

**FOR A QUICK REVIEW OF THE MOST SIGNIFICANT
POINTS IN THE COMMENTS, JUST DO "FIND #"
AND ALL THE SPOTS INTERESTING FOR ANALYSIS
WILL BE LISTED**

3. VOLUME III

B. SARAJEVO COMPONENT

1. Facts

a. Chronology of events in Sarajevo

3526. In this section of the Judgement the Chamber will discuss the situation in the city of Sarajevo and the relevant events that occurred therein during the conflict in BiH. The section also refers to various shelling and sniping incidents, including the casualties resulting therefrom. Some of these are specifically charged in the Indictment under Schedules F and G while others are not. Those that are listed in Schedules F and G are discussed in later parts of the Judgement in more detail. The Chamber notes that shelling and sniping incidents not listed in Schedules F and G of the Indictment are only relevant to the pattern and the nature of the campaign.¹¹²⁰⁴

3527. The city of Sarajevo, capital of BiH, lies in a valley, stretching from east to west along both banks of Miljacka River.¹¹²⁰⁵ Hills and mountains overlook Sarajevo to the south and the north; from these elevations, it is possible to have unobstructed and clear views of the distinguishable features of the city and to see into its streets.¹¹²⁰⁶

3528. In 1991, Sarajevo was made up of ten municipalities: Stari Grad (Old Town), Centar (Centre), Novo Sarajevo, Novi Grad, Vogošća, Ilidža, Pale, Ilijaš, Hadžići, and Trnovo.¹¹²⁰⁷ According to the 1991 census, Sarajevo had 527,049 inhabitants of whom approximately 49% were Bosnian Muslims, 30% were Bosnian Serbs, and 7% were Bosnian Croats.¹¹²⁰⁸ Before the conflict, it was the largest and most important political, cultural, industrial, and commercial centre of BiH.¹¹²⁰⁹ Citizens of Sarajevo took pride in the city's diversity, referring to themselves as "Sarajlijas" or Sarajevans.¹¹²¹⁰ Sarajevo was well-known as a multi-ethnic, multi-religious city, with a long history of religious and cultural tolerance.¹¹²¹¹ The great majority of the urban areas of Sarajevo were ethnically mixed.¹¹²¹² **(Nothing of that is true, and those witnesses couldn't have known that. In all and every war Sarajevo was a prison for the Serbs. The First World War started in Sarajevo, because the Austro-Hungarian occupational authorities prepared a war against the rest of the Balkans, and there were four decades of a terror over the Serbs. It had been supported by many prominent Muslims**

¹¹²⁰⁴ Hearing, T. 5479–5481 (19 July 2010); T. 7670–7672 (11 October 2010); T. 10932 (31 January 2011). *See also* Prosecution Rule 73 bis Submission, para. 16 (wherein the Prosecution stated that it "will not present evidence in order to secure a conviction in respect of any crime sites or incidents not listed in the Schedules to the Indictment).

¹¹²⁰⁵ P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 17; Aernout van Lynden, T. 2398 (19 May 2010); P5926 (Map of Sarajevo); Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4356; David Harland, T. 2017–2018 (6 May 2010); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 14.

¹¹²⁰⁶ P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 17, 46; Aernout van Lynden, T. 2398 (19 May 2010); P1154 (Witness statement of KDZ088 dated 27–29 April 2010), p. 26 (under seal).

¹¹²⁰⁷ *See* Adjudicated Fact 2.

¹¹²⁰⁸ P5964 (Census data for BiH by municipality in 1971, 1981, and 1991, April 1995), e-court p. 2. *See also* Adjudicated Fact 2885.

¹¹²⁰⁹ D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), para. 176. *See also* Adjudicated Fact 1.

¹¹²¹⁰ Vitomir Žepinić, T. 33651 (14 February 2013); P2007 (BBC news report re Sarajevo, with transcript).

¹¹²¹¹ Adjudicated Fact 2776.

¹¹²¹² David Harland, T. 2107–2108 (7 May 2010); P1154 (Witness statement of KDZ088 dated 27–29 April 2010), p. 72 (under seal).

and masses, although many prominent Muslims considering themselves as a Serb, or Yugoslavs fought against this terror. In both, WWI and WWII the #Serb community sustained a genocide#, and that was how the Serbs fell down to 32% in population of BiH. Neither is true that majority of municipalities were multi-ethnic. Namely, some municipalities had been re-arranged and redesigned, so that the Serbs lose majority, through a process known in USA as “Gerrymandering”. But, the settled places were rarely mixed, but almost entirely ethnically homogenous. It is the best way to see the census in the local communes. But anyway, the mixture of the population should also be an argument against the forceful and illegal secession of the entire BiH. Why there wouldn’t be a decentralisation of BiH, still with the central organs, while the illegal secession against the million and five hundred thousands Serbs?)

3529. A number of important JNA installations, including the Viktor Bubanj Barracks, the Maršal Tito Barracks, the Jusuf Džonlić Barracks, and the Jajce Barracks, were located in Sarajevo.¹¹²¹³ The Command of the 2nd Military District of the JNA was located in Bistrik, at one end of Dobrovoljačka street, across from the Gavrilo Princip Bridge.¹¹²¹⁴

3530. Starting in September 1991, various JNA units withdrew from Slovenia and parts of Croatia and subsequently assumed position in barracks throughout BiH, including those located in and around Sarajevo; the retreating JNA units brought a significant amount of weaponry and ammunition.¹¹²¹⁵ The Bosnian Muslim leadership did not look at this development favourably.¹¹²¹⁶ (#Their attitude was illegal#! Why, if they didn’t have a hostile intentions towards this Army and the Serbs that supported the JNA, due to the laws and Constitution? Is it possible in the USA that one of the states sabotage the movement of the federal US Army? Or that Wales, or Scotland prevent the British Army to move throughout the country? Would the Prosecution rather depict the national defence issues as a humanitarian matter?)

¹¹²¹³ KDZ310, T. 9201 (29 November 2010); P950 (Agreement on withdrawal of JNA from BiH), p. 1; John Wilson, T. 3919 (21 June 2010), T. 4035 (22 June 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 30.

¹¹²¹⁴ KDZ310, T. 9201 (29 November 2010); D825 (Manojlo Milovanović’s book entitled “My View of the War in Bosnia 1992–1995”), p. 4; D2341 (Witness statement of Dušan Škrba dated 14 October 2012), para. 5.

¹¹²¹⁵ Dušan Kovačević, T. 39643 (10 June 2013); P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 10; KDZ310, T. 9200–9201 (29 November 2010); P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 4; Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25271, 25341; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 30. See also Section IV.A.1.c: Sarajevo area.

¹¹²¹⁶ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25341. **(What would Doyle say for the same situation in Great Britain? Is it allowed that the provincial governments limit the movement of the Army, while the country is in war?)**

3531. While nationalist propaganda increased during the course of 1991,¹¹²¹⁷ up until late 1991, the inhabitants of Sarajevo lived relatively peacefully together.¹¹²¹⁸ Inter-ethnic tensions started to appear in late 1991 and gradually escalated.¹¹²¹⁹ **(Whose nationalist propaganda did it? Why it was not important to the Prosecution and Chamber? Or #we should presume that it was a Serb propaganda#?)**

3532. In the early months of 1992, the JNA, which by then had become a Serb-dominated army, began distributing weaponry and ammunition to Bosnian Serbs at the barracks around Sarajevo.¹¹²²⁰ In the same period, Bosnian Muslims in Sarajevo also armed themselves, though to a lesser extent.¹¹²²¹ **(This is not correct. First, the Muslim side organised it's own #Muslim secret army as of 31 March 1991# (a decision) and as of 31 April 1991 (formation of the Patriotic league, and that is the date from which the veteran status is recognised to the combatants. Then, on 19 June 1992 the SDA formed a political Committee for this secret army, called the Council for defence of the Muslims. Mr Izetbegovic, the presiding of the BiH Presidency, presided to this Committee, which was an abuse of the state institutions! It happened that before the JNA withdrew to BiH, the Muslim secret Army, the Patriotic League and the Green Berets, established a complete coverage of the territory by their units, with the nine (9) regional and 104 municipal headquarterd, units and their commands, see: Halilovic#@ In many of these municipalities the Serbs had been a vast majority, or a significant minority, close to 50%, and the Serb population saw what their neighbours had been preparing. Why it is not important for this Court, and a false data are important to be built in the Judgment?)**

3533. On or about 1 March 1992, during a Serb wedding ceremony held at a historic Orthodox Church located in the old part of Sarajevo, Ramiz Delalić and Suad Šabović, two Bosnian Muslims, shot and killed the father of the bridegroom who was carrying a Serb flag and

¹¹²¹⁷ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 19; KDZ310, T. 9172–9179 (29 November 2010); P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 6; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 4.

¹¹²¹⁸ P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 15; P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 3; P2007 (BBC news report re Sarajevo, with transcript); D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 4.

¹¹²¹⁹ P1217 (Witness statement of Milan Mandilović dated 24 February 2010), paras. 17–18; Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25249; D2443 (Witness statement of Željka Malinović dated 9 November 2012), paras. 3, 6; D3645 (Witness statement of Nenad Kecmanović dated 27 May 2013), para. 38.

¹¹²²⁰ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 10; KDZ310, T. 9201–9203 (29 November 2010); Colm Doyle, T. 2848, 2864–2865, 2890 (27 May 2010). On 20 March 1992, the JNA General Staff was informed that in Sarajevo, 300 automatic rifles had been distributed by the JNA to retired officers and that another 100 individuals would be armed in a matter of days. P979 (Report from JNA 2nd Military District to JNA General Staff, 20 March 1992), p. 6. See also Section IV.A.1.c: Sarajevo area. As mentioned above, the Presidency of SRBiH immediately denounced the JNA's mobilisation order of 28 September 1991 and most Bosnian Croat and Bosnian Muslim reservists did not respond. See paras. 45, 52.

¹¹²²¹ Colm Doyle, T. 2737, 2739–2740 (26 May 2010), T. 2889–2890 (27 May 2010); D4865 (Report of BiH Ministry of Defence, 24 December 1999); D2344 (Witness statement of Miloš Škrba dated 14 October 2012), para. 2; D2665 (Witness statement of Izo Golić dated 15 December 2012), para. 20.

wounded a priest.¹¹²²² Soon after, on the orders of Rajko Dukić, the President of the SDS Executive Board, barricades were erected at strategic locations in and around Sarajevo by armed Serbs in civilian clothes and black masks.¹¹²²³ **(#None of those witnesses could have known that there was any “order” by Rajko Dukic#. The barricades were erected spontaneously, and Dukic and others joined them in order to be able to influence the course of events!)** Muslims for their part erected barricades in front of the Assembly building later that evening.¹¹²²⁴ The barricades blocked all passages in and out of the city and cut off parts of the town.¹¹²²⁵ Soon after the erection of the barricades, Momčilo Mandić asked Čedomir Kljajić, the Chief of Police Affairs in Sarajevo, to accompany him to the office of the Accused and the headquarters of the SDS, located in the Holiday Inn at the time.¹¹²²⁶ After arriving at the Holiday Inn, Kljajić observed that Dukić was issuing instructions to those manning the Serb barricades via the telephone.¹¹²²⁷ In the early afternoon, Serbs who were manning a barricade near the main entrance to the city came under gunfire from a nearby building.¹¹²²⁸ When Colm Doyle, the head of the ECMM in Sarajevo,¹¹²²⁹ approached one of the Serb barricades and asked for it to be dismantled, he was told that the barricade would be dismantled only on the orders of the Accused.¹¹²³⁰ **(Before this incident, the President and his associates went to Belgrade, and were absent from Sarajevo the entire period of barricades. What is alluded by this sentence that only the President may order dismantle?)** At another barricade, while negotiating the passage of ECMM monitors to the airport, Doyle came under

¹¹²²² D385 (SRBiH MUP Report on Sarajevo, 13 March 1992), p. 2; Momčilo Mandić, T. 4877 (8 July 2010); Momčilo Mandić, C3 (Transcript from *Prosecutor v. Stanišić and Župljanin*), T. 9692–9693; D2923 (Witness statement of Vitimir Žepinić dated 11 February 2013), para. 58; P1940 (Interview with Radovan Karadžić from *Naša Borba* entitled “Yugoslavia or Three Bosnians”, 16 March 1992), p. 1; Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25333–25334; P924 (ECMM report, 1–2 March 1992), p. 1; D214 (Minutes of 56th SRBiH Presidency session, 2 March 1992), p. 2; D215 (Excerpts from Ljubo Grčković’s diary), p. 118; Dragan Šojić, T. 31768 (19 December 2012); D2665 (Witness statement of Izo Golić dated 15 December 2012), para. 7; Martin Bell, T. 9856 (15 December 2010); D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 8; Mirsad Kučanin, P17 (Transcript from *Prosecutor v. S. Milošević*), T. 28972; P1353 (Shorthand record of 10th session of SerBiH Assembly, 11 March 1992), e-court p. 6; D3864 (Radovan Radinović’s expert report entitled “The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS”, 2012), para. 191.

