

CR 2006/4

International Court
of Justice

THE HAGUE

Cour internationale
de Justice

LA HAYE

YEAR 2006

Public sitting

held on Tuesday 28 February 2006, at 3 p.m., at the Peace Palace,

President Higgins presiding,

*in the case concerning the Application of the Convention on the Prevention and Punishment
of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*

VERBATIM RECORD

ANNÉE 2006

Audience publique

tenue le mardi 28 février 2006, à 15 heures, au Palais de la Paix,

sous la présidence de Mme Higgins, président,

*en l'affaire relative à l'Application de la convention pour la prévention et la répression du
crime de génocide (Bosnie-Herzégovine c. Serbie-et-Monténégro)*

COMPTE RENDU

Present: President Higgins
 Vice-President Al-Khasawneh
 Judges Ranjeva
 Shi
 Koroma
 Parra-Aranguren
 Owada
 Simma
 Tomka
 Abraham
 Keith
 Sepúlveda
 Bennouna
 Skotnikov
Judges *ad hoc* Ahmed Mahiou
 Milenko Kreća

Registrar Couvreur

Présents : Mme Higgins, président
M. Al-Khasawneh, vice-président
MM. Ranjeva
Shi
Koroma
Parra-Aranguren
Owada
Simma
Tomka
Abraham
Keith
Sepúlveda
Bennouna
Skotnikov, juges
MM. Ahmed Mahiou,
Milenko Kreća, juges *ad hoc*

M. Couvreur, greffier

The Government of Bosnia and Herzegovina is represented by:

Mr. Sakib Softić,

as Agent;

Mr. Phon van den Biesen, Attorney at Law, Amsterdam,

as Deputy Agent;

Mr. Alain Pellet, Professor at the University of Paris X-Nanterre, Member and former Chairman of the International Law Commission of the United Nations,

Mr. Thomas M. Franck, Professor of Law Emeritus, New York University School of Law,

Ms Brigitte Stern, Professor at the University of Paris I,

Mr. Luigi Condorelli, Professor at the Faculty of Law of the University of Florence,

Ms Magda Karagiannakis, B.Ec, LL.B, LL.M., Barrister at Law, Melbourne, Australia,

Ms Joanna Korner, Q.C., Barrister at Law, London,

Ms Laura Dauban, LL.B (Hons),

as Counsel and Advocates;

Mr. Morten Torkildsen, BSc, MSc, Torkildsen Granskin og Rådgivning, Norway,

as Expert Counsel and Advocate;

H.E. Mr. Fuad Šabeta, Ambassador of Bosnia and Herzegovina to the Kingdom of the Netherlands,

Mr. Wim Muller, LL.M, M.A.,

Mr. Mauro Barelli, LL.M (University of Bristol),

Mr. Ermin Sarajlija, LL.M,

Mr. Amir Bajrić, LL.M,

Ms Amra Mehmedić, LL.M,

Mr. Antoine Ollivier, Temporary Lecturer and Research Assistant, University of Paris X-Nanterre,

Le Gouvernement de la Bosnie-Herzégovine est représenté par :

M. Sakib Softić,

comme agent;

M. Phon van den Biesen, avocat, Amsterdam,

comme agent adjoint;

M. Alain Pellet, professeur à l'Université de Paris X-Nanterre, membre et ancien président de la Commission du droit international des Nations Unies,

M. Thomas M. Franck, professeur émérite à la faculté de droit de l'Université de New York,

Mme Brigitte Stern, professeur à l'Université de Paris I,

M. Luigi Condorelli, professeur à la faculté de droit de l'Université de Florence,

Mme Magda Karagiannakis, B.Ec., LL.B., LL.M., *Barrister at Law*, Melbourne (Australie),

Mme Joanna Korner, Q.C., *Barrister at Law*, Londres,

Mme Laura Dauban, LL.B. (Hons),

comme conseils et avocats;

M. Morten Torkildsen, BSc., MSc., Torkildsen Granskin og Rådgivning, Norvège,

comme conseil-expert et avocat;

S. Exc. M. Fuad Šabeta, ambassadeur de Bosnie-Herzégovine auprès du Royaume des Pays-Bas,

M. Wim Muller, LL.M., M.A.,

M. Mauro Barelli, LL.M. (Université de Bristol),

M. Ermin Sarajlija, LL.M.,

M. Amir Bajrić, LL.M.,

Mme Amra Mehmedić, LL.M.,

M. Antoine Ollivier, attaché temporaire d'enseignement et de recherche à l'Université de Paris X-Nanterre,

Ms Isabelle Moulrier, Research Student in International Law, University of Paris I,

Mr. Paolo Palchetti, Associate Professor at the University of Macerata (Italy),

as Counsel.

The Government of Serbia and Montenegro is represented by:

Mr. Radoslav Stojanović, S.J.D., Head of the Law Council of the Ministry of Foreign Affairs of Serbia and Montenegro, Professor at the Belgrade University School of Law,

as Agent;

Mr. Saša Obradović, First Counsellor of the Embassy of Serbia and Montenegro in the Kingdom of the Netherlands,

Mr. Vladimir Cvetković, Second Secretary of the Embassy of Serbia and Montenegro in the Kingdom of the Netherlands,

as Co-Agents;

Mr. Tibor Varady, S.J.D. (Harvard), Professor of Law at the Central European University, Budapest and Emory University, Atlanta,

Mr. Ian Brownlie, C.B.E., Q.C., F.B.A., Member of the International Law Commission, member of the English Bar, Distinguished Fellow of the All Souls College, Oxford,

Mr. Xavier de Roux, Masters in law, avocat à la cour, Paris,

Ms Nataša Fauveau-Ivanović, avocat à la cour, Paris and member of the Council of the International Criminal Bar,

Mr. Andreas Zimmermann, LL.M. (Harvard), Professor of Law at the University of Kiel, Director of the Walther-Schücking Institute,

Mr. Vladimir Djerić, LL.M. (Michigan), Attorney at Law, Mikijelj, Janković & Bogdanović, Belgrade, and President of the International Law Association of Serbia and Montenegro,

Mr. Igor Olujić, Attorney at Law, Belgrade,

as Counsel and Advocates;

Ms Sanja Djajić, S.J.D., Associate Professor at the Novi Sad University School of Law,

Ms Ivana Mroz, LL.M. (Minneapolis),

Mr. Svetislav Rabrenović, Expert-associate at the Office of the Prosecutor for War Crimes of the Republic of Serbia,

Mme Isabelle Moulier, doctorante en droit international à l'Université de Paris I,

M. Paolo Palchetti, professeur associé à l'Université de Macerata (Italie),

comme conseils.

Le Gouvernement de la Serbie-et-Monténégro est représenté par :

M. Radoslav Stojanović, S.J.D., chef du conseil juridique du ministère des affaires étrangères de la Serbie-et-Monténégro, professeur à la faculté de droit de l'Université de Belgrade,

comme agent;

M. Saša Obradović, premier conseiller à l'ambassade de Serbie-et-Monténégro au Royaume des Pays-Bas,

M. Vladimir Cvetković, deuxième secrétaire à l'ambassade de Serbie-et-Monténégro au Royaume des Pays-Bas,

comme coagents;

M. Tibor Varady, S.J.D. (Harvard), professeur de droit à l'Université d'Europe centrale de Budapest et à l'Université Emory d'Atlanta,

M. Ian Brownlie, C.B.E., Q.C., F.B.A., membre de la Commission du droit international, membre du barreau d'Angleterre, *Distinguished Fellow* au All Souls College, Oxford,

M. Xavier de Roux, maîtrise de droit, avocat à la cour, Paris,

Mme Nataša Fauveau-Ivanović, avocat à la cour, Paris, et membre du conseil du barreau pénal international,

M. Andreas Zimmermann, LL.M. (Harvard), professeur de droit à l'Université de Kiel, directeur de l'Institut Walther-Schücking,

M. Vladimir Djerić, LL.M. (Michigan), avocat, cabinet Mikijelj, Janković & Bogdanović, Belgrade, et président de l'association de droit international de la Serbie-et-Monténégro,

M. Igor Olujić, avocat, Belgrade,

comme conseils et avocats;

Mme Sanja Djajić, S.J.D, professeur associé à la faculté de droit de l'Université de Novi Sad,

Mme Ivana Mroz, LL.M. (Minneapolis),

M. Svetislav Rabrenović, expert-associé au bureau du procureur pour les crimes de guerre de la République de Serbie,

Mr. Aleksandar Djurdjić, LL.M., First Secretary at the Ministry of Foreign Affairs of Serbia and Montenegro,

Mr. Miloš Jastrebić, Second Secretary at the Ministry of Foreign Affairs of Serbia and Montenegro,

Mr. Christian J. Tams, LL.M. (Cambridge),

Ms Dina Dobrkovic, LL.B.,

as Assistants.

M. Aleksandar Djurdjić, LL.M., premier secrétaire au ministère des affaires étrangères de la Serbie-et-Monténégro,

M. Miloš Jastrebić, deuxième secrétaire au ministère des affaires étrangères de la Serbie-et-Monténégro,

M. Christian J. Tams, LL.M. (Cambridge),

Mme Dina Dobrkovic, LL.B.,

comme assistants.

The PRESIDENT: Please be seated. Ms Karagiannakis, you have the floor.

Ms KARAGIANNAKIS:

POLITICAL AND MILITARY PREPARATIONS

1. Madam President, Members of the Court, this afternoon I am going to address you on the issue of political and military preparations. In the year leading up to April 1992, when the attacks on non-Serbs commenced in Bosnia, organs of the Socialist Federal Republic of Yugoslavia, the SFRY, made political and military preparations. In particular, the President of Serbia and other senior officials of the SFRY, including those in the JNA, the Serbian Ministry of the Interior and the SFRY Ministry of the Interior, provided indispensable political leadership, arms, training, funding and troops for the storm of violence that was to follow.

A. Political leadership

2. The ultimate aim of the President of Serbia and his Serb associates in the SFRY, and the Bosnian Serb leadership, was to achieve a Greater Serbia. The project of an ethnically-clean homogeneous State formulated against a backdrop of mixed populations necessarily envisaged the exclusion of the non-Serb ethnicities. This fundamental point is founded upon the conclusions of a number of United Nations organs and has been demonstrated in our Reply¹. For example, the United Nations Commission of Experts stated:

“With respect to the practices by Serbs in Bosnia and Herzegovina and Croatia, ‘ethnic cleansing’ is commonly used as a term to describe a policy conducted in furtherance of political doctrines relating to ‘Greater Serbia’. The policy is put into practice by Serbs in Bosnia and Herzegovina and Croatia and their supporters in the Federal Republic of Yugoslavia . . . The doctrine is essentially based on ethnic and religious exclusivity and the dominance of Serbs over other groups in certain historically claimed areas.”²

3. As explained yesterday by the Deputy Agent, this concept originated in Belgrade. This strategic and political leadership was the first step in what would develop as the wholesale ethnic cleansing of 70 per cent of the territory of Bosnia and Herzegovina.

¹Reply, pp. 328-345.

²Reply, p. 330.

4. The fact that the Muslims were to be cleansed from Bosnia was confirmed by an account of a meeting held in Belgrade at President Milosević's initiative. The details of the meeting were provided by one of its attendees, Milan Babić. He was the President of the Serb Autonomous Region in Croatian Krajina and subsequently became the President of the Republika Srpska Krajina, which is otherwise referred to as the RSK. He has pleaded guilty in the Tribunal to crimes against humanity for his role in the targeting of non-Serbs in the RSK and has testified in the Milosević case³. Babić was to the nationalist Serbs in Croatian Krajina what Karadžić was to the nationalist Serbs in Bosnia. Their political leader.

5. The meeting in question took place in July 1991, in Milosević's office in Belgrade. Karadžić and Babić attended. At that meeting, Karadžić explained what was in store for the Bosnian Muslims. Karadžić said that the Muslims would be expelled or crammed into river valleys and that he would link up all Serb territories in Bosnia and Herzegovina. Milosević responded to this explanation by warning Mr. Babić not to "stand in Radovan's way"⁴.

6. So what Milosević did was to tell Babić not to obstruct Karadžić in what was essentially the implementation of the Greater Serbian plan in Bosnia through ethnic cleansing. At the conclusion of the meeting, President Milosević asked both Babić and Karadžić where they wanted the army — meaning the JNA — to be deployed. Both responded with their requests about where Milosević was to deploy the JNA. Karadžić responded, "on the borders with Croatia". Milosević said, "fine"⁵.

7. In summary, not only did Milosević call the meeting in order to co-ordinate the activities of his two henchmen in Croatia and Bosnia, but also offered them both the option about where the JNA was to be best deployed for their activities.

8. There are at least 45 intercepts of conversations between the President of Serbia and Karadžić, starting in 29 May 1991 until 10 February 1992⁶. Not every telephone that each of these

³ICTY, *Prosecutor v. Babić*, Sentencing Judgment, case No. IT-03-72-S, 29 June 2004.

⁴Testimony of Milan Babić, Tuesday 19 November 2002, Transcript, pp. 13054-13058 in ICTY *Prosecutor v. Milosević* case No. IT-02-54-T (<http://www.un.org/icty/transe54/021119IT.htm>) and ICTY *Prosecutor v. Milosević* (*Decision on Motion for Judgment of Acquittal*, case No. IT-02-54-T, 16 June 2004, para. 253).

⁵*Ibid.*

⁶(http://www.domovina.net/tribunal/page_006.php). See egs. in Exhibit P613 in *Prosecutor v. Milosević*, case No. IT-02-54-T.

men were using from 1991 onwards was intercepted, therefore, one cannot say how many times they actually spoke about their strategic plans for Bosnia during the preparations period.

9. In any event, the intercepts that do exist show that President Milosević and Radovan Karadžić were in regular contact during the preparatory phases of the genocidal conflict. It is apparent from these discussions that they knew that they were being listened to, which led them to be careful about what they said. The language of these discussions shows the relationship between the two men. Karadžić is deferential and refers to Milosević as “President”, or “Mr. President”, or “Mr. Milosević”. Milosevic, on the other hand, often refers to Karadžić by his first name, “Radovan”, or sometimes even by his nickname, “Raso”. Clearly, they both knew who the senior partner in that relationship was. This overall leadership position of President Milosević has been confirmed by the Milosević trial chamber at the ICTY⁷.

