time of the events concerned and she was very sure of it. The witness explicitly stated that she was sure that she had seen him twice and that other persons from that group with whom she was on that occasion told her that it was him. She had known him only by his name before the war, as members of her family had also worked in the police and her neighbor Nahid Kožljak had been his colleague. Witness Nahid Kožljak confirmed it, as did

numerous other witnesses who actually connected that fact with Nahid Kožljak's shifting from the group destined "for Vogošća" to the group destined "for the city", the latter being a *de facto* privileged and protected group given that the persons who were permitted to go into the city actually "scored" the best.

103. Witness S-7 stated that she saw the Accused *when they were attacked* and *when they were expelled*, but she could not confirm with certainty that it happened on 12 and 19 June 1992 respectively, the dates of the encounters with the Accused according to her statement in the investigation. However, in the opinion of the Panel, the witness very confidently and convincingly testified about the situations when she saw the Accused, adding that she "saw him well". On the other hand, based on all the other statements, the Panel established beyond doubt that the attack on the village of Nahorevo happened on 12 June 1992, and that the imprisoning of men, that is, displacement of the population followed seven days after the attack, that is, on 19 June 1992, which dates are exactly the dates that witness S-7 explicitly referred to in the investigation. Finally, notwithstanding the fact that the witness had not personally known the Accused before, in the opinion of the Panel, the witness expectedly and logically reinforced her perception of the Accused after she had seen him for the second consecutive time in a very short interval. She described him as wearing a camouflage outfit, boots and a beret, which is identical to the description of the Accused by witness Muhamed Ruhotina when the Accused was addressing the detainees taken out in front of the *Pavilion*.

104. Also, as noted earlier (para. 95), contrary to his Defense, the Accused perceived himself as the chief and acted accordingly. It follows from Exhibit T-34 (Personal Questionnaire for the Accused), among other things, that on 1 April 1992, the Accused held the office of Police Station Commander and that from 5 May 1992 to 1 August 1992, he held the office of the Chief of the Centar SJB, while it follows from the other documentary evidence that he was seconded on 1 August 1992.

105. In addition, it follows from the consistent statements of almost all Prosecution witnesses that the Accused was in the territory of Nahorevo (Centar Municipality) at the time relevant to the Indictment, which the Accused did not deny, either, but added that he was not in Nahorevo uninterruptedly because of the obligation to visit his family, which is

²¹ Record of examination of witness S-2 before SIPA (State Investigation and Protection Agency), No. 16-13/3-1-36/11, 11 February 2011 (O-10).

consistent with the statements of the Prosecution witnesses. The witnesses who testified about that decisive fact did not state that the Accused was present in that area uninterruptedly, which, in the opinion of the Panel, was not necessary and they could not know it anyway, but they stated unambiguously and consistently that the Accused was present in Nahorevo in front of the *Jagomir* hospital when he lined up the detained men and divided them into three groups. For example, witness Muhamed Ruhotina described the Accused on the relevant occasion in the role of an armed soldier, wearing a camouflage uniform and a beret and cautioning the group that was to go “to the city” against taking to arms and attacking Jagomir, for if they did it they would be killed like rats given how “strong” they were. The witness stated that he learned from former policeman Boban that Goran Sarić was the main person for the “camp” in Jagomir. Describing the situation as he knew it, the witness stated that some villagers asked Boban to let them go, but he answered that he did not have any say in it and that Goran Sarić was the boss. Witness Abid Pandžić also provided a consistent description of the Accused’s physical appearance in front of the *Jagomir* hospital building on the relevant occasion.

106. Witness Mensur Pandžić described in his evidence a situation when he was beaten by the soldiers nicknamed Kupres and Nele respectively on the premises of the Institute for Alcoholism (which the witnesses confirmed was the headquarters of the then SJB) and eventually released after an acquaintance of his, Žarko Božić, said he would ask Goran Sarić to let him go, which indeed happened. The witness stated explicitly that he had neither seen nor heard the conversation about his release between one Žarko Božić and Goran Sarić, but claimed with certainty and unambiguously that after Žarko Božić had told him that he would ask Goran Sarić to release him, he was *de facto* released. Then when he was released, he saw Goran Sarić and Žarko Božić standing together in a corridor. The witness added that at that time he did not know who Goran Sarić was, but that he saw Sarić again later when he set off to Vogošća, to the *Bunker*, in a group with other neighbors, so he could see first-hand that it was Sarić.

107. He added that seven days prior to the rounding-up in the Local Community and subsequent imprisonment at Jagomir, he tried to go to the city together with Avdija Medić and his wife. However, they were caught by the army, whereupon they were brought to Jagomir, to the premises of the Institute for Alcoholism, where the witness was interrogated in the offices where the police were deployed. The witness also stated that he and the Medićs were armed on the referenced occasion; the witness was armed with an

automatic rifle that was confiscated from him on that occasion.

108. Witness Halid Muharemović stated in his evidence that several days after the attack on the village and the surrender of weapons by the inhabitants of Nahorevo, some sort of communication was established between representatives of the Nahorevo inhabitants (namely, Mujo Pandžić and Midhat Muharemović) on the one side, and Goran Sarić, on the other. They held meetings with Goran Sarić at Jagomir and, when the meetings finished, they used to convey to them “Goran’s orders about conduct, movement and everything else”.²² Testifying about the capacity of Goran Sarić, the witness stated that Sarić was “the boss”, that is, “the boss to the people who would come to us from time to time to take someone away or seize something from someone”.²³ He also stated that he was once in a garage of Midhat and Meho Muharemović when Goran Sarić came and that he thought that, considering the situation, Boban Milinković was “the boss”, but it turned out that it was Goran Sarić nevertheless.

109. Also, it follows from Exhibit T-44 that the Accused was at Vraca until 5 May 1992 and that he carried out the duty of the Chief of the Centar Sarajevo SJB. Therefore, having reviewed his role at the relevant time and having relied on the adduced evidence, the Panel found that the only reasonable, logical and acceptable conclusion was that his role in Nahorevo, Municipality of Centar Sarajevo, at the relevant time was that of the chief of the newly-formed SJB. His role in the capacity as the Chief of the Centar SJB also follows from Exhibits T-19²⁴, T-23²⁵, T-24²⁶, and T-46²⁷. The Exhibits T-19, T-24 and T-46 were verified by the ICTY.

110. Thus, for example, in Exhibit T-46, the Accused, as the Chief of the Centar SJB, referring to the letter dated 20 May 1992, informs the Chief of the Centar CSB about the requested data on the personnel of the Centar SJB, and reports that there are seven active and 38 reserve police officers on the strength.

²² Statement of witness Halid Muharemović at the main trial, 18 June 2012, p. 7.

²³ Ibid.

²⁴ Report on the situation at the Centar Sarajevo SJB, No. sl. of 2 August 1992, issued by the Ministry of the Interior, Romanija-Birač CSB, Centar SJB, Sarajevo (T-19).

²⁵ Work of the Centar Sarajevo SJB, No. 01/1351/52 of 30 November 1992, issued by the Ministry of the Interior, Romanija-Birač CSB, Centar SJB, Sarajevo (T-23).

²⁶ Report on duties and tasks executed in the Centar Sarajevo SJB from 1 December to 16 December 1992, dated 19 December 1992 (T-24).

²⁷ Letter of the SRB-H MUP No. 01-72/92 of 20 May 1992, issued by the MUP, Centar Sarajevo SJB, of 4 July 1992 (T-46).

111. The Panel concluded that the attack in the case at hand was carried out by the police of the Centar SJB, soldiers of the VRS and the paramilitary, and concluded that all those organs acted in coordination. In other words, after the army, which had the capacity to occupy the territory of Nahorevo and Nahorevska Brda, did so, the police took over on the ground. The police force was made up of the native population who knows better the local population and the terrain. Also, the tasks executed by the police, such as apprehending and guarding the detained persons, are typical police tasks.

112. Relying on the adduced evidence the Panel accepts that the newly-formed Centar SJB was at the founding stage and that it had some organizational deficiencies, so it did not operate in full capacity. However, irrespective of it, the Panel concludes that this SJB, headed by the Accused, was not automatically absolutely exempt from police tasks that fell within its jurisdiction. The Panel concludes that it had sufficient personnel capacities to carry out the acts within the referenced offense, as explicitly stated in the enacting clause.

113. Therefore, although not a single document officially and formally appointed the Accused the Chief of the Centar SJB, which the Panel finds understandable given that it was the time of war operations and that such omissions are possible in such circumstances, and although there were no visible ranks and insignia on the Accused's uniform, according to the numerous adduced pieces of evidence, his behavior and the other persons' perception of him, he was perceived as the Chief of the SJB, which was his actual position in the SJB. The Panel also had in mind the fact that in his statement in the investigation (T-26), the Accused, having been cautioned of the provisions of Article 78 of the CPC B-H, in the presence of his Defense Counsel stated that, although he was assigned to the duty of police officer at Vraca, Zoran Cvijetić, the Chief of the newly-formed CSB, dispatched him to the Centar Municipality. Defense expert witness Mile Matijević states in his Finding that pursuant to the decision of Minister Mićo Stanišić, No. 01-25/92 of 25 April 1992, the authority to coopt and assign the employees of the former Ministry of the Interior of B-H to the offices and tasks in the CSBs and SJBs was also transferred on the CSB Chiefs, and that is exactly what happened in the Accused's example.

114. With respect to establishing the required *mens rea* (subjective element) of the criminal offense of Crimes against Humanity, a perpetrator must have the intent to commit the offense, but must also know (be aware) that his acts comprise part of a pattern of widespread or systematic crimes directed against a civilian population and that his

acts fit into such pattern.²⁸ The perpetrator need not know the details of the attack or approve of the context in which his acts occur.²⁹ The accused merely need to understand the overall context in which their acts took place.³⁰

115. If the foregoing is viewed in the context of the massive scope of attack in the case at hand and the comprehensiveness of the operation of the Serb military and police forces against the Bosniak civilian population of Nahorevo in the Centar Municipality, it is justified to conclude that the Accused, as a person who was in Nahorevo during the referenced period and particularly as a component part of the SJB that carried out the attack together with the military, was fully informed of the daily events in the territory of this Municipality. It can be concluded beyond doubt that the Accused Sarić knew of the existence of a number of widespread and systematic crimes against the Bosniak civilian population of the Centar Municipality, even when he was not directly present, hence there is no doubt that he knew and wanted their co-perpetrating acts of persecution (murder, imprisonment and forcible transfer of population) to also be part of the attack and to contribute to such an attack against the civilian population.

116. Therefore, the Panel linked him to the relevant events in terms of their temporal and geographical context. Hence, although *de iure* he was issued with a decision of the Ministry of the Interior assigning him to the post of “a police officer at Vraca” as of 1 April 1992, it can be concluded from the statements of numerous Prosecution witnesses who had seen him at the relevant time in the area of Nahorevo, and from the evidence by witnesses Tomislav Mirosavić and Željko Grujić, who set off together with the Accused in a vehicle to the area of Nahorevo on 6 May 1992, that the actual situation on the ground was not matched by the appropriate legal grounds. Such developments are absolutely logical for the Panel. In other words, having in mind the fact that it was a state of emergency, it is absolutely expected and logical that the actual situation on the ground, which required a more rapid reaction, did not follow or include adequate legal grounds at all moments. Corroborating this is the fact that, although the Accused was assigned to Vraca, except for the prior stay in Vraca, he was obviously in the Nahorevo area and the Defense did not successfully contest this assertion by the Prosecution.

²⁸ Appeal Judgment in *Tadić*, para. 248.

²⁹ Trial Judgment in *Limaj*, para.190.

³⁰ *Ibid*, reference to Trial Judgment in *Kordić*, para.185.

117. That the Accused Goran Sarić was aware of the contextual grounds into which the acts that he committed as the underlying offense fit, and that he was aware of the nexus between his acts and that context, is primarily indicated by his office of the SJB Chief and the specific activities that he undertook within the framework thereof and that provided him with an insight into all events in the territory of Nahorevo. His knowledge is least establishable for the first half of June 1992, which this Panel established as the beginning of the relevant period, after which time the crimes in which the Accused also participated in the capacity and the manner described in the Verdict happened beyond doubt.

118. The Panel notes that, although some witnesses state that they saw the Accused at Nahorevska Brda on 12 June 1992, that is, on 19 June 1992 in front of the Local Community, the Panel could not establish with certainty his direct presence at those events. Regarding the artillery attack of 12 June 1992, the witnesses who were taken to Nahorevska Brda, that is, who then surrendered weapons in front of the Local Community, stated consistently that they then saw members of the military and paramilitary, while they referred to the presence of the Accused rather sporadically. Taking into account the overall circumstances of the event, when the journey from the starting point to the destination must have taken longer, and related to a very graphic and convincing testimony of witness S-6, the Panel could not establish with certainty that the Accused was present at all during the event in the Local Community on 19 June 1992. On the other hand, his deputy Tomislav Mirosavić substituted for him in the Local Community on the relevant occasion.

119. Therefore, based on the adduced evidence, the Panel concluded that in the period relevant to the Indictment, that is, in the period from early June to late July 1992, in the territory of the Centar Municipality, locality of Nahorevo, a widespread and systematic attack was carried out against the Bosniak civilian population of the Municipality by the military, paramilitary and police force of the Serb Republic of B-H, subsequently Republika Srpska, and that the criminal acts that the Accused Sarić has been found guilty of beyond doubt constituted a part of that attack of which the Accused knew, just as he knew that with such acts he actually participated in the execution thereof. Therefore, in view of the foregoing, the Panel finds proven the essential elements of the criminal offense referred to in Article 172 of the CC B-H.

C. THE CENTAR SJB AND THE ROLE OF POLICE

120. Given that the Panel established that the police of the Centar SJB of the Serb Republic of B-H, subsequently Republika Srpska, actively participated in the events concerned and that the Accused acted in the events as the Chief of the referenced SJB, in this part of the Verdict the Panel will comment on its factual conclusions concerning these circumstances.

121. In favor of the presented conclusion of the Panel, witness Željko Grujić stated in his evidence that he had first met the Accused in 1987 and that on 6 May 1992 he went to Jagomir together with the Accused and Tomo Mirošević. The witness stayed in Nahorevo until 22 February 1996. He stated that at that time, in Nahorevo, there first existed the Centar SJB, and afterward an SP (Police Station) as part of the Vogošća SJB. The police were first deployed on the premises of the Local Community and then moved to the premises of the Institute for Alcoholism. When he arrived in Nahorevo he was told to report and make himself available to Slavko Milinković, which he did, and as part of his tasks he mostly stood guard at the *Lipov hlad* checkpoint. Of the active police officers in Nahorevo he knew Aćim Marjanović, Mićo Đokanović, Vlado Vujičić and Ranko Tadić. Of the reserve police officers in Nahorevo he knew Mile Bošković, Vaso Rašević, Žarko Božić, Nebojša Varešić, Nikola Simić, Nedeljko Milić and some other. The witness' name is also on the lists that make Exhibits T-8, T-9 and T-10 and it was asserted that he personally signed the takeover of salaries for July (T-9) and August (T-10) and that he did it in the Institute for Alcoholism. The witness added that it was not logical that Goran Sarić should receive orders from Boban Milinković given their respective levels of education. The witness stated that Sarić left Nahorevo on 1 July 1992, which does not correspond to the written documentation and Exhibit T-34 (Personal Questionnaire for the Accused) according to which his secondment was executed a month later. However, that fact was not decisive for the Panel anyway, given that it established beyond any reasonable doubt from ample subjective and documentary evidence the presence of the Accused in Nahorevo, Centar Municipality, in the period relevant to the Indictment, that is, the Verdict.

122. The Panel notes that a complete personal documentation of the Accused about his career (including Exhibit T-34) was submitted by the RS MUP under No. 02/3-12385/11 on 28 November 2011 (cover letter of the RS MUP, Exhibit No. T-28).

123. Witness Tomislav Mirošević confirmed his arrival in Nahorevo with the Accused and Željko Grujić. However, he denied the existence of any kind of police organizing in Nahorevo on the relevant occasion, stating that the witness and the Accused spontaneously got the premises in the Institute for Alcoholism on which they stayed since they could no longer stay in uncle Pero's house where they had stayed upon arriving in Nahorevo. He also denied the statements of witness S-6 about multiple encounters with him, saying that there was a possibility that people introduced themselves falsely for different reasons under such circumstances. With respect to the presented Exhibit T-8³¹, he stated that although his name was on the second place, he did not know who had made that list or why the function "inspector" was written next to his name. He did not remember that he had received salary during his deployment in Nahorevo at all. Commenting on the signature next to the amount of money, the witness said that he did not know who had signed it or what the signature of the Accused looked like at all. Commenting on the presented Exhibits O-8³² and O-9³³, he stated that these were the official decisions on his assignment and added that he had stayed in the area of Jagomir only "to kill time".

124. When this witness' statement is regarded in connection with all the other statements that the Panel believed in and on the basis of which it was established that this witness carried out the duty of the SJB Deputy Chief in the case at hand, and primarily in connection with the statement of witness S-6 on the basis of which the presence of this witness at the events on the premises of the Nahorevo Local Community on 19 June 1992 was established, there arises a perfectly logical question what a professor of the High School of Administration, that is, a National Defense professor, was doing in Nahorevo, Centar Municipality, at the relevant time. The statement that he had come there only "to kill time" was not convincing enough for the Panel. Supporting this is a direct statement of this witness that he used to get a vehicle from the Accused in order to visit his family, which no other police member confirmed in his own case, so it is justified to conclude that the Accused did it exactly out of respect for the witness' office of Deputy Chief. Therefore, with the absence of objective evidence related to the office of witness Tomislav Mirošević in the

³¹ List of active employees who in June 1992 carried out duties in this Police Station and who were paid out salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Sarajevo, dated 20 July 1992.

³² Decision by the MUP of the Serb Republic of B-H for Tomislav Mirošević, No. 10-34 of 1 April 1992 (O-8).

³³ Decision by the MUP of the Serb Republic of B-H on temporary employment and deployment for Tomislav Mirošević, No. 10-2280 of 28 July 1992 (O-9).

Centar SJB, the Panel finds his statement to be both logical and expected since it was in his interest to exculpate himself from any responsibility.

125. Witness Danilo Trifković stated in his evidence that he was a reserve police officer in Nahorevo, that is, in the police force at Pionirska Dolina until November 1993. He also stated that in May 1992 the police headquarters was transferred from the Local Community to the Institute for Alcoholism and that Goran Sarić was the police commander. Of the active police officers he knew Željko Grujić, Vlado Vujičić, Ranko Tadić, Mićo Đokanović and Slavko Milinković, and of the reserve police officers he knew Žara Milić and Mile Stojanović.

126. Witness Hasan Pandžić commented in his evidence on the situation when he had to go to “the boss” to ask him to allow his pregnant daughter-in-law [or *sister-in-law* as the word used in the vernacular means both; translator's note] to go to the city, and he was told that Goran Sarić was the boss. However, the witness did not find Goran Sarić on that occasion and was told that Sarić had gone to Pale, after which the witness turned to Krajišnik for help.

127. Witness Ismet Glijiva stated that during his stay in *Jagomir* Mića Đokanović brought him cigarettes to share them with the other detainees. On another occasion the witness again saw Đokanović who came to fetch him when the witness was released to go to the city together with several ill persons. Then the witness saw Boban and the Accused in front of the building when they greeted each other and the Accused told him to go to the city and that they might see each other in better times (more in Section 2a) of the convicting part of the Verdict).

128. Witness Ibro Pandžić stated in his evidence that the first time he had a chance to see Goran Sarić was when he set off with his colleague Miroslav Krajišnik from the house of one of the Serb neighbors after which his neighbor Ljubo Varešić halted him at a barricade and did not allow him to pass through. Then Goran Sarić came by in a jeep and, having heard what the matter was, told Ljubo Varešić “Let him go”, which happened indeed. The next time he met Goran Sarić was in front of *Jagomir* when Sarić personally introduced himself with full name to the lined-up detainees stating that he was from Konjic. He told them: “There are 5,000 Green Berets at the Koševo stadium; my advice to you is not to take up arms, you will get killed”.

129. Witness Veljko Varešić stated in his evidence that together with Rajko Varešić,

Vukašin Varešić, Milorad Zuber aka Miki and witnesses S-5 and S-8, he received an order to go stand guard at Jagomir. They were told to go to the *Jagomir* hospital and report to some “policeman”. He was their “liaison” who was to tell them what exactly they were supposed to do. Describing that policeman, he stated that the policeman wore a blue police uniform and that he told them where they should deploy. The witness was on duty inside the hospital together with Rajko Varešić and their task was to escort the detainees to and back from the toilet. On such occasions that “policeman” would unlock and lock again the premises on which the detainees were staying. Inside these premises he recognized Salko Pandžić and Redžo Muharemović. The witness also said that he thus stood guard for one day, after which the others came to assume the task. He does not have direct knowledge about what happened afterward with the detainees, he only knows it from hearsay.

130. Witness Rajko Varešić, who was a member of the Koševo Brigade at the time of the relevant events, confirmed in his evidence that he stood guard inside the *Pavilion* together with Veljko Varešić on the referenced occasion. He stated that he stood guard during day shifts on two consecutive occasions. On the third or fourth day since his first duty he was told that he did not need to come again, that “the Nahorevo people were allowed to go to Sarajevo“. He stated that upon arrival at the *Pavilion* they were met by an unknown uniformed person who had a pistol and who was a policeman. In addition to that unknown person, he also saw familiar persons, his neighbors from Radava. When the doors of the premises on which the detainees were staying would open, and the witness said that there were five such rooms, the witness recognized some neighbors of his from Nahorevo – Džemo, Salko and Šaban, and on one occasion he also brought them bottles of water into the premises. He added that after the attack on the village of Nahorevo he once talked in Salko Pandžić’s garage with Amenja from Nahorevska Brda trying to persuade him to surrender arms. Then the witness went with Amenja to Amenja’s house and Amenja took an automatic rifle out of a garage and gave it to the witness, whereupon the witness took it to the police who were deployed in the part of the *Jagomir* hospital for “alcoholism and substance abuse“. He said that he heard that Goran Sarić came to the post of police commander there, and after a guard asked him where he wanted to go, he said that he was looking for Commander Sarić. After the guard let him pass through, he entered an office in which there were around 15 uniformed persons. One person asked him what he wanted and he said that he brought Amenja’s rifle and that Amenja had surrendered it that way. After the witness inquired about his neighbor Adil Pandžić aka

Dilo, that very person told him that he would kill Dilo if he found him, after which the witness reacted on an impulse and told him that he would kill the person who killed Dilo. He later heard that Dilo was alive and well.

131. Describing the appearance of the person with whom he talked on that occasion the witness said that the person was sitting right across him, that his chest could not be seen because a lamp on the desk obstructed the view, but that the witness could see the person's face, although partially "shadowed", and the eyes and the nose, but that in subsequent occasions when he saw him he recognized him rather by his voice. The witness learned that that person, whom he also saw several times later (when going to the Command or the Municipality or the like), was Police Commander Goran Sarić, as some of his fellow companions would tell him: "That is Goran Sarić". With respect to the identification of the Accused, the witness was presented his statement from the investigation in which he said: "Then I was addressed by that man, Goran Sarić, whom I saw for the first time on that occasion and of whose identity I was assured when I saw him later in several other situations ...", the witness confirmed that he was quoted accurately.

132. Witness Vaso Đokić stated in his evidence that, at the time of the events concerned, the police officially existed in Nahorevo and their headquarters was on the premises right across Jagomir, in the so-called Institute for Alcoholism.

133. Witness Slavko Milinković aka Boban said in his evidence that he was the oldest police officer in the territory of the Serb Municipality of Centar, so he was ordered to head the Centar station. The station was set up in May 1992. There was no official headquarters originally, but it was later located in the Institute for Alcoholism. The witness states that he was never officially issued with a decision appointing him the Station Commander and that the reserve policemen told him that he should be the commander. He said that the Accused never introduced himself to him as the Chief, and that only Rade Šljivić, who came to the Station on behalf of the Security Center, introduced himself that way. He also said that the Serb Municipality of Centar was established as late as in August 1992, whereby the conditions for establishing an SJB were met.