¹¹²²³ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 6; Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25264; P920 (ECMM report, 13 March 1992), p. 1; Colm Doyle, T. 2848–2849, 2854–2855 (27 May 2010); D2923 (Witness statement of Vitimir Žepinić dated 11 February 2013), para. 59; Vitimir Žepinić, T. 33611 (13 February 2013); D2443 (Witness statement of Željka Malinović dated 9 November 2012), para. 4; D3671 (Witness statement of Dušan Kovačević dated 7 June 2013), para. 47; D3070 (JNA 2nd Military District report, 12 March 1992), p. 3; P2444 (Witness statement of KDZ354 dated 5 February 2011), para. 4 (under seal). *See also* Adjudicated Fact 6. On Serb barricades, *see* Section IV.A.1.C: Sarajevo area.

¹¹²²⁴ P5612 (Intercept of conversation between Mičo Stanišić and Rajko Dukić, 2 March 1992), p. 2; D2443 (Witness statement of Željka Malinović dated 9 November 2012), para. 4; D3070 (JNA 2nd Military District report, 12 March 1992), p. 3.

¹¹²²⁵ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25338–25340; P924 (ECMM report, 1–2 March 1992), p. 1.

¹¹²²⁶ P6468 (Excerpts from Čedomir Kljajić’s interview with OTP), e-court p. 2; Čedomir Kljajić, T. 42197–42198 (30 July 2013); P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 19, 21; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 25; P927 (Aerial photograph of Sarajevo marked by Aernout van Lynden); Aernout van Lynden, T. 2393 (19 May 2010). During the early months of 1992, the Holiday Inn also hosted a number of foreign journalists. *See* Martin Bell, T. 9810 (14 December 2010).

¹¹²²⁷ Čedomir Kljajić, T. 42199 (30 July 2013).

¹¹²²⁸ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25265.

¹¹²²⁹ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25248.

¹¹²³⁰ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25267–25268, 25341; P924 (ECMM report, 1–2 March 1992), e-court p. 2; Colm Doyle, T. 2659–2660 (21 May 2010), T. 2695 (26 May 2010).

Serb gunfire.¹¹²³¹ During the night of 1 March 1992, there was considerable shooting in the city and as a result, three people were killed.¹¹²³²

3534. The following day, the SDS leadership formally demanded that the BiH government (i) arrest the perpetrators of the killing of the Serb at the wedding ceremony;¹¹²³³ (ii) divide Sarajevo RTV into separate Muslim, Serb, and Croat channels and crack down on the Sarajevo-based broadcaster JUTEL; **(It was #a usual practice, that the ethnic group have their own TV channel, such as Hungarians in Novi Sad, Albanians in Kosovo, and every other ethnic group in Serbia always had their own channel and program.)** (iii) stop seeking international recognition for BiH until such time that all three parties reach agreement with respect to the constitutional arrangement of BiH; (iv) order an immediate halt to the media campaign which describes the independence and sovereignty of BiH as a *fait accompli*; (v) urgently resume participation in the Peace Conference on Yugoslavia, under the auspices of the EC;¹¹²³⁴ (vi) immediately effect personnel changes in the MUP so as to comply with the inter-party agreement on the division of power; (vii) order MUP to avoid violent confrontation with Bosnian Serbs, in particular those manning the barricades; and (viii) dissolve the BiH Presidency Crisis Staff headed by Ejup Ganić.¹¹²³⁵ Later that day, Plavšić instructed Velibor Ostojić, the Minister of Information of BiH, to prevent confrontation at the barricades as negotiations were underway.¹¹²³⁶ **(All of these demands were legal, legitimate Serb presentation, and the demands were a way out of the crisis! #COMMENDABLE and #EXCULPATORY#!)**

3535. On 2 March 1992, in an intercepted telephone conversation, Dukić informed Mićo Stanišić that he and Plavšić had spoken to Čengić and Izetbegović, respectively, about the Muslim barricades in front of the Assembly building; Dukić then told Stanišić that Serb barricades in Sarajevo should not be removed so long as the Muslim barricades remained in place.¹¹²³⁷ **(So what? What is that? It is #rather commendable# that the highest Serb representatives acted responsible in a crisis which had been #caused by a famous Muslim extremist#! To kill a Serb in a wedding ceremony in front of the oldest Serb church, which didn't happen during the Turkish occupation, the war in Sarajevo could have been initiated, and instead to be grateful to the Serb representatives for joining the riots, it is taken as an aggravating element against this President , who didn't have anything to do with it, but is proud of his associates and their handling of**

¹¹²³¹ Colm Doyle, T. 2848, 2861 (27 May 2010).

¹¹²³² P924 (ECMM report, 1–2 March 1992), e-court p. 1.

¹¹²³³ Žepinić stated that Delalić was eventually arrested by the MUP and that he told the crime inspectors that the killing had been ordered by Izetbegović. Žepinić believed Delalić's claim, particularly after Delalić was released and no charges were filed against him. See D2923 (Witness statement of Vitomir Žepinić dated 11 February 2013), para. 58.

¹¹²³⁴ On EC Peace Conference on Yugoslavia, see Section II.E.1.

¹¹²³⁵ P5729 (Intercept of conversation between Biljana Plavšić, Rajko Dukić, and Radovan Karadžić, 2 March 1992), pp. 1–2; P924 (ECMM report, 1–2 March 1992), p. 1; D214 (Minutes of 56th SRBiH Presidency session, 2 March 1992), pp. 2–3; Colm Doyle, T. 2701 (26 May 2010); P5553 (Conditions for Negotiation of the Crisis Staff of the Serb People in BiH, 2 March 1992), pp. 1–2.

¹¹²³⁶ P5726 (Intercept of conversation between Rajko Dukić, Biljana Plavšić, Ostojić, and Čengić, 2 March 1992), pp. 2, 4.

¹¹²³⁷ P5612 (Intercept of conversation between Mićo Stanišić and Rajko Dukić, 2 March 1992), p. 2.

the crisis!) In the same conversation, Stanišić informed Dukić that he had visited all the check-points and commented that “Sarajevo is ours [...] a hundred percent”.¹¹²³⁸ Dukić replied to this by saying “Mićo, we have done a big thing.”¹¹²³⁹ **(By doing what? By joining and regulating the event! Or maybe the Serb officials arranged the killing of the father of groom, in order to have a chaos and exploit it for the common purpose of JCE?)**

3536. On the same day, a special meeting of the BiH Presidency was convened during which it was decided that many of the demands made by the SDS should be met.¹¹²⁴⁰ The Presidency also called for the barricades to be dismantled and for citizens to return to everyday life.¹¹²⁴¹ After the special meeting of the BiH Presidency, Plavšić, Franjo Boras, the Bosnian Croat member of BiH Presidency, and Vitomir Žepinić, the Deputy MUP Minister, spoke with Dukić and convinced him to make arrangements for the removal of the Serb barricades.¹¹²⁴² On 2 March 1992, more people were killed or injured in Sarajevo, some of them in close vicinity of the barricades.¹¹²⁴³

3537. On 3 March 1992, the decision of the BiH Presidency on the demands of the SDS was published; shortly after, the Serb barricades began to be dismantled.¹¹²⁴⁴ **(Now, it appears that the President was not necessary to dismantle the barricades. There was a demand that the Presidency dismantle the illegal “Crisis Staff”, that served to the Muslim side to avoid the two Serb representatives (Plavšić and Koljević) to exercise their constitutional duties, and to remove other irregularities. The President was still in Belgrade!)** On the same day, however, upon receiving reports that Arkan’s and Šešelj’s men were on their way from Pale to Sarajevo, Bosnian Muslims set up barricades in predominantly Muslim inhabited parts of Sarajevo.¹¹²⁴⁵ Later that day, the Accused and Izetbegović agreed to meet that same night with the 2nd Military District Commander, Lieutenant-General Milutin Kukanjac, in order to diffuse the unfolding crisis.¹¹²⁴⁶ In this meeting, based on Kukanjac’s proposal, it was agreed that in order to control the situation, mixed units, involving Bosnian Muslims, Bosnian Serbs, and JNA troops would patrol Sarajevo.¹¹²⁴⁷ **Not really Muslims and Serbs, but the**

¹¹²³⁸ P5612 (Intercept of conversation between Mićo Stanišić and Rajko Dukić, 2 March 1992), pp. 2–3.

¹¹²³⁹ P5612 (Intercept of conversation between Mićo Stanišić and Rajko Dukić, 2 March 1992), p. 3.

¹¹²⁴⁰ P924 (ECMM report, 1–2 March 1992), e-court pp. 2, 4–5; D214 (Minutes of 56th SRBiH Presidency session, 2 March 1992), p. 4. The BiH Presidency refused to accept the proposed division of Sarajevo RTV. P5602 (Intercept of conversation between Jovanović, Stanišić, and Radovan Karadžić, 2 March 1992), pp. 3–4.

¹¹²⁴¹ D214 (Minutes of 56th SRBiH Presidency session, 2 March 1992), p. 4; P924 (ECMM report, 1–2 March 1992), e-court pp. 2, 4–5; D3070 (JNA 2nd Military District report, 12 March 1992), p. 3.

¹¹²⁴² D2928 (Intercept of conversation between Biljana Plavšić, Rajko Dukić, Franjo Boras, and Vitomir Žepinić, 2 March 1992).

¹¹²⁴³ D385 (SRBiH MUP Report on Sarajevo, 13 March 1992), pp. 2–4; Momčilo Mandić, T. 4886–4887 (8 July 2010); P5602 (Intercept of conversation between Jovanović, Stanišić, and Radovan Karadžić, 2 March 1992), p. 2; P5725 (Intercepts of conversations between (i) Rajko Dukić and “Dragan” and (ii) Rajko Dukić and Biljana Plavšić, 2 March 1992), p. 1.

¹¹²⁴⁴ P924 (ECMM report, 1–2 March 1992), e-court p. 3.

¹¹²⁴⁵ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25269; Colm Doyle, T. 2713 (26 May 2010); P5605 (Intercept of conversation between Radovan Karadžić, Goran Milić, Alija Izetbegović, and an unidentified woman, 3 March 1992), p. 6; D4522 (Intercept of conversation between Radovan Karadžić and Todor Dutina, 3 March 1992), e-court p. 1. See also Adjudicated Fact 6.

¹¹²⁴⁶ P5605 (Intercept of conversation between Radovan Karadžić, Goran Milić, Alija Izetbegović, and an unidentified woman, 3 March 1992), pp. 10–14; D1523 (Notes of meeting between Cyrus Vance and Hans-Dietrich Genscher, 8 March 1992), e-court pp. 4–5 (under seal).

¹¹²⁴⁷ D3070 (JNA 2nd Military District report, 12 March 1992), pp. 3–4; Martin Bell, T. 9813 (14 December 2010).

MUP crews composed of both the Serbs and Muslims. The following day, Muslim barricades were dismantled.¹¹²⁴⁸

On 20 March 1992, representatives of the SDA concluded that division of Sarajevo RTV into ethnic channels as well as any appointment of non-Muslims to the posts of general manager and editor-in-chief of Sarajevo RTV would run contrary to the interests of Bosnian Muslims.¹¹²⁴⁹ **(Here is the D213:**

The Sarajevo SDA City Board holds that every division of Sarajevo TV into ethnic channels is out of question, as it would not suit the interests of the Muslim people.

In addition, we would like to say that, in order to protect our ethnic interests, it is imperative that the general manager, but also the RTV editor-in-chief, be a Muslim.

We deem this to be the minimum beneath which no talks should go.

#The Serb side, indicted and sentenced, have never made such a discriminatory order#? This was the #new Islamic Fundamentalist approach#: only the Muslims could keep the crucial positions in the society. Even communists didn't pursue this kind of discrimination: they used to distribute the power among the ethnic groups, but the Muslim communist decided who of the Serbs and Croats would represent them. Even now the main problem in the Federation BiH is the fact the Muslims want to decide who would be in Presidency on behalf of Croats. The International community will hear more in the coming times!)

Around the same time, Serb units began moving artillery onto the hills around Sarajevo.¹¹²⁵⁰

(#Before VRS established# This is an arbitrary statement, since nobody could deploy such a heavy weaponry without the JNA approval. There was some heavy weaponry in the possession of the TO, but the TO was under the control of the JNA whenever the JNA was present. It had already been presented to the court that this removal of the weapon was due to an order of the Federal Ministry for defence, because in Croatia they couldn't deploy weapons after being encircled by the Croatian illegal army. See: D3679, Issued by Gen. Kukanjac, the Commander of

¹¹²⁴⁸ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25270; Colm Doyle, T. 2713 (26 May 2010). After these events, people in Sarajevo organised and armed themselves in order to guard their homes. See D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 6.

¹¹²⁴⁹ D213 (SDA letter re Sarajevo TV personnel changes, 20 March 1992).

¹¹²⁵⁰ Herbert Okun, T. 1729 (27 April 2010).

the 2nd Military District:

At a session held at 1500 hrs on 4 April 1992, the SRBH /Socialist Republic of BH/ Presidency decided to mobilise the SRBH TO /Territorial Defence/, MUP /Ministry of the Interior/ and BH CZ /BH Civilian Protection/ despite the objection that the Presidency is not competent to mobilise the TO as a component of the OS /Armed Forces/, to which it turned a deaf ear.