B. Arming

10. The JNA and the Serbian Ministry of the Interior and the SFRY Ministry of the Interior armed the Bosnian Serbs of the Serbian Democratic Party — the SDS —, Serbian paramilitaries and Bosnian Serb territorial defence units, otherwise referred to as the TO. This point has been demonstrated in our Reply and the materials that have come to light subsequently have only served to reinforce this.

11. The Brdanin trial judgment has most recently confirmed this with respect to the municipalities in the Bosnian Krajina in Northern Bosnia and has made a number of relevant findings in this regard⁸.

12. The trial chamber found that, in September 1990, the JNA had ordered that weapons be removed from the depots under the control of the territorial defence units and moved to its own armouries, thereby concentrating arms with the JNA in Bosnia. The Serbian Democratic Party received substantial support from the JNA. It systematically supplied light arms to SDS committees in Bosnian Serb claimed areas, as well as to Serbian paramilitary groups. Serbian paramilitary groups in this context means local Serb paramilitaries and paramilitary groups coming

⁷ICTY, *Prosecutor v. Milosević*, Decision on Motion for Judgment of Acquittal, case No. IT-02-54-T, 16 June 2004, paras. 249-256.

⁸See ICTY, *Prosecutor v. Brdanin*, Judgment, case No. IT-99-36-T, 1 September 2004, paras. 87-90.

from outside of Bosnia. Distribution to Bosnian Serb civilians was carried out by the local communes and was supervised by the SDS, with the support of the JNA and the local police. The arming of the Bosnian Serb villagers was well organized and involved the use of trucks and occasionally even helicopters. The JNA also engaged in redistributing weapons to the Serbian TO units in predominantly Bosnian Serb populated areas.

13. Obviously, this arming did not go unnoticed. Muslims and Croats in Bosnian Krajina also sought to obtain arms. However, the non-Serb efforts were nowhere near as successful as those of the Bosnian Serbs, both in terms of numbers and quality. This was because they mainly procured their weapons on an individual basis. These individual efforts fell far short of the efficient, well-organized and large-scale arming efforts of the Serbs.

14. A similar pattern was confirmed in other parts of Bosnia, such as Brcko municipality⁹.

15. This arming of the Bosnian Serbs was organized at the highest levels of the SFRY Government and military. Senior officers of the JNA and senior officers of the Serbian Ministry of the Interior participated, as we have demonstrated in our Reply. The participation of the Serbian Ministry of the Interior in arms distribution to the SDS municipal leaders in Bosnia is apparent from the insider account of Petar Janković, the SDS President of Kalesija municipality. According to his diary, he went to Belgrade on a number of occasions, starting in July 1991, where he would seek and obtain provision of arms to the SDS. These arrangements were made with Radmilo Bogdanović, Serbia's former Minister of the Interior and Jovica Stanisić, the Chief of the State Security Service, otherwise referred to as the DB, of the Serbian Ministry of the Interior¹⁰.

16. You have heard from the Deputy Agent about the important role that Mihalj Kertes, the Deputy Minister of the Interior of the SFRY, had in arming the Bosnian Serbs. He armed the SDS Serbs of Bratunac municipality through Miroslav Deronjić, who then went on to ethnically cleanse parts of his municipality in conjunction with the JNA and paramilitaries from Serbia¹¹.

17. The President of Serbia was, yet again, also instrumental in the arming. In one intercepted telephone communication between President Milosević and Radovan Karadžić,

⁹ICTY, *Prosecutor v. Milosević*, Decision on Motion for Judgment of Acquittal, case No. IT-02-54-T, 16 June 2004, para. 149.

¹⁰See Reply, Chapter 8, section 2.

¹¹ICTY, *Prosecutor v. Deronjić*, Sentencing Judgment, case No. IT-02-61-S, 30 March 2004, paras. 53-54.

Milosević ordered Karadžić to go to General Nikola Uzelać, the JNA Commander in Banja Luka and said to him, “Just call Uzelać. Don’t worry, you will have everything. We are the strongest . . .”¹²

C. Training

18. In our Reply¹³, we have demonstrated the significant role of the Serbian Ministry of the Interior in other preparatory acts, such as participating in the organization of an ethnically-pure Bosnian Serb MUP for Serb-controlled areas and organizing the supply and training of Serbian paramilitary forces. Both these types of forces would subsequently be engaged in the targeting of non-Serbs in Bosnia.

19. These forms of preparatory involvement have subsequently been referred to by the Prosecutor of the ICTY in the indictment of Stanisić and Simatović, to whom I referred earlier. For example, that indictment states that “training centres were established and financed by the Republic of Serbia DB”, that is the State Security of the Serbian MUP, and that “volunteers and conscripts trained at these centres were deployed to special units of the Republic of Serbia DB or were deployed to locations . . . in Bosnia where they were subordinated to the Bosnian Serb Army, the TO or the local SDS units”¹⁴.

20. Finally, it was not only the Serbian MUP that was engaged in training forces for the coming cleansing of Bosnia. The JNA was also involved. One trial judgment of the ICTY has found that, by the spring of 1992, Serb paramilitary groups had been formed in Bosnia or arrived from Serbia. Some of these paramilitary groups were covertly trained and equipped by the JNA and were closely associated with it or with the SDS¹⁵.

¹²Reply, p. 477.

¹³Reply, pp. 596-612.

¹⁴ICTY, *Prosecutor v. Josica Stanisić and Franki Simatović*, Amended Indictment, case No. IT-03-69, 9 December 2003, para. 4.

¹⁵ICTY, *Prosecutor v. Brdanin*, Judgment, case No. IT-99-36-T, 1 September 2004, para. 97.

D. Turning the JNA into an ethnic Serb army and renaming it

21. In our Reply, we have shown at length how the second military district of the JNA was turned into a Serb army in Bosnia¹⁶. The Deputy Agent has already explained how General Mladić was appointed by the SFRY Presidency as Commander of the second military district, just weeks before its supposed withdrawal from Bosnia and how he seamlessly became the Commander of the newly named Bosnian Serb army¹⁷.

22. The Brdanin judgment has recently echoed this process and found that the JNA gradually changed from being the Yugoslav Peoples' Army and representing all ethnic groups and nationalities in the SFRY to becoming a *de facto* Serbian army. According to the diary notes of Borislav Jović, President of the SFRY Presidency, Milošević anticipated that several Yugoslav Republics would soon be recognized as independent States, and the Serbian President wanted to be sure that the JNA in Bosnia could qualify as an indigenous Bosnian fighting force. It was Slobodan Milošević who made the arrangements with the JNA to ensure that Bosnian Serb forces could retain personnel and arms by ordering, on 5 December 1991, that soldiers who were natives of Bosnia be transferred there and those who were native of other republics be moved out. On 25 December 1991, a senior JNA officer reported to Milošević that these transfers were 90 per cent complete.

E. Preparations by the Bosnian Serbs

23. On the Bosnian Serb side, preparations were also being made by Karadžić and his associates in the SDS party.

24. Mr. Karadžić conveyed the Greater Serbia idea to his associates in the SDS. This is confirmed by a leading member of Karadžić's party, Miroslav Deronjić. He was the municipal SDS leader and subsequent Crisis Staff President of Bratunać municipality. In an SDS meeting that he attended in early 1991, Karadžić stated that if there was no longer a Socialist Federal Republic of Yugoslavia, Serbs would only have one option left, and that was "Greater Serbia"¹⁸.

¹⁶Reply, pp. 553 *et seq.*

¹⁷ICTY, *Prosecutor v. Milosević*, Decision on Motion for Judgment of Acquittal, case No. IT-02-54-T, 16 June 2004, para. 270.

¹⁸ICTY, *Prosecutor v. Deronjić*, Sentencing Judgment, case No. IT-02-61-S, 30 March 2004, para. 52.

Even at these preparatory stages Karadžić was disseminating the overall Belgrade-inspired aim and passing the guiding principle down the line to his subordinates in the SDS party.

25. Karadžić was advising the President of Serbia about what he and the Bosnian Serbs were doing through the SDS party. In one important conversation held on 24 October 1991, the day that the Separate Bosnian Serb Assembly was founded, Milošević asked Karadžić as to how the work was going. Karadžić replied that it was “going slowly”. He went on to make a number of statements to Milošević during the conversation:

“We will establish Yugoslavia in all the areas where we live . . . Yes, yes, President, we hold power in 37 municipalities and have a relative majority in . . . about ten municipalities . . . tell him [Izetbegović] that Karadžić and the others will not give up on establishing an assembly and parallel organs of authority, . . . We will establish full authority over the Serbian territories in Bosnia and Herzegovina and none of his lawyers will be . . . able to show his nose there. He will not be able to exercise power. He will not have control over 65% of his territory. This is our goal . . . Our steps are calculated and we have to establish authority and control over our territories, so that he doesn't get his sovereign Bosnia.”

26. The Bosnian Serbs set up parallel institutions at their so-called republic level, at the regional level and, critically, at the municipal level. The steps that were taken in this regard have been set out most recently in the Brdanin judgment of the ICTY¹⁹. They are also explained in detail in the expert reports and testimony on the Bosnian Serb leadership²⁰ and the Bosnian Serb Crisis Staffs²¹, which have been admitted into evidence in the Krajisnik case.

27. A ground-breaking step in the creation of the Bosnian Serb parallel structures was the creation of a Serbian Assembly of Bosnia and Herzegovina. The inaugural session was held on 24 October 1991 after the SDS delegates walked out of the Assembly of the Socialist Republic of Bosnia and Herzegovina. Between its establishment and the founding of the Bosnian Serb Republic on 9 January 1992, the Assembly legislatively prepared the means and conditions for the establishment of entirely separate structures for the Serbian people of Bosnia. In a speech given in November 1991, Radovan Karadžić instructed SDS members to impose complete authority in their respective municipalities, regions and local communities. On 11 December 1991, the Bosnian Serb

¹⁹ICTY, *Prosecutor v. Brdanin, Judgment, case No. IT-99-36-T, 1 September 2004, paras. 65-79.*

²⁰Expert Report of Patrick Treanor, “The Bosnian Serb Leadership: 1990-1992”, Exhibit P64, ICTY, *Prosecutor v. Momcilo Krajisnik*, case No. IT-00-39-T and Expert Testimony beginning Thursday, 19 February 2004.

²¹Expert Report of Dorothea Hanson, “Bosnian Serb Crisis Staffs”, herein after “Hanson Report”, Exhibit P528, ICTY, *Prosecutor v. Momcilo Krajisnik*, case No. IT-00-39-T and Expert Testimony, Tuesday, 1 March 2005.

Assembly voted to recommend the establishment of Serbian municipalities, the aim of which was to break up the existing municipalities where Serbs were not in the majority.

28. Another critical step in this process was the creation of parallel municipal institutions pursuant to the Variant A and B instructions that you already heard about yesterday. These instructions were issued on 19 December 1991 by the SDS leadership to municipal leaders. The highest numbered copy of these instructions discovered by the ICTY is copy No. 104²².

29. These instructions provided for the conduct of specified activities in all municipalities where Serbs lived and essentially mapped out the takeover of power by Bosnian Serbs in municipalities where they constituted a majority of the population, so-called Variant A municipalities and where they were in a minority, the so-called Variant B municipalities. The instructions mandated the creation of municipal crisis staffs which functioned as *de facto* municipal governments.

30. Miroslav Deronjić attended a meeting in Sarajevo on or about 19 December 1991 which was presided over by Radovan Karadžić and attended by the Deputies of the Bosnian Serb Assembly and by Presidents of the municipal boards of the Serbian Democratic Party. It was at this meeting that the “strictly confidential” Variant A and B instructions were disseminated. The contents of these instructions were explained to the participants at the meeting by Karadžić, who warned them that they should be taken very seriously and that they should be absolutely implemented on the ground. Miroslav Deronjić went back to his municipality and took steps to implement the instructions²³.

31. As a result of this meeting, Serb crisis staffs were formed in numerous municipalities across Bosnia, including municipalities where some of the worst ethnic cleansing would take place, such as Zvornik, Prijedor and Bijelina²⁴.

32. The crisis staffs had a very close relationship with the JNA. They co-ordinated the activities of the Serb military forces in their municipalities, including the local police, the territorial defence or the TO and the army. The Variant A and B instructions mandated close co-operation

²²See e.g., Exhibits P25 and P122 in ICTY *Prosecutor v. Brdanin*, case No. IT-99-36-T, Hanson Report, para. 13.

²³ICTY, *Prosecutor v. Deronjić*, sentencing Judgment, case No. IT-02-61-S, 30 March 2004, paras. 59-63.

²⁴See Hanson Report footnote references and, in particular, footnote 9 for examples of crisis staffs.

between crisis staffs and the JNA. In stage two of operations, the crisis staffs were obliged “to mobilize all policy forces from the ranks of the Serbian people and in co-operation with the command posts and headquarters of the JNA, ensure their gradual subordination” and “through the competent bodies, ensure that the order is put into effect to mobilize JNA reserve forces and TO units”²⁵. On 27 March 1992, at the 14th session of the Serb Assembly, Karadžić stated that the crisis staffs should organize territorial defence units and “if the JNA is there, they must be placed under its command”²⁶.

33. On 9 January 1992, the Bosnian Serb Assembly proclaimed the Serbian Republic of Bosnia and Herzegovina. This would subsequently be renamed the Republika Srpska on 12 August 1992.

34. At the end of March 1992, the Bosnian Serb leadership separated the Bosnian Serb police forces and the non-Serb police forces, established the Serbian Ministry of Internal Affairs and put the Bosnian Serb police under the Bosnian Serb civilian command. On 16 April 1992, the Serbian Territorial Defence was mobilized and an imminent threat of war was declared.

35. According to the ICTY trial judgment in the Brdanin case, in April 1992, Radovan Karadžić and his co-President of the newly declared public, Nikola Koljević, showed a map of the future Bosnia, according to which 70 per cent of the territory would be covered by the Bosnian Serb Republic. A few months later this map was a reality, as the Bosnian Serb forces controlled exactly those areas which according to the map would constitute the territory of the Serbian Republic²⁷.

36. After the commencement of the ethnic cleansing campaign, the Bosnian Serbs publicly declared their strategic goals. During the 16th session of the Serbian Assembly that took place on 12 May 1992, Radovan Karadžić articulated the six strategic goals of the Serbian people of Bosnia

²⁵Exhibit P25 from ICTY *Prosecutor v. Brdanin*, case No. IT-99-36-T.

²⁶Transcript of the 14th session of the Assembly of the Serb people in Bosnia and Herzegovina, 27 March 1992, Exhibit B6406, ICTY, *Prosecutor v. Milosević*, case No. IT-02-54-T.