134. Asked specifically whether in the period June-July 1992 he obeyed the orders of the Accused, the witness answered briefly that coordination did exist, and that, under the command responsibility principle, he was obligated to carry out orders of the Accused. However, he also said that he did not know who he had received orders from in the period

May-July 1992. During his examination, witness Milinković was shown a set of documentary evidence, including the payment of salary advance for the months May through July (Exhibits T-8, T-9 and T-15).

135. With respect to Exhibit T-15³⁴, the witness confirmed that his signature was on the document, stating that the stamp imprinted over the signature did not belong to him since he was not issued with one.

136. With respect to Exhibit T-8³⁵, the name of the witness features at two places (within the entry on the received salary next to his own name and the name of the Chief), and the witness added that although the words “Chief Goran Sarić” were typed at the signature place, it was actually the witness’ signature next to it.

137. Asked specifically if the “Chief Goran Sarić” inscription in the referenced document corresponded to the actual situation, the witness answered affirmatively.

138. Exhibit T-9³⁶ lacks the Chief’s signature and the witness stated that he did not know where Goran Sarić was on the occasion, while “Chief Goran Sarić” was also typed at the signature place of the document, but the actual signature was that of the witness, which the witness confirmed.

139. Witness Nedeljko Milić stated in his evidence that he was a member of the reserve component of the police at the time of the relevant events. He stated that the headquarters of the police deployed in Nahorevo was first in the Local Community, then on several locations, mostly in private houses, after which it was moved to the Institute for Alcoholism. Describing the station, he said that it had some 10 small rooms (dormitories), a kitchen and a dining room. The witness stated that, in his view, that police force constituted a “branch police station”, that is, “a reserve branch office of the police“. The person to whom he had to report and place himself at disposal upon arriving at that police was Slavko Milinković aka Boban, who was an active police officer. They perceived him as an authority, that is, “the assignment leader“, according to the witness. The witness stated

³⁴ List of members of Wartime Police Station of the Serb Municipality of Centar Sarajevo, No. 08/92 of 2 May 1992 (T-15).

³⁵ List of active employees who in June 1992 carried out duties in this Police Station and who were paid out salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Sarajevo, dated 20 July 1992 (T-8).

that he perceived him as “the person in charge of” tasks and that he did not receive tasks from Sarić, whom he saw five times in total at that location. The reserve police officers who reported to Milinković together with the witness then were Mile Bošković, Vaso Rašević, Danilo Trifković and Radovan Borovčanin.

140. With respect to the form in which orders were issued regarding certain tasks, the witness stated that it was all done verbally and that it was only with Rade Šljivić’s arrival at the police that written orders were introduced. Of the regular policemen, in addition to Milinković, he also knew Vlado Vujičić, while Goran Sarić, Željko Grujić and Mićo Đukanović also came later. Of the reserve policemen he knew Mišo Trifunović and Željko Vujadinović. Testifying about Goran Sarić’s arrival at the police, the witness stated that Sarić came in the spring, in May. Given the fact that he came as a new one he was perceived as “the boss” and the witness said that Milinković was probably subordinate to Sarić. For the witness, Milinković was the commander, so he continued perceiving him that way even after Sarić’s arrival. He heard that some people addressed Sarić as “the Chief”, but the witness claimed that he called both Sarić and Milinković by their names. The witness also said that at that time he received salary from the police 2-3 times, and he was presented Exhibit T-12³⁷, so he stated that his signature was authentic (witness’ name was stated under number 5).

141. During his examination the witness was shown his statement from the investigation (T-67) and the Prosecutor pointed at some discrepancies between his evidence in court and his statement in the investigation. The witness clarified how these discrepancies occurred, which explanation the Panel found comprehensible and logical, due to which it took into account his direct evidence before the Court in its decision.

142. The witness also stated that he knew Boris Jokić, Oliver Pajdaković aka Olja and Mišo Grujić aka Garinči, but that he did not socialize with them. He did not want to have anything to do with them and he did not know that they belonged to “them”, referring to the police force. He said that they “messed around” that area and “cruised” in automobiles.

³⁶ List of active employees who in July 1992 carried out duties in the CSB, Centar Police Station, and who were paid out salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Sarajevo (T-9).

³⁷ List of reserve employees of the police who in July 1992 carried out duties in this Police Station and who were paid out salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Sarajevo CSB, Centar Police Station (T-12).

143. Witness Zakira Čolić (nee Kožljak) said in her evidence that two guys from the village whom she knew came to pick her up, after her husband had left the village for security reasons following the attack on the village. They told her that they had to drive her and her children to the headquarters under Goran Sarić's order. She knows that these two men lived in the location called Uroševo Vrelo. They came to fetch her around 9 a.m. in a wine-red Golf and the witness took one daughter along.

144. After she had stayed in that prefab until the evening, a guard told her that he would check with Goran Sarić how long she was going to wait there since the night was approaching. Soon afterward the guard returned and told her: "Goran said we should take the woman back, take her down in front of the gate, in front of the Institute for Alcoholism." He also said that a convoy from Nahorevo would come by so that she could join it with them and her child. However, everyone from the village had already left for the city. After that, the same two men who had come to pick her up drove her home to collect her belongings, whereupon Ljubomir Đokić drove her to the barricades next to Pionirska and the *Sutjeska Film* company. The witness stated that she stayed in the referenced prefab from 9 a.m. to late afternoon.

145. Witness Radoslav Šljivić stated in his evidence that in late July 1992 he came to the premises of the Institute for Alcoholism to check the communications system, and he assumed the duty of the Chief of the Centar SJB on 1 August 1992. When he arrived, Goran Sarić was not there, and there had not been any classic duty handover prior to it at all. He explained that he personally signed document T-19³⁸. He sent the referenced Report to the Romanija-Birač Center, which was a CSB (Security Services Center) with headquarters in Lukavica. The witness added that this was the only document that he drafted on his own initiative, while the others represented responses to the queries by the MUP and the like. The witness stated in this document that Goran Sarić was at the helm of the SJB in the capacity as the Chief.

³⁸ Report on the situation at the Centar Sarajevo SJB, No. sl. of 2 August 1992, issued by the Ministry of the Interior, Romanija-Birač CSB (Security Services Center), Centar SJB, Sarajevo (T-19).

146. Commenting on Exhibit T-20³⁹, the witness stated that he had previously received a letter upon which he acted and drafted this information. The witness signed the document in his own hand.

147. With letter T-21⁴⁰ the witness responded to the query of the CJB. He confirmed the authenticity of the signature.

148. Letter T-22⁴¹ is a response to the query of the Romanija-Birač Center of 11 September 1992. He confirmed the authenticity of the signature.

149. With respect to the contents of document T-23⁴², the witness clarified that a reference was made to his encounter with Goran Sarić, however, he noted that the two of them could not have possibly met in August and that the reference to “4 or 5 August” should actually have read 4 or 5 September or November. The witness’ name was typed in the signature slot, but the witness stated that he had not signed this document in his own hand and he assumed that he had been absent and that the secretary had drafted the text. Notwithstanding that fact, the witness referred to the contents of the exhibit, commenting on the relevant parts thereof.

150. The witness stated that the contents of all documents whose signatures he confirmed as authentic were accurate.

151. The witness stated that he found in the Station a notebook -- Logbook of Duty Shifts and payrolls, handed over to him by Boban (Slavko Milinković). However, after he was shown the payrolls that were tendered into evidence in these proceedings, the witness could not recall with certainty whether those were the very payrolls that he had found in the Station upon his arrival. The witness also stated that he could not check the accuracy of the payrolls as he did not have the capacity for it. He also said that the Logbook of Duty Shifts was not sealed and signed, as it should have been by the rules.

³⁹ Information about the situation in the Centar SJB, No. 4/92 of 6 August 1992, issued by the Ministry of the Interior, Romanija-Birač CSB, Centar SJB, Sarajevo (T-20).

⁴⁰ Condition of equipment and weapons No. 5/92 of 6 August 1992, issued by the Ministry of the Interior, Romanija-Birač CSB, Centar SJB, Sarajevo (T-21).

⁴¹ List of police employees with charts No. 02-53/92 of 22 September 1992, issued by the Ministry of the Interior, Romanija-Birač CSB, Centar SJB, Sarajevo (T-22).

⁴² Work of the Centar Sarajevo SJB, No. 01/1351/52 of 30 November 1992, issued by the Ministry of the Interior, Romanija-Birač CSB, Centar SJB, Sarajevo (T-23).

152. He also clarified that in the presented documents that he had drafted, at the places where he had mentioned Sarić in the role of the Chief, he had started from the assumption that Sarić had been at the helm of the Station. He added that in order for an SJB to become operational, it is necessary to make a communications system and the equipment for the police officers operational, fill in the vacancies and register the official vehicles.

153. Asked specifically, he answered that he received the information about the establishment of the Centar SJB from Miloš Zuban (employee of the then Ministry of the Interior), who told him that there were active policemen in the territory of Centar and that Goran had gone to that locality but that he had no contact with him. Zuban also learned that Goran Sarić had been dispatched to that Municipality as the Chief to gather personnel and establish a station. However, despite that information, the witness noted that an SJB had not been established at all, that it was established only upon his arrival, adding that when he arrived he found a PS (Police Station), that is, a PU (Police Department), but in no way an SJB (Public Security Station). The witness stated that he also assumed that Sarić could not set up an SJB anyway, but that, given the number of active policemen (five) and 15-20 reserve policemen, he could assemble a Police Station.

154. The witness stated that prior to assuming the office of the Chief, he carried out the duty of inspector for coordination of operations of police stations with headquarters in Vraca, to which duty he had been appointed orally without having been issued with a decision on appointment.

155. While giving evidence as a Defense witness, the witness additionally explained the contents of the documents that he had drafted personally (O-12 through to O-14⁴³), from which it follows that the situation he found at the Centar SJB was inadequate for the Station to be fully operational. He thus stated that he found five vehicles (*Golfs* manufactured by the *TAS* factory), he did not find vehicles marked as belonging to the police, he found two telephones out of order and two radio handsets (one fitted for a taxi, the other only for local communication). He also noticed that only active policemen (Slavko Milinković, Aćim Marjanović and others) wore proper police uniforms and that there were fewer weapons than the police officers.

⁴³ Report on the conduct of members of the Chetnik organization in the territory of Centar Municipality, No. 051-15/92 of 10 September 1992 (O-12); Document, Information, Asim Prazina and "Dedo" ("Grandpa)", No. 4/92 of 6 August 1992 (O-13); Document, information about the problems observed concerning the operations of the army and the police, No. 2/92 of 6 August 1992 (O-14).

156. Defense witness Mića Đokanović stated in his evidence that he was an active policeman on the relevant occasion at Kromolj. He also said that there was no police structure in Nahorevo, but only a group of reserve policemen who were deployed at a checkpoint, and that the only person whom he knew in that group was Slavko Milinković aka Boban. He stated that he did not know the Accused at that time and that he met him in the summer of 1992, but could not say precisely what the occasion was. On that occasion the Accused did not introduce himself to him or tell why he was at that locality.

157. He also said that he could not remember at all that he had received salary as an active policeman at the time of the relevant events. He said that the signatures next to his name on the presented Exhibits T-8⁴⁴ and T-10⁴⁵ could be his signatures, while the signature next to his name on Exhibit T-9 (salary for July) was not his.

158. The Panel notes that this witness talked about the relevant events, and later also about the role of Ljubomir Đokić, in a very derogatory way, unlike the other members of the police whom the Panel examined, and in doing so he very precisely distanced himself from all details of the overall events, irrespective of his individual role. The Panel, therefore, does not find his statement reliable with respect to the important matters, but only corroborating with respect to the testimony of witness Ismet Gljiva about his release to the city.

159. Witness Petar Pavlović Malešić stated in his evidence that during his deployment in the police there did not exist a police station in Jagomir, but that, when in Jagomir, he and the other policemen used to stay in the hospital of the Institute for Alcoholism. There the regular and the reserve police officers would meet and from there they would set off to keep guard next to *Lipov hlad* and in Poljine. He stated that Boban Milinković was the main person there at the beginning, and answering the question who “the boss” was after Milinković, the witness stated: “When Goran came ... errr ... whether he, what was he, what his capacity was, I know that I never received any order from him“. He said that the headquarters of the Military Command was in Radava and that its Commander was Miro Krajišnik. Given the fact that he had been a taxi driver before the war, he had an

⁴⁴ List of active employees who in June 1992 carried out duties in this Police Station and who were paid out salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Sarajevo, dated 20 July 1992 (T-8).

opportunity to drive the Accused to the Command. He drove Miro Krajišnik, Šarenac and Buha in a similar way. He also stated that he became a member of the police and linked that event in terms of time to his wounding that happened on 5 August 1992, after which Rade Šljivić brought him the first salary. He does not recall that he received salary from the police prior to this date.

160. During the examination the witness was shown two pieces of documentary evidence: T-14⁴⁶, in which his name is written under number 34, to which he said that the signature next to his name was not his (the witness stated earlier that because he was wounded he was not able to take over his salary, so Rade Šljivić brought it to him). With respect to Exhibit T-12⁴⁷, the witness confirmed the authenticity of his signature. With respect to the regular policemen that he knew were in Nahorevo in the relevant period of time, the witness said that Tomo Mirosavić also came to Nahorevo together with Goran Sarić, and that Mića Đokanović and Vlado Vujičić were also active policemen. The witness stated that on the relevant occasion in front of the *Pavilion*, Dragan Čolić wore an old olive drab military uniform and a white waist belt, and that he wore the same uniform when they transported the detainees to Vogošća.

161. Witness Milorad Terzić said in his evidence that he was a member of both the military and the police formations, and that the army and the police cooperated from the beginning of the conflict (first through joint village guards). Testifying about the membership in the police force, he said that their superior was Boban Milinković. He also stated that at that time Mića Đokanović and Željko Grujić were regular policemen, and that Tomo and Goran Sarić were also in the police. The witness stated that he mostly received orders from Ranko Tadić, a pre-war traffic policeman. He also said that Boban Milinković and Goran Sarić held certain offices, but that he did not know much about it. He also said that he heard in the local *Kod Gedore* bar that Goran Sarić was the most educated officer, that he graduated from an academy, and that he was previously an assistant commander in Centar, at Marijin Dvor.

⁴⁵ List of active employees who in August 1992 carried out duties in the Centar CSB -- Police Station and who were paid out salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Romanija-Birač CSB, Centar SJB, dated 2 September 1992 (T10).

⁴⁶ List of employees who in November 1992 carried out duties in this Police Station and who were paid out a subsidized meal allowance in the amount of Din 5,000, issued by the MUP of the Serb Republic of B-H, Romanija-Birač CSB, Centar SJB, Sarajevo (T-14).

162. Testifying as to how he knew Goran Sarić, witness S-5 stated that he saw Sarić three times with respect to the events in Jagomir and that he generally knew that Sarić had worked in the police before the war as an assistant or a deputy commander at Marijin Dvor. Of the police officers he also knew Boban Milinković, Mićo Đokanović and Vlado Vujičić. On one occasion when he took food to the detainees together with Miki Zuber, he saw Murga⁴⁸ in that room. Testifying about the task that he had the next time he arrived in front of Jagomir, the witness said that when he came to keep guard the detainees from Jagomir were already lined-up. A truck came and people went out and aboard the truck and “there was disorder“. The people went to the city and to Vogošća then. Then he saw Goran Sarić in front of the *Jagomir* hospital, standing in front of those lined-up people together with two other men. Before people left for the city and Vogošća, his task had been to transport some 20 Nahorevo Muslims who had been at Jagomir to Pale for an exchange, together with Slavko Božić and two other policemen from Vogošća. However, the exchange did not take place, so he took them back, to which Goran Sarić asked him why he returned them to him when he had not handed them over to him in the first place. After that the witness drove them to Miroslav Krajišnik, to which Krajišnik told him to “leave them down there“. However, although the witness does not know who did it, somebody actually transported those detainees to the Institute for Alcoholism.

163. Witness Čedo Nogo referred in his evidence to a report that he made in discharge of his duties as an inspector of the Centar CSB to Romanija-Birač CSB. In his written address to the Center (T-24) he stated that at the time when Mr. Goran Sarić was the Chief of the SJB he was alleged of smuggling confiscated goods, vehicle spare parts and other things, which could not be concluded from the records. The witness said that he did not have any specific knowledge from the field about it, but that it was a piece of information obtained “in passing” from local authorities or someone who was in the police force. He added that during the time he performed the referenced function he never had any contact with the Accused.

164. During the proceedings the Defense argued that at the time relevant to the Indictment the SJB did not exist and that it was established only when Rade Šljivić

⁴⁷ List of reserve employees of the police who in July 1992 carried out duties in this Police Station and who were paid out salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Sarajevo CSB, Centar Police Station (T-12).

⁴⁸ Witnesses Ismet Čormehmedović and Ismet Pandžić stated in their respective testimonies that Esed Pandžić was nicknamed Murga.

assumed the duty as the Chief and that, accordingly, the Accused could not have been the Chief of “a non-existing SJB“. It follows from all statements of Defense witnesses that the Centar SJB of the Serb Republic of B-H did not exist *de iure*, given that the conditions for its establishment were met only in late July, that is, early August 1992, after the Serb Municipality of Centar was established, which *de iure* was a fundamental precondition for the establishment of any SJB, including the SJB in the case at hand, according to the Defense.

165. The Panel notes that the Defense witnesses who testified about the capacity and role of the Accused (Radomir Njeguš, Radoslav Šljivić, Radovan Pejić and others) started from the assumption that the situation on the ground had to correspond with an adequate legal basis, even in the extraordinary, war circumstances of the referenced occasion. In that respect, they stress that the SJB of the Serb Municipality of Centar was established with the arrival of Rade Šljivić as the Chief, and that there existed a relevant written correspondence about it which the Defense witnesses, such as, for example, Radomir Njeguš and Rade Radović, came across in their line of duty. Witness Rade Radović also stated that he had received information from Dobro Planojević that Goran Sarić had been dispatched to Jagomir to gather men and assess the situation, not disclosing the result of his assessment.

166. On the other hand, witness Radoslav Šljivić also described such role of the Accused, which, following the ample subjective and objective evidence that we will elaborate on later, was exactly how events unfolded on the relevant occasion in Nahorevo. In the opinion of the Panel, the Accused did *de facto* assess the situation and gather the manpower, which also follows from numerous exhibits, but one should certainly have in mind a logical conclusion that such conduct of the Accused was not an end in itself, but, on the contrary, its aim was to function as a local civilian rule with all its features. Admittedly, and this will be mentioned several times, that SJB did not act in full capacity given that it lacked identical police uniforms for policemen and other superiors in the hierarchy, that the material and financial resources were obviously inadequate, and that it consisted of different organizational units. However, in the Panel’s opinion, supported by the adduced evidence, the Centar SJB of the Serb Municipality of Centar, and later of Republika Srpska, headed by the Accused as its Chief, although incomplete, was capable of absolutely adequately reacting to all undertaken activities in the territory of Nahorevo, which *de facto* happened.

167. That the situation on the ground and the legal basis did not always correspond consistently also follows from the testimonies of the Defense witnesses. Thus, for example, witness Željko Vujadinović stated in his evidence that he had officially become a member of the RS MUP (its reserve component) as of 1 April 1994, having completed a professional training. When the witness was confronted with Exhibit T-15⁴⁹, in which his full name is listed under number 33, he stated that he did not know that at that time (2 May 1992) he was a member of the MUP. However, he later stated that his entire wartime engagement was acknowledged as a membership in the MUP and that he was issued with the decision retroactively, in 1994. He also stated that he received certain reimbursements in the form of meager salaries that were paid out to him retroactively. He also confirmed that his signatures were next to his name in Exhibits T-12 and T-13 (salaries for July and October 1992), but said that the signature on the document T-14 (subsidized meal allowance for November 1992) was not his.

168. The complete engagement in the police force was acknowledged as wartime service for Defense witnesses Zoran Todorović and Borislav Todić. Witness Borislav Todić was a member of the reserve component of the police in Mrkovići (Centar Municipality). He also stated that he never got to know the Accused in the war period and that he knows that only Radoslav Šljivić assumed the post of the Chief of the SJB in early September 1992. While he exercised his police duties in Mrkovići within his Local Community, he was paid some salary. However, he stated that he had never signed it and that he and other members of his station were brought the money by Aćim Marjanović as their commander, who was an active policeman. This assertion is consistent with the relevant part of the contents of Exhibit T-12. Witness Zoran Todorović was a member of the reserve component of the Koševo Police Station, so he kept guard at the checkpoint within the compound of the Jezero Maternity Clinic. After the witness was shown Exhibit T-15, in which his name is listed under number 27, he said that he did not know that he belonged to an organized structure at that time (on 2 May 1992), and that the following persons kept guard together with him at the checkpoint: Danilo Trifković (number 28), Nenad Tadić (number 32), Željko Vujadinović (number 33), and Dragan Joković (number 16). He thinks that Ranko Tadić (number 31) was not with them at the checkpoint and states that Tadić was an active policeman.

⁴⁹ List of members of Wartime Police Station of the Serb Municipality of Centar Sarajevo, No. 08/92 of 2 May 1992.

169. Therefore, in the opinion of the Panel, the subsequent *de iure* establishment of an SJB with the appointment of Šljivić as its Chief at the same place where *de facto* existed the SJB headed by the Accused, with the same starting ground which involved certain personnel (active and reserve policemen) and material preconditions (premises, payrolls, vehicles), was just a declarative convalidation of what had previously been constituted and what existed with the Accused at its helm as of May 1992. Such development is consistent with the other events on the ground as well, having in mind the fact that many members of district Police Stations within the Centar SJB *de facto* carried out police tasks, although they were mostly issued with their appointment decisions retroactively, while their complete wartime service was acknowledged within the RS MUP, of which mostly Defense witnesses testified (for example, Željko Vujadinović and Borislav Todić). This only confirms that such situation on the ground reflected a pattern of the overall events and that the nature of the Accused's position and the functioning of the SJB with him at the helm at the time relevant to the Indictment did not at all differ from the situation on the ground.

170. Based on the foregoing and relying on the adduced evidence, a conclusion to the contrary could not provide a clear answer to the question from what the Accused drew his authority/authorization and functional competence that he, and not someone else, be the one to address the detainees in front of the *Pavilion* on the referenced occasion. He also commanded respect within his own ranks as an authority and someone with appropriate educational background for that position, irrespective of the fact that he was not addressed by everyone as "the Chief", but also quite commonly directly by his own name. It is also absolutely understandable to expect that the Chief, as the leading figure in the SJB, cannot independently carry out all tasks from his scope of authority, due to which many witnesses did not even see him at the relevant time, since in contacts with the SJB they expectedly and logically had to turn to Slavko Milinković, Aćim Marjanović, Ranko Tadić and others. Therefore, the essence of the position of the Chief is actually not to directly undertake all activities within the scope of his authority, but to indirectly execute an appropriate coordination, relying on his subordinates (active and reserve police officers), which is exactly the situation in the case at hand.

171. Also, within the framework of the facts of the case, the Panel established that it is possible to clearly isolate regular police tasks on the ground, such as apprehension of persons, guard-keeping, escort and so on, which were arbitrary, judging by the evidence. The further reasoning will actually concern those arbitrary activities that did not possess

any legal ground and justification, which the Accused carried out, either directly or via subordinate police officers. Another proof that there existed a clear hierarchy among all members of the SJB personnel is a differentiated amount of personal income which is, quite logically, different for different roles, that is, positions. The Panel notes that in certain cases the material correspondence, which was analyzed as part of the body of evidence, does not contain all complete and statutory protocol and other notifications. However, in the opinion of the Panel, that did not necessarily or automatically affect the probative value of such evidence, primarily given their contents and kind of correspondence.

172. Also, following the testimonies of witnesses Rajko Varešić, Danilo Trifunović, Radoslav Šljivić, Nedeljko Milić, Željko Grujić, Slavko Milinković and others, the headquarters of the SJB headed by the Accused was in the Institute for Alcoholism and Substance Abuse, which locality the Panel visited during a site visit and about which the relevant photo-documentation was tendered as the Prosecution evidence (T-64⁵⁰).