In view of the overall negative attitude towards the JNA /Yugoslav People's Army/, which was especially displayed at the Presidency session at which the 2nd VO /Military District/ commander and SRBH TO commander were present, armed attacks on military facilities, apartments of AVLs /active military personnel/ and GLs /civilian personnel/ and JNA members and retired military personnel are to be expected on the nights of 4/5 and 5/6 April 1992 and during the following days. In connection with this, I hereby

ORDER

1. Raise the combat readiness of commands, units and institutions of the 2nd VO to the highest level.
2. Be ready to defend military facilities.
3. Pull part of units out of garrisons so they can participate in breaking blockades of military facilities and carry out other tasks.
4. Stimulate retired military personnel and GLs to be ready to defend residential buildings.
5. Nobody may issue TO weapons without a special order and signature by the 2nd VO commander, and bear in mind warnings about the seizing of weapons from military depots, and to this end take all measures to prevent such activities in the most vigorous manner.
6. In all their activities, JNA units and members must protect and defend endangered citizens from all ethnic groups from the terrorism and attacks of paramilitary formations and the negative consequences arising from the unauthorised decision of the SRBH Presidency.
7. It is especially important to ensure full combat readiness at isolated facilities and their defence by 2000 hrs on 4 April 1992.

COMMANDER

Colonel General Milutin KUKANJAC

There is no dilemma: #only the JNA on one, and the Muslim secret Army (Patriotic league and Green Berets#) had a possibility to mobilise and use armament. The municipal TO units were authorised by the Constitution and Law on AI-Peoples Defence to act independently, if the JNA is not present. The JNA displaced their units and weaponry for their security, but the choice of the Serb areas was because only the Serbs weren't hostile against the JNA. Let us see the next document of the same Command, D1386:

Pursuant to the Order of the Federal Secretary for National Defence, Strictly Confidential no. 1530-1 of 5 April 1992, and regarding the situation that has arisen in the zone of the 2nd Military District, I hereby

ORDER :

1. – Mobilise all war units which are part of the 2nd Military District.
2. – Start mobilisation at 0600 hours on 6 April 1992.
3. – The reserve force is to be called up using the call-up system of the military territorial organs and its own system for calling up war units. In the event that individual v/o /conscripts/ who have RR /wartime assignments/ in RJ /war units/ fail to respond to the call-up by for ethnic and other reasons, other v/o are to be called up to replace them, taking into account their reliability.
4. – Mobilised units are to be manned according to wartime establishment, equipped with the required weapons and military equipment and prepared for implementation of the task.
5. – Reports on the course and completion of mobilisation and manning levels achieved are to be sent daily at 0600 and 1800 hours to the OC 2nd VO.

COMMANDER
Colonel General
Milutin KUKANJAC

Therefore, the #President didn't have any role or influence in the beginning of the war#. However, the Prosecution witnesses knew that, look what C. Doyle said, in P941:

Sarajevo on 24-25 August. ¹¹²⁵¹ Commandant Doyle said that the Serbian paramilitaries, backed by the JNA, had started the fighting by shelling the old town of Sarajevo in April. The Muslims might be responsible for some provocations. But the Serbs had ¹¹²⁵²) Bosnian Muslims and Bosnian Serbs once again set up barricades in and around Sarajevo, inhibiting the movement of the population. ¹¹²⁵³

3538. At the end of March or the beginning of April 1992, JNA forces took control of Sarajevo airport and began using it exclusively to move JNA personnel and their families out of BiH. ¹¹²⁵² By this time, the activities of JNA personnel in the barracks contributed to the tensions. ¹¹²⁵³ In early April 1992, residents of Sarajevo demonstrated for peace in large numbers in front of the Assembly building. ¹¹²⁵⁴ However, during the protest they came under

¹¹²⁵¹ D2540 (Witness statement of Goran Sikiraš dated 2 December 2012), para. 8; P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 27–28; D2443 (Witness statement of Željka Malinović dated 9 November 2012), para. 5.

¹¹²⁵² Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25273, 25344; D331 (Intercept of conversation between Danilo Veselinović and Radovan Karadžić, 13 April 1992), e-court p. 3. See also Adjudicated Fact 2778.

¹¹²⁵³ P1029 (Witness statement of John Wilson dated 4 November 2008), para. 30. In November 1991, Jure Pelivan, the Prime Minister of BiH, informed Doyle of his serious concerns about JNA involvement in illicit transfers of armament into BiH and characterised the build-up of JNA forces in BiH territory as a “military occupation”. P946 (ECMM report re meeting with Prime Minister Pelivan, 27 November 1991). In March 1992, BiH Deputy Prime Minister, Rusmir Mahmutćehajić announced that after the declaration of independence by BiH, the JNA would be viewed as an occupation force. See D3070 (JNA 2nd Military District report, 12 March 1992), p. 5.

¹¹²⁵⁴ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 9; P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 19; P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 21; D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 11; D2538 (Witness statement of Milan Pejić dated 2 December 2012), para. 11; D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), paras. 181–182.

sniper fire which was said to have come from the direction of Holiday Inn.¹¹²⁵⁵ **(#Not at all, Juka Prazina was seen shooting.# This kind of hear-say should not be a basis for any inference. The Prosecution/Chamber never miss an opportunity to present any event, incident or document so to looks like the Serb responsibility!) 14/15. 01. 18**

3539. During the night of 4 April 1992, Bosnian Muslim units attacked and took control of the MUP building in Sarajevo, expelling the Bosnian Serb employees.¹¹²⁵⁶ **(For the sake of truth and accuracy, prior to those hostile and criminal acts, Mr. #Izetbegovic announced the general mobilisation, despite the opposition of the Serb members of Presidency#. And the Muslims didn't only expel the Serb employees, but #they killed a policemen#, last name Petrovic, while working in his police station.)** Soon after, BiH police and TO forces surrounded the 2nd District Command building complex and the Sarajevo Military Hospital which was at the time run by the JNA.¹¹²⁵⁷ Around the same date, Bosnian Muslims began attacking JNA forces and installations in Sarajevo.¹¹²⁵⁸ On 6 April 1992, extensive gunfire erupted, with each side accusing the other of having started the hostilities.¹¹²⁵⁹ Armed Muslims detained and mistreated Žepinić on several occasions, prompting him to eventually leave for Belgrade.¹¹²⁶⁰ A number of Serbs had their houses searched and ransacked, were mistreated by armed Bosnian Muslim units, faced harassment at their workplace, were purged from employment, or were prevented from entering and departing Sarajevo.¹¹²⁶¹ Following these events, some Serb families left for parts of Sarajevo where Serbs were in the majority while others moved to Pale.¹¹²⁶² Around the same period, a large number of Bosnian Muslim civilians began moving into areas of Sarajevo which were under the control of the BiH government.¹¹²⁶³ **(And that was #exactly what was envisaged by the President in October 1991#, an unfavourable but inevitable consequence of the civil war, that had been seen in Croatia prior to the war in BiH. But, what had happened in Sarajevo was a real terror by the Muslim armed forces, and it can not be**

¹¹²⁵⁵ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 9; Colm Doyle, T. 2968–2969 (28 May 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 21; D3065 (Witness statement of Aleksandar Vasiljević dated 26 February 2013), paras. 181–182. The evidence on the identity of those who targeted the protesters with gunfire is inconsistent.

¹¹²⁵⁶ D396 (Announcement of SerBiH MUP, 5 April 1992), p. 1; Momčilo Mandić, T. 4926 (8 July 2010). *See also* D2538 (Witness statement of Milan Pejić dated 2 December 2012), para. 11.

¹¹²⁵⁷ D3671 (Witness statement of Dušan Kovačević dated 7 June 2013), para. 8; P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 27; Milan Mandilović, T. 5366 (16 July 2010), T. 5397–5398 (19 July 2010); D495 (JNA 2nd Military District combat report, 21 April 1992), p. 2; D3671 (Witness statement of Dušan Kovačević dated 7 June 2013), para. 47.

¹¹²⁵⁸ D495 (JNA 2nd Military District combat report, 21 April 1992), pp. 1–4; P6170 (Transcript of conversation between Branko Kostić, Alija Izetbegović, and Blagoje Adžić, 26 April 1992), pp. 18–19.

¹¹²⁵⁹ Adjudicated Fact 7.

¹¹²⁶⁰ D2923 (Witness statement of Vitomir Žepinić dated 11 February 2013), paras. 72–73; Martin Bell, T. 9857 (15 December 2010); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 61.

¹¹²⁶¹ D2443 (Witness statement of Željka Malinović dated 9 November 2012), paras. 8–9, 22–23; D3671 (Witness statement of Dušan Kovačević dated 7 June 2013), para. 16; D1400 (SRNA news report, 11 April 1992); Hajrudin Karić, T. 15320–15321 (23 June 2011); D396 (Announcement of SerBiH MUP, 5 April 1992), e-court p. 1; D447 (SerBiH MUP, Analysis of functioning of the MUP, July 1992), e-court p. 11; D2538 (Witness statement of Milan Pejić dated 2 December 2012), para. 10; D3138 (Witness statement of Mirko Šošić dated 17 March 2013), paras. 6–7; Mirko Šošić, T. 35759–35760 (21 March 2013).

¹¹²⁶² D2443 (Witness statement of Željka Malinović dated 9 November 2012), paras. 8, 12; D8 (SRNA news report, 10 April 1992).

¹¹²⁶³ P2444 (Witness statement of KDZ354 dated 5 February 2011), para. 22 (under seal); Bakir Nakaš, T. 6687–6688 (14 September 2010).

said more polite. All of that happened in the common capitol of BiH, in front of the entire Muslim authority and elite! Nobody warned, let alone arrested or punished the terrorists, who to the contrary had been celebrated, and a notorious criminals promoted to the rank of General!

3540. By 10 April 1992, the security situation in Sarajevo had deteriorated; the command of the 2nd Military District reported that mortar fire had again been directed against features in the city and that all movements and all roads to the city were being controlled by Green Berets, armed civilians, and BiH MUP forces.¹¹²⁶⁴ **(Certainly, till that times the Serb side wasn't prepared for any action, relying upon the JNA to protect the peace and security, but the JNA couldn't protect itself properly. The Muslim side had been prepared much better. The "armed civilians" when killed in a combat, had immediately reported to the internationals as a civilian victims! According to the Muslim sources, up to 80% of the Muslim Army (ABiH) fought the entire 1992 in their civilian clothing, and all such a combat casualties had been presented as a civilian!)** On 12 April 1992, the leaders of all three parties agreed to an immediate and total cease-fire in BiH, including in Sarajevo.¹¹²⁶⁵ They also agreed that Bosnian Serbs should have a greater role with respect to Sarajevo RTV broadcasts.¹¹²⁶⁶ The following day, however, during a meeting with Doyle and Sarajevo RTV management, Bosnian Serb representatives claimed that the agreement concerning Sarajevo RTV essentially required that all the assets which belonged to the station be divided between the three ethnic groups.¹¹²⁶⁷ As a result, the meeting did not lead to any progress.¹¹²⁶⁸ The next day, Serbs from Pale warned the employees at Sarajevo RTV that if the station did not get off the air, it would be targeted.¹¹²⁶⁹ **(That was a lie. Since no Serb called #Doyle, he was "informed" by his Muslim hosts about something that hadn't happen!#)** Doyle, having been informed of this threat, immediately contacted the Accused who then assured him that this attack would not take place.¹¹²⁷⁰ **(It doesn't require so high intelligentsia to conclude what happened. First of all, Pale was too far to fire against the TV. Second, the President at that moment didn't command to any formation. Third, Mr. Doyle himself reported to his superiors about a huge number of the rogue elements without any political control. And, finally, fifth, this was so simple trick that such an experienced military man could have been deceived only**

¹¹²⁶⁴ P925 (JNA 2nd Military District combat report, 10 April 1992), pp. 2–3.

¹¹²⁶⁵ P947 (Cease-fire Agreement, 12 April 1992); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25283–25284. *See also* para. 329.

¹¹²⁶⁶ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25277; Colm Doyle, T. 2683 (21 May 2010).

¹¹²⁶⁷ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25277–25278; Colm Doyle, T. 2683–2684 (21 May 2010). A month earlier, during an exchange with Izetbegović in the presence of Cutileiro, the Accused stated that by ignoring the Bosnian Serb perspective, Sarajevo RTV had caused further deterioration of the situation; the Accused subsequently reiterated the SDS demand that there be a separate TV channel for each ethnic group in BiH. D1284 (Handwritten notes of meetings attended by Radovan Karadžić in relation to Conference on BiH, February and March 1992), p. 25.

¹¹²⁶⁸ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25278.

¹¹²⁶⁹ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25278, 25348; Colm Doyle, T. 2678 (21 May 2010).

¹¹²⁷⁰ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25278, 25348; Colm Doyle, T. 2678 (21 May 2010).

if wanted to be! See what Mr. Doyle said at a high meeting about the April in Sarajevo, P941, p. 2:

... to fight back only in order to defend themselves. The Muslims regularly shelled their own people. They could have been responsible for the heavy shelling of Sarajevo on 24-25 August. Commandant Doyle said that the Serbian paramilitaries, backed by the JNA, had started the fighting by shelling the old town of Sarajevo in April. The Muslims might be responsible for some provocations. But the Serbs had much to live down.