²⁷ICTY, *Prosecutor v. Brdanin*, Judgment, case No. IT-99-36-T, 1 September 2004, para. 74.

which defined what would be the ethnically clean borders of the State²⁸. These objectives were also subsequently set out and published in the Official Gazette of the Republika Srpska.

37. The published version in the Official Gazette states the strategic objectives or priorities of the Serbian people in Bosnia and Herzegovina are to:

1. Establish State borders separating the Serbian people from the other two ethnic communities.
2. Set up a corridor between Semberija and Krajina.
3. Establish a corridor in the Drina River Valley, that is, eliminate the Drina as a border separating Serbian States.
4. Establish a border on the Una and Neretva Rivers.
5. Divide the city of Sarajevo into Serbian and Bosnian Muslim parts and establish effective State authorities in both parts.
6. Ensure access to the sea for the Republika Srpska²⁹.

38. Significantly, the first of these goals was to “Establish State borders separating the Serbian people from the other two ethnic communities”. Radovan Karadžić subsequently explained what this first strategic goal meant. He said:

“We certainly know that we must give up something — that is beyond doubt in so far as we want to achieve our first strategic goal: to drive our enemies by the force of war from their homes, that is, the Croats and Muslims, so that we will no longer be together in a State.”³⁰

39. This first goal was not new. It was the essence of the aim that had been raised in the meeting with Milosević, Karadžić and Babić in the Serbian President’s office in July 1991. The third strategic objective was also not new. Later this afternoon you will hear more about the third goal of establishing a corridor in the Drina River Valley and eliminating the Drina as a border between Republika Srpska and Serbia. Suffice to say at this point that the essence of the goal had in fact been decided in Belgrade well before these strategic objectives were published.

²⁸See “*The Assembly of Republika Srpska, 1992-95: Highlights and Excerpts*” by Dr. Robert J. Donia, submitted 29 July 2003; Exhibit No. 537 ICTY, *Prosecutor v. Milosević*, case No. IT-02-54-T, hereinafter “Dr. Donia Expert Report”, pp. 3-4; ICTY, *Prosecutor v. Brdanin*, Judgment, case No. IT-99-36-T, 1 September 2004 and, in particular paras. 75-77 and Exhibit P50. See generally paras. 65-79.

²⁹A translation of strategic objectives as published in the official gazette can be found as Exhibit P746a ICTY, *Prosecutor v. Krstić*, Judgment, case No. IT-93-33-T, 2 August 2001, para. 562.

³⁰Assembly of the Republika Srpska during the session on 18-19 July 1994 to be found in Dr. Donia Expert Report, p. 64; ICTY, *Prosecutor v. Milosević*, Decision on Motion for Judgment of Acquittal, case No. IT-02-54-T, 16 June 2004, para. 241.

40. These strategic goals clearly encompassed ethnic cleansing in defined territories in Bosnia³¹. When the crisis staff President of Bratunac, a municipality on the Drina River bordering Serbia, achieved the aims of the first objective by cleansing Muslims from his municipality with the JNA and paramilitaries from Serbia he was, quite literally, applauded by the Bosnian Serb leadership³².

F. Funding

41. Parallel to this process the financial structures were created resulting in a total monetary integration of the SFRY and of the nascent economy of the Republika Srpska.

42. The Social Accounting Office, known as the SDK, was a payment service system used within the SFRY for the transfer of funds within and between the Federal Republics and the two autonomous regions. When the disintegration of the SFRY began, the Serb-controlled regions in Croatia and Bosnia carefully maintained connections between their part of the SDK system and the SDK system of the Republic of Serbia. This continued connection was important for facilitating ongoing payments. Without it, cash payments would have been the only alternative. Thus, the SDK system was of fundamental importance for the economic and monetary functioning of all the Republics of the former Yugoslavia.

43. At an early stage of the disintegration of the SFRY, the Bosnian Serb leadership realized the importance of taking charge of this monetary lifeline to the Yugoslav National Bank, in the areas that they planned to control. A speech by Radovan Karadžić at the Plebiscite of the Serb People, on 1 November 1991, highlights the importance of the SDK:

“Be prepared soon to take over the SDK decisively. I mean, to appoint your own man in the SDK. Prepare the ground and first talk to them, ask them whether they’re ready to work in a moment that is not legal, in accordance with the laws and regulations which you, as the municipal authority, will give them.”³³

44. This was echoed by the Variant A and B instructions. In stage two of implementation of the instructions, Variant A municipalities where Serbs were already the majority, they were required to “oblige branch offices of the SDK to speed up daily monitoring of transactions within

³¹See also ICTY, *Prosecutor v. Milosević*, Decision on Motion for Judgment of Acquittal, case No. IT-02-54-T, 16 June 2004, paras. 238-246.

³²ICTY, *Prosecutor v. Deronjić*, sentencing Judgment, case No. IT-02 61 –S, 30 March 2004, para. 114.

³³Ex. P2466a.

their regions and to prevent the withdrawal of hard currency and securities from the vaults under their control at banks, post offices and other financial organisations”.

G. Conclusion

45. In conclusion, since our Reply our case, with respect to preparations, has only been confirmed and strengthened. What is clear from this picture is the forward planning and preparation that occurred before the targeting of non-Serbs began in Bosnia. What happened was not spontaneous. There was a strategy and it was carefully implemented, it was carefully planned, prepared and implemented from the highest levels of the Serbian leadership, through the Bosnian Serb leadership, to the municipal leadership and to the Serb forces on the ground.

46. As Radovan Karadžić said in the 40th Republika Srpska Assembly session held on 10 and 11 May 1994 “without Serbia nothing would have happened, we don’t have the resources and we would not have been able to make war”³⁴. The Respondent’s organs and officials, in particular the President of Serbia, the JNA and the Serbian SFRY MUPs were integral in these preparations. They led the way politically, they provided the arms, the training, the funding and finally, the army. Ultimately, it is the Respondent that bears the responsibility for what flowed from these actions.

Madam President, Members of the Court, that concludes my submissions. Would you now please call on my colleague and the Deputy Agent, Mr. van den Biesen.

The PRESIDENT: Thank you, Ms Karagiannakis. I do now call upon Mr. van den Biesen.

Mr. van den BIESEN: Madam President, Members of the Court, I plan to lead you through the events which are directly related to the siege of Sarajevo during this part of our pleadings and I do announce that we will try and have the benefits of modern times today by showing you sometimes some graphs or pictures on the screen behind me.

THE SIEGE OF SARAJEVO

A truly multi-ethnic, multi-cultural city

1. Madam President, a very specific and very telling characteristic of the entire Greater Serbia campaign period has been the siege of Sarajevo. For almost four years the citizens of the

³⁴This extract can be found in Dr. Donia Expert Report, p. 62.

city were not only kept hostage by the Serb side, but during that period they were also the object of the sustained use of deathly armed violence clearly aimed at the destruction, in whole or in part, of the Bosniac population of this beautiful, historic, south-eastern European and Balkan city.

2. Sarajevo really was emblematic of what constituted Bosnia and Herzegovina: a truly multi-ethnic, multi-religious, multi-cultural community of people, open to what the world at large had to offer; and at the same time inviting and warmly welcoming the world to join in with the values of its cosmopolitan life. For all of these features, combined with its geography, the city was elected to host, as we all know, the Olympic Winter Games in 1984, an event which further defined the open-mindedness just mentioned.

3. These characteristics, indeed, were reflected in the composition of the population of Sarajevo. According to the 1991 census³⁵ the composition of the population of each municipality was, as you can see on the screen now — and we have chosen to show you this, what is called a pie chart, because it makes so visual how the exact composition of the population was, the green colour being the Bosniaks and the blue colour being the Bosnian Serb part. In the judges' folder we will include copies of all of these maps and we will also include the statistics, which I am not going to read now:

- Sarajevo Centar 79,286, with 50.15 per cent Muslims, 20.98 per cent Serbs, 6.85 per cent Croats, 16.43 per cent Yugoslavs, and 5.59 per cent others.
- Sarajevo Stari Grad 50,744, with 77.66 per cent Muslims, 10.15 per cent Serbs, 2.2 per cent Croats, 6.65 per cent Yugoslavs and 3.32 per cent others.
- Novo Sarajevo 95,089, with 35.65 per cent Muslims, 34.60 per cent Serbs, 9.25 per cent Croats, 15.88 per cent Yugoslavs and 4.62 per cent others.
- Ilijas 25,184, with 42.03 per cent Muslims, 44.97 per cent Serbs, 6.89 per cent Croats, 4.63 per cent Yugoslavs and 1.47 per cent others.
- Hadzici, 24,200, with 63.60 per cent Muslims, 26.29 per cent Serbs, 3.08 per cent Croats, 3.48 per cent Yugoslavs and 3.55 per cent others.

³⁵1991 Census Population of Bosnia and Herzegovina, State Institute for Statistics of the Republic of Bosnia and Herzegovina, Sarajevo, December 1993.

- Ilidza, 67,937, with 43.18 per cent Muslims, 36.84 per cent Serbs, 10.21 per cent Croats, 7.63 per cent Yugoslavs and 2.14 per cent others.
- Novi Grad 136,616, with 50.82 per cent Muslims, 27.52 per cent Serbs, 6.51 per cent Croats, 11.40 per cent Yugoslavs and 3.75 per cent others.
- Vogosca 24,647, with 50.71 per cent Muslims, 35.76 per cent Serbs, 4.35 per cent Croats, 7.02 per cent Yugoslavs and 2.17 per cent others.
- Trnovo 6,991, with 68.52 per cent Muslims, 29.45 per cent Serbs, 0.23 per cent Croats, 1.03 per cent Yugoslavs and 0.77 per cent others.
- Pale, 16,355, with 26.68 per cent Muslims, 68.99 Serbs, 0.79 per cent Croats, 2.42 per cent Yugoslavs and 1.11 per cent others.

4. It follows, Madam President, from this overview that in the city of Sarajevo ethnicity or religious background was not an issue before the all-Serbs-in-one-State propaganda, originating in Belgrade, began to poison the very make-up of the former Yugoslav Republic of Bosnia and Herzegovina.

5. The ethnical and religious diversity is not only shown in the census statistics, but it is also reflected in the town itself by the prominent presence, the truly combined presence, of churches, mosques and synagogues in the city of Sarajevo.

The beginning

6. Obviously, the developments in the rest of the former Yugoslavia did not leave the Sarajevans untouched. The Greater Serbia propaganda did its work; the ethnic cleansing by the Yugoslav army, the JNA, in Croatia did its work. The Vukovar pictures shocked the Bosnians, while the hate speech from political leaders in Belgrade, combined with the hate speech from the Bosnian Serb leaders, did not leave any true Bosnian, any true Sarajevan unaffected. For one individual this all became too much: in March 1992 a non-Serb, a Bosniac citizen of Sarajevo, started shooting at a Serb wedding party outside Sarajevo's old Serbian Orthodox Church. One person was killed and several were wounded. The event was regretted by the Bosnian authorities.

7. The JNA responded to the outcome of the referendum on independence for Bosnia at the beginning of March through brutal takeovers of — and I am just mentioning a few — Bijeljina on

31 March 1992, Zvornik on 9 April 1992, Bratunac on 17 April 1992, Prijedor on 30 April 1992, and so on, followed by the first ethnic cleansing on Bosnian soil of these municipalities.

8. In addition to this, in Sarajevo, the JNA attacked, on 5 April 1992, the Training Academy in Vrace and, on 6 April 1992, the central tramway depot and the Old Town district with mortar, artillery and tank fire. At the same time the JNA took control of Sarajevo airport, and began to use it as an exclusively military airport. This is all at the beginning of April, and it would take until the end of November 1995 before the legitimate Government of Bosnia and Herzegovina would regain control of its airport.

9. The Sarajevans left no doubt regarding their thinking about these developments. On 6 April 1992 a huge peace demonstration took place in the city centre. All ethnicities making up the city were clearly present. It soon became also entirely clear which side did not like propaganda for peace: when the demonstrators neared the Holiday Inn Hotel, where the Serb nationalists, including Karadžić, had some weeks before converted the upper floors into their private quarters, the Serbs within the hotel opened fire on the crowd. [On screen] When, Madam President, yesterday I watched the news, the BBC news, these images came to my mind. When I saw the pictures of mass demonstrations that took place in Belgrade in support of Mr. Mladić, calling upon the Government of Yugoslavia not to transfer him to The Hague. So there is still a long way to go, Madam President, and that is one of the reasons that we are here. In Sarajevo six people, after this demonstration, lay dead on the street. Over a dozen were wounded, several of them badly. No condemnation of this killing spree followed from the Bosnian Serbs nor from the Belgrade authorities.

The beginning of the siege

10. The Belgrade authorities did not respond peacefully to the developing situation. As mentioned a minute ago the declaration of Bosnia's independence was followed by the first ethnic cleansing operations in Bosnia, conducted by a concerted combination of JNA, paramilitaries from Belgrade, and Bosnian-Serb militia. The international recognition of Bosnia's independence was followed by Belgrade ordering the JNA to have its tanks and heavy weapons take up positions on the hills surrounding the city. These tanks, these heavy weapons would not leave these positions

until the end of 1995, except for a relatively effective four-month ceasefire brokered by the United States at the end of 1994. [On screen] I am sorry that the sound does not come through, Madam President, but the pictures were in itself telling and it showed how the heavy weapons were put around the city on the hills. They just give you some impression of the destruction that they caused in the time that followed.

11. The leadership of the independent Bosnia and Herzegovina was — I mentioned this yesterday — not exactly ready to militarily defend itself against this overwhelming and brutal armed attack. The Bosnian army was basically non-existent: the only army present in Sarajevo was the JNA, and the JNA was not about to hand over the command authority nor its military equipment to the Bosnian presidency. Therefore, in April 1992 the so-called armed forces of Bosnia were put together — they were put together from people who were able to carry a gun, and were used to doing that for other purposes: local police, territorial defence units and armed people under the authority of the Ministry of the Interior. In the beginning some of these units appeared to have hosted armed professionals from lesser appreciated circles: being the Sarajevo organized crime. It took the Bosnian Government, indeed, some time to effectively get rid of their participation.

12. It was not an easy task for the Bosnian leadership, at that point in time, to turn this exotic mixture of groups into some sort of army, under some sort of single command. Actually, although steady improvements were made during the years of the war, the Bosnian army never succeeded in creating a fully-fledged army which would as such be a match for the JNA, relabelled as the VRS and the VJ, the Bosnian Serb army and the Yugoslav army.