173. The fact that the Accused had his offices in that headquarters is confirmed by the statements of witnesses Rajko Varešić and Tomislav Mirosavić, as well as the statements corroborating the assertion that there were individual cases, such as, for example, the case of witness S-4, when witnesses went to Goran Sarić's office to ask him for certain detainees' release. The evidence corroborating the referenced circumstance is the statement of witness Milorad Zuber⁵¹ that was read out.

174. Therefore, having relied on the adduced evidence, the Panel concluded that at the time of the events as charged, the Accused carried out the duty of the Chief of the Centar SJB, which, although at the founding stage, was able to successfully comply with the requirements from within its scope of competence.

D. PERSECUTION

175. The accused Sarić was found guilty that by the acts described in more detail in the disposition of the convicting part of the Verdict he committed persecution by means of imprisonment, forcible transfer of population and murder.

⁵⁰ Photo-documentation – presentation of the Jagomir scene of 28 September 1999, MUP, Crime Police Sector, Department for Crime Laboratory, Forensics and Counter-Terrorism, Sarajevo, No. O.R.1217/99.

176. The criminal offense of Crimes against Humanity defined in Article 172(1)(h) of the CC of B-H reads in the relevant part as follows:

“(1) Whoever, as part of a widespread or systematic attack directed against any civilian population, with knowledge of such an attack perpetrates any of the following acts:

...

h) **Persecutions** against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious or sexual gender or other grounds that are universally recognised as impermissible under international law, in connection with any offense listed in this paragraph of this Code, any offense listed in this Code or any offense falling under the competence of the Court of Bosnia and Herzegovina;

...

shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.”

177. Article 172(2)(g) of the CC of B-H defines persecution as follows:

Persecution means the intentional and severe deprivation of fundamental rights, contrary to international law, by reason of the identity of a group or collectivity.

178. This definition of persecution is identical to the definition of persecution from the Rome Statute of the International Criminal Court (Article 7(1)(h) and (g) of the Statute).

179. In the ICTY *Kupreškić* case⁵², the Trial Chamber provided the following **definition of persecution**:

“... the gross or blatant denial, on discriminatory grounds, of a fundamental right, laid down in international customary or treaty law, reaching the same level of gravity as the other acts prohibited in Article 5.”

⁵¹ Statement of witness Milorad Zuber of 22 February 2012 No. 16-13/3-1-49/12 to SIPA; Extract from the Register of Deaths for Milorad Zuber No. 06/4-202-219/13, 10 May 2013.

⁵² *Kupreškić et al.*, first-instance Verdict, January 2000, paragraph 621

180. In accordance with both national law of B-H and the above noted definitions provided by the ICTY and the ICC, the elements of the offense, i.e. the acts of commission of the offense of persecution, refer to the following:

- severe deprivation of one or several persons of their fundamental rights contrary to international law;
- the person is deprived of rights by reason of the identity of a group or collectivity;
- the perpetrator's conduct is based on political, racial, national, ethnic, cultural, religious or sexual gender or other discriminatory grounds;
- the act of commission is connected with any offense listed in this paragraph of this Code, any offense listed in this Code or any offense falling under the jurisdiction of the Court of B-H.

181. The element of discriminatory grounds (subjective criterion) distinguishes persecution from other crimes against humanity that do not contain the element of discrimination, which is why persecution is the most severe form of the crime against humanity. The discriminatory ground is an integral part of the perpetrator's act. With regard to the discriminatory grounds in the present case, in light of the presented evidence the Panel established that the accused undertook the acts against civilians in Nahorevo exactly because they belonged to a different ethnic and religious group. i.e. because they were Bosniaks. The discriminatory grounds in his conduct are particularly evident in his address to the aggrieved parties in front of the Pavilion of Jezero hospital. Relying primarily on the relevant testimonial evidence, the Panel concludes that the accused Sarić knew that the aggrieved parties were Bosniaks and it was on account of these aggrieved parties belonging to a specific ethnic and religious group that he is found to have committed the offense of persecution.

182. The existence of discriminatory grounds is inferred both from the evidence and factual context of the events, which is consistent with the ICTY practice.⁵³

183. Similarly, most of the incriminating acts against Bosniak civilians happened at the Jagomir hospital detention facility, i.e. they are connected with the detention of civilians. It

⁵³ See e.g. *Kordić and Čerkez*, the Appeals Chamber Judgment, December 2004, paragraph 675.

is only logical that the accused Sarić, who at the time was a chief of SJB and who, according to the testimony of Prosecution witnesses, was frequently seen in the area of Nahorevo – with his headquarters located on the premises of the Institute for Alcoholism (located within the compound of Jagomir hospital) – was fully aware of the fact that the detained persons were Bosniaks, which makes his actions discriminatory in nature.

184. The accused Sarić was aware that the target of attack were non-Serb civilians and it is on account of their religious and ethnic identity that he undertook the incriminating acts, which this Panel qualifies as persecution. He was aware of the general pattern of treatment and the nature of attack against the civilian Bosniak population as a primary target of the attack, and ultimately he desired the occurrence of prohibited consequences resulting from the attack. The Panel made these findings based on its evaluation of the evidence and decisive facts stemming from this evidence, which will be explained in more detail in the analysis of individual charges.

185. When it comes to the protected object in case of the criminal offense of persecution, it is a collection of fundamental rights of each individual. The Panel notes that there is no exhaustive list of fundamental rights of which a perpetrator strips an individual or group by committing persecution, but there are numerous international instruments protecting a wide range of fundamental rights of each person, which are of course relevant legal sources in the present case, including the UN General Assembly's Universal Declaration on Human Rights (1948) and two international covenants on the protection of human rights from 1966, the International Covenant on Civil and Political Rights and Optional Protocols (1966 and 1989) and the International Covenant on Economic, Social and Cultural Rights. Therefore, in the absence of a 'list of rights' of which an individual or group is deprived by the commission of persecution, the Panel resorted to the above-mentioned international legal sources. In the present factual context, the rights of civilians in Nahorevo, Centar municipality, that were violated by the acts of the accused included the right to life, right to liberty and security of person, right to liberty of movement and freedom to choose his residence, right to property, which meets the standard of severe deprivation of one or more persons of their fundamental rights **contrary to international law**. These rights, which are a protected object in the present case, are protected not only under international treaty law, but these rights are also recognized by all civilized nations, which is why they are part of customary international law.

186. With respect to the acts of commission for which it was established

that the accused Sarić committed them on discriminatory grounds, the Panel finds beyond any reasonable doubt that the accused committed the criminal offense of persecution by means of murder, imprisonment and forcible transfer of population, which both the ICTY and the ICC identify as typical acts of persecution.

187. The Panel notes that helping some persons, i.e. their transfer to a privileged group, does not annul the existence of discriminatory intent on the part of the accused Sarić because it was proved that he was clearly aware of the entire context in which these events were taking place. On the other hand, some of his isolated actions will be taken into consideration in deciding on the sentence to be imposed on him.

E. CO-PERPETRATION

188. The Panel finds that the accused perpetrated the acts in question as a co-perpetrator (Article 29 of the CC of B-H).

189. Article 29 of the CC of B-H reads as follows:

“If several persons who, by participating in the perpetration of a criminal offense or by taking some other act by which decisive contribution has been made to its perpetration, have jointly perpetrated a criminal offense, shall each be punished as prescribed for the criminal offense.”

190. Co-perpetration implies participation of several persons in the perpetration of a criminal offense, with each of these persons individually, and in a decisive way, contributing to the occurrence of a prohibited consequence.

191. In relation to the manner of participation of the accused Sarić in the offense, and consequently his mode of responsibility, the Panel opted for the mode of responsibility set forth in Article 29 of the CC of B-H finding that both through his individual actions and those undertaken by the SJB personnel subordinated to him, the accused decisively contributed to the commission of the criminal offense of crimes against humanity by persecution. His responsibility for the acts of policemen subordinated to him lies in the fact that, in his capacity as the chief of SJB, he had the power to issue an order that the civilians be apprehended, secured or escorted. The Panel established that the policemen could not have carried out these acts independently or on their own initiative, and accordingly it concluded that the accused had an interest that these acts be committed

although he did not directly participate in them.

192. On the other hand, when the accused acts on his own, he does so with the knowledge of acting in concert with other personnel of the SJB, military and paramilitary groups, with the prohibited consequences resulting from their joint actions. Not only is the accused aware of acting in concert with other (co)perpetrators, but he does so in the manner that is decisive for the realization of prohibited consequence. Based on the presented evidence, it was established that the accused Sarić was present in front of the Jagomir pavilion where he personally called out the names of detained persons dividing them into three groups: those allowed to go over the front lines to the free territory of the city of Sarajevo, those to be taken to the Bunker camp, a detention facility near the restaurant known as Sonja's Place */Kod Sonje/* and finally the last group of 8 detainees who were to stay in detention and who were subsequently killed by unknown perpetrators and whose mortal remains were recovered only years later at the location of Skakavac. The active role of the accused Sarić is also established on the basis of findings indicating that the accused transferred persons, who had originally been assigned to one group, to a different group. For instance, upon realizing that his pre-war colleague from work, Nahid Kožljak, was among the detainees and upon expressing his surprise with the words „What are you doing here?“, he transferred him from the group designated to be taken to the Bunker camp to the group that was to go to the city, doing so deliberately and in full knowledge of individual characteristics of each of these three groups. The accused Sarić also moved witness „S-10“ upon the pleading of his father to the group designated to leave for the city, again fully aware of a different fate that awaited persons assigned to each of these groups, which turned out to be true.

193. Therefore, these factual findings, coupled with a proven knowledge of the accused Sarić that he is acting in concert with other (co)perpetrators in the realization of their criminal plan, point to the conclusion that his conduct was that of a co-perpetrator on account of the fact that it was both objectively and subjectively linked to the conduct of other co-perpetrators that directly caused prohibited consequences and that the entire chain of criminal events that followed would not have been possible without his decisive contribution.

194. The acts undertaken by the accused Sarić in continuity until their final epilogue necessarily projected themselves on the contribution made by other co-perpetrators to the crime. In other words, without his contribution, and in light of factual findings

in relation to the events in question, it would not have been possible to commit the offense, which is why the Panel qualified it as decisive contribution.

195. The Panel did not find elements of the joint criminal enterprise (JCE) in the acts of the accused Sarić. Although the indictment points to other participants and their roles, the Panel did not establish connection between the accused Sarić and these other persons as rising to the level of them having a common purpose within the JCE, and such a conclusion is not to be drawn from the Indictment either. On the other hand, in the case of JCE the contribution made by individual participants is not necessarily relevant given that the acts that form part of the JCE may be undertaken without the defendant being physically present. This Panel, however, established direct presence and participation of the accused Sarić in the persecution of Bosniak population from the territory of Sarajevo, Centar municipality, in that he directed the acts of his subordinates, oversaw the development of the situation in full knowledge of the status of each group – one to the leave for city, the other that was off to the Bunker camp and finally the third group of alleged “extremists”, which in turn enabled him to move some persons from one group to the other. Therefore, the Panel found that his contribution was decisive and that he committed the crime charged with direct intent. The essence of the specific acts of the accused is that the crime, as described in the operative part of the Verdict, would not have happened without his contribution to it, which is typical of co-perpetration liability.

196. This legal qualification of the crime entirely reflects the meaning of Article 285(1)(b) of the CPC of B-H and it contains all the required elements that a conviction for persecution, the basis of which is outlined in factual allegations of the indictment in their specific geographical and time setting, ought to contain.

197. Based on the above, the Panel made some changes to the factual description of the indictment in the operative part of this Verdict, thereby adapting the established state of facts to the mode of responsibility of the accused Sarić. In doing so, the Panel was particularly mindful that these changes do not affect the essential elements of the crime as described in the indictment. As a result, the changes that were made did not affect the objective identity of either the indictment or the verdict.

VI. CONVICTING PART OF THE VERDICT

A. SECTION 1 OF THE DISPOSITION OF THE CONVICTING PART OF THE VERDICT

198. Under Section 1 of the disposition of the convicting part of the verdict, the accused Sarić is found guilty that, as a co-perpetrator, he committed persecution by means of imprisonment and forcible transfer of the population.

199. Relying on the presented evidence, the Panel found that on 19 June 1992, all Bosniak men of Nahorevo and Nahorevo hills */Nahorevska brda/* were called by the policemen of SJB Centar and soldiers, mostly by megaphone, to come to the premises of the local community in Nahorevo to agree on the terms of further coexistence. After around 100 Bosniaks responded to the call, the policemen of SJB Centar and members of the Koševo Brigade surrounded the local community building. Subsequently, they loaded them onto two trucks, transported and detained them on the premises of Jagomir psychiatric hospital, where they were guarded by the policemen of SJB Centar and soldiers, members of the Koševo Brigade.

200. The Panel also established that on the same day (19 June 1992), after the Bosniak men of Nahorevo and Nahorevo hills had already been detained on the premises of Jagomir psychiatric hospital, police officers of SJB Centar and members of the Koševo Brigade forcibly transferred the remaining population (over 200 civilians) from their homes in Nahorevo and Nahorevo hills to the territory under the control of the ARB-H.

201. The following witnesses testified in relation to the circumstance that the Bosniak men of Nahorevo and Nahorevo hills were called on 19 June 1992 to come to the local community building, only to be transported and detained in Jagomir: Ibro Pandžić, Halid Muharemović, Meho Pandžić, Mensur Pandžić, Muhamed Ruhotina, S-3, Nahid Kožljak, S-6 and others.

202. These witnesses consistently testified that seven days after the initial attack, that is, on 19 June 1992, the male Muslim population was called mostly by megaphones to gather in front of the local community building, which they did. Witness Mensur Pandžić testified that at the relevant time, soldiers and the police informed them that the Muslim men should come to the local community building, while witness Muhamed Ruhotina stated that the

men in multicolored uniforms who came to his part of the village (Nahorevo hills) in civilian Golfs informed him about the supposed meeting. He recognized one of the men in uniforms named Radmilo.

203. Witnesses Nahid Kožljak and S-6 testified that at the relevant time the police informed them that they should come to a meeting at the local community building, which witness S-6 said was scheduled to start at 11:00 a.m. Witness Fatima Kožljak stated that a police officer whom she knew by his first name of Dragan addressed the locals and told them that men had to come to the meeting at the local community building starting at 11:15 a.m.

204. According to the testimony of witness S-6, a tall, blond and skinny guy named Tomo, who the witness believes was a deputy chief of police at the time, entered the premises of the local community building. He told the Bosniak men present there not to panic, or otherwise he was going to shoot at them. The witness explained that he had a chance to meet Tomo beforehand and that at the time he introduced himself as deputy chief of the police.

205. Further, witnesses consistently testified that soon after the meeting started they were told they would have to go to Jagomir hospital to give statements, at which time armed soldiers and the police personnel surrounded the building. They were then ordered to board the trucks, which they did. They were transported to Jagomir hospital by two trucks, with the witnesses identifying the trucks drivers as their Serb neighbors. Witnesses Halid Muharemović, Muhamed Ruhotina and S-3 consistently testified that Petar Pavlović Malešić nicknamed Pero drove the truck that took them to Jagomir, while witnesses Mensur Pandžić and Ismet Čormehmedović identified the truck driver as certain Čolić, whom they knew as a pre-war taxi driver. Witness Ismet Čormehmedović added that Čolić's name was Dragan and that, on that occasion, he sat with him in front in the truck's cabin. Witness S-6 testified that a person named Nebojša Mirković drove the truck, though it should be noted that he was in the last group of men to be transported to Jagomir hospital. He also stated that at one point in time their mothers, wives, sisters came in front of the local community building and that the image of them standing there was a "sad memory."

206. Observing the events happening in front of the local community building at the relevant time from a distance of around 20-30 meters, witness Fadila Pandžić confirmed

that two trucks arrived and that the local Bosniak men were forced to board these trucks.

207. Witness Meho Pandžić testified that upon his arrival at the local community building and before he was to be transported to Jagomir hospital along with other men, a soldier allowed him to go home and change his clothes. Eventually, he did not go to Jagomir, but was transported in the afternoon hours of that day together with a group of women and children to the free territory of the city of Sarajevo.

208. Witnesses Nahid Kožljak, S-6, S-3, Ismet Čormehmedović, Muhamed Ruhotina, Mensur Pandžić, Enver Pandžić and others testified that, having arrived in Jagomir, they were taken to the hospital building known as the Pavilion where they were detained. They consistently testified that before being placed in detention they were ordered to leave their personal documents, shoelaces, belts, money and other valuables at the place inside the pavilion designated for this purpose, which they did.

209. Almost all witnesses testified that they were detained at the pavilion for 2 days. They were kept in several different rooms that were locked up, and could only get out if they needed to use the toilet.

210. Witness Nahid Kožljak testified that the room to which he was taken upon arrival in the pavilion had no beds or any other furniture. At one point during his detention there, Boban Milinković entered the room and expressed his surprise at seeing him there in the words: "What are you doing here?" On this occasion, Boban Milinković was wearing the old police uniform. Witness Kožljak asked him to allow them to bring a few beds for him and other fellow detainees. Escorted by Boban Milinković, he and a few other fellow detainees subsequently went to the rooms located on the lower floors and brought six beds they could sleep on.

211. Witnesses Enver Pandžić, Vaso Đokić, S-5 and S-8 confirmed that the detainees at the pavilion were guarded the entire time by soldiers and the police personnel.

212. Witness Enver Pandžić testified that he and other fellow detainees at the pavilion were under a watchful eye of guards, among whom he recognized witnesses S-5 and S-8, who, along with witness Vaso Đokić, corroborated this part of Enver Pandžić's testimony.

213. Witnesses S-5, S-8 and Vaso Đokić were members of the Koševo Brigade during the period covered by the indictment. Witness S-5 testified that he knew that Muslim men

from Nahorevo were detained on the premises of Jagomir hospital. He stated that he was present in Jagomir on two occasions during the time when around 50-100 of them were detained there, once when as a part of his guard duties he distributed food to them, and the second time when a group of them were allowed to go to the city and to Vogošća. Witness S-5 assumes that the orders for his actions came from the command that was located in the Zirojević family houses in the village of Radava. He also noted that those in charge at the command were Buha, Šarenac and Miro Krajišnik.

214. Witness S-8 testified that he received orders to perform guard duties in Jagomir hospital on two occasions. The first time, he received the order from Branimir Đokić, and he remembers that he was on guard together with Vaso Đokić in front of the pavilion to prevent the escape of detainees. The second time, which was approximately two days later, he came to the Jagomir hospital compound for the same purpose. The accused Goran Sarić informed him and the other men that the detainees would be taken out of the pavilion and it was necessary for them to stand on the side in order to prevent any incident (paragraph 2a). On both of these occasions witness S-8 was armed with a *schmeisser* submachine gun. He added that other guards were armed too.

215. In his testimony witness Vaso Đokić stated that one of his duties at the relevant time was to provide security at the facility in Jagomir where Muslim men, who he heard had been previously disarmed and brought there for interrogation, were detained. They were detained in the building known as the Pavilion. His duty, and the duty of other members of his brigade, was to provide security and to prevent anyone from outside from entering the facility and potentially ill-treating the Muslim detainees, and to prevent any exit from Jagomir hospital. He received these orders from a person for whom he learnt that his name was Goran Sarić. He did not know the accused Sarić at the time, but he learnt about his identity from other fellow soldiers. Describing his physical appearance at the time, witness Đokić stated that he was tall, blond, had a short haircut, around 30 years old. He learnt from others that Sarić held “a senior position in the police”, that he was a commander. Witness Đokić performed his guard duties until midnight, when he and his shift were replaced by others. On the shift with him were witnesses S-5 and S-8.

216. Witness Slavko Milinković testified that until the setting up of the war-time police station Centar, he was a reserve police officer and a deputy commander at the police station Koševo 2. After the setting up of the war-time police station Centar, witness Milinković became its commander. He stated that in the initial period this police

station did not have its headquarters and that later on its headquarters were located in Jagomir hospital, at the Institute for Alcoholism.

217. During his testimony, a set of documents were presented to witness Milinković (marked with numbers 1-5 in the text of the present Verdict), namely: **(1) Prosecution Exhibit T-15⁵⁴** for which witness Milinković confirmed that the signature at the bottom of the document was his, but that he was not familiar with the seal as no seal was ever issued to him at all. This document is the List of personnel of the war-time police station of the Serb municipality Centar Sarajevo, dated 2 May 1992, which includes the following names, among others: No. 13 Mišo Grujić, No. 19 Slavko Milinković, No. 28 Danilo Trifković, No. 30 Milorad Terzić, No. 31 Ranko Tadić and No. 34 Vlado Vujičić. Witness Milinković confirmed that the list was made upon the order of Vitomir Žepinić, the then deputy minister of interior, for the purpose of the payment of salary to police officers.

218. Next, witness confirmed the authenticity of his signature in two places in **(2) Prosecution Exhibit T-8⁵⁵**, next to his name in the text (No. 3) and in the place reserved for signature at the bottom of the document. Apart from the witness's name (No. 3, Slavko Milinković, commander), this document lists the following persons: No.1, Goran Sarić, chief, No. 2, Tomislav Mirošević, inspector, and police officers: No. 4, Vlado Vujičić, No. 5, Mićo Đokanović, No. 6, Milorad Dragaš, No. 7, Mišo Grujić, No. 8, Aćim Marjanović and No. 9, Ranko Tadić.

219. Witness Milinković confirmed that the contents of this document, suggesting that he (witness Milinković) had the role of a commander and the accused Sarić that of a chief of police, correspond to the real situation.

220. Similarly, witness Milinković confirmed the authenticity of his signature in **(3) Prosecution Exhibit T-9⁵⁶** next to his name in the text (No. 2) and in the place reserved for signature at the bottom of the document (the only difference in relation to Exhibit T-8 being the fact that the names of Tomislav Mirošević and Milorad Dragaš are not mentioned in this document). For this particular document, witness Milinković stated that he did not

⁵⁴ The list of personnel of the war-time police station of the Serb municipality Centar Sarajevo, No. 08/92 dated 2 May 1992, war-time police station of the Serb municipality Centar Sarajevo MUP SR B-H (T-15).

⁵⁵ The list of active police officers in June 1992 who performed police duties in this police station and who received part of their salary for this month, MUP SR BiH (T-8).

⁵⁶ The list of active police officers in July 1992 who performed police duties in this police station and who received part of their salary for this month, SCB SM Centar, MUP SR BiH (T-9).

know who typed the document, but as already noted he confirmed the authenticity of his signature in these two places.

221. In relation to the presented documents, exhibits **(4) T-10**⁵⁷ and **(5) T-13**⁵⁸, witness Milinković confirmed the authenticity of his signature next to his name in the text (No. 2 in both of these documents).

222. The Panel finds that it follows primarily from the documentary evidence (T-8, T-9 and T-15), originating from the period that is covered by the indictment, that the persons mentioned in the documents authenticated by witness Milinković were police personnel. Witness Željko Grujić testified that out of the active police officers he knew Vlado Vujičić, which was confirmed by witness Danilo Trifković who stated that he was a member of the reserve police forces from 4 April 1992 until November 1993 when he joined the ranks of active or regular police officers. Further, witness Petar Pavlović Malešić testified that at the relevant time he was deployed as a soldier. However, presented with the exhibit T-12,⁵⁹ this witness confirmed the authenticity of his signature on the document, whereas he was unable to do the same in relation to exhibit T-14.⁶⁰ He stated that he did receive one salary from the police and that this is explained by exhibit T-12 (salary for month of July), which was brought to him by Radoslav Šljivić, but only after he was wounded, which, according to his account, happened on 5 August 1992.

223. Witnesses-aggrieved parties consistently testified that they did not have freedom of movement during their time in Jagomir and that soldiers and the police personnel provided both interior and exterior protection of the facility. Witnesses S-6, Vaso Đokić, S-5, S-8, Ismet Čormehmedović and others testified that guard duties in the Jagomir compound were performed by S-5, S-8, Vaso Đokić, Danilo Trifković, Petar Pavlović Malešić, Vlado Vujičić, Goran Gračanin and others.

224. Witness S-6 testified that at the time when he was brought to Jagomir along with other local Muslim men, he recognized his neighbors Milorad Terzić and Rajko Varešić.