#Contra documents#! As a rule, the #international officials of the middle to low rank testified opposite to their contemporaneous official reports#, and that was the same with Mr. Doyle. Beside the fake assertion that the Serb paramilitaries “had started the fighting” all other is accurate. But these paramilitaries backed by the JNA were a reserve units of the very same JNA, due to the Law on AI-Peoples Defence! But, certainly, Mr. Doyle was aware of the fact that the President was not in charge in April 1992!)

Shortly after, however, mortar fire targeted the Sarajevo RTV building, killing a number of people.¹¹²⁷¹ The Accused later admitted to Doyle that the bombing had been carried out by Bosnian Serbs but insisted that the attack did not have his permission.¹¹²⁷² **(It was obvious that the #President at that time didn't control any armed forces#. The President didn't admit that the Serbs bombed, but that he knew nothing about that, but could not deny before he checked. As it can be seen from D4272, neither the Serb police fired against the TV, and it appears to be another trick of the Green Berets.)**

3541. On 16 April 1992, the Accused told Herbert Okun, who was an adviser to the Special Envoy of the Secretary General at the time,¹¹²⁷³ that the situation in Sarajevo was urgent and that people were fighting because the ethnic groups could not and did not want to live together.¹¹²⁷⁴ **(Not accurate: see P941, what Karadzic had said in front of the top international presentation: (#Testimony contra document#! The very same witness, Okun was present when Karadzic explained to Mr. Vance the exact Serb position, see P941:**

¹¹²⁷¹ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25278–25279; Colm Doyle, T. 2678 (21 May 2010), T. 2728, 2736 (26 May 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 101. These killings are not charged in the Indictment.

¹¹²⁷² Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25279; Colm Doyle, T. 2678–2680 (21 May 2010). By contrast, in a letter addressed to the directors of the prominent media outlets in Sarajevo, including Sarajevo RTV and the *Oslobodjenje* newspaper, Mićo Stanišić denied that Bosnian Serbs bore any responsibility for the attack on Sarajevo RTV and instead attributed the attack to the Green Berets. D4272 (Letter from Mićo Stanišić to the BiH media, 18 April 1992), pp. 1–2.

¹¹²⁷³ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4139.

¹¹²⁷⁴ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4174, 4205.

Secretary Vance and Lord Carrington met with Dr Karadzic on 26 August. Dr Karadzic was accompanied by Dr Koljevic and an interpreter. Ambassadors Wijnaendts, Cutileiro, Hall and Okun were also present as was Commandant Doyle.

1. Secretary Vance welcomed Dr Karadzic to the Conference. He said it was time to bring the fighting to a halt and begin serious negotiations. Dr Karadzic said that the Serbs were willing to negotiate. Regrettably the Muslims had always negotiated in bad faith. The Muslims had accepted the 18 March principles but had now reneged on them. They were only interested in a Muslim state. Earlier in the year he had urged the international community not to recognise Bosnia. After recognition, the Serbs had been forced to act in order to protect the Serbian population. The Serbs were willing to return territory and were content to remain part of Bosnia and Hercegovina within the existing boundaries. But the Serbian people of Bosnia wanted full autonomy from the Muslims and Croats.

#Therefore, the issue was not whether to live together or not, but whether to be a national minority, subjugated to a hostile Islamic regime, or to have an autonomy! tNot entirely accurate: a lack of willingness to live together cause by an illegal secession led to the Conference, not to the war. But, the Muslim denial of the Serb demands for appointed “high autonomy” led to the war! And this is a prominently European solution, while denial of this rights was a “Middle East” solution, backed by the Western powers!#) A lack of willingness to live together cause by an illegal secession led to the Conference, not to the war. But, the Muslim denial of the Serb demands for appointed “high autonomy” led to the war!) Around the same time, the JNA’s 216th Mountain Brigade was relocated to Grbavica in anticipation of the withdrawal of JNA units from the barracks in the city.¹¹²⁷⁵ In the preceding months, on the basis of Kukanjac’s directives, the JNA had already moved most of its heavy weaponry, ammunition and explosives from Sarajevo to Serb-held positions on the elevations outside the city.¹¹²⁷⁶ **(The JNA did it because of their security reasons, and only the Serb areas weren’t hostile against the JNA!)**

3542. On 20 April 1992, Kukanjac reported that BiH MUP and TO forces had made specific plans to attack JNA installations in Sarajevo.¹¹²⁷⁷ On the same day, SerBiH Prime Minister Branko Đerić prohibited Bosnian Serb units from firing heavy artillery at the city unless the SerBiH Minister of Defence authorised such fire due to “exceptional conditions”.¹¹²⁷⁸ **(The Chamber should have noticed that this order and all the matters relating to a firing #were in hands of the Prime Minister and the Defence Minister. Why? Because the President at that time didn’t have any**

¹¹²⁷⁵ D2375 (Witness statement of Milorad Džida dated 30 October 2012), paras. 4, 14; D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 22; D2665 (Witness statement of Izo Golić dated 15 December 2012), para. 13.

¹¹²⁷⁶ P979 (Report from JNA 2nd Military District to JNA General Staff, 20 March 1992), p. 9; D239 (Report of 17th Corps, 3 April 1992), p. 2; D236 (JNA 4th Corps Report, 7 May 1992), p. 2; D3671 (Witness statement of Dušan Kovačević dated 7 June 2013), para. 47; Dušan Kovačević, T. 39643 (10 June 2013); D312 (SRK analysis of combat readiness of artillery rocket units, July 1994), p. 2.

¹¹²⁷⁷ D3069 (JNA 2nd Military District report, 20 April 1992), p. 1. See also D4636 (Report of the Command of the 2nd Military District, 22 April 1992), p. 2.

¹¹²⁷⁸ D219 (Order by Branko Đerić re artillery ban, 20 April 1992). The Chamber notes that in the English translation of D219, the surname “Đerić” has been mistakenly transcribed as “Ćerić”.

capacity of ordering the armed people#, which as a matter of fact was the Serb TO, under the command of every president of a respective municipality, and with the Government limited competence. That meant that the Government could ban any beginning of firing, while responses, defence and retaliatory fire was as always in the hands of the soldiers that were attacked!) Despite this order, Serbs engaged in the shelling of Sarajevo.¹¹²⁷⁹ Two days after Đerić's order concerning the use of heavy artillery and the day before his planned meeting with Carrington, Cutileiro, and Izetbegović, the Accused issued his so-called "peace platform".¹¹²⁸⁰ **(The Chamber didn't check whether the Serbs had been responsible for this firing, whether they initiated the incident, or the Muslim side fired to get a response and denigrate the Serbs before the high internationals. Why would the Serbs fire against the city, while there had never been any intention to advance toward the city? And the treatment of the President "so called" platform shows what was the Chamber's attitude towards the "so called" Serbs!)** With this document, the Accused proposed, amongst other things, (i) an unconditional and immediate cease-fire; (ii) the continuation of the EC Peace Conference on Yugoslavia; (iii) prioritisation of drawing of maps of Sarajevo and the constituent states; and (iv) clarification of the role of the JNA in BiH.¹¹²⁸¹ **(#Skipping the crucial#! The Chamber missed to mention maybe the most important commitment, which made any armed conflict unnecessary. D00220**

5. Public commitment by all the parties in BH that they will not accept a policy of fait accompli, not even the one arising from the communist inheritance, and that territorial advantages gained by means of force will not be recognized.

If that was accepted and supported by the EC, there wouldn't be any reason to fight, since the territorial matters were to be settled down by the political means. In addition to many other anti-war actions of the President, this one guaranteed a peaceful solution at the beginning of the conflict, and would spare so many lives and prevent destructions. As a matter of fact, the territorial matters had been settled down by the political means. For instance, the Serbs had lost five municipalities in Sarajevo, defended throughout the war (Hadzici, Vogosca, Ilidza, Ilijas Rajlovac) and Grbavica and parts of Dobrinja, lost by the political means.

3545. On 25 April 1992, after giving Martin Bell, a BBC war correspondent,¹¹²⁸² a tour of the frontlines in Trebević, the Accused stated: "If we didn't have hope for political solutions we would already free Sarajevo".¹¹²⁸³ In late April 1992, Bosnian Serbs, backed

¹¹²⁷⁹ Colm Doyle, T. 2772 (26 May 2010).

¹¹²⁸⁰ D220 (Radovan Karadžić's Peace Platform, 22 April 1992).

¹¹²⁸¹ D220 (Radovan Karadžić's Peace Platform, 22 April 1992).

¹¹²⁸² P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 3.

¹¹²⁸³ P1997 (BBC news report re interview with Radovan Karadžić at Trebević, with transcript); Martin Bell, T. 9769-9770 (14 December 2010).

by the JNA, again shelled various neighbourhoods in and around the city.¹¹²⁸⁴ **(How this witness could have known who fired? #Not established#!)** At the same time, armed Serb units, **(What the Serb units, #before the VRS# was established? It could have been only a TO unit, without any President influence!)** supported by JNA tanks, attacked Muslim neighbourhoods around the airport, forcing the inhabitants of the affected areas to seek refuge in Sarajevo.¹¹²⁸⁵ **(The Chamber neglected that the #Muslim side attacked first# from the very same “neighbourhoods”. This is a regular feature, that the Serb side is accused for defending itself. The Serb side didn’t have any interest in fights around Sarajevo, but only in a political settlement. The Chamber neglected a several facts of the crucial significance: first, the Muslim chairman of the common Presidency proclaimed the general mobilisation on 4 April; the Muslim side formed another TO on 6 April, replacing the Commander of the Republic TO general Vukosavljevic, because he was a Serb; on 12 April, at the same time the ceasefire agreement was concluded, Hasan Efendic, the new Commander of the new TO, and only a day after “so called peace platform” of President Karadžić, issued a very mean order for initiation of hostile actions against the JNA and the Bosnian Serbs, see D222. on 23 April, naming “the enemies” as the JNA and the Serbian TO in the SAO-s:**

The enemy forces in Bosnia and Herzegovina are:

- a) The JA (Yugoslav Army): six corps of the land forces (Bihać, Banja Luka, Tuzla, Bileća, parts of the Knin Corps and one reinforced air corps).
- b) The forces of the SDS SAO /Serbian Democratic Party of the Serbian Autonomous District/ with around 80,000 to 120,000 men.

2. The forces of the territorial defence of the Republic of Bosnia and Herzegovina and armed civilians brought together under the joint command of the territorial defence staff of the Republic of Bosnia and Herzegovina – continue to grow in number, to consolidate and successfully to defend on the entire territory of the Republic with the basic goal of protecting the lives and property of the citizens of the Republic of Bosnia and Herzegovina.

Together with the “state of imminent war” it was as a matter of fact a state of #war proclaimed against “the enemies” that had been named: the JNA, the Serbs, the Serb autonomous regions, the Serb TO, and the SDS members. In other word, the entire Serb community in BiH#!

¹¹²⁸⁴ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 9; P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), para. 3; Colm Doyle, T. 2665 (21 May 2010); P941 (London Conference record of a meeting with Radovan Karadžić, 26 August 1992), para. 4; Herbert Okun, T. 1634 (26 April 2010), T. 1729 (27 April 1992), T. 1781–1782 (28 April 2010).

¹¹²⁸⁵ P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 64. *See also* Section IV.1.1.c.ii: Ilidža.

4. I have decided: immediately carry out a mobilisation of the entire TO (territorial defence) of the RBH /Republic of Bosnia and Herzegovina/, expeditiously continue with the formation of combat units in all municipalities and put them under the joint command of the municipal and district staffs and the RBH TO staff, and then take swift and vigorous action to break the offensive power of the enemy by using elastic forms of manoeuvres (ambushes, outflanking and envelopments) while setting up barrier systems in good time.

Immediately capture weapons and ammunition depots, cut off barracks, capture them and detain members of the JA on the territory of the RBH.

Carry out the defensive operation in two stages:

I stage: combat operations by groups / detachments and mass armed resistance by the population lasting 10 – 15 days.

II stage: operations lasting 20 – 30 days with the aim of crushing the enemy and creating conditions for their removal from the territory.

Readiness for action – immediately.

Here Mr. Hasan Efendic, i.e the Muslim-Croat authorities declared the was against everyone that belonged to the JNA and the Serbs in Bosnia, with their “strategic objective” to expel all the “enemies” out of BiH territory. This “strategic objective” had been confirmed in the testimony of the Muslim General Asim Dzambasovic in the courtroom! However, the most important part of this Order was TASKING THE CIVILIANS TO CARRY OUT A #“MASS ARMED RESISTENCE BY THE POPULATION”# This way the Muslim TO Commander REMOVED THE ENTIRE DIFFERENCE BETWEEN COMBATANTS OF MILITARY AND CIVILIAN PROVENANCE#! See again D222!#!

It is worthy to mention that the Agreement on withdrawal of the JNA from BiH hadn't been reached yet, but an oveal attack on the JNA had been ordered! Only a day after the “peace platform of President Karadzic had been published, this order facilitated a mass attacks on the JNA and the Serbs in BiH, by all and everyone, thus removing a civilian capacity from the embattled civilians! Six days later the Serbs in Prijedor intercepted the BiH MUP telex order to the Muslim police station in Prijedor, to take-over Prijedor and capture all the JNA soldiers and the Serb territorials. The Muslim MUP in Prijedor had, on 16 April 92, already mobilized a substantial part of the Muslim reserve police against the law and rules, responding to the Banja Luka CSB as in D4667:

D4667:

PRIJEDOR SJB /Public Security Station/
Dispatch number: 11-12-/handwritten:/1724
Date: 15 April 1992 - dx - -encoded-

Banja Luka CSB /Security Services Centre/

Reference: your dispatch number 11-94 of 14 April 1992

The Prijedor SJB has so far mobilised 254 of the 530 members of the reserve police force, and engaged them in carrying out duties and work tasks. The aforementioned 254 policemen are carrying out duties with the active-duty police force.