13. But the important advantage which the Bosnian army had over the Serb army became clearly visible when years passed by. Although the Bosnian army was no match equipment-wise for the Serb army, it did have the advantage of the availability of large numbers of highly motivated manpower. On top of that, it had the most important advantage: motivation and *strong* commitment. From the very beginning onwards it was clear to the men in the Bosnian army that they were fighting, not only for their lives, for their very existence, but also for a case worth fighting — and, if need be, dying — for: a truly civilized society based on respect and tolerance. The Army itself formed a clear inspiration for all of this: although, for obvious reasons, the

majority of the fighting force was made up out of Bosniaks. Madam President, I explained yesterday, what the term Bosniak refers to — it is the accepted denomination of the Bosnian Muslims from 1993 onwards; now I am told that no distinction can be made in the French language — like Bosniak in French is a problem for the French but Bosniak in French *means Bosnian* and we are talking about Bosniaks when we mean Bosnian Muslims. I will leave it for the translators to resolve this problem and can only say *c'est la vie!* — I think that is a job for them. The Deputy Commander of the army of Bosnia and Herzegovina was not a Bosniak — he was this charismatic Bosnian Serb, General Divljak, and he stayed in Sarajevo during the entire war (and after) and provided great leadership in assisting the citizens of Sarajevo to survive the ongoing siege, the ongoing killing, in a dignified manner.

14. We are still in April 1992, Madam President. The JNA 2nd Military District still had its headquarters in Sarajevo. General Kukanjać was still the Commander of this Military District and he was still in Sarajevo. Towards the end of April the JNA had completed surrounding the city.

15. Before the end of this month, on 24 April 1992, the Belgrade authorities promoted General Mladić to Chief of Staff of the 2nd Military District and to Deputy Commander of the same district; meaning that if the Commander would, for example, be killed or if the Commander would otherwise disappear, that Mladić would automatically become the head of the 2nd Military District.

16. At that point in time the “Belgrade authorities”, also formally, implied only the leadership of Serbia and Montenegro, since on 27 April 1992, the new Constitution of the Federal Republic of Yugoslavia was adopted, through which the FRY established itself as a State entity made up out of Serbia and Montenegro.

17. The Bosnian Presidency then ordered the JNA, being a foreign army, to immediately withdraw and also to leave arms, ammunition, military equipment, etc., behind. None of that happened in response to that request of the Presidency, which was certainly an entirely legitimate request.

18. However, on 30 April 1992, the Serb leadership convened in Belgrade. Present were Branko Kostić (President of the Federal Presidency), Slobodan Milošević (President of Serbia), Momir Bulatović (President of Montenegro), General Milan Panić (Chief of the JNA General

Staff), Radovan Karadžić (President of the RS and SDS party), Momčilo Krajišnik (President of the RS Assembly), Nikola Koljević (Vice-President of the RS), and Mr. Jović (Serbian Member of the SFRY Presidency).

19. At this top-level meeting it was decided that Mladić should take over the command of the army in Bosnia and Herzegovina and that Kukanjać were to be dismissed.

20. These decisions became effective on 3 and 4 May 1992 and, indeed, the JNA began to withdraw from Sarajevo. Since they did ignore the order of the legitimate Bosnian authorities to leave their weapons and equipment behind and since they, on the contrary, tried to take everything of that with them, Sarajevo militias blocked the withdrawal. And it was *only* because the JNA had taken President Izetbegović hostage on 2 May 1992, upon his landing in Sarajevo airport, when he was returning from peace negotiations in Lisbon, that the JNA, i.e. the Respondent, managed to negotiate a withdrawal, which included all of the military equipment. Let us just realize, Madam President, what we are talking about here: the President of an independent State returns to his own country, to his own airport, after having negotiated principles for a peace plan with, among others, the Belgrade authorities; before he could even start thinking about discussing these peace proposals with his people, one of the parties who was at the negotiating table decides to take him prisoner and to use him as a hostage in order to keep the army's equipment away from him, away from Bosnian control, and in order to use that to strengthen the Serb military; that, Madam President, apparently, was what Belgrade considered to be part of "good faith negotiations". So they did manage to take the JNA out of the city but it was not that they were about to withdraw all of this to Serbia or to Montenegro: the need for taking the equipment was strictly related to the JNA wish to prevent that the army of Bosnia and Herzegovina would get these weapons; once withdrawn from the city the equipment was left in the hands of Mladić and his colleagues. When, a couple of years later, in 1994, General Kukanjać, who led this so-called withdrawal, received criticism from his own people, from his Bosnian Serb friends, on the role he had played during this so-called withdrawal he explicitly and precisely indicated what exactly he had done. He said:

“Listen, when I was in command, not one single canon, nor a tank, was left to the Muslims, nor did they get one . . . We gave you the arms . . . I must say that I left the Serb part of Sarajevo captured for you.”³⁶

That is what the JNA did according to its commander.

21. This was, indeed, the reality. JNA, i.e. the Respondent, captured the predominantly Serb part of Sarajevo and laid siege around the non-captured part. And when this new reality was put in place, the pounding of the city began. This pounding, shelling and sniping would continue until the very end of 1995, except for several ceasefire intervals.

22. This pounding of the besieged city really demonstrated the true nature of the siege: trying *to destroy*, in whole or in part, the Bosniak population of Bosnia and Herzegovina, in order to at least break up the city into two “ethnically cleansed” sections: one exclusively for the Serbs, the other section for the non-Serbs. This was exactly one of the six strategic goals, to which reference was made earlier — it was the fifth, to be precise, and it was about separating, dividing Sarajevo in these two ethnically cleansed areas. Mladić was totally clear on how to implement this plan. This is what he said in an intercepted telephone conversation with a VRC officer, Mr. Mirko Vukašinić. Now we really do need the sound, Madam President. Well, we are not going to wait for that, I will just read what he said: [On screen]

“Shoot at Velesci and also Pofalici, there are not many Serbs there . . . but do artillery reconnaissance, so that they can’t sleep, to make them go out of their minds.”³⁷

These are clear instructions to fire at civilians, to begin with, and these are clear instructions to fire at the specifically defined group of the civilians, being the Bosniaks of Sarajevo, fired to the area of where there were not many Serbs.

The PRESIDENT: Mr. van den Biesen, may I interrupt you for a moment to ask you the following: could you please specify the origin of the translations into English which appear as subtitles at the bottom of the screen?

³⁶My Guest — My Truth,” Interview on Pale TV, 12 July 1994, Annex 138 to Reply, 23 April 1998.

³⁷Intercepted telephone call between Ratko Mladić and Mirko Vukašinić, 28 May 1992, http://www.domovina.net/tribunal/page_006.php

Mr. van den BIESEN: The translations have been prepared by professional translators, who also made the subtitles. I should have certified in writing the accuracy of these translations and will do so forthwith.

23. What this meant, Madam President, became visible on Wednesday morning — this strategy of aiming at civilians — Wednesday morning, 27 May 1992. Due to the siege, food shortage had become very pressing and basic needs became scarcely available. To get bread one had to line up at the few points in town where this was made available. On this Wednesday morning hundreds of people lined up at the distribution point on Vasa Miškin, which is in the midst of Sarajevo. The besiegers of the city explicitly targeted this breadline and they fired three mortar shells. And this is the result of what they actually did. [On screen]

These images, Madam President, went across the world, showing what ethnic cleansing in Bosnia looked like, showing what genocide in present-day Europe looked like.

24. Of course, the civilized world condemned this massacre in the strongest of language. The Security Council, on 30 May 1992, passed a resolution³⁸, a resolution condemning the failure of the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro), including the Yugoslav People's Army, to take effective measures to fulfil the requirements of an earlier resolution 752 (1992)³⁹, which stated and ordered, among other things, the withdrawal of the JNA from Bosnia and Herzegovina and the disbanding and disarmament of irregular forces. No condemnation, however, from the Bosnian Serb leadership. Of course not. No condemnation either from the Belgrade authorities. Of course not. To them this was precisely what this conflict was all about.

25. The so-called withdrawal of the JNA entailed new labels, new letterhead and new insignias. The Sarajevo region used to be assigned to the 4th Corps of the JNA. This corps was renamed into the Sarajevo-Romanija Corps. The zone of responsibility remained the same. Initially, the former JNA Major General Tomislav Sipčić commanded the corps. Yet from 10 September 1992 he was replaced by Colonel Stanislav Galic, who would soon be promoted to

³⁸United Nations Security Council resolution 757 (1992) of 30 May 1992.

³⁹United Nations Security Council resolution 752 (1992) of 15 May 1992.

the rank of Major General; that is, Major General in the ranks of the Yugoslav Army, that is, promoted by the Yugoslav authorities in September 1992.

26. In any event the JNA withdrawal was not completed after Kukanjać left the country and after the JNA headquarters in the centre of the city was abandoned. Only on 6 June 1992, the JNA, still present under its own name and labelling, withdrew from the Marshal Tito barracks. The Serbs tried to destroy the arms and ammunitions which they were not able to take, but the Government forces managed to secure quite some ammunition and also several anti-tank weapons⁴⁰. The revenge of the JNA for this was not exactly mild. Over the next two days, it unleashed the heaviest artillery barrage to date against civilian targets in the city⁴¹.

The siege

27. The fate of the city became clear, worldwide, through the extensive TV coverage, through reports of civil society organizations and through multiple United Nations reports. We have in our Reply of 23 April 1998 frequently used the excellent and extensive reporting of the Special Rapporteur of the United Nations Human Rights Commission, Tadeus Mazowiecki, the former Prime Minister of Poland. He went to the country, he frequently visited the country and on 24 August 1992 he reported:

“The siege, including the shelling of population centres and the cutting of supplies of food and other essential goods is another tactic . . . The city is shelled on a regular basis, in what appears to be a deliberate attempt to spread terror among the population. Snipers shoot innocent civilians. The mission visited the hospital, and was able to see many civilian victims. It was also able to see the damage done to the hospital itself, which has been deliberately shelled on several occasions, despite the proper display of the internationally recognized Red Cross symbol.”⁴²

28. Basically, there was not too much the Bosnian Government could do against this continued killing of its citizens. The lack of proper arming was obviously the main reason for that, especially since there was no lack of people willing to defend and liberate the city.

⁴⁰Lučarević, *The Battle for Sarajevo*, pp. 128–129.

⁴¹United Nations, *Final Report of the United Nations Commission of Experts established pursuant to Security Council resolution 780 (1992)*, Annex 6, “Study of the Battle and Siege of Sarajevo”, June 6–9, 1992, pp. 202–204.

⁴²United Nations, Commission on Human Rights, Economic and Social Council. “Report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 14 of Commission resolution 1922/S 1/1 of 14 August 1992”, August 28, 1992,” New York: United Nations Economic and Social Council, 1992.

29. Creative Bosnian soldiers would try and make up for this lack of ammunition by using home-made projectiles. The “Bosnian cocktail” is famous in this respect: they would take a Coca-Cola can and fill it up with explosives. And, indeed, in doing so they managed occasionally to harm the enemy military targets with this sort of projectile. With the same sort of creativity, four Second World War cannons were borrowed from a museum in the city and they were actually used. But in reality all of this obviously was not worth much. The United Nations counted that the Bosnian Serbs fired an average of 300 artillery or mortar rounds at the city every single day⁴³. This only stopped for some time during the 1994 ceasefire. According to the United Nations, 22 July 1993 was a record-breaking day: 3,777 impacts were counted in the city in one single day. The former United States Ambassador, Herbert Okun, who was also a member of the missions of United States Secretary of State Cyrus Vance — the missions to Bosnia — concluded in his testimony at the ICTY in the Milosević case: “For every projectile fired into Serb-held territory, ten hit areas controlled by the [Government of Bosnia and Herzegovina] ARBiH.”⁴⁴ So it was one to ten.

30. Occasionally, Madam President, the Serb side would send shell and mortar rounds towards *military* targets in the city. But never did take this the size of a serious effort to actually gain military advantages. Obviously not, since the international community — with a strong presence within Sarajevo — had made it perfectly clear that an effort to capture the city would not be accepted and would have extremely serious consequences for both the Bosnian Serbs as well as for the FRY. Most of the Serb firepower was deliberately used to kill members of the group, to cause serious bodily or mental harm to members of the group and to create conditions of life which would serve to help destroy the group in whole or in part.

31. Targeting hospitals was part of this deliberate approach. Madam President, it is hard to believe, but it was a Minister of Health who propagated the idea to destroy the hospital in Sarajevo. During the meeting of the Bosnian Serb Assembly of 12 May 1992, the Minister of Health of the freshly proclaimed Republika Srpska, Mr. Dragan Kalinić, took the following position:

⁴³CIA, *Balkan Battlefields*, 1: 307.

⁴⁴ICTY, *Prosecutor v. Slobodan Milosević*, case No. IT-02-54, Testimony of Herbert Okun, 26 February 2003, pp. 16, 963.

“Those who will be planning the Sarajevo operation, either of liberating Sarajevo or of destroying the enemy forces in Sarajevo, will have to plan what to do with the medical facilities. And [he goes on] let me tell you this right now, if the military hospital is to end up in the hands of the enemy, I am for the destruction of Koševo Hospital, so that the enemy has nowhere to go for medical help.”⁴⁵

32. No wonder that the ICTY trial chamber found in December 2003, in the case against the Commander of the Bosnian Serbs, Stanislav Galić:

“the evidence does reveal that, on occasions, the Kosevo hospital buildings themselves were directly targeted, resulting in civilian casualties, and that this fire was certainly not aimed at any possible military target . . . [T]hese direct attacks on Kosevo hospital constitute examples of the campaign of attacks on civilians.”⁴⁶

33. Targeting the major Bosnian, truly independent, newspaper, *Oslobodjenje*, in Sarajevo was part of the deliberate approach. The impressive building was reduced to a ruin in a clear effort to deprive all Bosnians of their own Bosnian public voice.

34. Targeting a treasure of Bosnian cultural heritage was part of the deliberate approach. On the evening of 26 August 1992, Bosnia’s National Library was bombarded and set ablaze by a tightly targeted barrage of incendiary shells, fired from multiple Serb artillery positions on the heights overlooking the city. Clearly, clearly the object was to make sure that its contents — the contents of the library — would be turned into ashes. The library burned through the night, together with its rich collections that embodied Bosnia’s history and cultural memory. An estimated 1.5 million volumes, comprising the bulk of the National Library’s collections, were consumed by the flames in this, what must be called the largest single incident of deliberate book-burning in modern times⁴⁷.