⁵⁷ The list of active police officers in August 1992 who performed police duties in this police station and who received part of their salary for this month, SJB Centar, Romanija- Birač CSB, MUP SR /sic!/.

⁵⁸ The list of active police officers in October 1992 who performed police duties in this police station and who received part of their salary for this month, Romanija-Birač CSB Sarajevo, MUP RS (T-13).

⁵⁹ The list of reserve police officers in July 1992 who performed police duties in this police station and who received part of their salary for this month, CSB-SM Centar, MUP SR BiH (T-12).

⁶⁰ The list of personnel who in November 1992 performed police duties in this police station and who received a meal allowance in the amount of 5,000 dinars, SJB Centar Sarajevo, Romanija-Birač CSB, MUP RS.

While Milorad Terzić confirmed in his testimony that he was registered in both military and police records and that his immediate superior in the police was Boban Milinković, it follows from the Prosecution exhibit T-15, which was authenticated by witness Milinković, that Milorad Terzić was a police officer. On the other hand, it follows from the testimony of witness Rajko Varešić that he was a member of the Koševo Brigade.

225. In his testimony, witness Vukašin Varešić stated that he was a member of the Koševo Brigade and that he and 4-5 others soldiers from his brigade received an order from their commander Branimir Đokić to guard the detainees in Jagomir. On this occasion, witness Varešić and two of his cousins performed guard duties in the hallways of the pavilion. When doors of the locked rooms in which these men were detained opened, he could get a glimpse of some detainees he knew.

226. In its closing arguments, the Defense claimed that the persons whom most of the witnesses identified as persons who drove the trucks that transported them to Jagomir hospital – Petar Pavlović Malešić and Dragan Čolić were not MUP */Ministry of Interior/* personnel. In doing so, the Defense relies on its exhibit O-16⁶¹ in which it is stated, among other things, that Petar Pavlović Malešić was a member of the military post */VP/* 7033 from 4 April 1992 until 12 January 1996. The Defense further claimed that even Malešić himself denied in his testimony that he transported Bosniak civilian men from the local community building to Jagomir hospital. The Defense also argued that some witnesses testified that Dragan Čolić was a military police officer. Based on this evidence, so the Defense argues, the accused Sarić cannot be charged with the transport and detention of civilians in the pavilion of Jagomir hospital.

227. In its elaboration, however, the Defense omits an important part of the factual description of the indictment, which the Panel accepted as proven, namely that the transport of civilians from the local community building to Jagomir hospital was carried out by both police personnel and soldiers, i.e. not by the police personnel only. In this entire incident (Count 2 of the Indictment and Section 1 of the disposition of the convicting part of the Verdict), the police personnel and soldiers joined forces to carry out the transport of Bosniak civilians, and in this sense their roles intertwine and their actions are geared to achieving the same goal – imprisonment and detention of able-bodied Bosniak men from

⁶¹ Document of the Ministry of Labour and Protection of Disabled War Veterans, No. 16-03/3.2.-1-835-2313/12 dated 15 October 2012 (O-16).

the area of Nahorevo and Nahorevo hills. Further, the Panel does not accept as credible the part of witness Malešić's testimony in which he claimed that he did not transport the civilians on the said route at the relevant time, finding that witness Malešić had an interest to portray the events in this way in light of his direct participation in them and the potential for the surfacing of some information that portrays him in a less than favorable light, while on the other hand witnesses-aggrieved parties have no interest to describe the events any different from how they *de facto* unfolded. This finding by the Panel is supported by at least three witnesses (Halid Muharemović, Muhamed Ruhotina and S-3) who provided consistent testimony in terms of the geographical and time-related details that Petar Pavlović Malešić drove the truck that took them to Jagomir hospital. In contrast, witness Malešić failed to explain how is it that at the relevant time (and later) he acted in the capacity of a soldier, which also follows from Defense Exhibit O-16 indicating that he was in the army from 4 April 1992 until 12 January 1996, while at the same time he confirmed that he received a salary for July as member of the police force.

228. In relation to the role of Dragan Čolić at the relevant time, based on the presented evidence the Panel could not establish with certainty his capacity, regardless of the fact that some witnesses mentioned that he wore a waist belt commonly worn by military police officers. The Panel finds that there was a great variety in terms of how persons involved in this incident were dressed, with some witnesses confirming that some soldiers and members of the police force were even dressed in plain clothes. This finding by the Panel is supported by the testimony of Mišo Grujić a.k.a. Garinči, who stated that he was a reserve police officer, that he was issued with a weapon, but not a uniform. Besides, on the list of reserve police officers (Exhibit T-12) the name of this person (Dragan Čolić) is added in handwriting, with no evidence suggesting as to why this name was subsequently added to the original list.

229. Therefore, relying on both testimonial and documentary evidence, the Panel finds that seven days after the initial attack on the village of Nahorevo, local Bosniak men were invited by police personnel and soldiers to come to the local community building. After these men responded to the call and gathered at the said venue, they were told that they had to be taken to Jagomir hospital, supposedly for interview. They boarded the two trucks that took them to Jagomir hospital, with their neighbors Petar Pavlović Malešić and Dragan Čolić driving the trucks. After that, most of these Bosniak men from Nahorevo and Nahorevo hills were detained on the premises of the Jezero hospital building known as the

Pavilion, having earlier been stripped of all their valuables, IDs, belts and similar personal items. Most of these men spent two days in detention, meaning that the information given to them, i.e. that they were going to give a statement and be released shortly afterwards, turned out not to be true.

230. All aggrieved parties were consistent in their testimony that only Bosniaks were detained on those premises, and that the call to come to the local community building had been issued only to them and not to members of any other group given that witnesses indicated that roughly the same percentage of Bosniaks and Serbs lived in the area. Therefore, the Panel finds that it is clear that such conduct had discriminatory grounds. Further, all aggrieved parties consistently testified that they could not leave these premises freely and spontaneously, or on their own initiative, given that they were guarded there by soldiers and the police personnel alike, who also confirmed this decisive fact and admitted to having performed guard duties at the relevant time.

231. Persons who performed the duties of guarding detainees in the Pavilion included members of the Koševo Brigade, among others S-5, S-8, Vaso Đokić, Rajko Varešić, Vukašin Varešić, and police officers Petar Pavlović Malešić, Vlado Vujičić, Milorad Terzić.

232. When this is coupled with the fact that the detainees were civilians who had been attacked a week before the incident, that they had been disarmed earlier, that they had no choice but to come to the local community building, that they were subsequently detained on the premises of the Pavilion against their will, that this entire incident took place in the coercive circumstances that exclude any willingness on the side of local Bosniak men, that there was no legal basis for their detention, that they did not receive a decision from the relevant authority on their deprivation of liberty, the Panel concludes that their deprivation of liberty and subsequent detention was arbitrary, which makes it contrary to the rules of international law.

233. As for the other part of the same incident (forcible transfer of the population), the Panel established that on the same day (19 June 1992), the remaining Bosniak population, around 200 of them, were first called to gather in front of the local community building wherefrom they were transported in trucks and vehicles by soldiers and the police personnel to the separation line at the location known as *Lipov hlad*. They were then sent over the front lines to the territory under the control of the ARB-H, which, in the Panel's view, constituted forcible transfer.

234. The following witnesses testified in relation to these circumstances: Fadila Pandžić, Fatima Kožljak, Emina Kožljak, Petar Pavlović Malešić, Meho Pandžić, S-6 and others.

235. Witness Fadila Pandžić testified that after the local Bosniak men had been taken to Jagomir, the remaining villagers were in the state of panic and there was intensive shooting coming from different directions. Witness Pandžić perceived it as a method of intimidation. Generally, there was great commotion. The remaining villagers were ordered to gather in front of the local community building by 5 p.m. at the latest, which they did. They were told that they were going to be exchanged and that they should not bring anything other than the most essential personal belongings. In the afternoon hours of that day, they were transported by trucks, first to Jagomir and then to the checkpoint at *Lipov hlad*. Witness Pandžić explained how the persons who brought them there quickly ran for shelter to the cafe *Lipov hlad*, leaving them on the bridge to get off the trucks and head to the area controlled by “their own fighters” in Brekin potok.

236. Witness Emina Kožljak testified that at the relevant time their neighbors told them that they had to leave the village, adding that she did not know who ordered that they must leave the village, saying instead that it was the Serb troops that made them leave the village. In relation to the same issue, witness Fatima Kožljak stated that after the men left for the gathering at the local community building, from which they were taken to Jagomir, on that same day around 5 p.m. a red Golf vehicle passed through the village, with the men in it informing them over a megaphone that women and children were to gather at the same place, i.e. in front of the local community building, in fifteen minutes. There were two men in the car and she recognized one of them as a villager from Radava. According to the information she heard from other locals, he was a member of a Serb paramilitary group. Asked to explain the discrepancy between her testimony and her investigative statement in which she stated that two police officers in Golf came in front of her house on that occasion, witness Fatima Kožljak stated that she was sure that a man from the neighboring village of Radava was wearing a police uniform, whereas the other person sat in the car the entire time, which prevented her from noticing any details about his uniform. She added that at the time Pero Malešić transported them in a truck owned by witness S-6 first to Jagomir and then to the checkpoint at *Lipov hlad*.

237. This was corroborated by witness Malešić himself, who testified that on one occasion he drove the truck owned by witness S-6 transporting the residents of Nahorevo to the separation line. Describing how it happened that he drove the truck on that

occasion, witness Malešić explained that the military command did not allow his neighbor S-6 to drive his truck, which is why he transported these people to the separation line.

238. These consistent accounts are further corroborated by the testimony of witness Mišo Grujić who stated that he repeatedly used his vehicle to transport women and children to the separation line, and that he was ordered to do so by Boban Milinković or the accused Sarić. Witness Vaso Đokić testified that at the time of separation of detained Bosniak men from Nahorevo into two groups, one to leave for the city of Sarajevo and the other to be taken to the Bunker camp in Vogošća (paragraphs 2a and 2b of the operative part of the Verdict), the remaining population had already left the village.

239. In its closing arguments, the Defense referred to the status of Mišo Grujić, who, as noted above, also transported civilians at the relevant time. Relying on its evidence, Exhibit O-16⁶² and Exhibits O-69 through O-73⁶³, the Defense claims that Mišo Grujić was a member of the military rather than police forces. Accordingly, so the Defense argues, the acts of forcible transfer of population were not carried out by the police forces and consequently not upon the orders or under supervision of the accused Sarić.

240. In the relevant part of his testimony, witness Grujić stated that at the time he usually performed guard duties at Kromolj, adding that his immediate superior was Ranko Tadić and that overall the person in charge was Slavko a.k.a. Boban Milinković. He further testified that he was a reserve police officer rather than active, or as the witness put it “real”, police officer. He stated that he was issued with a service weapon, an automatic rifle, but did not receive a police uniform. He further stated that the police used two rooms in Jagomir where policemen gathered. These were located on the lefthand side looking from the direction of Nahorevo, with the gate right across and prefabs located on a slightly higher ground overlooking them. Many other witnesses gave an identical or similar location of police headquarters in Jagomir compound at the relevant time. The consistency of testimonial evidence on this issue was confirmed by the Panel's visit to the site, as indicated in the evidence of the court S-1.

⁶² Document of the Ministry of Labor and Veteran Protection, No. 16-03/3.2.-1-835-2313/12 dated 15 October 2012 (O-16).

⁶³ Document of the Ministry of Interior, Department for legal and personnel affairs within the RS Government dated 18 June 2012, personal file for Mišo Grujić (O-69); Decision of the RS Ministry of Interior, Bijeljina, No. 03/4-120-4238 dated 26 December 1997 (O-70); Document of the police brigade dated 1 June 1998 – request filed by Mišo Grujić (O-71); Document dated 16 June 1998, request for consensual termination of

241. After the Prosecution Exhibit T-15, listing under No. 13 witness Grujić's name, was presented to him, this witness stated that it was a list of reserve police officers, explaining the status of other persons from the list whom he knew.

242. During witness Grujić's testimony, some inconsistencies between his investigative statement and the testimony at trial were pointed out to him.⁶⁴ In relation to the car he used to transport civilians to the separation line, in his investigative statement witness Grujić stated that it was a white Golf, which SJB Centar used for official purposes, whereas in his testimony at the main trial he also stated that it was a Golf vehicle, without, however, mentioning its color. After his investigative statement was presented to him, witness Grujić explained that it was a Golf vehicle used by the police personnel. Comparing his testimony with that of the defense witness Nedo Đokić who stated, as noted above, that upon the arrival of the accused Sarić in Nahorevo he provided his car, a white Golf, for the use of the police, which was eventually returned to him in July 1992, it can be reasonably concluded that this is the same car of which witness Grujić spoke, i.e. the car he used to transport residents of Nahorevo to the checkpoint at *Lipov hlad*. Witness Grujić also clearly stated that the transport of civilians at the relevant time was an assignment given to him by either the accused Sarić or Milinković, rather than something he did on his own initiative, thus leaving for the possibility that one of these two men directed his actions. Regardless of which one of these two men ordered the transport, the order clearly came from the police rather than military structures, as the Defense tries to imply, which is the basis of responsibility of the accused Sarić for this particular incident.

243. Based on testimonial evidence, the Panel finds that at the relevant time members of the military and police forces first invited and then transported the remaining civilians from the village to the separation line. The Panel further finds that this transport took place in the afternoon hours of the same day when the local Bosniak men were taken to Jagomir (19 June 1992). Witnesses provided convincing, clear and consistent testimony that at the relevant time they had no other option but to leave the village in this manner, describing how they had to pack their most basic personal belongings and leave their homes within 15 minutes. Coupled with the fact that they had been attacked a week before, that their

employment filed by Mišo Grujić (O-72); Decision on consensual termination of employment issued to Mišo Grujić, No. 06/3-126-3776 dated 7 July 1998 (O-73).

⁶⁴ Record of examination of witness Mišo Grujić, No. T20 0 KTRZ 0001272 07 dated 28 December 2011, and Record of examination of witness Mišo Grujić, No. 16-13/3-1-279/11 dated 12 December 2011 (with audio recording).

freedom of movement until the time of the transfer was limited and controlled because of the curfew that was in force (on that same day, witness Zakira Čolić was brought in for questioning – her testimony will be discussed in more detail below in relation to paragraph 2c) of the operative part of the Verdict), it is clear that soldiers and the police personnel acted against the will of the local residents, which makes their conduct arbitrary and coercive in nature.

244. Therefore, the Panel concludes that the transfer of population in this case was not done on a voluntary basis given that the transferred population did not have a real choice, which makes the transfer in question forcible, contrary to the rules of international law. When this is coupled with the fact that members of only one ethnic group were transferred, with exactly their ethnic identity making them the subject of the transfer, it is clear that this conduct was based on discriminatory grounds.

245. Having analyzed these factual and legal determinations in connection with the role of the accused Sarić and the fact that police officers subordinated to him participated in this incident, along with soldiers, and that they decisively contributed to the realization of the offense and the occurrence of prohibited consequences, the Panel finds that, by the above described acts perpetrated by police officers subordinated to him, the accused Sarić committed persecution by means of imprisonment and forcible transfer of the population.

246. The Panel notes that in the operative part of the Verdict it has omitted certain parts of the factual description of the Indictment, namely **a)** the part “*with the aim of realizing the above common purpose*” is omitted given that the mode of responsibility of the accused Sarić was qualified as co-perpetration rather than participation in the JCE, which is discussed in more detail in an earlier section of the Verdict; **b)** in the part “*by police officers of SJB Centar*”, the Panel added „and soldiers“, adapting the factual description from the operative part of the Verdict to the state of evidence in the case on this particular matter; **c)** it omitted the part that read “*and imprisoned a small number of Bosniaks, at least eight of them, in the prefabs near the Pavilion that were under the armed guard of police personnel and soldiers*” again to reflect the presented evidence given that witnesses who testified in relation to this circumstance mostly stated that the men who were subsequently killed, mentioned in Section 2c of the operative part of this Verdict, were not detained in there together with them, but had been deprived of liberty earlier, separately from the majority of men who were deprived of liberty and detained on 19 June 1992. This part of the factual description is covered under Section 2c) of the operative part of the

Verdict, which is why the Panel thought it was redundant to mention it here; **d)** the Panel also omitted the part “*under the supervision of the accused Goran Sarić*” given that the presented evidence did not suggest that the accused Sarić was physically present during these incidents, while the phrase “under the supervision” in the Panel's understanding implies direct physical presence of the accused Sarić, which was not the case here; **e)** finally, the Panel also omitted the part “*in the village of Radava, Centar municipality*” given that witnesses pointed in their testimony to *Lipov hlad* (Centar municipality) as the geographical location of the separation line, rather than the village of Radava, which is why it was necessary to omit this part of the factual description in the operative part of the Verdict.

B. SECTION 2A) OF THE DISPOSITION OF THE CONVICTING PART OF THE VERDICT

247. Under Section 2a) of the operative part of the Verdict, the accused Sarić is found guilty that he committed persecution by forcible transfer of population.

248. Based on the presented evidence, the Panel finds that on 21 June 1992 the accused Sarić carried out and oversaw the separation of detained Bosniak civilians into three groups. Having been so separated, a group of around 60 Bosniak civilians, who had previously been detained on the premises of Jagomir hospital, had their names called out from a list by one of the soldiers. After they lined up in front of the pavilion, the accused Sarić addressed them, telling them that they were to go to Sarajevo and that they should not regret leaving their property behind. Subsequently, upon Sarić's orders, members of the police and military forces transported them to the separation line, wherefrom they crossed to the territory under the control of the ARB-H, which in the Panel's view constituted forcible transfer.

249. That one of the soldiers, whose name some witnesses said was Dragan Petković a.k.a. Kupres, called out names from the list at the relevant time and that he did so inside the Pavilion, is clear from the testimony of almost all detained Bosniak civilians, including Nahid Kožljak, Mensur Pandžić, Halid Muharemović, S-10 and others. Their testimony is further corroborated by witness Nedeljko Milić who distributed food to detainees at the relevant time.

250. Moreover, the fact that the accused Sarić addressed the detainees after they had been escorted out of the pavilion and ordered to line up in front is confirmed by the detainees themselves, including among others Nahid Kožljak, S-1, Halid Muharemović, Abid Pandžić, Muhamed Ruhotina and Ibro Pandžić.

251. In his testimony, witness S-1 stated that after having spent 7-8 nights in the prefabs within the compound of Jagomir hospital, he was transferred one night to the room where Jusuf Gljiva and Ismet Pandžić a.k.a. Čola had already been detained, and spent the night with them. In the morning, the accused Goran Sarić came to the room accompanied by Mišo Grujić a.k.a. Garinči and Milorad Terzić a.k.a. Terza, both of whom were from Kromolj according to this witness. Addressing the witness on this occasion, the accused Sarić told him that he was going to look into the possibility of letting him go to the city. On that same day, around 11 a.m., Terza appeared in the door and called him out. He then took witness S-1 to the room with their personal belongings, where the witness took back his belt and shoelaces that he used on the spot to lace his shoes. After that, they walked together to the administrative part of the complex where S-1 saw witness S-5 who offered him a cigarette (*Blue Morava*). The accused Sarić was there too, along with his men (police officers subordinated to him). Subsequently, the accused Sarić lined up the detainees, informing them that they were to go to the city. He then addressed them in the following words: "Tell your own in the Breka neighborhood not to shoot. This is a Serb land and there is no place for them here. Tell them not to make me lose my temper because if I do... it will take me two hours to make my way to the Gazi Husrev-bey mosque and have a coffee there. And... tell them that Goran Sarić let you go. You will move in a column to Lipov Hlad, a well-known cafe, which is the last checkpoint of the Serb army and from there you will cross a bridge, a no man's land where anti-tank mines were planted, so do not touch anything!" He told them that "their" patrol would meet them near an old garage. On this occasion, a larger group of around 40 people, in his estimate, were released on this occasion, including Salko Pandžić and Rašid Pandžić. Out of persons who were detained with him in the prefabs, only Jusuf Gljiva survived, while others were killed and their bodies were recovered at the location of Skakavac (paragraph 2c) of the disposition of the convicting part of the Verdict). Ismet Pandžić a.k.a. Čola was killed while performing forced labor on the Žuč hill, having been previously detained in the Bunker camp.

252. Describing the situation in front of the Pavilion, witness Halid Muharemović testified that after the accused Sarić read out the name of a detainee he would step forward, so

that eventually two lines of detainees were formed. Witness Muharemović remembered that Mujo Pandžić asked the accused Sarić to let his cousin Zijad Selmanović go too, in response to which the accused Sarić said: "All right, but then you will have to stay." The accused Sarić told them on this occasion that they were to go to the city and that they should not regret leaving their property, houses, vehicles, tractors behind. He specifically warned them against taking up arms and engaging in offensive actions against his forces once they were in the city because if they did, "we would not stop until we get to the Nemanjina street."

253. Witness Muharemović remembered that among other detainees designated to leave for the city were Mirsad Bahuna, Kasim (son of Ahmed) Muharemović, Abid Muharemović, Hasib Muharemović, Muhamed Muharemović, Bajro Muharemović, Miralem Muharemović and Redžo Pandžić.

254. Witness Ibro Pandžić testified that the group of detainees allowed to go to the city, apart from himself, included Salih, Derviš and Ramiz Pandžić; Ragib and Nahid Kožljak, and Ismet Gljiva. He corroborated the testimony of most witnesses who said that the accused Sarić introduced himself and addressed them in front of the Pavilion in Jagomir. He was not sure if the accused Sarić wore a black or police uniform at the time.

255. Witness S-4 testified that a policeman named Boris talked to him while he was detained in the pavilion in the following way: "I went to see Sara and inquire about your brother. Sara told me that the principle was: one police officer could vouch for one detainee. I have chosen you, meaning that your brother stays. You are free to go now." After that, he was told to take his personal stuff and while there he saw witness S-8 who told him to leave this misery. Witness S-4 remembered that he said to a policeman named Boris that if he were to head to the city on his own, he would be killed. Boris said in response that he was not going to get killed because Sara had already informed those manning the front line that he was headed their way. Witness S-4 stated that Sara was Goran Sarić's nickname.

256. Witnesses who secured the area in front of the pavilion in order to prevent any incidents or escape confirmed that the accused Sarić addressed the detainees on this occasion.

257. Witness Vaso Đokić testified that after performing guard duties the day before (noted above in paragraph 1 of the disposition of the convicting part of the

Verdict), on the next day he again received the same assignment, i.e. to provide security at Jagomir hospital. At one point he saw a group of men in front of the entrance to the pavilion, including the person who others told him was Goran Sarić. Witness Đokić indicated that he might have also seen Miroslav Krajišnik at the time, but he was not sure. There were others too, some of them he knew and others he did not. He also saw police officers in old winter-uniform cloth belonging to reserve police forces. Out of police officers present there, he recognized Petar Malešić a.k.a. Pero, Vlado Vujičić, Nedeljko Miović and Dane Trifković. He then observed that a number of Muslim detainees were taken out and told that they were to go to the city. They were standing in a line-up listening to the accused Sarić's address. From the position where he was standing, witness Đokić was able to see Sarić's back as he faced the detainees. He informed the detainees that they were to be transported in a convoy to the separation line, i.e. to *Bosnafilm* compound. Subsequently, detainees were escorted by soldiers and the police personnel to the separation line. Witness Đokić stated that he was at the back of the convoy.

258. Asked about the discrepancies between his investigative statement and his testimony at the main trial⁶⁵ concerning the role of the accused Sarić in the events in front of the Jagomir Pavilion, witness Đokić explained that apart from Goran Sarić no other commander was present there in front of the Jagomir Pavilion, including his commander Miroslav Krajišnik. Witness Đokić added that the accused Sarić was "in charge," stating, in his own words: "Well, there was no one else. He was assigning people to groups, which meant that he was in charge."

259. In his investigative statement, witness Đokić stated that while detainees were assigned to the three groups in front of the pavilion of Jagomir hospital, he saw a number of police officers at the site, identifying them as Nedeljko Milić⁶⁶, Danilo Trifković⁶⁷, Petar Pavlović Malešić, Vlado Vujičić and Goran Gračanin.

260. Testifying about his duties at the relevant time, witness S-5 said that the detainees held in Jagomir hospital had already been lined up at the time when he reassumed his guard duties.