/handwritten:/ 0835 hours 16 April 1992 – RODIĆ

CHIEF
PUBLIC SECURITY STATION
Hasan TALUNDŽIĆ
/signed/

Finally, on 29 April 1992 the rump Bosnian Presidency issued an unbelievable Order for an overall attack on such a formidable legal force while withdrawing, as described in the very next paragraph of this Judgment, see D399:

Republic of Bosnia and Herzegovina
Ministry of National Defence
Territorial Defence Staff
S A R A J E V O
Number: 02/145-1
Sarajevo, 29 April 1992

VERY URGENT

Order to carry out the decision of the Presidency
of the Republic of Bosnia and Herzegovina
no. 02-11-327/92

On the basis of the Presidency of the Republic of Bosnia and Herzegovina's decision no. 02-11-327/92 of 27 April 1992 on the withdrawal of JNA /Yugoslav People's Army/ units from the territory of the Socialist Republic of Bosnia and Herzegovina, and because of the violation of this Presidency decision and because the former JNA has begun to steal and plunder the property of the Republic of Bosnia and Herzegovina, I hereby issue the following

O R D E R

1. In direct coordination with the MUP /Ministry of the Interior/, mount a complete and full-scale blockade of all roads in the territory of Bosnia and Herzegovina where units of the former JNA have begun to pull out materiel and technical equipment.
2. Mount a blockade of the wider area of military facilities where attempts are made to remove materiel and technical equipment. To do so, use various types of establishment and natural obstacles which shall be supplied to units of the Territorial Defence of the Republic of Bosnia and Herzegovina and the MUP.
3. Prevent unannounced columns of units of the former JNA unescorted by the MUP from leaving their barracks and communicating in the territory of the Republic of Bosnia and Herzegovina.
4. Speed up the planning of and start combat activities throughout the territory of the Republic of Bosnia and Herzegovina in coordination with the regional, district and republican Territorial Defence Staffs.

Combat operations plans should include extensive measures for the protection of the population and the material goods of the citizens of the Republic of Bosnia and Herzegovina.

DJ/NS

C o m m a n d e r
Colonel
/?Hasan/ EFENDIĆ

3546. Around the same period, Hasan Efendić, the Commander of the BiH TO, ordered his forces to capture weapon and ammunition depots in BiH territory, blockade the JNA barracks,

and capture JNA personnel.¹¹²⁸⁶ **(This Efendic's Order had been distributed to all the municipalities, and caused the JNA "take-over" of the control of armed people in the town of Prijedor! All the events appeared after the Muslim actions!)** Soon after, Bosnian Muslims blockaded the JNA barracks and installations in Sarajevo, including the complex in Bistrik where Kukanjac and his entire staff, numbering 400 persons, were still stationed.¹¹²⁸⁷ **(A very naïve confidence in the Muslim authorities!)** By the end of April 1992, Bosnian Muslim and Bosnian Serb military formations as well as criminal bands were engaged in fierce clashes in the city; the shelling and sniping activities by both sides also increased exponentially.¹¹²⁸⁸ The fighting ebbed somewhat when Lord Carrington arrived in the city to broker a cease-fire.¹¹²⁸⁹ **(Which of the crimes committed by these "criminal bands" – if not all – had been allocated to the President , who didn't have any command at the time?#!)**

3547. On 2 May 1992, in a letter to Doyle, Đerić indicated that given the attacks launched by the BiH TO, the Bosnian Serbs were unwilling to remove heavy artillery from around Sarajevo and threatened to take possession of radio and television relays which were being used by broadcasters from the Muslim side to propagate "informative terror".¹¹²⁹⁰ **(Why it was Prime Minister Djerić, and not the President ? Because the President didn't have the official post prior to 12 May!)**

3548. On the same day around noon, Green Berets and HOS units attacked the JNA social centre in downtown Sarajevo, seriously wounding its director.¹¹²⁹¹ Subsequently, units from the 65th Motorised Protection Regiment of the JNA were dispatched to the social centre in order to evacuate the JNA personnel there, some of whom were wounded.¹¹²⁹² **(These personnel weren't combatants, nor they had been armed, since it was so called "Home of the Army" – Dom Armije – which meant a cultural institution.)** However, these units were ambushed by Bosnia's Muslims.¹¹²⁹³ An armoured battalion from Grbavica as well as an anti-sabotage detachment, which had been hitherto securing the Military Hospital, were

¹¹²⁸⁶ D222 (TO directive, 23 April 1992), p. 2; D332 (Order of TO Sarajevo, 29 April 1992).

¹¹²⁸⁷ Colm Doyle, T. 2752, 2791 (26 May 2010); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*, T. 25368; P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), para. 3; D217 (Excerpt from General MacKenzie's book entitled "The Road to Sarajevo"), e-court p. 3; D236 (JNA 4th Corps Report, 7 May 1992), p. 1; John Wilson, T. 4007 (21 June 2010); D2375 (Witness statement of Milorad Džida dated 30 October 2012), para. 14.

¹¹²⁸⁸ Milan Mandilović, T. 5379 (16 July 2010); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*, T. 25273; Colm Doyle, T. 2720 (26 May 2010), 2928 (28 May 2010); Barko Zečević, T. 12152 (22 February 2011); D495 (JNA 2nd Military District combat report, 21 April 1992), p. 1; D331 (Intercept of conversation between Danilo Veselinović and Radovan Karadžić, 13 April 1992), e-court pp. 1, 4; D4636 (Report of the Command of the 2nd Military District, 22 April 1992), pp. 1–2; D920 (Intercept of conversation between Radovan Karadžić and Radovan Pejić, 23 April 1992); D917 (BBC news report re Sarajevo, with transcript); D918 (BBC news report re Sarajevo, with transcript); P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 33, 61; Martin Bell, T. 9802, 9815–9816, 9818–9819, 9827, 9829 (14 December 2010), 9930 (15 December 2010); John Wilson, T. 3962, 4004–4005 (21 June 2010). On 22 April 1992, Alen Gičević, a resident of Sarajevo at the time, was injured by a mortar shell which landed near his home at Džidžikovac street in Sarajevo's centre. See P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 9.

¹¹²⁸⁹ Martin Bell, T. 9835 (14 December 2010); P2025 (BBC news report re Ilidža, with transcript). On Lord Carrington's visit, see para. 329.

¹¹²⁹⁰ D229 (Branko Đerić's letter to Colm Doyle, 2 May 1992). Richard Gray, who was the Chief Operations Officer for the UNMOs in Sarajevo until June 1992, stated that the BiH government regularly used Sarajevo RTV to circulate inflammatory propaganda against Bosnian Serbs. See D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 23.

¹¹²⁹¹ D236 (JNA 4th Corps Report, 7 May 1992), p. 2; D825 (Manojlo Milovanović's book entitled "My View of the War in Bosnia 1992–1995"), p. 4; Martin Bell, T. 9830 (14 December 2010).

¹¹²⁹² D236 (JNA 4th Corps Report, 7 May 1992), p. 3.

¹¹²⁹³ D236 (JNA 4th Corps Report, 7 May 1992), p. 3.

dispatched to rescue the ambushed units but they too were attacked on their way.¹¹²⁹⁴ **(#And all killed and butchered!#)**

3549. During the evening of 2 May 1992, after arriving from Lisbon, Izetbegović, his daughter, and his bodyguard were taken into custody by the JNA at the Sarajevo airport and taken to the Lukavica Barracks.¹¹²⁹⁵ **(Unlike the President, Mr. Izetbegovic at that moment was a Supreme Commander of the illegal Army that tacked and butchered the units of the same JNA!)** At around the same time, the Military Hospital also came under Bosnian Muslim attack.¹¹²⁹⁶ In response to the attacks against the JNA social centre and the Military Hospital, Kukanjac ordered the use of artillery against the city centre.¹¹²⁹⁷ **(#Therefore, not the President ?Why the President was charged for this?#)**

3550. In the morning hours of 3 May 1992, members of the 65th Motorised Protection Regiment were captured by Green Berets and the HOS.¹¹²⁹⁸

3551. On 3 May 1992, General MacKenzie, the Commander of UNPROFOR Sector Sarajevo, Doyle, Ganić, and General Aksentijević of the JNA began negotiating the release of Izetbegović.¹¹²⁹⁹ During these negotiations, it was agreed that under the supervision and guarantee of the ECMM and UNPROFOR, Izetbegović would be released by the JNA and that in return, Bosnian Muslim forces would allow Kukanjac to leave his headquarters in downtown Sarajevo and move to Lukavica Barracks, on the Serb side of the confrontation lines.¹¹³⁰⁰

3552. MacKenzie and Doyle then travelled to Lukavica Barracks where Izetbegović had been detained in order to persuade him to accept the exchange agreement.¹¹³⁰¹ While MacKenzie and Doyle were at the barracks, Kukanjac contacted Izetbegović by telephone and indicated that there would be no exchange unless his entire staff, along with their equipment, were also removed from Bistrik and taken to safety.¹¹³⁰² Despite the reservations expressed by MacKenzie and Doyle as to the feasibility of the plan to move such a large number of JNA personnel through Muslim-controlled parts of the city, Izetbegović accepted Kukanjac's proposal, assuming personal responsibility for their safety.¹¹³⁰³ Later that day, Izetbegović and MacKenzie, along with a large convoy of empty trucks belonging to the 2nd Military

¹¹²⁹⁴ D236 (JNA 4th Corps Report, 7 May 1992), p. 3; P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 23; Milan Mandilović, T. 5375–5376 (16 July 2010).

¹¹²⁹⁵ D236 (JNA 4th Corps Report, 7 May 1992), p. 4; Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25294–25295, 25384; Colm Doyle, T. 2859 (27 May 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 66.

¹¹²⁹⁶ D3671 (Witness statement of Dušan Kovačević dated 7 June 2013), paras. 9–10; D236 (JNA 4th Corps Report, 7 May 1992), pp. 3–4; D825 (Manojlo Milovanović's book entitled "My View of the War in Bosnia 1992–1995"), p. 4; D919 (BBC news report re attack of JNA convoy, with transcript); Martin Bell, T. 9825 (14 December 2010); D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), para. 3.

¹¹²⁹⁷ P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 65.

¹¹²⁹⁸ D236 (JNA 4th Corps Report, 7 May 1992), p. 3.

¹¹²⁹⁹ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25266; D236 (JNA 4th Corps Report, 7 May 1992), p. 4.

¹¹³⁰⁰ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25295; Colm Doyle, T. 2680 (21 May 2010); D236 (JNA 4th Corps Report, 7 May 1992), pp. 4–5; D919 (BBC news report re attack of JNA convoy, with transcript); Martin Bell, T. 9830–9831 (14 December 2010).

¹¹³⁰¹ Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25368.

¹¹³⁰² Colm Doyle, T. 2752–2753 (26 May 2010); D217 (Excerpt from General MacKenzie's book entitled "The Road to Sarajevo"), e-court pp. 4–5.

¹¹³⁰³ Colm Doyle, T. 2754, 2757 (26 May 2010); D217 (Excerpt from General MacKenzie's book entitled "The Road to Sarajevo"), e-court p. 5.

District, departed for downtown Sarajevo in order to pick up Kukanjac and his personnel; after the convoy arrived in Bistrik, the trucks were loaded with JNA personnel and equipment.¹¹³⁰⁴ It was then decided that the convoy should drop off Izetbegović and his daughter near the Presidency building and then proceed to the Lukavica Barracks with Kukanjac and his personnel.¹¹³⁰⁵ Shortly after embarking on its route on Dobrovoljačka street, however, Muslim forces intercepted and attacked the convoy's rear, killing at least 14 JNA members, including two Colonels, and taking a large number of prisoners.¹¹³⁰⁶ At this point, Izetbegović emerged from the vehicle he was in and addressed the attackers, explaining to them that he had promised safety to the convoy.¹¹³⁰⁷ Following Izetbegović's intervention, the convoy proceeded to a location where Izetbegović and his daughter were transferred to an APC bound for the Presidency building.¹¹³⁰⁸ From there, the rest of the convoy travelled to Lukavica Barracks.¹¹³⁰⁹ Soon after, a battalion from the 216th Mountain Brigade of the JNA was ordered to move from Lukavica Barracks to Dobrovoljačka street where the incident had taken place; before the battalion arrived, however, Bosnian Muslims took away the dead and the captured JNA soldiers and disappeared from the scene.¹¹³¹⁰ In the days that followed, Doyle and MacKenzie successfully negotiated the release of the JNA personnel.¹¹³¹¹

(Everybody could have imagined what would be an international reaction if the Serb side committed this horrifying crime over unarmed and innocent members of the JNA while withdrawing!)