35. Targeting the major supply lines for water, electricity and communications while the city was packed with civilians was part of the deliberate approach. It certainly did not serve any other purpose than severely damaging the civilian members of the particular group and it certainly was calculated to bring about conditions of life which would destroy the Bosniaks in whole or in part.

⁴⁵ICTY, *Prosecutor v. Slobodan Milošević*, case No. IT-02-54, “The Assembly of Republika Srpska, 1992-95: Highlights and Excerpts”, Expert Report of Dr. Robert J. Donia, 29 July 2003, Exhibit 538 ID.

⁴⁶ICTY, *Prosecutor v. Stanislav Galić*, case No. IT-98-29-T, Judgment and Opinion, 5 December 2003, para. 509.

⁴⁷ICTY, *Prosecutor v. Slobodan Milošević*, case No. IT-02-54-T “Destruction of Cultural Heritage in Bosnia-Herzegovina 1992-1996 — A Post-war Survey of Selected Municipalities”, Andras Riedlmayer, Exhibit No. P486.

36. Targeting mourning crowds at funerals of the victims of earlier shelling; that was part of the deliberate approach. What other message was sent here than telling the citizens of Sarajevo, “we are serious about killing you”?

37. Targeting whatever they saw moving was the apparent task set for the snipers — the snipers who randomly, but deliberately, aimed at the civilian population. They brought death, maiming and psychological terror to the non-Serbs locked into this city. [On screen]

38. Madam President, Mladić said: “Shoot at the Bosniaks.”⁴⁸ Kukanjać said: “I left you all the arms.”⁴⁹ The Minister of Health said: “Go destroy the hospital.”⁵⁰ And this is, I need to add, what Karadžić said on 13 October 1991: “In just a couple of days, Sarajevo will be gone and there will be five hundred thousand dead, in one month Muslims will be *annihilated* in Bosnia and Herzegovina . . .”⁵¹

39. It is just amazing that the Sarajevans kept their dignity and managed to keep a living society going. A society which celebrated its principles and which practised respect and tolerance to all people who made it up, regardless of their ethnic designation.

40. While the Serbs side blew up mosques and catholic churches, after they had captured the next municipality, the leadership of Bosnia and Herzegovina succeeded in maintaining a climate in which every citizen was free to practise a religion of choice. What follows on the screen are Easter services in Sarajevo in 1994. Just to show that Sarajevo was not an exception here, we have also added some images of the same in Tuzla. [On screen] You are looking here at pictures of General Dudejak whom I mentioned just a minute ago, who is talking to the people after the visit to the church.

⁴⁸Intercepted telephone call between Ratko Mladić and VRS officer Mirko Vukasinović, 28 May 1992, http://www.domovina.net/tribunal/page_006.php

⁴⁹“My Guest — My Truth,” Interview on Pale TV, 12 July 1994, Annex 138 to Reply, 23 April 1998.

⁵⁰ICTY, *Prosecutor v. Slobodan Milosević*, case No. IT-02-54, Bosnian Serb Assembly, 16th Session, 12 May 1992, Dragan Kalinić, Exhibit 538 ID.

⁵¹http://www.domovina.net/tribunal/page_006.php; ICTY, *Prosecutor v. Slobodan Milosević*, case No. IT-02-54-T, Decision on Motion for Judgment of Acquittal, 16 June 2004, para. 241, Exhibit 613, tab 89 (intercepted communication with Momcilo Mandić, dated 13 October 1991).

Victims

41. In the city meanwhile, the death toll rose steadily, but surely. The Office of the Prosecutor at the ICTY commissioned several studies on the amount of victims of the siege. These reports were produced in the case against Galić⁵². I mentioned him before.

42. The picture which emerges from these reports results in some 10,000 war-related deaths, among which at least 5,000 civilians. And the amount of wounded civilians would be between three and four times the amount killed.

43. Thus, the number of war-related civilian casualties adds up to more than 20,000 in Sarajevo alone.

44. The figures available also show that roughly half of the civilian victims fell in the first nine months of the siege. This corresponds with figures with respect to the rest of Bosnia. It also corresponds with the notion that the Bosniaks were not able to, militarily, defend themselves in 1992 and 1993, which situation was used — as publicly announced by Karadžić — to try and annihilate the non-Serbs of Bosnia.

45. These figures are impressive and frightening, but they do not reflect the true horror of the intentional targeting of the civilian population. Dead bodies on the street were an all too familiar sight in Sarajevo, especially in the earlier years of the siege, 1992 and 1993. Judged on the basis of the statistics, 1994 looks somewhat less horrible than the preceding years. But that is just statistics.

46. On the morning of 5 February 1994 the Markale market was busy as ever. This was *the* place where food was to be obtained, if it were available at all. Hundreds of people would be going to this market, which in itself was a well-known fact as well. And just after noon the market turned into living hell. [On screen]

The result of this horrendous, nasty attack was over 60 persons killed and over 140 injured⁵³.

47. One single mortar shell caused this massacre. The Bosnian Serbs showed their not so unusual impertinence by bluntly stating in public that “the Muslims” had shelled their own population.

⁵²ICTY, *Prosecutor v. Stanislav Galić*, case No. IT-98-29-T, Population Losses in the Siege of Sarajevo 10 September 1992 to 10 August 1994, Expert report submitted by Ewa Tabeau, Marcin Zoltkowski and Jakub Bijak, 13 May 2002.

⁵³ICTY, *Prosecutor v. Stanislav Galić*, case No. IT-98-29-T, Judgment and Opinion, 5 December 2003, para. 439 and footnote 1556.

48. Immediately after the shelling two sets of investigations were launched, one from a local team and one from the United Nations. These investigations resulted in several reports that were part of considerations by the trial chamber of the ICTY in the Galić case. Galić was found guilty of unlawfully spreading terror among the civilian population by means of acts of violence, murder and inhumane acts.

49. Apart from the reports just mentioned, the trial chamber also considered an additional report produced by the defendant himself. In its judgment the trial chamber gave due considerations to all of these reports as well as to various witness statements with respect to this matter. The trial chamber concluded, by majority, that, indeed, the Serb side had launched this appalling attack and it further found that it would not only be totally unlikely that Bosnian Muslim forces would have fired on their own civilians but it established that that would go also contrary to the material facts proven.

50. Again, these images of the massacre went across the world and shocked the conscience of mankind. This also led to strong United States pressure on the Serb side and to negotiations led by former President Carter. He managed to broker a ceasefire on 20 December 1994, which brought some relief to the citizens of Sarajevo.

51. Only some, since the siege as such continued and moving in and out of the city remained virtually impossible. The only lifeline was created by the Sarajevans, who had constructed a 800-m long tunnel, which would provide for some traffic in and out of town.

52. The tunnel was constructed underneath the airport and connected the city to the road on Mount Igman, which was still under Bosniak control. The Serb side responded to this by frequently shelling the Mount Igman passage, which again cost many lives.

53. Later on during 1994 the heavy weaponry, which was pulled back under the Carter Agreement, slowly but surely was put back in place on the hills overlooking the city. After that had happened Vojislav Kostunica visited the frontline of the siege. He, the current Prime Minister of the Respondent, followed the example of Vojislav Seselj, who is currently here in Scheveningen in the ICTY detention facility. This is what those visits looked like [On screen.].

54. These images are self-explanatory and it is very telling that these political leaders would come at all to visit the troops at the frontline, one would say. But it was clearly meant as signs of

solidarity, signs which are not really appreciated, Madam President, by the Applicant in this case. It is also not very encouraging that Kostunica was one of those visitors. It stresses Bosnia's position that it, indeed, is necessary that the Court does set the record straight.

55. The heavy shelling resumed in 1995 and this basically continued throughout the rest of the year. 28 August 1995 saw another shelling of the Markale market. This time it cost 37 civilian deaths and approximately 90 injured persons. A confidential report to the UNPROFOR Commander concluded that five rounds had been fired from the Serb-held area of Lukavica, to the west of Sarajevo⁵⁴.

56. Since this second Markale market assault happened shortly after the Srebrenica massacre, the international response became stronger and led to NATO's bombing Serb positions around the city. Still, this did not effectively deter the Serbs. On 18 September 1995, they launched a counter-offensive on the city in response to NATO's bombing. Arkan's men from Belgrade and other paramilitary groups joined the Serbs in this offensive.

57. Madam President, the siege of Sarajevo was laid by the Yugoslav army in April 1992, when it was still named the Yugoslav National Army, JNA. As we said before, the so-called withdrawal did not change substantive matters. That is why we also conceded towards the end, in September 1995, Belgrade sent Arkan and his men actively to participate in the mentioned counter-offensive.

58. Belgrade was never absent during this longest siege of a European city. There is no doubt that the siege of Sarajevo squarely is covered by the specific and most imperative prohibitions laid down in the Genocide Convention. Thank you very much.

The PRESIDENT: Thank you, Mr. van den Biesen. The Court will take a short recess now and the sitting will resume in ten minutes time.

The Court adjourned from 4.30 p.m. to 4.45 p.m.

The PRESIDENT: Please be seated. Mr. van den Biesen.

⁵⁴United Nations General Assembly, Fifty-fourth session, 15 November 1999, Report of the Secretary-General pursuant to General Assembly resolution 53/35, The Fall of Srebrenica, para. 438.

Mr. van den BIESEN: Thank you very much, Madam President

SREBRENICA, OR ETHNIC CLEANSING OF EASTERN BOSNIA

Context

1. Madam President, Members of the Court, the Srebrenica massacre is the best known and maybe by now the best documented episode of the prolonged period of ethnic cleansing, which is central to our case. Also, it seems to be generally accepted that “Srebrenica” fully falls within the provisions of the Genocide Convention. As is well known the ICTY has found in two cases that, indeed, genocide was committed in Srebrenica in the month of July 1995.

2. It is obvious that we will spend time on Srebrenica during the course of these oral pleadings. We will elaborate on what we have stated in our Reply of April 1998. The Memorial of April 1994, obviously, does not mention this massacre since it had not occurred at that point in time.

3. Before I go into a more focused description of what actually happened in July 1995, I would like to provide some more context. If we want to give Srebrenica its proper place in the ethnic cleansing campaign that to a large extent destroyed the typical Bosnia and Herzegovina of before 1992, we need to look at a larger picture.

4. “Srebrenica” was not a goal in itself, it was merely the finale, the climax, the completion of what had been the plan all along, at least since the beginning of 1991. We are today discussing part of that earlier plan. This earlier plan did not focus on Srebrenica alone but related to all of eastern Bosnia.

5. Yesterday and earlier today we have clarified how the Serbian project was prepared. How, beginning in 1991, the Serbian leadership in Belgrade organized the arming of Serbs in Croatia as well as in Bosnia and Herzegovina, and how parallel political structures were created to assume governmental authority when the hour would have come. We explained that this happened in all areas with substantial Serb populations, although this was expressly not limited to municipalities with Serb majorities.

6. Eastern Bosnia, also referred to as the Drina Valley was part of the arms distribution project, which project aimed to exclusively arm the Serb population.

[On screen]

7. This is the area which is referred to basically as the Drina area. The 1991 census provides for the following demographic picture of eastern Bosnia. And you can see here again that most of this part was a truly mixed population, Bosniaks as well as Bosnian Serbs.

[On screen]

8. The ICTY case against Mr. Miroslav Deronjić provides for a clear view on the broader picture. Deronjić was accused of and sentenced for persecutions in Glogova, near Bratunac⁵⁵. It appears from his judgment of 30 March 2004 that he was a career politician: his first position was that of President of the Serbian Democratic Party of Bosnia and Herzegovina (SDS) and his career led him, in 1996, to become Vice-President of the SDS under Karadžić, until he resigned in 1997. Due to these political functions, Deronjić was involved in the implementation of the Serbian project from the very beginning onwards. That is why Mr. Deronjić was called to a meeting in Belgrade towards the end of April 1991. Deronjić was to meet with Mr. Kertes, the Deputy Minister — the one we heard about before — the Deputy Minister of the Interior of the former Yugoslavia, who would later on keep the same function under the new Yugoslavia. The topic of the meeting was the delivery of arms to the Bratunac Serbs.

9. According to Deronjić, at that meeting Kertes said that “the decision of the political and State leadership of the former Yugoslavia — the decision of the political and State leadership of the former Yugoslavia — was that in area of 50 km from the Drina would be Serb”⁵⁶. And the meeting resulted in the establishment of an arms distribution centre in Milići, which, according to Deronjić, was formed in the autumn or at the end of the summer of 1991⁵⁷.

On this map of Bosnia we have indicated what was the approximate reach of this 50 km zone.

[On screen]

10. This 50 km decision of the Belgrade leadership clearly fitted the Greater Serbia project, which was aimed at creating a future Yugoslavia where all Serbs would be united in one State.

⁵⁵ICTY, *Prosecutor v. Miroslav Deronjić*, case No. IT-02-61-S, Sentencing Judgment, 30 March 2004.

⁵⁶ICTY, *Prosecutor v. Miroslav Deronjić*, case No. IT-02-61-S, Testimony of Miroslav Deronjić, 27 January 2004, para. 54.

⁵⁷*Ibidem.*, p.123.

One year later, this 50 km notion found its way into the six strategic goals discussed earlier this afternoon. Strategic goal 1 and 3 read as follows:

“1. Establish State borders separating the Serbian people from the other two ethnic communities”

“3. Establish a corridor in the Drina River Valley, that is, eliminate the Drina as a border separating Serb States.”⁵⁸

[On screen]

Implementation

11. The implementation in the Drina River region of these two strategic goals has been a continued occupation for armed Serb forces throughout the entire 1992-1995 period of ethnic cleansing. When I am referring here to “Serb forces”, this includes forces from both sides of the Drina River. Among these, besides Bosnian Serb and Yugoslav forces, paramilitary forces, special police units and so-called volunteers. This continued occupation is reflected by the fact that a very substantial amount of ICTY cases deal with war crimes committed in precisely this region of Bosnia.

12. This region has been the continued object of the ethnic cleansing campaign, the earliest one beginning in Bijeljina on 31 March 1992; expanded through Foča on 8 April 1992; Zvornik was attacked on 9 April 1992, Višegrad 14 April 1992 and Bratunac 17 April 1992. We will look in more detail into these specific events tomorrow.