⁶⁵ Record of interview with witness Vaso Đokić in the Prosecutor's Office of BiH, No. T20 0 KTRZ 0001272 07 dated 23 December 2011 (T-3).

⁶⁶ In his testimony at the main trial witness Đokić clarified that the person in question was Nedeljko **Miović**.

⁶⁷ In his testimony at the main trial witness Đokić clarified that the person in question was **Dane** Trifković.

261. In relation to the same circumstances, witness S-8 testified that he received orders to perform guard duties in Jagomir hospital on two occasions. The first time, he received his orders from Branimir Đokić and his duty was to stand guard together with Vaso Đokić in front of the pavilion to prevent any escape of detainees (paragraph 1 of the disposition of the convicting part of the Verdict). The second time, approximately two days later, he was in front of the Jagomir pavilion for the same purpose. On this occasion, the accused Sarić told him and other men that detainees would be taken out of the pavilion and that they needed to be alert and stand on the sides flanking the detainees in order to prevent any incidents. On both of these occasions, witness S-8 performed guard duties armed with a *schmeisser* submachine gun, confirming that other guards were armed too. He confirmed that once the detainees were out in front of the pavilion the accused Sarić ordered them to line up. He informed them that some of them would be allowed to go to the city and they were escorted on foot to the separation line near *Bosnafilm* compound.

262. Witness Nedeljko Miović testified that as a member of the reserve police forces, he once distributed food to detainees in the pavilion of Jagomir hospital. He did not know for sure who gave this assignment to him, allowing for the possibility that it might have been Slavko Milinković or Milorad Zuber. He remembered seeing Milorad Zuber in the hallway of the pavilion at the relevant time. He distributed food to detainees held in two rooms. He also remembered seeing a man in uniform, whom he did not know and who on account of his uniform appeared to witness Miović as a non-local person, who told him that the men detained in those two rooms were to leave soon. Witness Miović testified that all of this was happening at lunch time. It was at this time that a non-local person took from a locker in the hallway a bunch of wrist watches, of which he put three in witness Miović's pockets keeping the rest for himself. Witness Miović, however, put the wrist watches given to him back in that same locker.

263. He saw how the accused Sarić lined up the detainees in front of the pavilion and addressed them in the following words: "Neighbors, we are where we are... the circumstances are such... you will be off to the city and, once there, do not shoot on your neighbors!" After finishing his address, the accused Sarić allowed the detainees to leave for the city. Witness Miović did not know any details about their departure as he soon left the area.

264. Witness S-3 testified that after he got out of the pavilion together with other detainees, Mićo Đokanović released him and Ismet Gljiva. Witness S-3 asked

Đokanović to release Sanel Pandžić instead of him, as Sanel Pandžić was still recovering from an appendix operation, in response to which Đokanović said that he had to go by the list or otherwise he would be in trouble. Witness Ismet Pandžić confirmed that Sanel Pandžić had been detained with him in the same room in the pavilion, adding that he heard later that Sanel Pandžić's body was recovered at Skakavac (paragraph 2c) of the disposition of the convicting part of the Verdict).

265. Witness Mićo Đokanović denied the existence of the list, but not the actual event recounted by witness S-3. Witness Đokanović also denied any involvement of the accused Sarić in the designation and subsequent release of the group to leave for the city, that included among others Ismet Gljiva and S-3, having said that he had obtained permission for his actions from Ljubomir Đokić. The Panel finds this part of witness Đokanović's testimony to be unreliable as it is not consistent with other testimonial and documentary evidence and also bearing in mind that, as a police officer, he was obliged to seek approval for his actions from his superior rather than from someone outside the police hierarchy. In evaluating this evidence, the Panel was particularly mindful of the testimony of witness S-4 who said that a policemen named Boris told him at the time that he was going to ask the accused Sarić to release both witness S-4 and his brother. The accused Sarić allowed for the release of only one of them, as a result of which a policeman named Boris opted for witness S-4 (while his brother's body was recovered along with the bodies of other killed men at the location of Skakavac). Therefore, witness Đokanović's testimony in relation to this circumstance is not only inconsistent with the testimony of witnesses Milorad Terzić and Ismet Gljiva, but it is also inconsistent with other presented evidence. He is the only witness who assigns this role to Ljubomir Đokić, without providing any details or context for his involvement. Therefore, the Panel finds that witness Đokanović's testimony in this part is entirely inconsistent with the rest of the evidence and that it is a *priori* aimed at diminishing the criminal responsibility of the accused Sarić.

266. Having relied on the above testimonial evidence, the Panel finds, primarily, that the lining up of detainees in front of the Pavilion took place on 21 June 1992. The Panel further finds beyond any doubt that after the detainees were called out and after they lined up in front of the pavilion, the accused Sarić addressed them, telling them that they were to be released to the city and that upon crossing to the territory under the control of ARB-H they should not take up arms. Witnesses-aggrieved parties clearly identified the accused Sarić, some of them explaining that they knew him from before as a former colleague on

the police force, while others learned of his identity either from Nahid Kožljak, another former police officer, or from Slavko a.k.a. Boban Milinković. In evaluating the credibility of testimonial evidence, the Panel did not find it decisive that some witnesses, such as e.g. Ibro Pandžić, were unable to describe with certainty the color of the uniform the accused Sarić wore at the relevant time. In light of the overall circumstances that were surely outside of the range of normal human experience, the Panel finds that it is not reasonable to expect all aggrieved parties to remember the appearance or color of the accused Sarić's uniform.

267. The consistent testimony of witnesses-aggrieved parties in relation to the identification of the accused Sarić is corroborated by witnesses who stood guard in front of the pavilion at the relevant time in their capacity as soldiers or the police personnel. It is based on this evidence that the Panel clearly established that none other than the accused Sarić addressed the detainees at the relevant time.

268. The Panel did not accept as credible the part of witness Muhamed Pandžić's testimony wherein he stated that the accused Sarić, rather than an unidentified soldier, read out the names of detainees from the list and that he did so inside the pavilion. This was rightly pointed out by the Defense in their closing arguments. Based on the consistent testimony of witnesses who spoke of the accused Sarić's involvement in this event outside or in front of the pavilion, rather than inside the pavilion, the Panel decided not to give credence to this part of witness Muhamed Pandžić's testimony since it was not supported by other presented evidence.

269. Similarly, the Panel did not accept as credible the part of testimony of witnesses Muhamed Ruhotina and Abid Pandžić who said that the accused Sarić fired shots from the automatic rifle in direction of a tree inside the hospital compound at the relevant time given that this testimony was not supported by other presented evidence. The relevant portion of the testimony of these two witnesses is primarily inconsistent with that of other fellow detainees who were lined up in front of the pavilion at the time. The Panel is of the view that it is unlikely that this particular detail would not have been noticed by those present, which was rightly pointed out by the Defense in their closing arguments.

270. The Defense did not dispute that the accused Sarić was present in front of the pavilion at the relevant time or that he participated in the escort of the group of men designated to leave for the city (paragraph 2a). The Defense, however, submits that such

conduct of the accused Sarić was not criminal in nature. Such interpretation of events and of the role of the accused Sarić in them is not, in the Panel's view, supported by evidence, which will be discussed in more detail below.

271. The Panel finds that the escort of detainees by soldiers and the police personnel was ordered by the accused Sarić primarily because it was the accused Sarić who first addressed the detainees in front of the pavilion, informing them of the further course of events, i.e. that this particular group would be allowed to leave for the city, which is what eventually happened. In light of the overall circumstances at the time and the events that were to follow, the accused Sarić was clearly aware of the status of each of the three groups, including the privileged status of the group of detainees designated to leave for the city, which by no means indicates that such conduct was legitimate. In making this finding, the Panel was also mindful of the consistent testimony of witnesses-aggrieved parties who said that they did not have any other choice at the time but to leave their homes, regardless of the Defense's contention that this was a legitimate and proportionate measure. This was the case only because of the events that were to follow and the fact that the status of the group of detainees designated to leave for the city proved to be a 'privileged' one. The Panel, however, does not share the position taken by the Defense on this matter, which will be explained in more detail in paragraph 2b) of the disposition of the convicting part of the Verdict. Suffice it to note here that, fully aware of the status of each of the three groups, the accused Sarić knowingly and willfully moved certain individuals from one group to the other, thereby clearly and openly showing that he knew the fate that awaited each of these groups. Otherwise, it seems logical to ask why would he be doing it? Therefore, the Panel finds that the accused Sarić moved certain individuals, such as Nahid Kožljak or S-1 from the group that was to be taken to the Bunker camp and the third group to the group designated to leave for the city in full knowledge of the fate that awaited each of the three groups.

272. The Panel further finds that soldiers and the police personnel escorted the detainees to the separation line upon orders of the accused Sarić based on the testimony of witness Vaso Đokić, who said that soldiers and the police personnel escorted the detainees to the separation line, adding that in his capacity as a soldier he was at the back of the convoy. This is corroborated by the testimony of witness S-3 and Ismet Gljiva.

273. Further, it follows from the testimony of witness Mićo Đokanović himself and that of many other witnesses that witness Đokanović, who released Ismet Gljiva upon

him getting out of the pavilion, was a police officer. This is confirmed by the Prosecution Exhibit T-8 (payment of salary for June 1992). In relation to this piece of evidence, witness Mićo Đokanović confirmed the authenticity of the signature next to his name (No. 5), while the general authenticity of the document was confirmed by witness Slavko Milinković.

274. The continuity of active role of the accused Sarić in the relevant events is evident from the part of testimony of witness Ismet Gljiva, who knew the accused Sarić very well from before the war, who spoke of how he met the accused Sarić in front of Jagomir hospital and how he told him they were going to see each other “in better times”. The Panel notes that witness Ismet Gljiva has no interest to portray these events differently from how they actually happened, given that he recounts his personal perception of the events in question and that in doing so he describes the personality of the accused Sarić as someone who objectively helped him. Therefore, such testimony is at the same time *in favorem* for the accused Sarić. In making this factual findings, the Panel was also mindful of the testimony of witness Milorad Terzić who said that the accused Sarić personally told him that he was going to release his former colleague from the Secretariat of Interior /*SUPI*/, which he eventually did given that Ismet Gljiva was allowed to join others and leave for the city, which also shows that the accused Sarić *de facto* had the capacity to do such a thing.

275. The Panel will make an additional reference to the order of the accused Sarić to soldiers and the police personnel in its concluding remarks in relation to paragraph 2b) of the disposition of the convicting part of the Verdict given that these two events (covered in paragraphs 2a) and 2b)) are connected both geographically and time-wise. In order to avoid unnecessary repetition, the Panel will additionally present its factual and legal findings on this matter in paragraphs 283 and 285 of the present Verdict.

276. That the conduct at the relevant time was carried out on discriminatory grounds is clear from the above noted established facts, namely that only Bosniak men of military age were detained. The Panel reiterates that they had been attacked earlier, their conduct and movement was the subject of strict control given that a curfew had been in force for a week prior to their imprisonment, and finally they were detained for a couple of days before their release and departure to the city. Similarly, witnesses-aggrieved parties consistently testified that they were deprived of any real choice at the time, given that the only option given to them was to leave their homes, leaving behind all their property. Even their personal documents were seized from them, along with other personal belongings,

and not returned to them at the time of their departure to the free territory. Additionally, discriminatory grounds of the accused Sarić's conduct is evident from the content of his address to detainees in front of the pavilion of Jagomir hospital, where, moments before designating the group of detainees who were to leave for the city, he informed them that he was going to let them go to Sarajevo saying that this was "a Serb state" and that they should not take up arms or otherwise they would be outgunned. This chronology of events is confirmed by witness Nedeljko Milić, a member of the reserve police forces at the time.

277. When these factual and legal findings are viewed in connection with the above described role of the accused Sarić, the Panel finds that the accused Sarić, by the acts described above and in his capacity as a co-perpetrator, committed persecution by forcible transfer of population.

C. SECTION 2B) OF THE DISPOSITION OF THE CONVICTING PART OF THE VERDICT

278. Under Section 2b) of the operative part of the Verdict, the accused Sarić is found guilty of committing persecution by imprisonment.

279. Relying on the presented evidence, the Panel established that after the first group had been forcibly transferred to the territory under the control of ARB-H, the second group of detainees to be taken to the detention camp "Bunker" in Vogošća had their names called out.

280. The Panel finds that the accused Sarić ordered these men to board the trucks and, just before the departure, he took Nahid Kožljak and S-10 off the truck and also allowed Kasim Muharemović to alight the truck. Subsequently, together with another person, the accused Sarić drove these men to the separation line and forced them to cross to the territory under the control of ARB-H.

281. The Panel finds that the second group of detainees to be taken to the Bunker camp had their names called out after the forcible transfer of the group who had left for the city based on the testimony of a number of witnesses, including Muhamed Ruhotina, Enver Pandžić, Hasan Pandžić, Sakib Pandžić, Mensur Pandžić, Fikret Išerić and others.

282. These witnesses consistently testified that following the same pattern as in the case

of the first group, the second group of detainees to be taken to the Bunker camp in Vogošća had their names called out. It follows from the testimony of these witnesses-aggrieved parties that the accused Sarić informed them that they were to be taken to the Bunker camp in Vogošća. Further, they consistently testified that Petar Pavlović Malešić drove the truck that transported them to Vogošća, which is confirmed by Malešić himself. In his testimony, witness Malešić also confirmed that on his way from the Institute of Alcoholism (within Jagomir hospital compound) where the truck was parked to the pavilion, he gave a lift to the accused Sarić, with all of this happening before Sarić's address to the detainees. Further course of events, specifically the designation of the second group of detainees to be taken to the Bunker camp, is reconstructed from the testimony of the above-noted witnesses.

283. That the accused Sarić ordered the detainees to be taken to the Bunker camp in Vogošća to board the trucks follows primarily from the fact that it was he who informed these men that they were to go to Vogošća, which is what eventually transpired. Moreover, witness Nahid Kožljak provided a detailed description of the situation in front of the pavilion at the relevant time. Witness Kožljak described in detail how the accused Sarić picked him out of the group of men. After Dragan Petković a.k.a. Kupres addressed Sarić asking him: "Why him?", the accused told him: "He's not going; he's my friend!" Witness Kožljak further testified how the accused Sarić intended to take Džemal Pandžić off the truck too, but Dragan Petković interfered, cursing and telling him: "You know very well what we agreed back at the headquarters!" Petković said: "No! Go back!" and Džemo (Džemal Pandžić) found himself back on the truck. Similarly, witness Kasim Muharemović testified that driving with them to the separation line the accused Sarić told them that if they faced any problems while crossing to the territory under the control of ARB-H, they should use his name and say that he let them go, which is what they did, eventually succeeding in reaching the free territory. Witness Muharemović's account is consistent with the testimony of witnesses S-4 and S-1 in relation to their release from Jagomir hospital, with the relevant portions of their testimony cited above in paragraph 2a).

284. Witness Nahid Kožljak further testified that the men on the truck suggested that S-10, who was a minor at the time, should be taken off the truck too and join the group set to leave for the city, in response to which the accused Sarić released him. He then addressed another man on the truck in the following words: "You, with the moustache. Get off!" Witness Kožljak explained that the man with the moustache who alighted the truck

was Kasim Muharemović. Many witnesses corroborated this part of Nahid Kožljak's testimony, including the very men taken off the truck, S-10 and Kasim Muharemović, as well as Sakib Pandžić, Enver Pandžić and others. Witness S-5, who was standing guard in front of the pavilion at the relevant time, confirmed the consistent testimony of the above-mentioned witnesses, saying that there was some "reshuffling" between the two groups, one to leave for the city and the other to the Bunker camp in Vogošća.

285. The Panel relies primarily on the testimony of witness Nahid Kožljak for its finding that the accused Sarić ordered that the group of detainees be transported under police escort to the Bunker camp in Vogošća. Witness Kožljak testified that while they were waiting to leave for the city, a police officer addressed the accused Sarić asking him if he was going to drive them, referring to witness Kožljak and the other two men taken off the truck (Kasim Muharemović and S-10), in response to which the accused said that he (the police officer) should take the Golf and join the escort of the truckload of detainees via the village of Radava, and that he (the accused Sarić) was going to drive the three men, which is what eventually transpired. The accused Sarić then said: "Get the other one!" Ismet Pandžić was told to step out of the line and board the truck, and after he did what was requested of him they closed the truck's tailgate (paragraph 2c). This finding is corroborated by witness Kasim Muharemović who testified that while he was standing next to the truck together with Nahid Kožljak and S-10 at the relevant time, the accused Sarić ordered that the tarpaulin be closed and the truck to start on its way to Vogošća.

286. The Panel relies on the testimony of witness Petar Pavlović Malešić for its finding that the accused Sarić ordered that the detainees from this group be transported to the Bunker camp in Vogošća. In the relevant portion of his testimony, witness Malešić said that a police officer Slavko Milinković a.k.a. Boban was with him in the truck cabin. Upon their arrival in the Bunker camp near the restaurant *Kod Sonje*, Milinković contacted Brane Vlačo. After that, witness Malešić returned to the command with an empty truck.

287. Witnesses Muhamed Ruhotina, Hasan Pandžić and Enver Pandžić testified in detail about all their fellow detainees taken to the Bunker camp. Their testimony is corroborated by witness S-9. Witnesses Muhamed Ruhotina and Enver Pandžić further testified that they were guarded on the truck by two armed men, with witness Malešić identifying the two men as Dragan Čolić and Goran Gračanin. As noted above, a police officer Slavko Milinković a.k.a. Boban accompanied him in the truck cabin.

288. All witnesses taken from Jagomir to the Bunker camp in Vogošća on this occasion testified that they were to stay in detention there for the next couple of months, which is confirmed by documentary evidence (Exhibit T-49).⁶⁸

289. The Panel finds that this conduct was carried out on discriminatory grounds since the order that detainees be transported to the Bunker camp applied only to Bosniak men of military age who had been previously detained in Jagomir hospital. This conduct was also unlawful given that there was no legal basis for such treatment of these men, there were no legitimate proceedings conducted against these men either, which makes these actions directed against the aggrieved parties unlawful, arbitrary and contrary to the rules of international law.

290. In assessing the responsibility of the accused Sarić, the Panel was mindful of three decisive parameters, namely: **(1)** that it was the accused, rather than someone else, that joined Petar Pavlović Malešić in the truck from the Institute of Alcoholism to the area in front of the pavilion; **(2)** upon his arrival in front of the pavilion, it was again none other than the accused Sarić who addressed the detainees, informing them of what was going to happen to them next, which eventually transpired; **(3)** the accused Sarić transferred some detainees from one group to the other in full knowledge and with awareness of the status of each of these groups, rather than spontaneously and upon his own initiative, as the Defense argues, given that the status of groups had been predetermined, all of which is confirmed by a very detailed, thorough and objective testimony of witness Nahid Kožljak.

291. Therefore, bearing in mind the active role of the accused Sarić and his awareness of the prior agreement on the distribution of roles, the Panel finds that his conduct meets all essential elements of the criminal offense of persecution by imprisonment. The Panel further finds that his acts are significant given that if it were not for them, the aggrieved parties would not have ended up in detention in the Bunker camp. This way, he decisively contributed to the occurrence of a prohibited consequence, i.e. detention of the aggrieved parties.

292. Finally, the Panel notes that it has omitted from the factual description of the operative part of this Verdict the following portion from the Indictment *“where during their*

⁶⁸ The list of detainees dated 26 July 1992, SR BiH, Serb municipality of Vogošća, Prison Administration (T-49).

detention there the following persons were killed: Nezir Muharemović, Hasan Muharemović, Ismet Pandžić, Asim Pandžić and Nedim Pandžić, while Džemal Pandžić and Mustafa Muharemović became mentally ill as a result of their detention”, finding that the accused Sarić, in his capacity as a co-perpetrator, is guilty of imprisonment of the aggrieved parties, but not for the acts of other persons or consequences resulting from their detention. This is because these events are separate, both in terms of time and space from the events that form the subject matter of the present proceedings. Accordingly, the Panel finds that there is no sufficient support for these allegations in the evidence presented at this trial.

D. SECTION 2c) OF THE CONVICTING PART OF THE VERDICT

293. Under Section 2c) of the convicting part of the Operative Part of the Verdict, the Accused was found guilty of committing persecution by murder, imprisonment and forcible transfer of people.

294. With regard to this Count of the Indictment (Count 3c), the Panel established that on 21 June 1992 the Accused singled out witnesses S-1, Jusuf Gljiva and Ismet Pandžić out of the third group of separated Bosniaks who were labelled as extremists and kept in the prefabs within the Jagomir hospital compound, while he kept Đulaga Pandžić, Hamid Pandžić, Esad Pandžić, Sanel Pandžić, Ahmed Pandžić, Sejo Gljiva, Ramiz Smajlović and Mustafa Kožljak in the hospital compound, knowing they would be killed. Those people were subsequently executed at an unknown location and their bodies were exhumed in the area of Skakavac in the Centar Sarajevo Municipality.

295. The Panel found that it followed from the testimony of witnesses S-1, Milorad Terzić, Muhamed Ruhotina, Vaso Đokić, Mensur Pandžić and S-5 that the aggrieved parties: Đulaga Pandžić, Hamid Pandžić, Esad Pandžić, Sanel Pandžić, Ahmed Pandžić, Sejo Gljiva, Ramiz Smajlović and Mustafa Kožljak were confined inside the prefabs secured by the Police. Also, the exhumation, autopsy and identification of 8 killed individuals were supported by relevant documentary evidence admitted in the case file.

296. According to witness S-1, two soldiers took him out of his house at the dawn of 11 June 1992. He was afterwards taken to various locations on a number of occasions, in a group of several people, who were all eventually brought in a truck in front of the Alcohol

Treatment Center. Finally, he was incarcerated in the prefabs within the Jagomir hospital compound. During his confinement in the prefabs, he was taken out for questioning.

297. While he was in the prefabs, Hamid Pandžić, Đulaga Pandžić, Mustafa Kožljak, Ahmed Pandžić, Ramiz Smajlović and Ismet Pandžić a.k.a. Čola were also brought there. The witness did not personally see when they arrived, but he heard a vehicle on that occasion, someone addressing them by their names and telling them to go into a prefab located next to the prefab in which the witness was confined. In addition, the witness heard when they were individually called out by their names to go for questioning. On one occasion, the witness saw those individuals during lunch. He could remember that they had cabbage for lunch that day. When describing how they looked like on that occasion, he said that Hamid Pandžić was visibly beaten up, his eyes were closed, while Mustafa Kožljak's arm was completely broken, so that he could eat only using his other arm. Other people were also beaten up, they had clearly visible hematoma, traces of blood and bruises.

298. He spent the following 7-8 days there, then he was transferred to the same room with Jusuf Gljiva and Ismet Pandžić a.k.a. Čola, where he spent one night. Goran Sarić, Milorad Terza and Garinči came to that room in the morning to take him away, as was described within Section 2a).

299. The Panel accepted the entire testimony of this witness as credible. The witness had almost a filmic recollection of some details. He could remember not only seeing Hamid Pandžić and Mustafa Kožljak during lunch, but that they had cabbage that day. As for the encounter with witness S-5, he remembered that S-5 offered him cigarettes and he could even remember that it was a „Plava Morava“. On the other hand, witness S-5 was not even questioned about this circumstance, which is why the Defense argues that the testimony of witness S-1 was not checked in relation to this circumstance, nevertheless, this fact by no means makes the testimony of witness S-1 unreliable. In the opinion of the Panel, the absence of communication in this respect occurred as a result of omission on the part of the examiner and witness S-5, of which witness S-1 can in no way be blamed.

300. Witness Muhamed Ruhotina testified about the relevant circumstances by stating that when he was taken away in the “group for Vogošća”, he left behind another group of 8-9 incarcerated men, including the survivor S-1. That group was also in Jagomir, but they were “confined separately”. Subsequently he learned that those people were killed and

their mortal remains were found after the war in the area of Skakavac, at the Lisičine site. He could remember that Sead Gljiva, Mustafa Kožljak, Sanel Pandžić, Đulaga Pandžić and Hamid Pandžić were in that 3rd group.