3553. After the events of 3 May 1992, the situation in Sarajevo deteriorated further.¹¹³¹² The trams which connected the eastern and western parts of the city and which were regarded as symbols of normalcy stopped running.¹¹³¹³ **(No wonder!!! It had nothing to do with the Serb side or the President .all of it was caused by the Muslim criminal acts!)**

3554. Sometime later, representatives of the BiH Presidency and the JNA reached an agreement for the withdrawal of all JNA units from BiH.¹¹³¹⁴ With this agreement, the JNA undertook to

¹¹³⁰⁴ D217 (Excerpt from General MacKenzie's book entitled "The Road to Sarajevo"), e-court p. 6; D236 (JNA 4th Corps Report, 7 May 1992), p. 5; D825 (Manojlo Milovanović's book entitled "My View of the War in Bosnia 1992–1995"), p. 5; D919 (BBC news report re attack of JNA convoy, with transcript).

¹¹³⁰⁵ D236 (JNA 4th Corps Report, 7 May 1992), pp. 5–6; D919 (BBC news report re attack of JNA convoy, with transcript).

¹¹³⁰⁶ Colm Doyle, T. 2755, 2757, 2785–2786 (26 May 2010), T. 2860 (27 May 2010); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*, T. 25370–25371; P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 22; Milan Mandilović, T. 5372–5374 (16 July 2010); P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), para. 26; D216 (Article entitled "Colm Doyle Interview with Vecernje Novosti", 12 May 1992); D236 (JNA 4th Corps Report, 7 May 1992), p. 6; D2540 (Witness statement of Goran Sikiraš dated 2 December 2012), para. 10; D825 (Manojlo Milovanović's book entitled "My View of the War in Bosnia 1992–1995"), p. 8; P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 66; Martin Bell, T. 9825 (14 December 2010); D919 (BBC news report re attack of JNA convoy, with transcript); D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 21; D3671 (Witness statement of Dušan Kovačević dated 7 June 2013), paras. 10, 12–13, 15. *See also* D2974 (Letter from Momčilo Krajišnik to Jose Cutileiro and others, 28 May 1992), p. 1.

¹¹³⁰⁷ D217 (Excerpt from General MacKenzie's book entitled "The Road to Sarajevo"), e-court p. 9.

¹¹³⁰⁸ D217 (Excerpt from General MacKenzie's book entitled "The Road to Sarajevo"), e-court p. 9.

¹¹³⁰⁹ D236 (JNA 4th Corps Report, 7 May 1992), p. 6.

¹¹³¹⁰ D236 (JNA 4th Corps Report, 7 May 1992), p. 6.

¹¹³¹¹ Colm Doyle, T. 2786 (26 May 2010); D236 (JNA 4th Corps Report, 7 May 1992), pp. 6–7; D825 (Manojlo Milovanović's book entitled "My View of the War in Bosnia 1992–1995"), p. 10.

¹¹³¹² Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*, T. 25370–25382).

¹¹³¹³ P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 48; Martin Bell, T. 9830 (14 December 2010).

¹¹³¹⁴ P950 (Agreement on withdrawal of JNA from BiH), p. 1; Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*, T. 25296).

return all equipment, armament, and ammunitions of the TO which had been left in its custody and stored in the military barracks around town.¹¹³¹⁵ Soon after, the JNA units were evacuated from the Military Hospital; medical equipment and medicines were, however, left behind.¹¹³¹⁶ **(Therefore, not only the Serb side got some of the JNA equipment and officers. The Muslim and Croat sides got the same!)**

3555. On 11 May 1992, the JNA declared that its personnel would be evacuated from the Maršal Tito Barracks, Viktor Bubanj Barracks, Jusuf Džonlić Barracks, and Gavrilo Princip Barracks and that the following day the weaponry and ammunition in these barracks would be handed over to the TO forces from each the four municipalities in which these barracks were located.¹¹³¹⁷

By mid-May 1992, after several weeks of intense urban combat, the frontlines in Sarajevo were established.¹¹³¹⁸ **(#Before VRS#! The President was elected as a President of the Presidency on 12 May, but the VRS stepped up only on 20 May, or rather afret 15 June, after the President issued an Order on Formation and organisation of the VRS. Further forming of the VRS took the entire 1992. All the deliberations of the Chamber should have taken this fact into account, but didn't!)** “Serb irregulars” completely surrounded the city and controlled all the traffic.¹¹³¹⁹ Using the heavy artillery and sniper rifles made available to them by the JNA, they regularly targeted the city, including its civilian areas, from the surrounding hills.¹¹³²⁰ **(Not established! It couldn't have been properly established without evidence on the conduct of the other side, which was prevented by the Chamber, under the code of unacceptable “tu quoque”! At least, the Chamber saw and quoted the Secretary General Report, P937, published on 12 May 92, the same day Karad`i} was elected in the Presidency for the first time, while before that he was not in any body of authority. The Chamber “is not satisfied” with the Secretary General Report, according to which the irregular units members had been a Serb by nationality, but not the Army of Serbia or the Republic of Srpska. Also, the Chamber neglected the fact that this endangered minority wouldn't have any reason to fire, unles extremely jeopardized. Finally, the official assessment of the United Nations of the period iz in the exhibit P937, and it should jhad been of some relevance for this UN Court: P937: This para describes the chaos, but it is clear that #President Karad`i} was never mentioned as a responsible person, because he WAS**

¹¹³¹⁵ P950 (Agreement on withdrawal of JNA from BiH), p. 1; Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25296.

¹¹³¹⁶ P1217 (Witness statement of Milan Mandilović dated 24 February 2010), paras. 25–26; Milan Mandilović, T. 5364–5365 (16 July 2010). *See also* Adjudicated Fact 2884.

¹¹³¹⁷ D231 (JNA Order re TO arming of Muslims, 11 May 1992).

¹¹³¹⁸ P953 (Article from *Oslobodenje*, entitled “Happy Birthday Republic”, 6 January 1995), p. 4; Colm Doyle, T. 2995 (28 May 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 33, 61; Martin Bell, T. 9861 (15 December 2010).

¹¹³¹⁹ P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), para. 3; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 39; P1154 (Witness statement of KDZ088 dated 27–29 April 2010), p. 77 (under seal).

¹¹³²⁰ P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), para. 3; Colm Doyle, T. 2737 (26 May 2010); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25297–25298; P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 41–42; John Wilson, T. 3915, 3919, 3977 (21 June 2010); P1154 (Witness statement of KDZ088 dated 27–29 April 2010), p. 45 (under seal). *See also* Adjudicated Fact 8.

NOT

IN

CHARGE#!

Bosnia-Herzegovina is that, for all their fair words, none of the parties there can claim to satisfy this condition. The establishment of UNPROFOR's headquarters in Sarajevo has not prevented a savage conflict from breaking out there. General Nambiar's repeated appeals for restraint have been ignored. He and Mr. Goulding were unjustifiably delayed, and mortar rounds fired close to them, by Serb irregulars on 5 May 1992. On 3 May, Muslim militiamen, reneging on an agreement for the safe passage of JNA personnel leaving the JNA headquarters in Sarajevo, killed a number of them in cold blood in the presence of senior UNPROFOR officers who were powerless to stop the slaughter (and were subsequently abused, detained and disarmed by Serb militiamen because of their alleged complicity in the plot). United Nations personnel are routinely harassed, the Organization's property stolen and its emblems and uniforms misappropriated by various of the parties. These are not the conditions which permit a United Nations peace-keeping operation to make an effective contribution.

p.8 This para confirms the nature of conflict and the manner of naissance of the armies. 8

24. Mr. Goulding was also informed by the JNA leadership that, following the declaration on 27 April 1992 of the new Federal Republic of Yugoslavia, the Belgrade authorities' policy was to withdraw from republics other than Serbia and Montenegro all JNA personnel who were citizens of the Federal Republic of Yugoslavia, leaving behind the others to be demobilized or join the armed forces of the new republics. This policy was already being applied in Bosnia-Herzegovina where it was estimated that 80 per cent of JNA's strength were citizens of that Republic. It would similarly be applied in UNPROFOR's sectors North and South. Mr. Goulding pointed out that that would greatly increase the number of troops who would have to be demobilized in order to demilitarize the United Nations Protected Areas. UNPROFOR would continue to plan on the basis that, in that difficult task, it would have the full support and assistance of JNA, with which, among others, the plan had been negotiated.

p.9

monitoring their implementation. However, the chaotic military situation and the apparent inability of the protagonists to get their forces to respect cease-fire agreements would probably make it necessary to deploy armed troops.

The Chamber shouldn't in any circumstances neglect this UN Report depicting that even this "irregular Serb groups" had been extremely endangered! And if endangered, they may not be responsible# #AND THIS IS THE RESULT OF PREVENTING THE DEFENSE TO DEPICT CONTEXTES AND CONDUCT OF THE OTHER SIDE#! !

The shelling became particularly intense and widespread on 14 May 1992, prompting John Wilson, the Chief of the UNMOs in Sarajevo,¹¹³²¹ **(While the President was in Belgrade, meeting Mr.**

¹¹³²¹ P1029 (Witness statement of John Wilson dated 4 November 2008), para. 5. Following his time as UNMO, John Wilson was then appointed as military adviser to Vance and UNPROFOR liaison officer to the ICFY in December 1992. See P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 6, 8; P1046 (John Wilson's Report to Australian Army, 15 November 1992), p. 9.

Zimmerman, see Zimmerman's book! But, even from Belgrade, the President got information by telephone, and suggested that the Serb side doesn't fire, see: D4506:

Rade:	Well, it's okay. There's a bit of bombing here and at Mojmiilo.
Radovan KARADŽIĆ:	Aha. And who's firing?
Rade:	They're also firing a little. They're firing back, and so are our guys.
Radovan KARADŽIĆ:	Aha. See to it that you, that we not fire, please.
Rade:	Oh, should I convey the message?
Radovan KARADŽIĆ:	Convey it that wherever we are it should...
Rade:	Cease...
Radovan KARADŽIĆ:	Yes. We have a very... very important and strong reason, but if they threaten you, you must fire back.
Rade:	All right, doctor, I'll pass it along to the boss.
Radovan KARADŽIĆ:	But you should, you should... call Biljana PLAVŠIĆ or someone before you start shooting.
Rade:	Yes.
Radovan KARADŽIĆ:	To call UNPROFOR to tell them that they're threatening you all the time and that you can't hold out.

As could be seen, #the Serb side fired back ONLY#, and was advised by the President to refrain, and inform the UNPROFOR! to conclude that several thousand shells had fallen on the city that day.¹¹³²² **(Whose shells? Never established!)** As a result of the continued shelling, the number of civilian casualties increased significantly; economic life came to a halt and there were growing shortages of food, medicine and other essential supplies.¹¹³²³ The heavy shelling also forced the UNPROFOR mission in Sarajevo, which had hitherto been located in the Post Office building (PTT), to be temporarily relocated to Belgrade.¹¹³²⁴ Wilson, along with seven UNMOs and a French protection unit nevertheless stayed in Sarajevo in order to provide humanitarian assistance and to facilitate dialogue between the warring parties.¹¹³²⁵ The remaining UN personnel could only venture out of the PTT building in armoured vehicles, and even then, were frequently and deliberately targeted by both sides.¹¹³²⁶ On 18 May 1992, a UN convoy was organised to take Plavšić who had been in Sarajevo for negotiations back to her residence; Bosnian Muslims targeted the convoy with gunfire and prevented Plavšić from leaving the city that day.¹¹³²⁷

¹¹³²² P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 41–42, 73; John Wilson, T. 3994 (21 June 2010), T. 4040 (22 June 2010), T. 4131 (23 June 2010). *See also* Richard Gray, T. 29982–29983 (8 November 2012).

¹¹³²³ P944 (Letter from Sarajevo Mayor to EC President, 1 May 1992), p. 1; P937 (UNSG Report re peacekeeping operation in BiH, 12 May 1992), paras. 3, 18; Colm Doyle, T. 2665–2666 (21 May 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 33, 49; P814 (Witness statement of Fatima Zaimović dated 26 February 2010), para. 10. *See also* P4997 (Ewa Tabeau's expert report entitled "Persons Killed and Wounded in Sarajevo During the First Months of the 'Siege' from 1 April to 9 September 1992", 1 May 2009), pp. 21, 26 (indicating a significant rise in the number of wounded and killed civilians in Sarajevo in mid-May 1992).

¹¹³²⁴ P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 7, 64; P1046 (John Wilson's Report to Australian Army, 15 November 1992), para. 5; D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 9.

¹¹³²⁵ P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 7, 64.

¹¹³²⁶ John Wilson, T. 3919–3920, 3952 (21 June 2010); D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 10. The attacks on UN personnel were condemned by the Security Council. *See* P1031 (UNSC Resolution 757, 30 May 1992), p. 2; John Wilson, T. 3926–3927 (21 June 2010).

¹¹³²⁷ Plavšić spent the night at the PTT building while UN personnel controlled the angry crowds which had gathered outside; she returned to her residence the following day. D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 15.