13. Srebrenica was, as the Prosecutor in the Milošević pre-trial brief stated: “between 1992 to 1993, [was] on many occasions attacked. Shelling came from the immediate vicinity around the enclave and from positions in Serbia.” And he goes on: “Further, air strikes were conducted against Srebrenica, following which the aircraft were observed flying in the direction of Serbia.”⁵⁹ The Srebrenica municipality had a predominant Muslim population according to the 1991 census: about three quarters of the population was Bosniac, about one quarter Bosnian Serb.

[On screen: 73.2 per cent was Muslim, 24.7 per cent Serb and 0.1 per cent Croat]

⁵⁸ICTY, *Prosecutor v. Radislav Krstic*, case No. IT-98-33-T, Exhibit Number P746 (a).

⁵⁹ICTY, *Prosecutor v. Slobodan Milošević*, case No. IT-02-54-T, Prosecution’s Second Pre-Trial Brief, 31 May 2002, para. 919.

In the beginning of the Serb campaign many, but by far not all, of the Muslims of Srebrenica were taken to Bratunac where they would be detained, where they would be subjected to serious abuse, including torture and killing. On 6 May 1992 the Bosnians resisting the Serb occupation regrouped and on 9 May 1992 they succeeded in regaining control of the municipality.

14. So Srebrenica managed to remain under Bosniac control. This was not the case for most of eastern Bosnia, which was largely cleansed. The predominantly Muslim population of eastern Bosnia was, if not killed, forced to seek refuge elsewhere. And many of them ended up, precisely, in Srebrenica, Goražde and Zepa. Actually, at times the Bosnian Government forces began to be rather successful in their efforts to recapture territory.

15. The Serb side put up a strong military force to respond to this new, unusual, situation. And this is reflected in a further intensified integration of the military endeavours from both sides of the Drina River, and this campaign needed intensified harmonizing between the Bosnian Serb Drina Corps — that is at the left-hand side of the river — and the Yugoslav Užice Corps — at the right-hand side of the river. Actually, Madam President, Yugoslav forces remained seized of the eastern Bosnian region throughout. Recently, on 16 January 2006, we have submitted 76 documents to the Court and many of these are related to the events in this area and to the Serb military campaign. I will just highlight a few of those documents.

16. In November 1992 reorganizations of the military structure in the eastern part of Bosnia were underway. In his letter of 26 November 1992 (doc. 34) Captain Vinko Pandurević, a captain in the Yugoslav army, who at the same time was Captain of the Bosnian Serb army, reports back to the Drina Corps Headquarters on his efforts to form a new brigade. From his letter it becomes clear that the organization of such a new brigade takes place in close concert with the headquarters of the Yugoslav army, which agreed on “supplies and establishment of the war-time structure of the brigade”. In other words, the Yugoslav army headquarters was in concert with the Bosnian Serb army engaged in bringing the brigade up to wartime readiness. Also, the conscripts apparently needed to come from the Respondent’s territory, the territory of Užice municipality, while it looks like the Serbian Ministry of the Interior was supposed to do the paperwork. The letter goes on to say: “We anticipate that initially we may not count on a mass response, but we will take all legal

steps” — that is, to get the conscripts on board — “and we expect maximum support of the bodies of the Republic of Serbia”.

17. Document 6 is also very telling: on 25 January 1993 the Commander of the Respondent’s Užice Corps, the Yugoslav army, informs his Bosnian Serb counterpart about the progress the Užice Corps is making — and I have the full quote in my pleadings here, but I will just paraphrase it. He is informing his counterpart — his Bosnian Serb counterpart — that the Užice Corps is making progress, he is informing his counterpart that the Užice Corps is now in the line of the zone of attack and he is outlining where he is exactly:

“1. We are informing you that the forces of uzice corps until 1100 hours of 25.01.1993 emerged on the line:

— tg — 1 (tactical group): village radijevci, strazevac (tt.931)

— tg — 2 (tactical group): gradina (tt.830) village (illegible)

— tg — 3 (tactical group): village pale, village skajici

2. In the zone of attack of uzice corps to lines: village jagodnja, village osmaca, village Radosevci, enemy forces are of one battalion strength.

main forces are grouping on direction village osmace, jezero, village skelani, and backing forces on directions village poznanovici, jagodnja, village osmaca, village gladovici.”

18. This is January 1993, this is the Respondent’s army involved in the implementation of the 50 km plan, also known as strategic goal No. 3. And in the same message of 25 January 1993, he goes on to say:

“3. Please, for the purpose of organizing co-action, deliver to us the schedule of your forces with status at 1200 hours.

4. We are suggesting that we do exchange of information on daily basis with status at 1400 hours.”

19. Apparently the Respondent’s side was not alone in feeling the urgency for improving the structures. One day later the head of the Bosnian Serb Bratunac Brigade sent his message to the Commander of the Bosnian Serb Drina Corps:

“In view of the number of Bosnian Serb and Yugoslav (VRS and VSRJ (VJ) Units,” — apparently there were quite a bit of them — “I suggest you form a Corps IKM (Forward Command Post) (Main Staff) in Bratunac, which would consolidate the

operations in the Drina River Valley (Zvornik, Bratunac and Skelani), because it is no longer possible to go on this way.”⁶⁰

20. In the case against Milosević the ICTY Prosecutor has commissioned several reports to be produced by military experts. One of those reports was produced in October 2003 by Mr. Reynaud Theunes and Alan Borrelli, both military analysts. Later on during our pleadings we will refer back to this report.

21. On 15 February 1993 the Command of the Drina Corps orders ammunition from the Independent Skelani Battalion. The order, it says “very urgent” in the heading, is submitted to your Court as document 26, together with document 25, which document is a more or less similar letter. However, this time it contains some additional information. The information is that the Independent Battalion Skelani, which is just at the Bosnian side of the river Drina, had its warehouse in Bajina Bašta. And that is interesting because Bajina Bašta is at the other side of the river, i.e. on the territory of the Respondent. Both the Respondent and the Bosnian Serbs, clearly, did not consider the Drina River to be separating two independent “States”.

22. Apparently, Madam President, lots of similar orders are, at the time, also sent directly to the Respondent’s army. This became too annoying to the Chief of the General Staff of the then Federal Republic of Yugoslavia. Not that he was annoyed by the requests as such, but his displeasure was caused by the undisciplined manner in which these requests were submitted. On 10 March 1993 the Commander of the Drina Corps instructs his brigades to stop submitting individual requests to the General Staff of the FRY army for material supplies and combat needs. The brigades are further instructed to which address they need to send further requests and they are informed that the border crossings should take place according to regulated procedures (doc. 14). One week later, on 17 March 1993, the same issue is addressed again, this time from the highest level. The Supreme Headquarters of the Bosnian Serb army instructs its lower headquarters — not on its own initiative, as we can read from this letter, but “Pursuant to the Yugoslav Army Supreme Headquarters’ Instructions (No. 156-2) of 18 February 1993”. And he instructs them to stop approaching the Yugoslav Army Supreme Headquarters independently (doc. 36).

⁶⁰ICTY, *Prosecutor v. Slobodan Milosević*, case No. IT-02-54-T, OTP Military Analysis Team, Report submitted by Reynaud Theunes and Alan Borrelli, Exhibit Number 643, Tab 1, Part III (by Alan Borrelli), p. 21.

23. From the letter it becomes clear that the displeasure of the Yugoslav Supreme Command had, indeed, translated into an order sent by Belgrade to the Bosnian Serb leadership.

24. Not only successes of the Bosnian forces in trying to recapture cleansed territories caused the need for streamlining combat communications and supply of military equipment. The actual context of these communications was formed by an extended military operation, through which the Respondent's armed forces tried, in close harmony with the Bosnian Serb forces, to take over Srebrenica.

25. The ICTY has, by now, dealt with various cases related to Srebrenica. In the case against Blagojević, the Commander of the Bosnian Serb Bratunac Brigade, the trial chamber has, meticulously and thoroughly first established all relevant facts, before it began to consider and to appreciate the exact role of the accused. The facts established by the trial chamber in its judgment of 17 January 2005, include the 1993 period, which I am describing to the Court just now⁶¹.

26. This is what the Tribunal found:

“By March 1993, Bosnian Serb forces were advancing rapidly, causing more civilians to flee. During this offensive, the Zepa enclave was separated from the Srebrenica enclave. Bosnian Muslims from neighbouring villages sought refuge in an area of approximately 150 sq km around Srebrenica town. At one point the population in this area reached 50,000 to 60,000 people. As the Bosnian Serbs advanced, they destroyed Srebrenica's water supply and the town's electricity supply; the population increased, while the supplies of food and water ran low and public hygiene and living conditions deteriorated rapidly.”⁶²

27. Madam President, we can see that many, many thousands of victims of the ethnic cleansing operation in the 50 km area had sought shelter in Srebrenica, which municipality was soon turned into a Bosnian Muslim island, entirely encircled and besieged by the Serb side.

28. On 11 March 1993, UNPROFOR Commander Morillon visited Srebrenica. He witnessed the desperate situation and promised the Muslim population that the United Nations would protect them. This gave, indeed, hope to the population and for some time General Morillon was a hero to the people of Srebrenica. This promise led to the United Nations declaring Srebrenica, as well as Goražde and Zepa a safe area.

⁶¹ICTY, *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, case No. IT-02-60-T, Judgment, 17 January 2005.

⁶²*Ibid.*, para. 98.

29. However, Morillon's promise did not impress the Serb side. The Serbs had clearly decided to just go ahead and finish the job. This is what the United Nations reported on 16 March 1993: the report says that on 13 March 1993 United Nations personnel observed three bomber planes flying across the Drina River, coming from the FRY to drop several bombs on Gladovici and Osatica, two small towns southeast of Srebrenica⁶³. Let us look at the date here, Madam President. The bomber planes were observed on the very same day on which Morillon left the enclave.

30. In his report the ICTY military expert Borelli mentions:

“Furthermore, a report from the Bajina Basta, Serbia Detachment for Special Purposes (JPN) (A department within the Serbian MUP) notes that war booty seized from ‘*territories where combat operations are taking place*’ were to be transferred from Skelani. This certificate to transfer goods across the border was issued ‘*on the basis of the Order of the TGI (VJ Tactical Group1) Commander, General Mile MRKŠIĆ, dated 12 March 1993*’.”⁶⁴

In other words, the Respondent's army orders its men, fighting in the territory of Bosnia and Herzegovina, to transfer “war booty” from the territory of Bosnia to the territory of the Federal Republic of Yugoslavia.

31. On 20 March 1993, UNPROFOR reports:

“The Serb attack on Srebrenica enclave continues unabated . . . they [the VRS] have received a lot of support from across the border in Serbia during this offensive. The Serbians have supported the BSA (VRS) with artillery fire, aircraft-bombers, and ammunition resupply convoys, as well as having allowed the Serbs to stage from within Serbian borders to attack from the east and south of the enclave.”⁶⁵

32. So, in March 1993, the Respondent is fully engaged in a large military operation, attacking Srebrenica, a town packed with refugees, victims of the ethnic cleansing campaign. A campaign which turned a pretty Bosnian town, effectively, into a prison camp, where survival was the main concern for the people involved.

[On screen.]

It does look like a prison camp does it not? Madam President, this was exactly the situation that existed when this Court, on 8 April 1993, issued its first Order in the current case. I said

⁶³Borelli, *ibid.*, p. 21.

⁶⁴Borelli, *ibid.*, p. 21, para. 44.

⁶⁵ICTY, *Prosecutor v. Slobodan Milosević*, case Number IT-02-54-T, “HQ BH Command (Main) Kiseljak Special SITREP (Srebrenica) to HQ UNPROFOR, Zagreb, 20 March 1993, Exhibit Number B8644.

yesterday that the Respondent chose to ignore this Court's decision. Likewise, it bluntly and entirely ignored the resolution of the Security Council of 16 April 1993, adopted one week after the Court's Order, in which, among other things, the Security Council demanded that "the Federal Republic of Yugoslavia immediately ceases the supply of military arms, equipment and services to the Bosnian Serb paramilitary units in the Republic of Bosnia and Herzegovina"⁶⁶.

33. On 6 May 1993 the commander of a Bosnian Serb tactical group sent an urgent request to the Commander of the Drina Corps (doc. 29). In the request he mentions the presence of "Franko", also known as "Frenki" in Skelani. Skelani — I mentioned this before — is at this side of the Drina River. It is noteworthy that "Frenki" would be there, he is Franko Simatović, he was at the time the Head of the Yugoslav State Security Service. Another person mentioned in the same letter is "Borić", which is Mr. Bozović, and he is from Serbia's Security Service, specifically from the Unit Special Operations. Frenki and Bozović are, according to this letter, in command of a unit from the Bosnian Serb Skelani Battalion. Simatović is indicted by the ICTY and he has been in prison here in Scheveningen, but he has also been temporarily released from the jail, awaiting his trial — now in Belgrade. According to this document "Frenki" was in command of a group called Crvene Beretke, or Red Berets⁶⁷.

34. Meanwhile, the undisciplined ordering of materials from the Yugoslav Army apparently continued in spite of the earlier orders of the Yugoslav and Bosnian Serb military leadership. On 24 October 1993 Mladić again orders his officers to stop directly communicating with the Yugoslav arms providers; it only indicates that it was possible for them to do so. He sends the order also — not on his own behalf — he sends it also on behalf of the Yugoslav army Chief of Staff (doc. 72).

35. Through his letter of 4 February 1994 the Drina Commander informs the General Staff of the Bosnian Serb army about the enormous amounts of ammunition which the Drina Corps alone obtained from the Federal Republic of Yugoslavia during only two months, the months of November and December 1993. The letter is included in the documents which we have submitted (doc. 13). It provides for a grim picture of the value which the 50-km zone apparently represented

⁶⁶United Nations Security Council resolution 819 (1993) of 16 April 1993.

⁶⁷

for the FRY: millions of bullets are listed, thousands of mortar shells are listed and the picture becomes even grimmer when, further down in the same letter, the Commander informs its headquarters that precisely the same amounts of ammunition were actually used and spent in those last two last months of 1993.

36. The Yugoslav presence continues unabated and is reflected in other documents we have submitted. One of them, dated 26 February 1994, through which the Drina Corps Command convokes the Ministry of the Interior (MUP) of Serbia (FRY) to a meeting to discuss the co-operation between both the MUPs of Serbia and of Republika Srpska (doc. 30); another document, a document dated 12 July 1994, through which the same Command requests Belgrade to send a particular person “to help us with his expertise in development of the operative map intended for special purposes and exploitation” (doc. 75). So, the operative maps needed to be produced by the Yugoslav specialists. All of these documents, Madam President, have in common that they all demonstrate the joint-effort nature of these undertakings.