301. According to witness Vaso Đokić, after they left with the "first group", there were some rumors that two other groups had stayed in Jagomir – one group designated to go to Vogošća for an exchange and another group of 8-10 people who was in the prefab. He knew three individuals who were said to be in the prefab: Hamid Pandžić, Đulaga Pandžić and Ahmed Pandžić a.k.a. Amena. Members of that group were labelled as "extremist inhabitants of Nahorevo". He heard that members of that "group of extremists" were subsequently executed. The witness said that those people were guarded by the police, even though he was not quite certain about that. He did not know what uniforms those guards wore, since he was unable to see that due to the lie of the land.

302. Witness Mišo Grujić a.k.a. Garinči said that the police from his station used to guard the prefabs within the Jagomir compound. He confirmed that Milorad Terzić told him he had taken witness S-1 out of the prefabs. The witness maintained his investigative statement (T-7) in relation to the presence of Đulaga Pandžić in the prefabs, stating "he had heard about it from the policemen who were there, including Goran Sarić".

303. Witness S-5 testified to have seen Murga in that room on one occasion, when he brought food to the detained people together with Miki Zuber.⁶⁹

304. When testifying about the relevant circumstance, witness Mensur Pandžić stated that Esad Pandžić, Sanel Pandžić and Sejo Gljiva were with him in the room at the time of the roll call (Counts 2a) and 2b)), however their names were not called out together with the name of this witness, so they stayed in Jagomir. The next thing he learned about them was that they were found in the area of Skakavac. He added he saw Hamid Pandžić and Mustafa Kožljak a.k.a. Mujica in the "Alkoholizam" building when he was first incarcerated before 19 June 1992, that is, prior to his imprisonment in Jagomir together with other inhabitants of Nahorevo (paragraph 107 describes how the witness arrived at the Alcohol Treatment Center on the relevant occasion).

⁶⁹ Witnesses Ismet Čormehmedović and Ismet Pandžić both testified that Esad Pandžić's nickname was Murga.

305. After that “encounter”, the witness never saw them alive again. He said that those men too, together with Ahmed Pandžić and other people from that group, were found dead at Skakavac. While the witness was in Jagomir together with other imprisoned men (19-21 June 1992), those men were separated from other detainees and confined in a separate room.

306. Witness Milorad Terzić learned in the “Kod Gedore” café that Muslim inhabitants of Nahorevo were incarcerated in Jagomir. On one occasion, he met Goran Sarić in the hospital compound and Sarić told him that there were people there who were deprived of liberty. The witness had the opportunity to see them, from the backside, which is when he saw witness S-1. He was in the prefabs that could be accessed by concrete paths. When describing how witness S-1 was “released” from the prefabs, the witness also said that on that occasion he saw a man whose last name was Kožljak, and Đulaga, in the same room with S-1. In addition to witness S-1, there were 10-12 other people in the room on that occasion, who were guarded by 7-8 well armed “Chetniks” who presented themselves as “Arkan’s” and “Šešelj’s” men. Witness Terzić accompanied witness S-1 to the “Bosnafilm” building. The other man whose last name was Gljiva also went to the town, but the witness was not familiar with the particulars of that event.

307. Describing the situation that preceded the “release” of witness S-1, he cited Goran Sarić, who said he would release a colleague of his whose last name was Gljiva, who worked together with him at the Secretariat of the Interior and let him go to the town. The witness said that S-1 too was to go to the town, and Sarić said “let him go”.

308. During his testimony, the witness was confronted with a considerably different account of facts contained in his investigative statement (Prosecution Exhibit T-5) with regard to the role of the Accused in general, and in particular with regard to the release of the aggrieved party S-1 on the relevant occasion. It follows from his investigative statement that the witness asked Goran Sarić to release S-1 since he was in charge there, and the witness believed he needed his approval to do that. He added that the mentioned group of 10-12 detainees had their hands handcuffed or tied up with a wire. As a result, the Panel found that the witness changed his testimony in its important part.

309. The Panel did not accept such a defense at the main trial, since the witness failed to provide any reasonable explanation as to why he had departed from his original statement. When confronted with those discrepancies, the witness failed to give any

logical explanation as to why some portions of his testimony deviated from his investigative statement, quite the opposite, his responses were incoherent and incomplete. When trying to clarify the inconsistencies, he resorted to the fact that he had barely completed secondary school and disagreed with some portions of his investigative statement, but he failed to provide any reasonable explanation in that respect. Similarly, the witness was unable to give any logical or acceptable explanation as to why he believed he should seek approval from the Accused to release witness S-1, as he stated during the investigation. Since this portion of his testimony also deviated from his investigative statement, he attempted to justify it by stating that the Accused was the best-educated man there, and that it was his reason for giving such a statement.

310. However, having in mind the presence of the witness at the scene when the incident happened, and his active participation in it – he released witness S-1 – the Panel finds that the only logical and rational reason for the discrepancies in his testimony is his interest to avoid self-incrimination. On the other hand, such a testimony does not at the same time exonerate the witness from his accountability.

311. While the Panel determined that members of the “third” group mostly stayed in the prefabs within the Jagomir hospital compound, the Panel at the same time established that Esad Pandžić, Sanel Pandžić and Sejo Gljiva were confined in the “Paviljon” building during the roll call of the 1st and 2nd group, where they stayed after the roll call of the 1st and 2nd group finished. Such account of facts follows from the testimony of witnesses S-10, Ismet Gljiva, Mensur Pandžić and Munib Gljiva, whose testimony the Panel found entirely credible since it was unbiased, complete and consistent with other presented evidence relevant to the same circumstance.

312. According to witness Vaso Đokić, the civilians who were imprisoned in the prefabs were labelled as extremists, and his averments were supported by the fact that those people were subjected to physical torture. This fact undeniably followed from the testimony of witnesses S-1 and Jusuf Gljiva, who had the opportunity to see members of the “group of extremists” at lunch during their stay in Jagomir, and notice visible signs of violence on those people. This was also corroborated by witness Zakira Pandžić. On 19 June 1992, while she was waiting in one of the prefabs from the morning until sunset to be told why she was brought there, she heard blows and screams coming from her neighbor Ahmed Pandžić and her cousin Mustafa Kožljak. The witness could even remember that a guard gave her a fish can on that occasion and, as she vividly described it, that food, although

canned, under the circumstances made her feel like she was eating roasted meat. The testimony of this witness was substantiated by other witnesses who also had indirect information about the suffering of the group of “extremists” during their stay in the prefabs (Sakib Pandžić, S-2 and others).

313. In addition, Milorad Terzić is the only witness who said in his investigative statement that he had seen the “group of extremists” in front of the prefab on the relevant day with their hands handcuffed or tied up with wire. This is consistent with Exhibit T-63⁷⁰, which shows that wire was found on the skeletal remains of the killed people, leading to a logical conclusion that they were tied. With this in mind, the only rational conclusion is that witness Milorad Terzić could only directly notice such an important detail and not in any other way.

314. Witness S-8 knew that there were other people confined in the prefabs in addition to these two groups that were released, but he did not stand guard in front of the prefabs, nor did he see if there were any guards there. He knew that Ahmed Pandžić a.k.a. Amenja, Esad Pandžić, Đulaga Pandžić and Hamid Pandžić were in the prefabs.

315. Witness Jusuf Gljiva a.k.a. Ljudina corroborated the testimony of witness S-1, by stating that he was confined together with witness S-1 and Ismet Pandžić a.k.a. Čola in the first prefab located on the left-hand side of the Jagomir hospital compound. Throughout that time, Boban, who was with them, used to beat the witness and Ismet Pandžić a.k.a. Čola. Boban usually wore a baton made of electricity cables, which he also used to beat them. He did not stay with other people who were imprisoned in other prefabs next to his, but they had the opportunity to see each others at dinner in the evening. Those were the occasions when he saw Mujica Kožljak, Đulaga and Hamid who had visible signs of violence. His son Sejo was also in the prefabs, but he did not have the opportunity to see him when they had meals. A friend of his helped him to leave the prefabs, and Boban escorted him to the line of separation at the “Kino-studio“ building.

316. According to witness Ismet Gljiva, when the attack on the village started, the inmates who were first apprehended were precisely those who were subsequently found at Skakavac. He added that Sanel Pandžić was in the same room with him, but when the witness was released, Sanel Pandžić stayed in the room.

317. It follows from the testimony of witness Ibro Pandžić that Goran Sarić addressed them on the relevant occasion in front of Jagomir and told them – “all these people who stayed will be kept for 2 hours for an interview and they will be released afterwards”. His son Sanel Pandžić, his brother Hamid Pandžić, Đulaga Pandžić, Esad Pandžić, Mustafa Kožljak, Ramiz Smajlović and Ahmed Pandžić were among the people who stayed in that group.

318. After the attack on the village, witness S-4 accommodated some 20 people in his house, including Ahmed Pandžić. The day after the attack, three policemen came to take Ahmed away – he knew well one of those three men (his father had a shop in the village), while he met the other two for the first time on that occasion, when they introduced themselves as “Olja” and Boris Jokić or Jakovljević. They wore military uniforms and were fully armed (automatic rifles and pistols). They said they were civilian policemen from Jagomir, and Boris himself added that he was their leader. They used to take away Ahmed Pandžić repeatedly, but when they took him away for the third time, the witness never saw him again. He did not see him while he was imprisoned in the “Paviljon” within the Jagomir hospital. On that occasion, they mentioned they should ask “Sara” about it, then the witness asked them if “Sara” was Sarić from Bjelave, and they gave him an affirmative answer. The witness had known “Sara” since before the war, as an assistant commander, and he used to see him before the war when he visited his neighbors in the village, they even used to visit Vojo Stanišić together in his office.

319. According to witness Salko Pandžić, while he was in the prefabs within the hospital compound, after his group of 18 arrested people was sent back from Pale, he saw Mustafa Kožljak a.k.a. Mujica. Mustafa was about to go with them, but a certain commander “Zoka” who came to take them away, telling them he would release them, told Mujica that he had to stay since he had not arrested him in the first place. That was the last time the witness saw Mujica. Defense witness Munib Gljiva confirmed that Mujica Kožljak had stayed there on the relevant occasion. In addition, while he was in the Jagomir compound, he heard Ismet Pandžić calling his brother Ahmed from the prefabs. He was a hodja (Muslim priest), he liked to pray and preach and he recognized his voice on the relevant occasion. The witness had the opportunity to see Ramiz Smajlović at lunch and he noticed that Ramiz

⁷⁰ Photo documentation of the exhumation, autopsies and identification - Nahorevo Lisičine dated 20 September 1999, No. 2086/99 (49 photographs), T-63.

had sticking plasters on his head and ear. The witness added, "I don't know what they did to him."

320. It follows from the testimony of witness Nedeljko Milić that he was present when a woman with dark hair came to the police perimeter and asked Žara Božić and Boban about her father, who was probably among the imprisoned men. The woman had come before the prisoners from the "Paviljon" were released.

321. Witness S-7 heard from her cousin that her husband⁷¹ was in Jagomir. That cousin told the witness he had heard when her husband was interrogated at the entrance to Jagomir. The witness stated she had got a letter from him, but she corrected her investigative statement by saying that the handwriting on the letter was her husband's, but she could not remember it immediately. Anyhow, the Panel found this piece of information irrelevant. Certain Nele and Čupo brought her the letter, they asked her to give them ransom money and she gave them the money on two occasions, 500 Marks in total, but her husband was never released alive, he shared the fate of other people whose mortal remains were found at the area of Skakavac.

322. According to witness Sakib Pandžić, while they were on a truck on the way to Vogošća, Ismet Pandžić told him he had seen Hamid Pandžić, Ahmed and Đulaga who were naked from the waist up and completely covered with bruises. Ismet did not manage to tell him later what had happened to them because he disappeared while performing forced labor at Žuč. In his testimony, witness S-2 confirmed what Ismet Pandžić had told him about Đulaga, that he had been severely beaten up and disfigured.

323. It stems from the testimony of witness Hasan Pandžić that not all people were called out on that occasion on 21 June 1992 in Jagomir. The Pandžić brothers - Zahid, Đulaga and Hamid - were among the first ones who were taken away after the fall of Nahorevo and they remained in the group of people whose names were not called out. He did not see them in front of the building during the "roll-call" on that occasion, nor did he see them at all during his three-day stay in Jagomir. Ismet Pandžić told him he had seen Đulaga and Ahmed Pandžić on one occasion and they were beaten up.

⁷¹ The Panel did not expressly state the full name of the witness' husband in order to observe the protective measures granted to her, but the name of her husband is stated in the investigative statement given by witness S-7 (T-18).

324. The Panel is satisfied that the indirect information the witnesses Sakib Pandžić, Hasan Pandžić and S-2 obtained through Ismet Pandžić was true, since it was corroborated by the testimony of witnesses S-1 and Jusuf Gljiva. Their testimony was found credible and the Panel relied on those witnesses in concluding that witnesses S-1, Jusuf Gljiva and Ismet Pandžić had spent the night in the same room before they were released the following day.

325. According to witness Munib Gljiva, his brother Sejo Gljiva and their father were imprisoned in Jagomir together with him on the 19th, but when Munib and his father were released, his brother Sejo remained in Jagomir. The next thing he heard about his brother was that he was killed.

326. Witness Halid Muharemović heard from the local people who were selected to go to Vogošća (including his brother) that they had seen Hamid Pandžić, Sanel Pandžić, Esad Pandžić, Ramiz Smajlović, Mustafa Kožljak and Ahmed Pandžić who were so brutally beaten up that they were “disfigured”. During his stay in Jagomir, the witness did not see those people at all, they had been brought there earlier, not in the same group with the witness, and were confined in a different room. After the groups destined for the town and for Vogošća were selected, they stayed in Jagomir. Later on, the witness heard from the people from Tihovići that those men were brought to the Skakavac site in a refrigerator truck, then they heard shooting and assumed that those people were killed on that occasion. The witness heard from Milutin Đokanović that Srđan Đokić drove the refrigerator truck on that occasion, while Ranko Gavrilović, known as a notorious extremist, who harassed the local people at the very beginning of the war by preventing them to go to work and things like that, was in the group that killed the prisoners.

327. It stems from the testimony of witness S-10 that Esad Pandžić was in the same room with him in Jagomir (first room to the left), but he remained in the room when the witness was called to get out and he was not in the group of people who boarded the truck together with the witness.

328. The exhumation, autopsy and identification of dead bodies from the mass grave⁷² (supported by the photo documentation) is proved by Exhibits T-60⁷³ and T-63⁷⁴. It follows

⁷² Letter on the supply of photo documentation of the Mol - Center Sarajevo Police Station, No: 05/2-04-0-552,2/99 of 30 September 1999 and Photo documentation on marking the grave site - Nahorevo-Skakavac local road No: 2075/99 of 19 September 1999. (T-62)

from the Expert Witness Report (T-61⁷⁵) drafted by Dr. Ilijas Dobrača that the victims Đulaga Pandžić, Hamid Pandžić, Esad Pandžić, Sanel Pandžić, Ahmed Pandžić, Sejo Gljiva, Ramiz Smajlović and Mustafa Kožljak, who were recovered and identified, had died a violent death, caused by dynamic automatic gunfire or by single shots fired from small arms, and that the death occurred as a result of internal and external bleeding. In addition, Exhibit T-63 shows that wire was found on the exhumed skeletal remains.

329. Relying on the presented evidence, the Panel found that the Accused singled out witnesses S-1 and Jusuf Gljiva and sent them to the “the town” group, while he sent Ismet Pandžić to the “Sonja” group, which was then locked up. Witness Jusuf Pandžić supported witness S-1 in stating that they spent some time in the prefabs together with Ismet Pandžić, then witness Jusuf Pandžić was released and Slavko Milinković a.k.a. Boban escorted him to the separation line. The witness could remember a remarkable detail - when they came to the separation line, Boban pulled him back to prevent him from stepping on a mine, otherwise they would all get killed. While he was imprisoned in Vogošća, the aggrieved party Ismet Pandžić lost his life while performing forced labor.

330. Based on the presented evidence, the Panel concluded that the Accused knew about those individuals, who had been first interrogated in the building where the Police were stationed (Hamid Pandžić and Mustafa Kožljak), and then also in the prefabs. The Accused himself used to come to the prefabs in which those men were held. Such state of affairs follows also from the testimony of witness Ibro Pandžić, who cited the Accused, when he addressed them in front of the “Paviljon” by saying “*these men who stayed will be kept for 2 hours for an interview and they will be released afterwards*“, referring to the group that included his son Sanel Pandžić and his brother Hamid Pandžić. In such a situation, it can be reasonably and logically assumed that the witness very carefully followed the entire chain of events.

331. It stems from the testimony of witness Milorad Terzić that he asked the Accused to release S-1 because he believed that it was precisely the Accused whom he should ask for that, and when he gave his permission, witness S-1 was released. This implies that the Accused had the authority to grant his release. This also follows from the testimony of the

⁷³ Report on the exhumation and autopsy, No: kri-216/99 of 20 September 1999, Cantonal Court in Sarajevo (T-60).

⁷⁴ Photo documentation of the exhumation, autopsy and identification - Nahorevo Lisičine, No: 2086/99 of 20 September 1999 (49 photographs) - T-63.

⁷⁵ Witness Examination Record for expert witness Ilijas Dobrača, No: kri:216/99 of 28 September 1999 (T-61).

aggrieved party S-1, who was directly told by the Accused that he would be released and allowed to go the town, which did indeed happen. Moreover, the actions of the Accused showed that he had a clear understanding of the status of every individual group, from the “mildest” to the “worst” group, since he, either at his own initiative or at the request of other people, made some changes by transferring the aggrieved parties from one group to another, as explained earlier in Sections 2a) and 2b) of the convicting part.

332. This fact is additionally supported by witness Nahid Kožljak, whose testimony is outlined in Section 2b) and found credible by the Panel. According to witness Kožljak, the Accused wanted to take Džemal Pandžić off the truck in front of the “Paviljon” on the relevant occasion, but Dragan Petković a.k.a. Kupres opposed, reminding the Accused of their agreement reached in the HQ. This clearly shows that they knew what would happen to the group.

333. The Panel relied on the testimony of these witnesses in concluding that the Accused was aware that the people labelled as extremists were imprisoned in the prefabs and he was also aware of their ultimate fate. At the time when the “first” and “second” groups were being taken away, the “third” group was already separated and planned for execution. This is additionally substantiated by the fact that it was the only group that was kept under strictest control, and whose members were tied with wire and repeatedly beaten up. Therefore, during the roll call for the “first” and “second” groups, the “third” group remained confined in the hospital compound. The Accused must have been aware of that, primarily because he knew that those men were in the group of “extremists”, and they were not released in any of the previous two groups on 21 June 1992, on the day of the roll call.

334. Other details relevant to the final outcome of the incident are consistent in important parts. All witnesses who testified about this circumstance firmly identified the location where mortal remains of the killed people were found as the relevant site, which is consistent with Exhibits T-60 to T-63. Some witnesses (for instance Halid Muharemović), provided indirect information of the incident by stating that a refrigerator truck was brought to that location on the relevant occasion and then shooting could be heard.

335. Based on the testimony of witnesses Mišo Grujić and Vaso Đokić, the Panel concluded that the prefabs were guarded by the Police, while witnesses Jusuf Gljiva and “S-1” testified about the presence of Slavko Milinković a.k.a. Boban and Milorad Terzić,

who occasionally entered the prefabs. The Panel already established that those two men, led by the Accused, were active police officers of the Center PSS at the time when the relevant incidents had taken place. The Accused, as already stated, also used to enter the prefabs.

336. Based on the established facts, the Panel concluded that such actions of the Accused were discriminatory since the 8 civilians were first imprisoned and then executed only because they were Bosniaks. In reaching such a conclusion, the Panel relied on the already stated arguments: those people were civilians who had been previously attacked, their village was placed under curfew, they were unlawfully deprived of liberty and after that imprisoned in the Jagomir Hospital compound.

337. Notwithstanding the Defense Closing Arguments relevant to this circumstance, and regardless of who originally deprived the victims of liberty (the killed people), then imprisoned them in the prefabs, and inflicted bodily injuries on them, the Accused, by keeping them inside the Jagomir hospital compound, obviously aware and knowing that they would be killed, became a co-perpetrator in their killing.

338. Although aware of the structure of the Indictment that was conditioned by overlapping events, the Panel nevertheless decided not to revisit the facts and legal issues regarding the forcible transfer of witnesses "S-1" and Jusuf Gijiva, seeking to avoid unnecessary repetition of arguments, given that this matter was explained under Section 2a). The same applies to the imprisonment of Ismet Pandžić in the "Bunker" camp in Vogošća, which was explained in Section 2b) of the convicting part of the Operative Part of the Verdict.

339. The Panel excluded the allegation of the Indictment that the people "... were planned to be executed" from the Operative Part given that it implied the existence of the JCE, which, in the opinion of the Panel, did not exist, as explained earlier. On the other hand, relying on the presented evidence, the Panel substituted that allegation by adding "... who were in the prefabs close to the 'Paviljon' building within the Jagomir psychiatric hospital compound."

340. With regard to the account of facts relevant to this part of the whole event, the Panel did not find the Accused accountable for the death of Ismet Pandžić who had been singled out. The Panel decided to keep this episode as part of the broad context, bearing in mind that when the witnesses testified about the information they received from

this person, mainly while they were on a truck on the way to Vogošća, they proceeded by adding that they could not get more details from him about the ill-treatment of the subsequently killed 8 people (Đulaga Pandžić and others) because he got killed while performing forced labor at Žuč.

341. Relying on the presented evidence, the Panel partially altered the factual allegation that “he surrendered them to the soldiers known to him who took them away and executed them at the Lisičine site ...”, since it followed from the evidence that the Accused *kept* the group of 8 imprisoned civilians within the Jagomir hospital compound, knowing that they would be killed. On the other hand, no evidence showed that the group was *surrendered* to some unknown soldiers, as the Defense correctly protested in their closing arguments. Based on the presented evidence, the Panel also established that mortal remains of the killed people were found at the Lisičine – Skakavac site, but this does not mean that all killed people found at that location were necessarily executed. Nevertheless, the fact that the Accused kept the people in the Jagomir hospital compound, being aware he was keeping them and knowing why he was doing that, makes him a co-perpetrator. This was established beyond any reasonable doubt, irrespective of who subsequently surrendered those people, to whom they were surrendered, and who eventually executed them. The accountability of the Accused for this incident can be clearly distinguished and separated from the accountability of other (co)perpetrators, and it can be weighed from the perspective of the imposed sentence.

VII. ACQUITTING PART

342. Count 1 of the Indictment charges the Accused with the criminal offense of persecution by enforced disappearance of Zahid Pandžić.

343. The testimony of witnesses Armin Pandžić (eye-witness) and Amila and Aldijan Pandžić was presented as crucial evidence with regard to this incident.

344. However, based on the presented evidence, the Panel could not conclude beyond any reasonable doubt that the Accused committed the offense of persecution through enforced disappearance of the aggrieved party Zahid Pandžić. There is no doubt that the victim was taken away on the relevant day and has never been seen ever since. What is uncertain, however, is the person who did it. The Panel is not convinced that it was the

Accused who did that. Armin Pandžić was the key witness who testified about this circumstance. On the relevant day, he was in front of the door to the family house of his uncle, victim Zahid Pandžić, when he saw a dark red *Golf* vehicle arriving there. Two persons in camouflage uniforms got out of the car and one of them asked: “is this Zahid’s house”, to which the witness replied affirmatively, then the man told him “can you tell Zahid to come out, Goran Sarić wants to see him.” The person who told him that wore a uniform and a red beret stuck in his shirt, he was a middle-aged man, thin, 25-30 years old. Zahid Pandžić, the victim, never returned after that. The witness, when he saw the picture of the Accused in the newspapers, identified him as the person who had come on the relevant day to take away the victim.