3557. On 12 May 1992, Mladić was appointed as the Commander of the newly-established VRS and by late May was interacting with representatives of the international community.¹¹³²⁸ On 19 May 1992, Mladić appointed Colonel Tomislav Šipčić as the SRK Commander and the SRK was assigned to the greater Sarajevo area, the former zone of responsibility of the 4th JNA Corps.¹¹³²⁹ The SRK's main forces were positioned around what was colloquially called the inner ring of Sarajevo, in particular in the areas of Ilidža, Nedžarići, and Grbavica.¹¹³³⁰ The inner ring extended from the northern bank of Miljacka River in Marin Dvor, across the river and westward to Dobrinja, then upwards to the neighbourhood of Alipašino Polje, nearing the Stupska Petlja in the west of city of Sarajevo, northward to the areas of Sokolja Dol and Zuca, and following eastward to complete the circle near Grdonj and Debelo Brdo near Grbavica.¹¹³³¹ **(But, wouldn't it be fair to say that #Grdonj on the north side, and #Debelo Brdo on the south side of the City had been #controlled by the Muslim forces#? So, whenever these forces fired artillery grenades, it was counted as if the Serbs fired, "because it came from hills"!)** Auxiliary forces of the SRK were positioned on the so-called exterior ring of the Sarajevo front.¹¹³³² During this period, the SRK had about 200 pieces of artillery of many different calibres in its possession whereas the Bosnian Muslim forces inside the city had only a dozen pieces of heavy weaponry, including a few tanks, and a number of mortars.¹¹³³³ **(However, it appeared to be sufficient to kill the civilians and soldiers on the Serb parts of city, and #to cause a Serb response#! None of these heavy weapons must have been in the residential areas!)** Frontlines were not shifting much from that moment on, and after 1992, were more or less set.¹¹³³⁴ The SRK held the high ground around the city and could often see directly what its forces were firing at, while the ABiH held the lower ground in most parts.¹¹³³⁵ The SRK's forward command post was in Lukavica while on

¹¹³²⁸ John Wilson, T. 3982 (21 June 2010), T. 4123 (23 June 2010). On the creation of VRS and the appointment of Mladić, *see* Section II.C.1: VRS; Section IV.B.3.c.i: Accused's support for Mladić and SRK.

¹¹³²⁹ *See* fn. 526; Adjudicated Fact 20.

¹¹³³⁰ *See* Adjudicated Fact 21.

¹¹³³¹ Stanislav Galić, T. 37161–37166 (15 April 2013), 37347–37348 (16 April 2013), T. 37390 (18 April 2013), T. 37471 (22 April 2013); D3381 (Map of Sarajevo marked by Stanislav Galić). Radinović stated that throughout the entire war, the frontlines in and around Sarajevo remained relatively constant. Changes in the position of the warring parties occurred in Stup where the VRS assumed control of additional territory in the autumn of 1992 and in Žuč and Orlić, two elevations overlooking the city, where ABiH forces made advances in late 1992. *See* D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), paras. 191, 270. *See also* Adjudicated Fact 32.

¹¹³³² Adjudicated Fact 23.

¹¹³³³ D312 (SRK analysis of combat readiness of artillery rocket units, July 1994), p. 3; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 43; John Wilson, T. 3933, 3937–3938, 3978 (21 June 2010); [REDACTED].

¹¹³³⁴ P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 14; Jeremy Bowen, T. 10105 (13 January 2011); P820 (Witness statement of David Harland dated 4 September 2009), para. 30; David Harland, T. 2018 (6 May 2010), T. 2078–2094 (7 May 2010); D134 (Aerial photograph of Sarajevo marked by David Harland); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 15–20 (testifying that the ABiH held Mojmiło, Sokolje, Hum, Žuč, Grdonj, Debelo Brdo, Čolina Kapa which were also in the hilltops and overlooked some Bosnian-Serb held territory); P1767 (Map of Sarajevo marked by David Fraser); P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 33; Manojlo Milovanović, T. 25753 (5 March 2012); P1005 (SRK Order, 9 September 1992), p. 1 (indicating that by September 1992 the SRK had achieved most of its "military goals for the war" and did not expect "major movements of the frontline"); Savo Simić, T. 30039–30041 (12 November 2012).

¹¹³³⁵ David Harland, T. 2018 (6 May 2010); David Harland, T. 2087–2092 (7 May 2010) (conceding also that some SRK-held areas, such as Grbavica and Dobrinja, were at a disadvantageous position vis-à-vis ABiH-held territories); John Wilson, T. 3979–3980 (21 June 2010); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 18, 77–82, 87, 155 (testifying that during his interview with Ratko Mladić, Mladić pointed to the city from one of the SRK positions in the east, indicating that the city was in the palm of his hand); P806 (SKY news report re Sarajevo, with transcript); P933 (SKY news report re Sarajevo, with transcript); P842 (VRS map of Sarajevo, 31 August 1995); Aernout van Lynden, T. 2398, 2419–2423 (19 May 2010), T. 2499–2506 (20 May 2010); P934 (Map of Sarajevo marked by Aernout van Lynden); D198 (Aerial photograph of Sarajevo marked by Aernout van Lynden); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), paras. 14, 29; Colm Doyle, T. 2737–2738 (26 May 2010); P1996 (Witness statement

the opposing side, the 1st Corps of ABiH had its headquarters in downtown Sarajevo (until it moved to Visoko in March 1994).¹¹³³⁶ The ABiH 1st Corps troops were positioned mostly on the confrontation lines.¹¹³³⁷ In addition, there were a number of their command posts and military targets within the city.¹¹³³⁸ **(There was #275 headquarters of the 1st Corps ABiH units in the Muslim part of Sarajevo#! (see the testimony of General Milosevic and other Sarajevo commanders!) in the very centre of Sarajevo, all of them a legitimate targets, but rarely aimed by the Serb soldiers. The Serbs rather #silenced the firing positions from which they sustained fire#, but it had been qualified as a “non-discriminatory fire!)** The frontline within Sarajevo city was between 42 and 64 kilometres long, depending on the period.¹¹³³⁹

3558. During the latter part of May 1992, Bosnian Serbs on average fired several hundred shells a day at Sarajevo.¹¹³⁴⁰ In late May and early June 1992, the city of Sarajevo was subjected to heavy shelling by the SRK, with a variety of artillery and from various positions. The events immediately preceding and following these bombardments, as well as the related findings, are outlined in more detail in another section of the Judgement.¹¹³⁴¹ **(It had #never been accurately established who fired#, who shelled, and why! It will be commented there! But, if it was true, there wouldn't be any building in the city after a few weeks. The grenades that had been allocated to the Serbs were at least a half of the Muslim grenades, and both sides fired mainly the front lines on the other side of the city. So the shells were flying over the city, but didn't hit the city itself. Otherwise, Sarajevo would look like Mostar after three months of fights, or Dresden, or the places in Siria and other countries in Middle East! But, it was far from it, and everyone could compare it!)**

3559. Following the above mentioned shelling incidents, the city of Sarajevo continued to be subjected to shelling and sniping attacks.¹¹³⁴² **(By whom? Or the Chamber is “satisfied” if**

of Martin Bell dated 8 March 2010), paras. 43, 84–86; P1997 (BBC news report re interview with Radovan Karadžić at Trebević, with transcript); P1998 (BBC news report re interview with Colonel Bartula, with transcript); Martin Bell, T. 9767–9772 (14 December 2010); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 43; Piers Tucker, T. 23291–23292 (18 January 2012); KW570, T. 32216 (18 January 2013) (private session).

¹¹³³⁶ P2407 (Witness statement of KDZ304), p. 7; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 41; Francis Roy Thomas, T. 6880 (15 September 2010); P2414 (Witness statement of KDZ182), pp. 83–84 (under seal) (testifying that the headquarters was located slightly to the west of the Presidency building); David Fraser, T. 8006 (18 October 2010). Asim Džambasović confirmed that the command post of the 1st Corps was located in Danijela Ozme street, at number 7. *See* Asim Džambasović, T. 15192–15193 (22 June 2011); D617 (Map of Sarajevo).

¹¹³³⁷ P2414 (Witness statement of KDZ182), p. 83 (under seal); KDZ185, T. 4241 (28 June 2010) (private session) (testifying also that because of the lack of weapons many of these soldiers would go home leaving their weapons at the frontlines for the other soldiers to use). *But see* Stanislav Galić, T. 37239–37240 (15 April 2013) (who testified that, judging by the ABiH maps, the ABiH forces were located at least one to three kilometres deep within their territory).

¹¹³³⁸ *See e.g.* David Fraser, T. 8006, 8088–8092 (18 October 2010); D772 (ABiH General Staff list of ABiH units in Sarajevo, 10 April 1995); KDZ185, T. 4384 (30 June 2010).

¹¹³³⁹ Francis Roy Thomas, T. 6903 (16 September 2010). Stanislav Galić testified that the confrontation line in Sarajevo was 65 kilometres long during his time as the SRK Commander. *See* Stanislav Galić, T. 37185 (15 April 2013), T. 37343–37344 (16 April 2013). Dragomir Milošević, noting that it was not possible to be exact, testified that the SRK estimated that the frontline in Sarajevo and surrounding areas was about 50 kilometres long. *See* Dragomir Milošević, T. 32516 (23 January 2013); D2788 (Map of Sarajevo marked by Dragomir Milošević).

¹¹³⁴⁰ Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4202; Herbert Okun, T. 1655–1656 (26 April 2010), T. 1678 (27 April 2010); John Wilson, T. 3915–3916 (21 June 2010).

¹¹³⁴¹ *See* discussion on Scheduled Incidents G.1 and G.2.

¹¹³⁴² P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 71–72; P2005 (BBC news report re Sarajevo, with transcript); P2031 (BBC news report re Sarajevo, with transcript); P2035 (BBC news report re Sarajevo, with transcript); Martin Bell, T. 9793–9795 (14 December 2010).

it is understood to be the Serb side?) These attacks persisted throughout the summer of 1992, which was deemed by Bell to have been one of the worst periods of the conflict in Sarajevo.¹¹³⁴³ At the same time, the food had become scarce in Sarajevo.¹¹³⁴⁴ The markets were empty and the humanitarian operations were very limited.¹¹³⁴⁵ (But, before “jumping” to June 1992, let us see what evidence had the Chamber about events till June: see: D36, of 17 May 1992:

CAF47680

Pale, May 17, 1992

POFALIĆI IN SACRED UPON THE SERBIAN INHABITANTS OF POFALIĆI

According to the Serbian Municipality Vogošća's sources, early in the morning of May 16, "green berets" and the members of Croatian Military Forces HOS attacked unprotected Serbian people in the part of Sarajevo, gornji Pofalići. The attack was done from the direction of Vele ići, Buća-potok, Boljakov potok and Sokolja. A great majority of civilians from Gornji Pofalići had been encircled by Moslem-Croatian paramilitary formations, and a strong mine-throwers' fire started upon those inhabitants who tried to escape that encirclement and reach the town Vogošća.

The "green berets" and the members of HOS committed an unseen massacre upon the innocent Serbian civilians. Definite data about killed and massacred people are not available yet, but according to crisis-headquarters of Vogošća, about 300 civilians of Serbian nationality were killed and slaughtered.

Nota bene! From where Pofalići had been attacked? On the first place from Vele{i}, an extremely militarized Muslim concentration, for which General Mladić was accused for shelling a civilian settlement, two weeks after this carnage of the innocent Serbs. Pofalići was a Serb settlement deep into the Muslim part of Sarajevo, it wasn't militarised in any sense, nor it presented any jeopardy to the Muslims, but on the morning of 16 May 1992 there had been #killed and butchered between 230 and 250 Serb civilians#. In front of the Muslim authorities and the international monitors! See also: P2792: (The Chamber, however, says that the Serbs in the same period have attacked the Muslim settlements around Sarajevo Airport. But, the Prosecution and the Chamber always “forget” to notice the crucial difference: the Serbs had been attacked from these Muslim settlements, and the Serbs conveyed a counter-offensive, and didn't kill any civilian, while the Muslims attacked unarmed and a undefended Serb settlement in the middle of the Muslim controlled part of Sarajevo, in front of the Government and Presidency, and massacred everyone, including children, women and elderlies. Why this difference was not of any relevance?)

¹¹³⁴³ Martin Bell, T. 9797 (14 December 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 78; P2026 (BBC news report re Sarajevo, with transcript); P2030 (BBC news report re Sarajevo, with transcript); D228 (Report re humanitarian activity, 12 June 1992), para. 13 (under seal). See Adjudicated Fact 8. See also P4997 (Ewa Tabeau's expert report entitled "Persons Killed and Wounded in Sarajevo During the First Months of the 'Siege' from 1 April to 9 September 1992", 1 May 2009), pp. 6, 52-53 (indicating that June and August were months with high numbers of killed and wounded civilians); P5002 (Ewa Tabeau's expert report entitled "Killed and Wounded Persons from the Siege of Sarajevo: August 1994 to November 1995", 19 March 2007), pp. 58-59.

¹¹³⁴⁴ P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 27; Youssef Hajir, T. 8786 (1 November 2010); D228 (Report re humanitarian activity, 12 June 1992), para. 13 (under seal).

¹¹³⁴⁵ See P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 27; P928 (SKY news report re Sarajevo, with transcript); P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 52. Jeremy Bowen recalled that there were some aid flights in the early months of the war but that they were coming on an *ad hoc* basis. See P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 21. Youssef Hajir testified that food shortages were especially severe at the beginning of the war, but improved once UNPROFOR and other humanitarian organisation arrived. See Youssef Hajir, T. 8786 (1 November 2010).