37. Meanwhile the United Nations Monitors keep registering Yugoslav helicopters crossing the Yugoslav-Bosnian border throughout 1994 and also 1995⁶⁸. In other words, it is clear that all along, from 1992 through 1995 the armies at the two sides of the Drina River continuously engaged in all sorts of military activities which were all related to the initial plan: turning a 50-km-wide region west of the Drina in a purified Serb region, as part of the new Yugoslavia.

38. Madam President, I have tried to explain to the Court how the Drina area was the object of continued, harmonized endeavours of the combined Bosnian Serb and Yugoslav forces. I have tried to clarify the context, now it is time to turn to the events which are directly connected to the Srebrenica massacre.

The months leading up to the massacre

39. We have shown the Court already in our Reply the events that developed on the Trnovo battlefield in June and July 1995⁶⁹. Trnovo is situated 30 km south of Sarajevo on the road to Foča. At the time, fierce fighting took place in many regions in Bosnia, since the Bosnian army at

⁶⁸Borelli, *ibid.*, p. 21, para. 45.

⁶⁹Reply, Chapter 8, Section 6, paras. 227-232.

that time became much better organized and much better equipped and was, indeed, rather successful in recapturing areas which had been taken over, which had been cleansed by the Serb side in 1992. The Trnovo battlefield is relevant for the Srebrenica massacre, although Trnovo is quite a distance to the east of Srebrenica.

40. As we have shown in the Reply the Trnovo battle was, at the Serb side, fought by a coalition of Bosnian Serb forces and various forces of the Ministry of the Interior (MUP) of the Respondent. At least three Serbian units, units from Belgrade, were involved: “Kajman”, “Plavi” and “Skorpija”, the latter being notorious by now under the name “Scorpions”. Their involvement follows from a report dated 1 July 1995, issued by the Police Brigade Commander and sent to his superiors⁷⁰. The full text of the report is to be found in the Reply.

41. Also, the Trnovo battle provides for a clear example of concerted operations executed by the three Ministries of the Interior: the Respondent’s Ministry, together with those of Republika Srpska and of Republika Srpska Krajina. And this follows from a letter of the Republika Srpska MUP, dated 6 July 1995, to the Bosnian Serb police forces⁷¹. Again, the full text of this is to be found in the Reply.

42. It is telling to see that, also in 1995, MUP forces from Srpska Krajina, which is in Croatia, would be involved in actual fighting in eastern Bosnia. At first sight, this may seem odd, but, Madam President, it is not odd at all: all three entities, the Respondent, the Republika Srpska and the Republika Srpska Krajina were together engaged in one single effort, aimed at the creation of a new, ethnically pure, Serb Yugoslavia.

43. The relevance of the Trnovo battle for the Srebrenica massacre is, at least, twofold. For one thing, it demonstrates the extent of the summer offensive of the Serb side, aimed to secure the 50-km region east of the Drina. Secondly, more importantly, it demonstrates the presence of the MUP forces from Belgrade, which forces on 10 July 1995 received an order; they were directed to Srebrenica. Why? To reinforce the troops which were taking over the enclave. This is what the 10 July order says:

⁷⁰*Ibid.*, para. 230.

⁷¹*Ibid.*, para. 231.

- “1. Detach a part of the RS MUP forces that are taking part in combat operations on the Sarajevo front and send them sometime tomorrow, 11 July 1995, as an independent unit to the Srebrenica sector.

(It is about RS MUP/Republika Srpska forces here. The letter continues:)

2. The unit shall consist of the 2nd Special police detachment from Sekovići, the 1st company of the PJP/Special police unit/of the Zvornik SJB, a mixed company of joint RSK/Republic of Serbian Krajina, Serbian and RS MUP/Republika Srpska Ministry of the Interior/forces and a company from the training camp at Jahorina.

(It continues:)

4. During the night withdraw the company of joint RSK, Serbian and RS MUP forces from the Trnovo battlefield. Assemble units on 11 July 1995 by 1200 hours in Bratunac, in front of the SJB except for the 2nd Special police detachment, which shall proceed towards its destination on 11 July 1995 in the afternoon.
5. On arrival at his destination the unit commander is obliged to make contact with the Corps Chief of Staff, General Krstić.”⁷²

He apparently received the command of three MUP forces.

44. Madam President, the plan for the final attack on Srebrenica must have been prepared quite some time before July 1995⁷³. The United Nations food convoys to the enclave were, from January 1995 onwards, increasingly obstructed by the Bosnian Serb forces, while in the spring of 1995 also convoys to supply the United Nations forces, i.e. DutchBat, were increasingly obstructed. For this reason the humanitarian situation in the enclave became even worse than it had been before. On top of that, the shelling of the enclave intensified, and also sniper fire, which was aimed at the besieged town in conformity with the Sarajevo siege recipe.

45. The actual planning, as far as we can tell from documents, began at the latest in the beginning of March 1995. We know this from the ICTY case against Momir Nikolić, who was the commander of the Territorial Defence staff in Bratunac.

46. In November 1992, after he had spent several months in Serbia, Nikolić was promoted to become the Assistant Commander and Chief of Security and Intelligence of the Bratunac Brigade of the Bosnian Serb army.

At the time of the Srebrenica massacre he had been further promoted and had become Captain First Class.

⁷²ICTY, *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, case No. IT-02-60-T, Exhibit No. P358 tab 194.

⁷³*Blagojević, ibidem.*, paras. 106-118.

47. Nikolić was accused of having been a member of a joint criminal enterprise, which had as its objective:

“to forcibly transfer the women and children from the Srebrenica enclave to Kladanj, on 12 July and 13 July 1995; and to capture, detain, summarily execute by firing squad, bury, and rebury thousands of Bosnian Muslim men and boys aged 16 to 60 from the Srebrenica enclave from 12 July 1995 until and about 19 July 1995”⁷⁴.

48. In the Nikolić case the trial chamber established this, among other things, with respect to the planning stage:

“1. At a meeting between the UNPROFOR Commander and Mladić on 7 March 1995 in Vlasenica, Mladić expressed dissatisfaction with the safe area regime and indicated that he might take military action against the eastern enclaves. He gave assurances, however, for the safety of the Bosnian Muslim population of those enclaves.

2. On 8 March 1995, the Supreme Commander of the RS Armed Forces, President Karadžić, issued a Directive for Further Operations, which was directive No. 7: It said: ‘Planned and well-thought-out combat operations’ and they need to create ‘an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of both enclaves’. The separation of the Srebrenica and Zepa enclaves became the task of the Drina Corps. As a result of this directive, General Ratko Mladić on 31 March 1995 issued a Directive for Further Operations, Operative No. 7/1, which further directive specified the Drina Corps’ tasks.”⁷⁵

49. In the Blagojević case the trial also established additional facts with respect to the planning stage and there is found that:

— “On 4 July 1994, Colonel Ognjenović, the then-commander of the Bratunac Brigade, sent a report to the units of the Bratunac Brigade. In this report, he outlined that the ‘final goal’ of the Bosnian Serb army was ‘an entirely Serbian Podrinje. The enclaves of Srebrenica, Zepa and Goražde must be militarily defeated.’”

And the report continued:

“We must continue to arm, train, discipline and prepare the RS Army for the execution of this crucial task — the expulsion of Muslims from the Srebrenica enclave. There will be no retreat when it comes to the Srebrenica enclave, we must advance. The enemy’s life has to be made unbearable and their temporary stay in the enclave impossible so that they leave *en masse* as soon as possible, realising that they cannot survive there.”⁷⁶

⁷⁴ICTY, *Prosecutor v. Momiro Nikolić (et al.)*, case No. IT-02-60/1-S, Amended Joinder Indictment, para. 30.

⁷⁵*Blagojević, ibid.*, paras. 103-106.

⁷⁶*Blagojević, ibid.*, para 103.

50. Clearly, the “final goal”, described here as an entirely Serbian Podrinje, is in conformity with the May 1991 50-km region. The rest of these findings of the judges of the trial chamber is self-explanatory.

51. Given the fact that in July 1995 the size of the Bosnian Muslim population in Srebrenica amounted to approximately 40,000 people⁷⁷, it is clear that the planners, referred to in the Blagojević judgment, were up to a huge undertaking.

The takeover

52. Madam President, DutchBat had around ten observation posts close to the perimeters of the besieged area. In June 1995 one of those was attacked by the Bosnian Serb forces and this led to the withdrawal of this observation post by DutchBat.

[On screen]

When we say DutchBat, Madam President, many associations come to our minds. One of them relates to what you have just been seeing — you have been seeing one of the APCs de-armed vehicles of DutchBat in the enclave. All of those were stolen from DutchBat after the takeover was finished. And the next image you were seeing were the same APCs, this time repainted, and part of the Yugoslav army in Kosovo. And I had asked the Dutch Ministry of Defence to find out — because there was the message on TV, when those images were first broadcast — to find out whether it was true that indeed these were the same APCs, and I got a clear confirmation from the Ministry of Foreign Affairs as well as of Defence that indeed it was so. Armed vehicles, captured in Srebrenica, end up as being used by the Yugoslav army. It is just a detail, but it is not an unimportant detail, of what we are about to show you here.

53. The first days of July, Madam President, were used by the Serb side to get their troops ready for the attack. All troops in the wider area were notified that the attack would begin on 6 July 1995, early in the morning. From 6 July through 10 July the actual attack developed. Srebrenica town was heavily shelled again. The Serb side even deployed a tank to fire at Srebrenica town. Obviously, the targets of all of this were civilian.

⁷⁷ICTY, *Prosecutor v. Radislav Krstić*, case No. IT-98-33-A, Judgment, 19 April 2004, para. 15.

54. Several DutchBat observation posts were easily dismantled and the Dutch UNPROFOR withdrew to its headquarters in Potocari.

[On screen]

55. It is clear from these images that Mladić was in charge here. Apparently, he was also authorized to be in a command position with respect to the units from the Respondent, which units were operating alongside the Bosnian Serb forces.

56. Was he, indeed, alone in his command position? Maybe, maybe at certain points in time on the battlefield but he was certainly not on his own when one looks at the troops he was commanding. As we have seen, the Respondent's forces were included, as well as troops from the Serbian Krajina. Also, it is a well established fact that Mladić, in general, was a frequent visitor to Belgrade⁷⁸ and that he was in Belgrade on 7 July and 15 July 1995, which is twice in the midst of the takeover and the massacre⁷⁹.

57. In any event, the orders in Srebrenica were clear: men had to be separated from women. The women were put on buses to be transported to Tuzla, the men were herded together and taken elsewhere. Madam President, the phrase "separating men from woman" comes back very often in this case. Before we get used to this as just another sentence it may be useful to see what this exactly means. This is the story of one of the mothers from Srebrenica; she delivered this as a witness in the Blagojević case. [On screen]

"When we were halfway through, I heard a voice say, Popović, look out for this one and I immediately realized that he was referring to my child. But then there were other children there as well. There was my sister-in-law's child and some other people. Then the soldiers insisted and I felt paralysed at one point. But I mustered some courage to whisper in my son's ear and to tell him, 'Don't worry, sonny. Just go. Keep going.' We walked for about 50 m, and then from the left column one of their soldiers jumped out, and he spoke to my child. He told us to move to the right side, and he told my son, 'Young man, you should go to the left side.' And then he said, 'Why me? I was born in 1981.' But he repeated what he had said, 'You people should go to the right-hand side.' He had some kind of bags in his hand, and the soldier told him to throw the bag to the right side and to go to the left, but I grabbed him by his hand and I — he kept repeating, I was born in 1981. What will you do with me? What do you want me do? And then I begged them, I pleaded with them. Why are you taking him? He was born in 1981. But he repeated his order. And I held him so hard, but he grabbed him. And then my son threw out that bag, and the

⁷⁸ICTY, *Prosecutor v. Slobodan Milosević*, case No. IT-02-54-T, testimony of Dr. Michael Williams, 24 June 2003, p. 22908 and of Rupert Smith, 9 October 2003.

⁷⁹*Peace Journey*, by Carl Bildt, Weidenfeld & Nicolson, 1999 pp. 51-54 and pp. 60-64.

soldier picked up the bag and threw it on a pile on the right-hand side, and he took my son's hand, and he dragged him to the left side. And he turned around, and then he told me, 'Mommy, please, can you get that bag for me? Could you please get it for me?' That was the last time I heard his voice."⁸⁰

Madam President, this boy was 14 years old.

58. Around the United Nations compound of Potocari some 25,000 people were assembled. From 12 July onwards they — except for the boys, except for the men — were put on buses to be transported to territory under the control of the Bosnian Government. In the Blagojević case the trial chamber established that, obviously, a large number of buses were used. More importantly, for the purposes of our case, the judges also found that the enormous amounts of buses included buses from Serbia proper, i.e. from the Respondent. Together with the Bosnian Serbs the Respondent engaged in this forcibly transferring of the non-Serb, i.e. the Muslim population of Srebrenica, which, as we have seen, included many Muslim refugees from the entire Drina region.

59. The buses were to be escorted by UNPROFOR, according to an agreement made between Mladić and DutchBat. This only worked out for the first convoys. Soon after that the Bosnian Serbs would not any longer let the United Nations board the buses. On top of that they simply stole some 16 DutchBat jeeps, which prevented any additional United Nations escorts from materializing⁸¹.

60. The DutchBat personnel who were able to escort the first convoys have testified that frequent stops were made on the orders of Serb soldiers who would check the buses and take out men, who initially had succeeded in getting on board the bus. Also, they testified that they passed a football field near Nova Kasava, where 2,000 to 3,000 Bosnian Muslim men were herded together and who were sitting with their hands behind their heads. Heavily armed Serbs guarded them. When the DutchBat personnel returned on their way back to Potocari the next day, the football field was empty, empty except for one dead body and a pile of burning personal belongings.

61. Certainly, murdering this boy fits in the pattern and demonstrates in its given context the intent to “destroy in whole or in part”; “killing” is, obviously, at stake here, but also “causing serious mental harm”. This, if we restrict ourselves for a moment to Srebrenica, obviously does not

⁸⁰*Blagojevic, ibid.*, para. 651.

⁸¹*Blagojevic, ibid.*, para. 184.

only apply to the one woman whom we just saw on the screen, it applies to all of the survivors of this extremely cruel massacre.