345. Based on the other presented evidence, the Panel could not establish that the Accused came to take away other people in the similar manner, nor was it necessary, given his position. At the same time, witness S-3 stated that the aggrieved party Zahid Pandžić had already been successively taken to various interrogations, first time by „Zoka“ and „Zorka“, but there is no evidence proving that the Accused went to the field in similar situations to take away other people. The Panel notes that witness Armin Pandžić testified about the event that happened when he was 10 years old, he had never seen the Accused since, but when he saw the picture of the Accused in the newspaper 20 years later, the witness identified him as the person who had taken away his uncle – victim Zahid Pandžić. When cross-examined by the Defense, the witness said that the Accused had a beard and glasses on the photograph in the newspapers. In addition, the wording “Goran Sarić wants to see him” can be interpreted in two ways, **f i r s t** - it can mean that someone came there on the order of the Accused, and **s e c o n d** - that it was the Accused who personally came there. According to witnesses who testified about this circumstance, the Accused always openly presented himself. On the other hand, witnesses Amila and Aldijan Pandžić, members of the victim’s family and the participants in the event, did not at all see what the person who came to take away the victim looked like, which would allow them to possibly clarify the incident.

346. Therefore, the crucial piece of evidence did not produce a firm and sole conclusion that the Accused had come on the relevant day to take away the victim, took him away and the victim disappeared without a trace. Therefore, since the Panel had doubts about the guilt of the Accused, they applied the *in dubio pro reo* principle and acquitted the Accused of these charges.

VIII. APPLICATION OF SUBSTANTIVE LAW

347. The Court found that the acts of the Accused satisfied all essential elements of the criminal offense of Crimes against Humanity in violation of Article 172(1)(h) (Persecution) by killings, imprisonment and forcible transfer of people, all as read with Article 29 of the CC of BiH (co-perpetration).

348. As for the application of substantive law and legal qualification of the offense, the Panel applied the CC of BiH to this specific case, relying on the principles set forth under Articles 3, 4 and 4a) of the CC of BiH, and concluded that the acts of the Accused satisfied the elements of the criminal offense of Crimes against Humanity in violation of Article 172(1)(h) of the stated law.

349. As regards the application of substantive law in this criminal case, the Panel relied on two relevant principles of law: *the principle of legality*, which foresees that no punishment or other criminal sanction may be imposed on any person for an act which, prior to being perpetrated, has not been defined as a criminal offense by law or international law, and for which a punishment has not been prescribed by law (Article 3 of the CC of BiH), and the principle of *time constraints regarding the applicability of the criminal code*, which foresees that the law that was in effect at the time when the criminal offense was perpetrated shall apply to the perpetrator of the criminal offense and, if the law has been amended on one or more occasions after the criminal offense was perpetrated, the law that is more lenient to the perpetrator shall be applied (Article 4 of the CC of BiH).

350. The principle of legality is also prescribed under Article 7(1) of the European Convention on Human Rights and Fundamental Freedoms (ECHR) and under Article 15(1) of the International Covenant on Civil and Political Rights (ICCPR).

351. Article 7(1) of the ECHR stipulates that: “No one shall be held guilty of any criminal offense on account of any act or omission which did not constitute a criminal offense under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offense was committed.” Article 15(1) of the ICCPR provides: “No one shall be held guilty of any criminal offense on account of any act or omission which did not constitute a criminal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the

criminal offense was committed. If, subsequent to the commission of the offense, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.“

352. Therefore, what these provisions prohibit is imposing a heavier penalty, but they do not impose any obligation on the court to mandatorily apply to the perpetrator the (most) lenient law (if the law has been amended on one or more occasions) with respect to the penalty that was applicable at the time the criminal offense was committed.

353. Article 7(2) of the ECHR reads: “This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by civilized nations“. Article 15(2) of the ICCPR provides: ”Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.”

354. Both Article 7(2) of the ECHR and Article 15(2) of the ICCPR contain provisions that are exceptions to the rule stipulated under Article 7(1) of the ECHR and Article 15(1) of the ICCPR.

355. The same exception is contained in Article 4a) of the CC of BiH, which concerns trial and punishment for criminal offenses pursuant to the general principles of international law. This provision reads:

“Articles 3 and 4 of this Code shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of international law.”

356. The quoted provision incorporates the provisions of both Article 7(2) of the ECHR and Article 15(2) of the ICCPR and allows for an exceptional departure from the principles set forth under Article 3 of the CC of BiH. This applies to the proceeding against this accused since the charges involve violation of the rules of international law.

357. As earlier stated, the Panel found the Accused guilty of the criminal offense of Crimes against Humanity. This offense was incorporated in the national legislation under

the CC of BiH, which entered into force on 1 March 2003.⁷⁶ The European Court of Human Rights (ECtHR) already examined the application of the amended CC of BiH of 2003 to the criminal offense of Crimes against Humanity, of which the Accused Goran Sarić is found guilty.

358. When deciding in the ECtHR case of *Šimšić v. BiH* on the complaint filed by the Applicant about the application of substantive law, the ECtHR concluded as follows (paras 23 and 25):

1. “The Court observes that the present applicant was convicted in 2007 of persecution as a crime against humanity with regard to acts which had taken place in 1992. While the impugned acts had not constituted a crime against humanity under domestic law until the entry into force of the 2003 Criminal Code, it is evident from the documents cited in paragraph 8-13 above that the impugned acts constituted, at the time when they were committed, a crime against humanity under international law. In that regard, it is noted that all the constituent elements of a crime against humanity were satisfied in this case: the impugned acts were committed within the context of a widespread and systematic attack targeting a civilian population and the applicant was aware of that attack (contrast *Korbely*, cited above, §§ 83-85).

...

2. “The Court concludes that the applicant’s acts, at the time when they were committed, constituted an offence defined with sufficient accessibility and foreseeability by international law”.

359. As a successor state to the former Yugoslavia, Bosnia and Herzegovina has ratified both the ECHR and ICCPR, thereby making them binding on the authorities of Bosnia and Herzegovina, including the courts, which are obliged to apply them. Therefore, Article 4a) of the CC of BiH is not even necessary for its application; its provisions serve only as a legal reminder in the national legislation since this Article is not essential for the application of these agreements.

360. The criminal offense of Crimes against Humanity is codified under Article 172 of the CC of BiH. Article 5 of the ICTY Statute expressly lists the acts which amount to this criminal offense (Article 5(a) through (i) of the Statute) “when they are committed in armed conflict, whether international or internal in character, and directed against any civilian population.” At the time when this criminal offense was perpetrated, Crimes against

⁷⁶ Application No.51552/10, Boban ŠIMŠIĆ v. Bosnia and Herzegovina, para 18.

Humanity as such was not explicitly codified under criminal legislation of Bosnia and Herzegovina. On the other hand, in view of what we have just said, incorporation of the provisions of Article 172 in the national legislation, which was done in the 2003 CC of BiH, was not at all required to allow the application of this principle of international law.

361. Customary status of culpability for Crimes against Humanity and attribution of individual criminal responsibility for its commission in 1992 were confirmed by the UN Secretary General⁷⁷, International Law Commission⁷⁸, and in the ICTY and the International Criminal Tribunal for Rwanda (ICTR)⁷⁹. The position taken by these institutions is that culpability for Crimes against Humanity represents an imperative norm of international law, or *ius cogens*⁸⁰, which indisputably shows that the criminal offense of Crimes against Humanity was incorporated in customary international law in 1992. Such a conclusion was upheld by the Study on Customary International Law⁸¹ drafted by the International Committee of the Red Cross. According to the Study, “serious violations of international humanitarian law constitute war crimes” (Rule 156), “individuals are criminally responsible for war crimes they commit” (Rule 151), and “States must investigate war crimes allegedly committed by their nationals or armed forces, or in their territory, and, if appropriate, prosecute the suspects. They must also investigate other war crimes over which they have jurisdiction and, if appropriate, prosecute the suspects” (Rule 158).

362. Article 4a) of the CC of BiH refers to “the general principles of international law”. Article 7(2) of the ECHR makes reference to “the general principles of law recognised by civilised nations”, while Article 15(2) of the ICCPR refers to “the general principles of law recognized by the community of nations”. Since neither international law nor the ECHR recognize the notion identical to that set forth in Article 4(a) of the CC of BiH, this term was formulated as a combination of “the principles of international law” as recognized by the UN General Assembly and the International Law Commission on the one hand, and “the general principles of law recognized by the community of nations” as defined under the

⁷⁷ Report of the UN Secretary-General pursuant to Article 2 of Security Council Resolution 808 (3 May 1993) paras 34-35 and 47-48.

⁷⁸ International Law Commission, Commentary on the Draft Code of Crimes against the Peace and Security of Mankind (1996), Article 18.

⁷⁹ ICTY, Appeals Chamber, *Tadić*, Decision on the defense motion for interlocutory appeal on jurisdiction, 2 October 1995, para 141; ICTY, Trial Chamber, Judgment - *Tadić* of 7 May 1997. paras 618-623; ICTR, Trial Chamber, *Akayesu*, 2 September 1998, paras 563-577.

⁸⁰ International Law Commission, Commentary on Draft Articles on the Responsibility of States for Internationally Wrongful Acts (2001), Article 26.

⁸¹ Jean-Marie-Henchaerts and Louise Doswald-Beck; Customary International Law, ICRC, Cambridge University Press, 2005.

International Court of Justice Statute and Article 7(2) of the ECHR, and Article 15(2) of the ICCPR, on the other.

363. The principles of international law as recognized in the General Assembly Resolution 95(I) (1946) and by the International Law Commission (1950) pertain to the “Charter of the Nurnberg Tribunal and the Judgment of the Tribunal”, thus also to Crimes against Humanity. “Principles of International Law Recognized in the Charter of the Nurnberg Tribunal and in the Judgment of the Tribunal”, adopted by the International Law Commission in 1950 and submitted to the General Assembly, in its Principle VI.c. foresee punishability for Crimes against Humanity as crimes under international law. Principle I stipulates that: “Any person who commits an act which constitutes a crime under international law is responsible therefor and liable to punishment”. Principle II further provides that: “the fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law”.

364. The ECtHR jurisprudence shows that this court opted to apply the provisions of Article 7(2) rather than Article 7(1) of the ECHR in several similar cases⁸² in which the subject of discussion was precisely the existence and punishability of Crimes against Humanity as a criminal offense. In the case of *Kolk and Kislyiy v. Estonia*, the “ECtHR recalls that the interpretation and application of domestic law falls in principle within the jurisdiction of the national courts...”⁸³; this also applies in situations when domestic law pertains to rules of general international law or international agreements.

365. Therefore, the criminal offense of War Crimes against Humanity can be definitely incorporated in “the general principles of international law“ outlined in Article 4a) of the CC of BiH. Regardless of the perspective we view it from, Crimes against Humanity undeniably constituted a criminal offense at the relevant time, both under customary international law and under “the principles of international law”. This means that the principle of legality is satisfied.

366. With regard to the qualification of the individual acts perpetrated by the Accused, the Panel found that the acts described under Sections 1, 2a), 2b) and 2c) of the

⁸² See for instance the ECtHR Judgment in *Naletilić v. Croatia*, 51891/99, *Šimšić v. BiH*, 51552/10, and so on.

⁸³ See *Papon v. France* No. 54210/00, ECtHR 2001-XII and *Touvier v. France*, No. 29420/95, Decision issued by the Commission dated 13 January 1997.

convicting part of the Enacting Clause of the Verdict satisfied all essential elements of the criminal offense of Crimes against Humanity set forth in Article 172(1)(h) of the CC of BiH, committed by murders, imprisonment and forcible transfer of population, all in conjunction with Article 29 of the CC of BiH.

IX. THE SENTENCING

367. When deciding on the sanction, the Court was guided by the general principles of meting out punishments set out in Articles 42, 48, 49, 50 of the CC of BiH, and of the purpose of punishment stipulated in Articles 6 and 39 of the CC of BiH.

368. Having evaluated all extenuating and aggravating circumstances on the part of the Accused, the Court is satisfied that the imposed prison sentence of 14 (fourteen) years is appropriate.

369. In deciding about the type and length of sentence, the Panel took into account as the aggravating circumstances: the degree of criminal liability of the Accused, the degree of danger or injury to the protected object – the life and freedom, and the fact that the “third” group of 8 people, who were subsequently executed, included a young adult Sanel Pandžić (19 years of age). On the other hand, the Panel weighed the following as the extenuating circumstances: the fact that the Accused had helped some of the imprisoned civilians by transferring them from the “harder” to the “milder” group, as described in detail when outlining the relevant events, his earlier life and conduct and the fact that he was a family man.

370. Based on the foregoing, the Panel is satisfied that the imposed prison sentence of 14 (fourteen) years will entirely serve the purpose of general and special deterrence and that it will provide adequate satisfaction to both direct and indirect victims of the crimes.

371. The purpose of special deterrence is twofold: "individual deterrence and prevention of the perpetrator to repeat the criminal offense (...)" and "training the perpetrator to live without committing criminal offenses (rehabilitation, re-socialization)".⁸⁴

⁸⁴ I. Bojanić, M. Mrčela, Purpose of Punishment in the Context of the Sixth Law on Amendments to the Criminal Code, Croatian Chronicle for Criminal Law and Practice (vol. 13) number 2/2206, page 436.

372. The Panel is satisfied that the type and length of the imposed sentence will deter the perpetrator from perpetrating criminal offenses, and encourage his rehabilitation, and/or that the imposed sentence will entirely achieve the purpose of special deterrence.

373. The Panel is also satisfied that the imposed sanction appropriately reflects the social condemnation of the committed crime and sends a clear message to all future potential perpetrators that their crime, even if perpetrated as part of war, will not remain unpunished, and that they are not beyond the reach of law and justice, since the adherence to the law and generally accepted norms and standards of conduct is the responsibility of every individual, not only in a time of peace, but also during hostilities.

X. DECISION ON THE COSTS OF THE PROCEEDING AND PROPERTY CLAIMS

374. Pursuant to Article 198(2) and (3) of the CPC of BiH, having found that the information obtained during this criminal proceeding does not provide a reliable basis for either a complete or partial award, the Panel hereby instructs the aggrieved parties to take a civil action to pursue their entire claims under property law.

375. Pursuant to Articles 188(4) and 189(1) of the CPC of BiH, the Panel relieved the Accused of the obligation to reimburse the costs of the criminal proceedings, since the payment thereof would jeopardize his subsistence.

RECORD-TAKER

Legal Advisor

Sanida Vahida-Ramić

PRESIDING JUDGE

Mira Smajlović

LEGAL REMEDY: An appeal from this Verdict may be filed with the Appellate Division of this Court within 15 (fifteen) days of the receipt of the written copy thereof.

XI. ANNEX I – LISTS OF EVIDENCE

A. PROSECUTION EVIDENCE

1. WITNESSES FOR THE PROSECUTION

*	Date	Witness	Note
1.	28/05/2012	Ibro Pandžić	
2.	04/06/2012	Hasan Pandžić	
3.	04/06/2012	Muhamed Ruhotina	
4.	11/06/2012	Mensur Pandžić	
5.	11/06/2012	Abid Pandžić	
6.	18/06/2012	Halid Muharemović	
7.	18/06/2012	Nahid Kožljak	
8.	02/07/2012	Amila Pandžić	
9.	02/07/2012	Aldian Pandžić	
10.	02/07/2012	Armin Pandžić	
11.	13/08/2012	Adil Pandžić	
12.	13/08/2012	Muhamed Pandžić	
13.	17/08/2012	Fadila Pandžić	
14.	17/08/2012	S3	
15.	24/08/2012	Fikret Išerić	
16.	27/08/2012	Kasim Muharemović	
17.	27/08/2012	S4	
18.	31/08/2012	S1	
19.	31/08/2012	S8	Protection measures ordered at a hearing
20.	03/09/2012	Vaso Đokić	
21.	03/09/2012	Enver Pandžić	
22.	07/09/2012	Rajko Varešić	
23.	07/09/2012	Milorad Terzić	
24.	10/09/2012	Meho Pandžić	
25.	10/09/2012	Veljko Varešić	

26.	14/09/2012	Mišo Grujić	
27.	14/09/2012	Petar Pavlović Malešić	
28.	17/09/2012	Jusuf Gljiva	
29.	17/09/2012	Ismet Gljiva	
30.	28/09/2012	S-5	
31.	28/09/2012	Ismet Pandžić	
32.	01/10/2012	Radmilo Močević	
33.	01/10/2012	Ismet Čormehmedović	
34.	19/10/2012	Željko Grujić	
35.	19/10/2012	Danilo Trifković	
36.	22/10/2012	Salko Pandžić	
37.	22/10/2012	Ramiza Smajlović	
38.	29/10/2012	Slavko Milinković	
39.	29/10/2012	Miralem Pandžić	
40.	02/11/2012	Sakib Pandžić	
41.	02/11/2012	Vukašin Varešić	
42.	05/11/2012	Emina Kožljak	
43.	05/11/2012	Fatima Kožljak	
44.	12/11/2012	Zakira Čolić	
45.	12/11/2012	S-6	
46.	16/11/2012	S-7	
47.	19/11/2012	Radoslav Šljivić	
48.	19/11/2012	Zijad Šabanović	
49.	30/11/2012	S-9	Protection measures ordered at a hearing
50.	30/11/2012	Esad Šehić	
51.	03/12/2012	Čedo Nogo	
52.	25/03/2013	S-10	Protection measures ordered at a hearing
53.	25/03/2013	Halid Masnopita	
54.	20/05/2013	Nedeljko Milić	

2. DOCUMENTARY EVIDENCE OF THE PROSECUTION

T-1 Witness Examination Record for Armin Pandžić, No. 16-13/3-1-29/12, 25 January 2012.

T-2 Witness Examination Record for Petko Đokić, No. T20 0 KTRZ 0001272 07, 15 November 2011.

T-3 Witness Examination Record for Vaso Đokić, No. T20 0 KTRZ 0001272 07, 23 December 2011.

T-4 Witness Examination Record for Rajko Varešić, No. T20 0 KTRZ 0001272 07, 16 November 2011.

T-5 Witness Examination Record for Milorad Terzić, No. T20 0 KTRZ 0001272 07, 28 December 2011, with the Official Note of the Prosecutor's Office, No. T20 0 KTRZ 0001272 07, 28 December 2011; Audio-recordings made on voice recorder on 28 and 29 December 2011 concerning the examination of witnesses Milorad Terzić, Veljko Varešić and Danilo Trifković.

T- 6 Witness Examination Record for Meho Pandžić, No. 16-13/3-1-16/12, 17 January 2012.

T-7 Witness Examination Record for Mišo Grujić, No. T20 0 KTRZ 0001272 07, 28 December 2011; Witness Examination Record for Mišo Grujić, No. 16-13/3-1-279/11, 12 December 2011 (with audio-recording).

T-8 List of active employees who in June 1992 carried out duties in this Police Station and who were paid out salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Sarajevo, dated 20 July 1992.

T-9 List of active employees who in July 1992 carried out duties in the CSB (Security Services Center), Centar Police Station, and who were paid salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Sarajevo.

T-10 List of active employees who in August 1992 carried out duties in the Centar CSB -- Police Station and who were paid out salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Romanija-Birač CSB, Centar SJB, dated 2 September 1992.

T-11 Witness Examination Record for Danilo Trifković made on 29 December 2011 on the premises of the Prosecutor's Office of B-H.

T-12 List of reserve employees of the police who in July 1992 carried out duties in this Police Station and who were paid out salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Sarajevo CSB, Centar Police Station.

T-13 List of active employees who in October 1992 carried out duties in this Police Station and who were paid out salary advance for the said month, issued by the MUP of the Serb Republic of B-H, Romanija-Birač CSB, Sarajevo.

T-14 List of employees who in November 1992 carried out duties in this Police Station and who were paid out a subsidized meal allowance in the amount of Din 5,000, issued by the MUP of the Serb Republic of B-H, Romanija-Birač CSB, Centar SJB, Sarajevo.

T-15 List of members of Wartime Police Station of the Serb Municipality of Centar Sarajevo, No. 08/92, 2 May 1992.

T-16 Witness Examination Record for Vukašin Varšić, No. T 20 KTRZ 0001272 07, 23 December 2011.

T-17 Witness Examination Record for S-6, No. 16-13/3-1-255/11, 21 November 2011.

T-18 Witness Examination Record for protected witness S-7, No. 16-13/3-1-254/11, 18 November 2011.

T-19 Report on the situation at the Centar Sarajevo SJB, No. sl. of 2 August 1992, issued by the Ministry of the Interior, Romanija-Birač CSB, Centar SJB, Sarajevo.

T-20 Information about the situation in the Centar SJB, No. 4/92 of 6 August 1992,

issued by the Ministry of the Interior, Romanija-Birač CSB, Centar SJB, Sarajevo.

T-21 Condition of equipment and weapons No. 5/92 of 6 August 1992, issued by the Ministry of the Interior, Romanija-Birač CSB, Centar SJB, Sarajevo.

T-22 List of police employees with charts No. 02-53/92 of 22 September 1992, issued by the Ministry of the Interior, Romanija-Birač CSB, Centar SJB, Sarajevo.

T-23 Work of the Centar Sarajevo SJB, No. 01/1351/52 of 30 November 1992, issued by the Ministry of the Interior, Romanija-Birač CSB, Centar SJB, Sarajevo.

T-24 Report on duties and tasks executed in the Centar Sarajevo SJB from 1 December to 16 December 1992, dated 19 December 1992.

T-25 Witness Examination Record for Čedo Nogo, 17 November 2011.

T-26 Suspect Questioning Record with statement and transcript of 2 November 2011 and a CD.

T-27 Record of arrest of the Accused Goran Sarić, dated 2 November 2011; Record of hand over of the arrested person to the Prosecutor in charge, dated 2 November 2011.

T-28 Personal file for Goran Sarić, No. 02/3-12385/11, 28 November 2011.

T-29 Decision by SRB-H MUP, No. 10-448, 1 April 1992.

T-30 Decision by RS MUP, Bijeljina, No. 120-244, 18 January 1994.

T-31 Decision by RS MUP, Sarajevo, No. 09-6536, 24 February 1994.

T-32 Decision by RS MUP, Sarajevo, No. K/3-134-608, 20 October 1995.

T-33 Decision on termination of employment issued by RS MUP, Banja Luka, No. 03/1-2-126-53, dated 5 April 2000.

T-34 Personal Questionnaire of RS MUP, Sarajevo, No. of official ID 5555.

T-35 Personal Questionnaire for establishing the rank of authorized official person of RS MUP.

T-36 Decree of the Republika Srpska President on exceptional promotion to the rank of Major General of the police, No. 01-515/96, dated 3 April 1996.

T-37 Request for retirement submitted to the Minister of the Interior of Republika Srpska dated 29 February 2000.

T-38 Photocopy of Employment Record Booklet of Goran Sarić (4 pages).

T-39 Diploma of higher professional education for Goran Sarić, Land Forces Center for Military Higher Education, Belgrade, 25 July 1987.

T-40 Decision of the Republic Secretariat for Internal Affairs of the Socialist Republic of B-H, Sarajevo, No. 10/2-120/125, 21 April 1990.

T-41 Decision on the assignment to the post and duties of Deputy Commander of the Marijin Dvor Police Station, Socialist Republic of B-H, Republic Secretariat for Internal Affairs, Sarajevo, No. 09/4-120-1971, 21 December 1990.

T-42 Decision on mandatory termination of employment, 6 April 1992, MUP of the Republic of B-H, Sarajevo, No. 09/4-120.

T-43 Decree on award of decoration (*Official Gazette of Republika Srpska* 21/92).

T-44 Report on participation in combat operations and the work in 1992, forwarded by Senior Police Inspector Goran Sarić, dated 1 September 1993.

T-45 Order on the appointment of command personnel in the Koševo Brigade, Po. No. 612-5/92, 27 May 1992.

T-46 Letter of the SR B-H MUP No. 01-72/92 of 20 May 1992, issued by the MUP, Centar SJB, Sarajevo, 4 July 1992.

T-47 Operations Report for the period 25 June–6 July 1992, Command of Vogošća Operations Group (OG), strictly confidential No. 75/92, 7 July 1992 – Military Secret strictly confidential.

T-48 Letter to the Sarajevo-Romanija Corps, Vogošća OG Command, Strictly confidential No. 94/92, 18 July 1992.

T-49 List of prisoners on 26 July 1992, SRB-H, Serb Municipality of Vogošća, Prison Administration.

T-50 Report on the situation at Centar SJB, Sarajevo, No. sl, 2 August 1992.

T-51 List of reserve component of the police, Centar Police Station, Mrkovići Branch Police Station.

T-52 Decision on the strategic goals of the Serb people in Bosnia and Herzegovina, *Official Gazette of Republika Srpska 22/93*.

T-53 Minutes of the 16th session of the Assembly of the Serb People in B-H held in Banja Luka on 12 May 1992.

T-54 Cover letter by the Federation of B-H, Sarajevo Canton MUP, Centar Sarajevo PU (Police Department), No.05/2-04-0-5521/99, 22 September 1999.

T-55 Official Note of MUP, Centar Sarajevo PU, No. 05/2-456/99, 19 September 1999.

T-56 Official Note of MUP, Centar Sarajevo PU, No. 05/2-457/99, 12 September 1999.

T-57 Official Note of MUP, Centar Sarajevo PU, No. 05/2-458/99, 21 September 1999.

T-58 Report from duty shift forwarded to Centar PU, Sarajevo Police Station, by Edin Kerić and Nihad Amidžić, 19 September 1999.

T-59 Decision by the Cantonal Court in Sarajevo, No.kri-216/99, 20 September 1999.

T-60 Record of exhumation and autopsy, Cantonal Court in Sarajevo, No. kri-216/99, 20 September 1999.

T-61 Witness Examination Record for expert witness Ilijas Dobrača, No. kri 216/99, 28 September 1999.

T-62 Letter re delivery of photo-documentation, MUP, Centar Sarajevo Police Station, No. 05/2-04-0-552,2/99, 30 September 1999; Photo-documentation of the marking of a grave at Nahorevo-Skakavac local road, No. 2075/99, 19 September 1999.

T-63 Photo-documentation of exhumation, autopsy and identification at Nahorevo Lisičine, 20 September 1999, No. 2086/99 (49 photographs).

T-64 Duplicate of the photo-documentation of the presentation of the Jagomir scene, 28 September 1999, MUP, Crime Police Sector, Department for Crime Laboratory, Forensics and Counter-Terrorism, Sarajevo, No. O.R.1217/99, and a copy.

T-65 Letter on delivery of requested information, Institute for Missing Persons of B-H, No. 03/1-40-2-4420/11, 29 November 2011.

T-66 List of Police Administration employees for payment of salary advance for July 1992, dated 7 August 1992.

T-67 Photo-copy of witness Nedeljko Milić's statement to SIPA (State Investigation and Protection Agency), No. 16-13/3-1-105/12, 5 April 2012.

T-68 Letter of Centar Sarajevo SJB of 4 July 1992, signed by Goran Sarić.

T-69 Order on the appointment of Miroslav Krajišnik the Commander of the Koševo Brigade, 6 June 1992, copy (the Court inspected the original).

T-70 Extract from the Register of Deaths for Milorad Zuber No. 06/4-202-219/13, 10

May 2013; Statement of witness Milorad Zuber of 22 February 2012, No. 16-13/3-1-49/12; copies (the Court inspected the original).

B. DEFENSE EVIDENCE

1. WITNESSES (AND EXPERT WITNESSES) FOR THE DEFENSE

*	Date	Witness	Note
1	17/12/2012	Dobro Planojević	
2	17/12/2012	Radomir Njeguš	
3	21/12/2012	Rade Radović	
4	21/12/2012	Radovan Pejić	
5	24/12/2012	Luka Petrović	
6	24/12/2012	Nedo Đokić	
7	28/01/2013	Željko Vujadinović	
8	28/01/2013	Borislav Todić	
9	04/02/2013	Mića Đokanović	
10	04/02/2013	Zoran Todorović	
11	11/02/2013	Slavko Božović (son of Milivoje)	
12	11/02/2013	Slavko Božović (son of Neđo)	
13	18/02/2013	Bogdan Rašević	
14	18/02/2013	Nedeljko Đokanović	
15.	25/02/2013	Tomislav Mirošević	
16.	04/03/2013	S-2	
17.	04/03/2013	Munib Gljiva	
18.	18/03/2013	Radoslav Šljivić	
19.	01/04/2013	Miodrag Novokmet	Expert witness – direct examination
	08/04/2013	Miodrag Novokmet	Expert witness – cross examination

20.	08/04/2013	Mile Matijević	Expert witness – direct examination
	22/04/2013	Mile Matijević	Expert witness – cross examination

2. DOCUMENTARY EVIDENCE OF THE DEFENSE

O-1 Witness Examination Record for Muhamed Pandžić, No. 16.13/3-1-28/11, 3 February 2011.

O-2 Decision on temporary employment and deployment of employee, No. 10-2279, 28 July 1992.

O-3 Order of the Ministry of the Interior No. 10-17/92, 27 July 1992.

O-4 Order of the Ministry of the Interior No. 01-136/92, 28 July 1992, signed by Zoran Cvijetić.

O-5 Report dated 3 August 1992 on the execution of Order No. 10-17/92 of 27 July 1992 (missing the last page).

O-6 Report made by Rade Radović about a conducted visit to the Romanija–Birač Center, dated 10 August 1992.

O-7 Discharge letter by Sokolac hospital for Željko Vujadinović, No. 2165/V-19/92, 8 June 1992.

O-8 Decision to the name of Tomislav Mirošević, No. 10-34, 1 April 1992.

O-9 Decision on temporary employment and deployment for Tomislav Mirošević, No. 10-2280, 28 July 1992.

O-10 Record of examination of witness S-2 conducted before SIPA in investigation stage,

No. 16-13/3-1-36/11, 11 February 2011.

O-11 Record of examination of witness Munib Gljiva conducted before SIPA, No. 16-13/3-1-42/11.

O-12 Report on the conduct of members of the Chetnik organization in the territory of Centar Municipality, No. 051-15/92, 10 September 1992.

O-13 Document, Information, Asim Prazina and "Dedo (Grandpa)", No. 4/92, 6 August 1992.

O-14 Document, Information about the problems observed concerning the operations of the army and the police, No. 2/92, 6 August 1992.

O-15 Two photographs.

O-16 Document by the Ministry of Labor and Disabled Veterans' Protection No. 16-03/3.2.-1-835-2313/12, 15 October 2012.

O-17 Forensic analysis of military matters -- Expert report by military forensic expert Miodrag Novokmet, Sarajevo, 2013, map and CD.

O-18 Decision on unification of all armed forces in the territory of the Republic of B-H, No. 01-011-306/92, 9 April 1992.

O-19 Decree on the abolition of the existing Republic Staff of the Territorial Defense and establishment of the Staff of the Territorial Defense of the Republic of B-H by Alija Izetbegović, President of the Presidency of the Republic of B-H, No. 01-011-303/92, 8 April 1992.

O-20 Decision on the declaration of the imminent threat of war by Alija Izetbegović, President of the Presidency of the Republic of B-H, No. 01-011-301/92, 8 April 1992.

O-21 Decree law on the Armed Force of the Republic of B-H, dated 20 May 1992; Decree law on the health care for members of the Territorial Defense of the Republic of B-H,

dated 14 May 1992; Decree law on the right to early retirement for members of the Territorial Defense of the Republic of B-H, dated 14 May 1992; Decree law with amendments to the Law on the State Administration by Alija Izetbegović, President of the Presidency of the Republic of B-H.

O-22 Order by Alija Izetbegović, President of the Presidency of the Republic of B-H, of 23 June 1992.

O-23 Decision on the declaration of the state of war by Alija Izetbegović, President of the Presidency of the Republic of B-H, 20 June 1992.

O-24 Decree law on the defense by Alija Izetbegović, President of the Presidency of the Republic of B-H, PR 1153/92, 14 May 1992.

O-25 Decision by Bogdan Subotić, Minister of the National Defense of the Serb Republic of B-H, No. 1/92, 16 April 1992.

O-26 Decision on the establishment of the Army of the Serb Republic of B-H by the Speaker of the Assembly of the Serb People of B-H, No. 03-234/92, 12 May 1992.

O-27 Decision on the determining of the border zone and the form and contents of the border emblem of the Serb Republic of B-H, No. 02-236/92, 12 May 1992.

O-28 Order of the MUP of the Republic of B-H, No. 10-70, 29 April 1992.

O-29 Bulletin of security-related events by the Ministry of the Interior of the Serb Republic of B-H, No. 1, 10 April 1992.

O-30 Bulletin about the conflicts in B-H.

O-31 Information about the state of security and other phenomena and events in the territory of the Serb Republic of B-H by the Ministry of the Interior of the Serb Republic of B-H, 1 June 1992.

O-32 Order of Sefer Halilović, Commander of the Staff of the Territorial Defense (TO)

of the Republic of B-H (RB-H), No. POV 02/349-17, 4 June 1992.

O-33 Letter by the RB-H TO Staff, No. POV 02/349, 5 June 1992.

O-34 Request (renewed) of RB-H TO Staff Commander Sefer Halilović, No. 02/349-21, 5 June 1992.

O-35 Order of RB-H TO Staff Commander Sefer Halilović, No. S1/92. 02/349-25, 5 June 1992.

O-36 Order of RB-H TO Staff Commander Sefer Halilović, No. 02/349-47, 8 June 1992.

O-37 Request of RB-H TO Staff Commander Sefer Halilović, No. 02/349-48, 8 June 1992.

O-38 Letter of RB-H TO Staff Commander Sefer Halilović, No. 02/349-56, 9 June 1992.

O-39 Request of RB-H TO Staff Commander Sefer Halilović, No. 02/349-57, 9 June 1992.

O-40 Order of RB-H TO Staff Commander Sefer Halilović, No. 02/349-63, 10 June 1992.

O-41 Order of RB-H TO Staff Commander Sefer Halilović, No. 02/349-64, 10 June 1992.

O-42 Directive for further operations by Ratko Mladić, Commander of the General Staff of the Army of the Serb Republic of B-H, No. str.conf. 0275-22, 6 June 1992.

O-43 Order of Ratko Mladić, Commander of the General Staff of the Army of the Serb Republic of B-H, No. str.conf. 02/5-31, 4 June 1992.

O-44 Order on the establishment and organization of the Serb Republic of B-H by Ratko Mladić, Commander of the General Staff of the Army of the Serb Republic of B-H, No. str.conf. 30/18-17, 16 June 1992.

O-45 Order on the application of rules of international law of war in the Army of the Serb Republic of B-H, issued by Radovan Karadžić, President of the Presidency of the Serb Republic of B-H, No. 01/53/92, 13 May 1992.

O-46 Instruction on treatment of captured persons by Defense Minister Gordan Subotić No. 21-26/92 of 13 June 1992.

O-47 Report of Šemsudin Nožić, Chief-of-Staff of the Armed Force of the Republic of B-H, number:_ dated 30 June 1992.

O-48 Ethnic composition of the population (results for the Republic by the municipalities and inhabited places in 1991), Statistics Bulletin of the Republic of B-H, December 1993.

O-49 Decision on the prohibition of establishment and operation of armed groups and individuals in the territory of the Republic which are not under a single command of the army or the police, by Radovan Karadžić, President of the Presidency of the Serb Republic of B-H, No. 01-51/92, 13 June 1992.

O-50 List of active military personnel by Commander Vukota Vuković, str.conf. No. 220/92, 30 August 1992.

O-51 Letter of Vogošća Brigade Commander Mladin Trifq, conf. No.1-139/92 and 1-139a/92.

O-52 Certificate for soldier Ranko Gračanin about the duration of service in the armed force in Military Postcode and about the terminal wounds that he succumbed to instantly.

O-53 Certificate for soldier Ljubislav Trifunović about the duration of service in the armed force in Military Postcode and about the grave wounds that he succumbed to.

O-54 Certificate by the Ministry of Labor and Disabled Veterans' Protection of Republika Srpska for Pavle Baričanin, who was killed instantly in Poljine as a member of the Military Postcode (VP) 7033 Vogošća, No. 16-03/5-835-3205-1/09, 24 May 2011.

O-55 Death Certificate for Slavko Petrović dated 23 May 1994, Sarajevo, Dr. Dragoslav Divčić.

O-56 Certificate by Miro Krajišnik, Commander of the VP 7108 Military

Postcode, about the death of Slavko Petrović, conf. No. 26 December 1992.

O-57 Finding and opinion of forensic expert Mile Matijević, April 2013.

O-58 Letter by Assistant Minister Momčilo Mandić, No. 02-2482, 31 March 1992.

O-59 Letter by the advisory board of the SRB-H MUP, 1 April 1992.

O-60 Decision of the Sarajevo MUP, No. 01-25/92, 25 April 1992, signed by Mićo Stanišić.

O-61 Letter by MUP, No. 01-72/92, 20 May 1992, signed by Mićo Stanišić.

O-62 Report on the work of the MUP, Sarajevo CSB, for the period July-September 1992.

O-63 List of operations employees in the territory of the city of Sarajevo, 15 May 1992.

O-64 Law on the establishment of the Serb Municipality of Centar Sarajevo, No. 01-1508/92, 11 August 1992 (*Official Gazette* 17, 9 November 1992).

O-65 Letter by Centar Sarajevo CSB, No. 051-15/92, 10 September 1992.

O-66 Letter by the General Staff of the Army of the Serb Republic of B-H, 28 July 1992, Order.

O-67 Letter by Sarajevo MUP, No. 01-1/92, 15 May 1992.

O-68 Decision on the verification of the declared Serb Municipalities in B-H, 15 January 1992, Article 4 being relevant.

O-69 Letter by MUP, Administration for Legal and Personnel Affairs, within the Republika Srpska Government, dated 18 June 2012, personal file for Mišo Grujić.

O-70 Decision of RS MUP, Bijeljina, 03/4-120-4238, 26 December 1997.

O-71 Document of Police Brigade of 1 June 1998 – Request submitted by Mišo Grujić.

O-72 Document dated 16 June 1998 – Request for issuance of decision on termination of employment by consent for Mišo Grujić.

O-73 Decision on termination of employment by consent for Mišo Grujić, No. 06/3-126-3776, 7 July 1998.

O-74 Declaration on the new constitutional arrangements for B-H, Lisbon, 22 February 1992.

O-75 Decision of MUP, No. 09/4-120-3/394, 8 August 1991.

O-76 A copy of Employment Record Booklet of Goran Sarić.

O-77 Bulletin of the Serb Municipality of Vogošća, signed by Branko Vlačo, of 29 July 1992.

O-78 Document of the Serb Municipality of Vogošća, Bulletin of 18 July 1992 on the exchange of prisoners, signed by Branko Vlačo.

O-79 Document of the SDS (Serb Democratic Party/), Secretariat, No. 05-1-678-11/12, 27 November 2012 – Response to the request by the Defense.

O-80 Document of MUP, Administration for Legal and Personnel Affairs, No. 04/2-110, 2-59 and 62/12, 3 April 2012.

O-81 Letter by the Federation Ministry for Veterans and Disabled Veterans of the Defense War of Liberation, No. 07/03-71-1/12, 10 July 2012.

O-82 Report on a meeting of leading officers fighting crime from the zone of the Romanija–Birač CSB, dated 28 July 1992.

O-83 Document by the SDA (Party of Democratic Action) of 15 August 1997, proposal of candidates for awards and special merits.

C. EVIDENCE OF THE COURT

D-S-1 Record of a site visit made on 9 November 2012, together with a CD with the recording of the visit, and a CD with the photographs taken at the scene.

XII. ANNEX II – ESTABLISHED FACTS

Facts established in the ICTY Judgments in Momčilo Krajišnik, No. IT-00-39 of 27 September 2006 and No. IT-98-33-A of 17 March 2009

- 1. Another detention centre in Vogošća was located in the Sonja café-restaurant. Brano Vlačo was the warden. (para. 603)*
- 2. In addition to the facilities mentioned above Serb authorities detained mostly Croat and Muslim civilians at the following detention centres in the municipality in 1992, namely the Kod Sonje bunker beside the Kon Tiki boarding house, a sports complex, the Krivoglavci tunnel, the Kisikana Company Building, the UPI Distribution centre, Naka's garage, the Park hotel, and the UNIS factories. (para. 604)*
- 3. From mid April 1992, SDS leaders and JNA prefabs commanders in Hadžići cooperated openly in bringing in JNA reserve units from Serbia and Montenegro. On 8 May 1992, an artillery attack against the police station of Hadžići was launched. (para. 542)*
- 4. During the next few days, Serbs took control over parts of the municipality and started to arrest people and expel and evict large parts of the non-Serb population. Two to three thousand Muslim and Croat men, women and children left Hadžići town, many left on foot and withdrew through the woods. Serb women and children were evacuated from Hadžići on buses. Only two to three hundred members of the original Muslim and Croat population remained in Hadžići town. Serb reservists set up checkpoints and positions in the town centre, restricting movement. (para. 543)*
- 5. Between 15 and 20 May 1992, the Serbs also shelled the settlement of Musići, part of the village of Ušivak. On 20 May 1992, armed Serbs in JNA uniform or dressed in olive-green camouflage uniforms entered Musići, gathered fourteen Muslim men and took them to the garage in the Hadžići municipal assembly building. Another 46 men were held in the same garage. (para. 544)*
- 6. On 25 May 1992, Serb forces transferred some of the detainees from the garage of the municipal building to the Hadžići sports centre where at that time 60 men and one woman were detained. (para. 545)*
- 7. By early May 1992, Serb forces controlled Ilidža. (para. 553)*

8. *In 1992, Serb authorities detained mostly Croat and Muslim civilians in ten detention centres in Ilidža municipality, namely the former ambulance building, the Lužani trailer park, the cultural and sports complex, the storage building of Energoinvest, Kasindol hospital, the “July 27” elementary school, the graphic school, the kindergarten, the Ilidža SJB, and the Blažuj military prefabs. (para. 554)*
9. *Preparations to take over the majority-Muslim village of Lješevo began in March 1992 when Serbs erected checkpoints, distributed arms to the locals, and placed heavy artillery on the surrounding hills. ... On 4 June, Lješevo was hit with gunfire and shells. The shells hit several houses in the Muslim part of the village where no military target was present. On the following day, Serb soldiers entered the village and killed approximately 20 Muslim villagers, after capturing them and burning their personal documents. The Serb soldiers forced other villagers from their homes and assembled them at the railway station. From there, the Serb police transported the village residents by bus to a building in the Podlugovi area of Ilijaš, where they were detained for two months. (para. 560)*
10. *On or about 22 February 1992, a Serb municipality was established in Rajlovac, comprised of mixed population villages including the predominantly Muslim village Ahatovići. (para. 567)*
11. *In addition to the facilities mentioned above, Serb authorities detained mostly Croat and Muslim civilians at three other detention centres in Novi Grad municipality, all in the commune of Rajlovac, in 1992, namely the Energopetrol gasoline storage plant, a distribution centre, and the Kisikana oxygen storage plant. (para. 571)*
12. *From the outbreak of conflict until October 1992, KP Dom Butmir or Kula in Novo Sarajevo accommodated 10,000 Muslim civilians of all ages, for periods ranging from a few days to several months. (para. 577)*
13. *Another detention centre in Novo Sarajevo where non-Serbs were detained was under army jurisdiction and located at Lukavica, Novo Sarajevo. (para. 578)*
14. *A large part of Vogošća was brought under Serb control by military force between 4 and 17 April 1992 by Serb army units and the police organized by the Vogošća crisis staff. (para. 596)*
15. *On 2 May 1992, Serbs surrounded and shelled the villages of Svrake and Semizovac, in Vogošća municipality. Military aeroplanes bombed the villages, following which residents surrendered their weapons. After the take-over of Svrake and Semizovac in early May 1992, the Serbs took 470 Muslim men, women, and children to the prefabs in Semizovac. (para. 599)*
16. *There were a total of 113 men detained at Planjo’s house, most of whom were Muslims, but also some Croats and one Serb. (para. 600)*
17. *Sometimes groups of detainees from Planjo’s house were used as human shields. (para. 601)*

Facts established in the ICTY Judgments in Radoslav Brđanin, No. IT-99-36 of 1 September 2004 and No. IT-99-36-A of 3 April 2007

1. On 24 October 1991, the SDS Deputies in the Assembly of the SRBH, in a meeting of their club, established a separate Assembly of the Serbian People in Bosnia and Herzegovina ("SerBiH Assembly") and elected Momčilo Krajišnik as its President. The SerBiH Assembly authorised a plebiscite of the Serbian people of BiH on the question of whether or not they wanted BiH to remain within Yugoslavia. On 9 and 10 December 1991, the Bosnian Serbs voted overwhelmingly to remain a part of the SFRY. (para. 62)
2. During the first session of the SerBiH Assembly, held on 24 October 1991, Radovan Karadžić made it clear that the Bosnian Serbs were prepared to use force and fear to achieve their ends if they were otherwise unsuccessful. (para. 67)
3. On 19 December 1991, the Main Board of the SDS issued a document entitled "Instructions for the Organisation and Activity of Organs of the Serbian People in Bosnia and Herzegovina in Extraordinary Circumstances" ("Variant A and B Instructions"). These instructions provided for the conduct of specified activities in all municipalities in which Serbs lived, and essentially mapped out the take-over of power by Bosnian Serbs in municipalities where they constituted a majority of the population ("Variant A") and where they were in a minority ("Variant B"). The stated purpose of the Variant A and B Instructions was "to carry out the results of the plebiscite at which the Serbian people in Bosnia and Herzegovina decided to live in a single state" and to "increase mobility and readiness for the defence of the interests of the Serbian people". (para. 69)
4. On 9 January 1992, the SerBiH Assembly proclaimed the SerBiH, which on 12 August 1992 was renamed Republika Srpska ("RS"). (para. 71)
5. On 27 March 1992, the SerBiH Assembly established the Serbian Ministry of Internal Affairs ("MUP"). On 16 April 1992, the Ministry of National Defence of the SerBiH issued a decision on the establishment of the Territorial Defence ("TO") as an army of the SerBiH, putting the command and control of the TO with municipal, district and regional staffs, as well as the staff of the SerBiH TO. In the same decision the Ministry of National Defence of the SerBiH declared an imminent threat of war and ordered public mobilisation of the TO in the entire territory of the SerBiH. Moreover, the formation of TO staffs in the newly established Bosnian Serb municipalities was ordered. (para. 73)
6. During the 16th session of the SerBiH Assembly that took place on 12 May 1992, at a time when the armed conflict had already begun, Radovan Karadžić articulated the six strategic goals of the Serbian People of Bosnia and Herzegovina. The first and most fateful goal was the "separation from the other two national communities – separation of states". The other goals concerned the establishment of a corridor between Semberija and Krajina; the establishment of a corridor in the Drina Valley; the establishment of a border on the Una and Neretva rivers; the division of the city of Sarajevo into Serb and Muslim sectors; and, finally, securing access to the sea for the SerBiH. (para. 75)
7. In the autumn of 1991, four other¹²⁹ Serbian Autonomous Districts were

created in SRBH. These were the Serbian Autonomous District of Herzegovina, the Serbian Autonomous District of Romanija-Birač, the Serbian Autonomous District of Semberija and the Serbian Autonomous District of Northern Bosnia. On 21 November 1991, the creation of the ARK and the other four Serbian Autonomous Districts was ratified by the SerBiH Assembly during its 2nd session. By virtue of this ratification, the ARK and the other four Serbian Autonomous Districts became constituent parts of the SerBiH. The SerBiH Assembly appointed Jovan Čizmović, a member of the Ministerial Council of the SerBiH Assembly, as the co-ordinator of the governments of the ARK and the other Serbian Autonomous Districts. (para. 167)

Facts established in the ICTY Judgments in Stanislav Galić, No. IT-98-29 of 5 December 2003 and No. IT-02-60-A of 30 November 2006

1. *In September 1991, the Main Board of the SDS recommended the formation of Serbian Autonomous Regions. The first of these was the region of Romanija-Birač in the Sarajevo area, which included, since its inception on 17 September 1991, the municipality of Pale and, from 24 December 1991, the municipality of Ilijaš. (para. 194)*
2. *On 24 October 1991, BiH Serbs formed the Assembly of the Serbian People of BiH and, in a plebiscite held on 9 and 10 November, overwhelmingly voted to remain part of the SFRY. (para. 195)*
3. *Armed conflict broke out after the European Community recognized BiH as a sovereign state on 6 April 1992. (para. 199)*
4. *The parliament of Republika Srpska on 12 May 1992 ordered the formation of the Bosnian-Serb Army. (para. 201)*