62. All of this happened as part of the implementation of the stated objective of the takeover operation, which was executed under the code name “Krijava 95”; the objective reads: “to separate and reduce in size the Srebrenica and Zepa enclaves, to improve the tactical position of the forces in the depth of the area, and to create conditions for the elimination of the enclaves”⁸². What this should lead to becomes clear from the orders that were given to Miroslav Deronjić, who was, on 11 July 1995, appointed by Karadžić as the “Civilian Commissioner for the Serbian Municipality of Srebrenica”. Deronjić testified at the ICTY on these orders and he clarified:

“As soon as conditions were ripe, after the evacuation of the Muslims, we were to go into Srebrenica to establish the first government structures, with the primary task of protecting all types of properties, state, social, and all other property, and to make sure that Serbs may return to this area, Serbs who had been dislocated, and of course, to try to repair and restore the infrastructure in and around Srebrenica.”⁸³

Clearly, under the sections “repair” and “protect” of this order, in practice an exception was made. An exception was made for the mosques in Srebrenica. While the images at the time of the takeover demonstrate that the minaret of the Petric Mahala mosque, which had been built so recently that the scaffolding around it was still present — that is the picture on the left. Images made one year later show that the minaret has been blown into pieces. A similar fate awaited the mosque on the central square of Srebrenica⁸⁴.

[On screen]

63. On 14 July 1995 the command of the 5th Engineering Battalion sent his regular combat report to the command of the Drina Corps. We have submitted this document together with the others (doc. 10). The report actually documents what this battalion was ordered to do. In the first paragraph the report reads as follows: “A larger group of the enemy inserted [intruded] in the region of Pobudja brdo and Konjevic Polje, the units of the 5th Engineering Battalion and Ministry of the Interior successfully responded to the enemy.” The report continues to explain what this

⁸²*Blagojevic, ibid.*, para. 137.

⁸³*Blagojevic, ibid.*, para. 135.

⁸⁴First image taken from IKON, Dutch television, in collaboration with *NRC Handelsblad* and Channel 4: Srebrenica, July 1996 (DVD 4). The footage was originally made by the Belgrade freelance reporter Zoran Petrović on 11 July 1995 and can be found in full at: http://www.domovina.net/srebrenica/page_014.php. Second image taken from VPRO, Dutch television, *Lopende Zaken*, 23 June 1996 (DVD 8).

successful response entailed and who the enemy was; it says: “Arrested and killed were around 1,000 to 1,500 enemy civilians and soldiers.”

Further down, the report stipulates: “The battalion is executing ordered tasks.” And, then, a long list of performed tasks follows. Towards the end it says that the battalion will: “continue organizing ambushes for the fight against the enemy which was inserted on the hill Pobudje, and aim for the fight against them, to destroy the enemy as soon as possible and free Pobudje brdo.”

I mentioned that the report stated “arrested and killed were around 1,000 to 1,500 enemy civilians and soldiers”. The report also states that the battalion itself had no losses. So, Madam President, this report is talking about “successfully responding to the enemy”, while apparently nothing like a serious fight took place but they just went ahead and killed “around 1,000 to 1,500 enemy civilians and soldiers”.

64. The report also states what the “pontoon troop” had accomplished; the “pontoon troop” had also executed orders and it says that it was engaged in “securing ferry passage places on river Drina in village Osamsko, village Fakovici, village Petric and village Sopotnik”.

[On screen]

So, on top of the existing bridges that were already there at the Drina River in Skelani, on top of that, in apparently four additional crossings, bridges were realized by the “pontoon troop”. Apparently they were needed for military purposes. The Bosnian Government never gave permission to construct these passages into the neighbour State. Apparently, and on the contrary, the Respondent did. The explanation for the need of these additional crossovers is clear. We are talking here about a well planned campaign which involved lots of military traffic across the Drina River between Serbia proper and Bosnian territory.

65. Madam President, we just discussed the men and boys being separated from the women and that the men and boys were being taken elsewhere. This was on 11 July 1995. By now, it is common knowledge that this “being taken elsewhere” meant that the men were taken away to be killed. The killing started immediately⁸⁵.

⁸⁵*Blagojevic, ibid.*, paras. 193-202.

The massacre

66. DutchBat soldiers, on 12 July 1995, found the bodies of nine men, dressed in civilian clothes. They were all shot in the back. They were found 500 m from the United Nations compound. Seven hundred meters from the compound they found another group of nine or ten bodies lined up behind the so-called White House, all in civilian clothes, shot in the back or in the back of their heads. One DutchBat soldier actually witnessed a summary execution: four Serb soldiers holding one civilian and killing him with one single shot through the back of his head. Also on 12 July, a witness saw piles of 20 to 30 bodies behind the bus station. Their necks had been slit. Other witnesses have testified that they had seen additional groups of bodies in the same location. All in civilian clothes, among them six women.

[On screen]

All the Bosniak men you saw on the screen were all killed.

67. This was only the beginning of the facts that have been established by two ICTY trial chambers, those who decided the Nikolić and Blagojević cases, and they allow me to show the Court a picture of what happened next with the people from Srebrenica — a picture that shows that the killings were systematic, planned and carried out in cold blood. I will summarize some of these facts now:

- On 13 July 1995 in the town of Bratunac, some of the Bosnian Muslim men who were detained there were taken from their places of detention, including schools, hangars and buses, and they were all summarily executed.
- At Branjevo Military Farm, approximately 1,200 Bosnian Muslim men who had been captured from the column were executed by automatic weapon fire.

68. Madam President, along the route between Bratunac and Zvornik, the names which previously were used to mark settlements and communities or places of learning, culture and work or geographic features are now used to identify mass execution sites: Jadar River, Cerska Valley, Kravica Warehouse, Petkovci School, Pilica Cultural Centre, and the villages of Tisca and Orahovac. I will now continue to draw from those two cases.

- At the Jadar River, on 13 July 1995, 16 Bosnian Muslim men who had been captured from the column — the column we just saw on the screen — were lined up alongside the river and they

were killed by four Serb soldiers who had escorted them — they killed them with their automatic rifles⁸⁶.

- In Nova Kasaba, again on 13 July 1995, one witness testified that he saw “about 200 to 300 Muslim men lying down, guarded by Bosnian Serb soldiers”⁸⁷. Throughout the day, 1,500 to 3,000 Bosnian Muslim men captured from the column were held prisoner on the Nova Kasaba football field. In July 1996, a team of forensic investigators under the direction of Dr. William Haglund exhumed four, so-called, primary, undisturbed graves in the Nova Kasaba area. The graves, located in two fields, contained the bodies of 33 male victims, who died as a result of gunshot wounds⁸⁸. In 1999, 55 more individuals were identified and at least 43 had died as a result of multiple gunshot wounds⁸⁹.
- Also on 13 July 1995, between 1,000 and 4,000 Bosnian Muslim men captured from the column were detained in the Sandici meadow, located on the Konjević-Polje-Bratunac road. There is evidence that some prisoners were killed⁹⁰ but the number is not specified. At least, there was one execution⁹¹ and approximately 30 men were taken away at that particular spot on a truck and were not seen again⁹².
- Still on 13 July there was an execution of at least 1,000 Bosnian Muslim men. They were taken to the Kravica warehouse by foot or by bus from a meadow near Sandici where they had been detained since their capture earlier that day. Soldiers started shooting as soon as the warehouse had filled up with people. They shot their infantry weapons, they shot their machine guns through the doors, through the windows and they also just threw hand grenades into the warehouse⁹³.

⁸⁶*Ibid.*, para. 293.

⁸⁷*Ibid.*, para. 253.

⁸⁸*Ibid.*, para. 255.

⁸⁹*Ibid.*

⁹⁰*Ibid.*, para 242.

⁹¹*Ibid.*

⁹²*Ibid.*

⁹³ICTY, *Prosecutor v. Vidoje Blagojević, Dragan Jokić*, case No. IT-02-60-T, Judgment, 17 January 2005, paras. 296 *et seq.*

— Within a five-day period, approximately 6,000 Bosnian Muslim men, who were escaping in “the column” from Srebrenica, were captured, detained and executed in various locations in the Bratunac and Zvornik municipalities.

69. This Momir Nikolić, in his statement of facts, furthermore describes his role in the initial stages of planning the murder operation, including the detention of able-bodied men and the selection of execution sites. I am just summarizing the main points:

- In the morning of 12 July, this Nikolić met with Lt. Colonel Vujadin Popović, Chief of Security of the Drina Corps, and Lt. Colonel Kosorić, Chief of Intelligence, Drina Corps. At that time Popović told Nikolić that the thousands of Muslim women and children in Potočari would be transported out of Potočari toward Muslim-held territory near Kladanj and that the able-bodied Muslim men within the crowd of Muslim civilians would be separated from the crowd, detained temporarily in Bratunac, and killed shortly thereafter.
- Nikolić was then told that he was responsible to help co-ordinate and organize this operation. Kosorić reiterated this information, and appropriate locations to detain the Muslim men prior to their execution were discussed.

70. Several specific areas were identified including: the old elementary school “Vuk Karadžić” (including the gym), the old building of the secondary school “Duro Pucar Stari”, and the Hangar (which is 50 m away from the old secondary school).

- There were long columns of hundreds of captured Bosnian Muslim men being marched in the directions of Konjević Polje and Sandici on 13 July 1995.
- Later that day as he travelled along the Konjević Polje-Bratunac road Nikolić saw many prisoners being marched in both directions. And he says “I also saw dead bodies lying on the side of the road near Pervani and Lolići. I saw groups of three or so bodies at a time. At Sandići, I saw about 10 to 15 corpses and a large mass of prisoners in a meadow.”
- Nikolić learned of the execution of the detainees held at the Kravica warehouse the day after the executions were carried out. Nikolić is aware of murders that were carried out in Bratunac, including the murder of approximately 80-100 men near the Vuk Karadžić school on the evening of 13 July.

— Nikolić stated that on the night of 13 July, he was ordered to travel to the Zvornik Brigade and informed the Zvornik Brigade Security Officer, that “thousands of Muslim prisoners were being held in Bratunac and would be sent to Zvornik that evening. Colonel Beara, the Chief of Security of the Bosnian Serb Main Staff, also told Nikolić that Muslim prisoners should be detained in the Zvornik area and should be executed”. Nikolić indicates that on the night of 13 July 1995, discussions were held in Bratunac at the SDS office during which the “killing operation was openly discussed”⁹⁴.

71. The Blagojević trial chamber also found:

“At a meeting on 13 July, General Mladić informed the MUP that the Bosnian Serbs resumed with the military operation towards Zepa, and was ‘leaving all other work to the MUP’. These tasks included ‘evacuation of the remaining civilian population from Srebrenica towards Kladanj (about 15,000) by bus [and it also included the], killing of about 8,000 Muslim soldiers [as he called them] . . . blocked in the woods around Konjevic Polje’ and [it included] ‘security of all essential facilities in the town of Srebrenica’.”⁹⁵

This refers back to the Petric issue which I have been discussing earlier. The army would do the takeover and the real ugly work would then be transferred to the MUP and to the paramilitaries.

72. Madam President, it is well established now that in total 7,000 to 8,000 men and boys from Srebrenica indeed were killed in July 1995⁹⁶. Also, it is clear that these killings were not the result of any military confrontation. Even if, even if there had been soldiers or former soldiers among the men killed, they may not be considered as “regular” war casualties, given the circumstances of this brutal, reckless, *rücksichtslos* murdering for which, again, given the circumstances, there is only one word available: genocide.

73. The amount of men being slaughtered, the sheer size of this criminal undertaking, shows its premeditated character. Apart from that, we know from the quotes that I have given earlier to you that, indeed, the order was: “kill them all”.

⁹⁴ICTY, *Prosecutor v. Momir Nikolić*, case No. IT-02-60/1-S, Sentencing Judgment, 2 December 2003, paras. 32-35.

⁹⁵*Blagojević, ibidem.*, para. 226.

⁹⁶ICTY, *Prosecutor v. Radislav Krstić*, case No. IT-98-33-T, Appeal Judgment, 19 April 2004, para. 2; ICTY, *Prosecutor v. Momir Nikolić*, case No. IT-02-60/1-S, Sentencing Judgment, para. 32; ICTY, *Prosecutor v. Dragan Obrenović*, case No. IT-02-60/2-S, Sentencing Judgment, 10 December 2003, para. 30; *Blagojević, ibid.*, para. 569.

74. The next step in the organization was the burial for which sufficient quantities of excavators, shovels and the like were ready. Clearly, decent burials were not part of the plan. However, there was a plan with respect to these burials: it was called reburial.

75. In September and October 1995 the shovels were set to use again, that is a couple of months later⁹⁷. The mass graves were opened and the purpose was to move the bodies to numerous new graves in order to hide the existence of mass graves. The result of that operation has been that very often now — during the meticulous exhumation process which is going on for years already — the remainders of one man are found and recovered from two or three different mass graves. There is only one word for this: genocide.

76. The level of planning we have seen with respect to these burials and reburials was, I have said it before, also visible at the actual killing stage. The job, clearly, entailed killing, killing of *all* boys and men fleeing from Srebrenica. This meant that in the second half of July the Serb side had its troops combing the woods for boys, for boys and men they might have overlooked.

77. After this afternoon's session, Madam President, nobody will be surprised to hear that the Respondent, also at this stage, was actively involved. As we know, it was the Respondent who, in May 1991, could use this 50 km plan known to the Bosnian Serbs through its Deputy Minister of the Interior. Now we know also that troops from this same Ministry of the Interior finalized the Srebrenica massacre in the woods of Mount Treskavica near Trnovo. The presence of the Scorpions from the Respondent's MUP is by now also acknowledged by the authorities of Republika Srpska who authorized recently the special report on Srebrenica (doc. 76).

78. And this, Madam President, this is what the truly shocking reality looked like: premeditated, calmly, cowardly, brutally, criminally killing of boys, who had done nothing wrong but being Bosniak.

[On screen]

In a way, Madam President, I feel I may have to apologize for showing you these images but then the question is: do I need to apologize?

⁹⁷*Blagojević, ibid.*, para. 383.

79. Madam President, Members of the Court, in 1991, the population of Srebrenica counted 29,198 people, 21,361 being Bosniak. In 1997, the population of Srebrenica counted 7,442, seven of them were of Muslim ethnicity⁹⁸.

Thank you very much.

The PRESIDENT: The Court now rises. The session will resume at 10 o'clock tomorrow morning.

The Court rose at 6.20 p.m.

⁹⁸ICTY, *Prosecutor v. Slobodan Milošević*, case No. IT-02-54-T, Decision on Motion for Judgment of Acquittal, 16 June 2004, para. 202.