3560. On 29 June, the Sarajevo airport in Butmir, which up until that point had been under the control of the Bosnian Serbs, was handed over to UNPROFOR, to be used by UNPROFOR exclusively.¹¹³⁴⁶ **(#EXCULPATORY#!!!, The Serb side handed it over to the UN, in spite of the tactical disadvantage for them!)** On 17 July 1992, a 14-day cease-fire agreement was signed in London by the representatives of three warring sides, including the Accused.¹¹³⁴⁷ On 22 July, Mladić issued Directive 2, referring to the cease-fire agreement and instructing all units to “respect the agreed fortnight cease-fire” but to stay in full combat readiness.¹¹³⁴⁸ **(#EXCULPATORY#!!!)**

3561. On 3 August 1992, Directive 3 was issued by Mladić in which he instructed the units to “keep Sarajevo firmly under blockade and prevent its breaking” and then ordered the SRK specifically to “gradually tighten the encirclement of Sarajevo”.¹¹³⁴⁹ Hussein Abdel-Razek, the Sector Sarajevo commander between 21 August 1992 and 20 February 1993,¹¹³⁵⁰ testified that, upon his arrival in Sarajevo, he immediately assessed the city as a dangerous place, with constant sniping and shelling and no working infrastructure and utilities.¹¹³⁵¹ Following the London Conference,¹¹³⁵² the Accused and Koljević agreed, on 28 August 1992, to group together Bosnian Serb heavy weapons around Sarajevo and place them under the supervision of UN monitors, regardless of the actions of the other side.¹¹³⁵³ **(#EXCULPATORY#!!!)** However, this agreement was never fully implemented.¹¹³⁵⁴ **(However, this is not entirely correct. Namely, not “regardless of the actions of the other side” but regardless of the fact they submitted their weaponry to the same supervision, or not. However, the Serb side accepted not to initiate any firing from those weaponry, but never accepted not to respond. See: P01259, the Agreement:**

supervision of permanent UN observers. The Bosnian Serb side would expect the Bosnian Government to take reciprocal action, but would not impose this as a precondition for their own action, which would be unilateral. The Bosnian Serb side further undertook with immediate effect not to initiate fire from any of this heavy weaponry.

As can be seen, the #Chamber neglected the proper wording and sense of the Agreement#. It was a complete failure of the UN to control what the other side was

¹¹³⁴⁶ See para. 339. See also P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 118.

¹¹³⁴⁷ D4710 (Agreement signed by Mate Boban, Radovan Karadžić and Haris Silajdžić, 17 July 1992), e-court pp. 1–2 (providing that all heavy weapons were to be placed under international supervision).

¹¹³⁴⁸ D593 (Directive 2, 22 July 1992). See also P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992, pp. 357–358 (wherein the Accused informs Mladić on 21 July 1992 of the cease-fire agreement, and tells him that the Bosnian Serbs are to not respond to provocations, and that it would be important for them to observe the cease-fire).

¹¹³⁴⁹ D235 (Directive 3, 3 August 1992). The orders relevant to Sarajevo in this directive were relayed the next day to the SRK units by the SRK Command. See P5979 (SRK Order, 4 August 1992).

¹¹³⁵⁰ P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 2.

¹¹³⁵¹ P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 3–4.

¹¹³⁵² See Section II.E.4: London Conference.

¹¹³⁵³ P1259 (UNPROFOR report re heavy weapons in BiH, 28 August 1992), e-court p. 2; Hussein Abdel-Razek, T. 5487–5488 (19 July 2010).

¹¹³⁵⁴ Hussein Abdel-Razek, T. 5489–5491 (19 July 2010); T. 5563–5566 (20 July 2010), T. 5647–5650 (21 July 2010) (also testifying that the Accused told him during their meeting that he was misinterpreted and that the UN would not be involved in handling weapons physically); P1260 (SRK information on ICFY, 30 August 1992) (Abdel-Razek testifying that this order was never implemented on the ground); P1261 (UNPROFOR report re meeting with Radovan Karadžić and Colonel Šiber, 13 September 1992); D503 (Marrack Goulding’s note to UNSG, 7 September 1992), para. 14; D3384 (SRK report, 13 September 1992), p. 1.

doing. #No offensive around Sarajevo was initiated by the Serbs#. All the offensives as well as a daily incidents had been initiated by the Muslims, and the Serb side had to respond in a defense! However, it is hard to believe that the Chamber didn't find worthy to notice that the Muslim side #decrealed the war against the Serbs#, i.e. SR Yugoslavia, against the Serbs in SAOs and the Serb TO. Although prior to this declaration of war of 22 June, there was a state if imminent war, also naming the same subjects as enemies! So, the Muslim side decided that it was going to be a long war, not a crisis to be settled soon. In such a case, the encirclement of Sarajevo was a completely legal and necessary operation, since there was blocked around 40,000 Muslim combatants!)

In mid-September 1992, Sarajevo was also shelled indiscriminately.¹¹³⁵⁵ **(Who shelled indiscriminately? Who established? Who knew a deployment of the armament and firing position in the city, so to exclude a returning fire? #Nothing of it was clarifies and established, and therefore must not be on the account of the President, because "In dubio pro reo" is not suspended officially yet!# Without the knowledge about deployment of the two opposed forces, this kind of conclusion is irresponsible#!)**

When Piers Tucker, a military assistant to Morillon,¹¹³⁵⁶ arrived in Sarajevo in October 1992, life in the city was "very unpleasant" and there was daily random shelling of various parts of the city.¹¹³⁵⁷ **(#"Very unpleasant life in a city with the street fights"#! Why anyone should assume that it was the Serb side that shelled? This may be an argument against a civil war, not against any of sides, because it was not established who was responsible!)** In early October 1992, following the resumption of humanitarian flights, aid was slowly starting to arrive in Sarajevo; however, it was being delivered far below the minimum required to satisfy basic needs.¹¹³⁵⁸ The difficulties in delivery arose because the city was subjected to heavy shelling and sniping at this time and because Bosnian Serb forces blocked UNHCR convoys.¹¹³⁵⁹ On 7 October UN officials protested to Koljević and Plavšić about "recent" artillery attacks on Sarajevo.¹¹³⁶⁰ The UN reported on 8 October that the mood of people in Sarajevo has reached the lowest level since April 1992 due to the continued shelling and lack of utilities.¹¹³⁶¹ **(Whose shelling? Left such unspecified, it is expected to assume that it was the Serb side who shelled, and this is far from truth! Was it much better in the Serb side of the city? See what had concluded the UN Officer visiting Grbavica, D2424:**

¹¹³⁵⁵ P1271 (UNPROFOR report re letter sent to Ratko Mladić, 15 September 1992), para. 3; P1258 (Witness statements of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 15, 22 (testifying that when he tried to send a letter of protest to the Accused about this particular shelling, it was refused because he did not address the Accused as the RS President). See also D3385 (SRK combat report, 17 September 1992), paras. 1–2 (in which Galić reports that an ABiH infantry attack was successfully repulsed and that offensive operations will continue throughout the day).

¹¹³⁵⁶ P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 6.

¹¹³⁵⁷ P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 21–22. See also P4998 (Ewa Tabeau's expert report entitled "Population Losses in the 'Siege' of Sarajevo 10 September 1992 to 10 August 1994", 10 May 2002), pp. 80, 96 (indicating high numbers of civilian casualties in September and October).

¹¹³⁵⁸ D1502 (Report of humanitarian organisation, 7 October 1992) (under seal), para. 8.

¹¹³⁵⁹ KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*, T. 6784–6785 (under seal); P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 21.

¹¹³⁶⁰ P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 23; P1272 (UNPROFOR report re meetings with Presidency, HVO, and SDS, 7 October 1992), p. 3.

¹¹³⁶¹ P1262 (UN report on Sarajevo, 8 October 1992); Hussein Abdel-Razek, T. 5501–5502 (19 July 2010). See also Adjudicated Fact 133.

Subject: visit protection officer to Grbavica on 9 March 1993.

1. a/m Municipality is located in the south of central Sarajevo and is under Serbian control. Protection officer visited the president of the municipality, mr. Prijic, together with interpreter (Mica).

2. General observations.

Outward appearances basically same as rest of Sarajevo (under B-H control); no electricity nor running water, damaged buildings, more weapons to be seen on the street, several tanks.

Although not under an "encirclement" a gray situation in the Serb territory too! Or another Muslim intelligence document, about a General Rose visit to Grbavica, D163:

◆ According to information from the SVB /Military Security Service/ of the 1st Corps, General Michael ROSE visited the zone of responsibility of the 2nd Battalion of the 102nd mtbr /Motorised Brigade/, escorted by four officers. Visiting the feature that the soldiers are using as preparation to go to the line, Mr ROSE spoke to the soldiers present and explained to them that the part of the city controlled by the Army has begun to live a different sort of life ("it is starting to wake up") and that it is receiving more supplies than Grbavica, which is abandoned and without food.

On 9 October 1992, the RS Presidency held a session in which it decided to halt the bombing of Sarajevo and do so through the Main Staff.¹¹³⁶² Thus, on 10 October, Galić issued an urgent order to all SRK units to stop firing on Sarajevo as of 3 p.m. that day, instructing them they could open fire only in case of "great necessity", and not before having been given permission from him or his deputy.¹¹³⁶³ However, on 26 October, Galić reported on the fighting between the ABiH and the SRK around Hrasnica.¹¹³⁶⁴ **(But, these fights were initiated by the Muslim side, and the manner the Chamber present it, looks like only the Serbs were fighting - against whom? Also, Hrasnica was not part of the city proper, and not in the inner circle!)** On 31 October, a major attack was launched by the Bosnian Serbs from the north and south of the centre of Sarajevo; the first few rounds caught people in the open and caused a number of casualties.¹¹³⁶⁵ **However, on the same day the SRK issued an order banning the use of a calibre bigger than 12,7 see: D02810**

To: all SRK units

Beginning on 1 November 1992 until further notice, it is strictly forbidden to use weapons with a calibre greater than 12.7 mm without the permission of the Corps Commander or his deputy.

According to Tucker, this attack had the objective of cutting the city into eastern and

¹¹³⁶² D431 (Minutes of RS Presidency session, 9 October 1992), p. 2.

¹¹³⁶³ P1264 (SRK Order, 10 October 1992); Hussein Abdel-Razek, T. 5507-5508 (19 July 2010).

¹¹³⁶⁴ Stanislav Galić, T. 37216-37217 (15 April 2013); D3386 (SRK combat report, 26 October 1992).

¹¹³⁶⁵ P4212 (UNPROFOR report, 31 October 1992), paras. 1-2; P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 37-38.

western halves and relieving the pressure on Grbavica.¹¹³⁶⁶ **(If there was a pressure on Grbavica during a ceasefire agreement, the Serb Army reaction was legal and legitimate. But, the same, and even worse intentions are reflected in the Muslim Commander Order to squeeze Grbavica and other Serb parts of Sarajevo. Let us first see the VRS documents from this time, and then we will see D2425 on the same subject! The Chamber completely neglected the contemporaneous reports of the SRK, indicating a long lasting violation of the CF by the Muslim forces, see: D03478 of 14 October 1992:**

1. Data on the enemy:

- The intensity of enemy operations remains the same, and has even increased on the Ilijaš axis; the enemy is abusing the ceasefire agreement on the axis towards Sarajevo

Further, Gen. Galic reported to the Main Staff of a heavy violations of the CF Agreement:

The strong infantry attack on the Nabožić – Misoča axis and the Popovići – Milakov Do – Haluge axis continues.

- Enemy artillery fire on the general areas of Ilijaš, Doglodi and Osijek, and in the area of Podgrabe on the positions at Rudo Brdo.
- Constant sniper and infantry fire on the lines of contact.

And this was a “Strictly confidential” report on 14 October 1992. At the same period the Muslim side unobstructed by any criticism continued to attack the Serb Sarajevo, see: D4563:

¹¹³⁶⁶ P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 37–38, 44–45, 49 (also stating that this was the last attempt by the Bosnian Serbs during his time in Sarajevo to capture the city or to cut it in half); Piers Tucker, T. 23198 (17 January 2012), T. 23222–23224 (18 January 2012).

Operations were carried out on the following sectors:

In the afternoon an 120mm and 82 mm mortar attack took place on the centre of Ilidža and Lužani village in which seven civilians sustained slight injuries.

/handwritten in the margin: #/

The enemy opened fire from infantry weapons and rifle-launched granades in the direction of Jevrejsko Groblje /Jewish Cemetery/ and Grbavica. Three of our soldiers sustained slight injuries in the attack.

Throughout the day the enemy has carried out occasional artillery and MB /mortar/ attacks on the Ilijaš axis.

On the Lukavica-Dobrinja IV-Butmir settlement -Gornji Kotorac line and the Nedjarići sector the enemy has carried out occasional sniper, machinegun and 82mm MB attacks from the Mojmiło Brdo, Hrasno, Sokolović Kolonija, Hrasnica sectors and the northern slopes of Mount Igman.

2. Responding to enemy attacks, our units were obliged to open fire and repel the attack.

These are probably trial attacks, but are also calculated to enable them to protest to UNPROFOR that our side is not respecting the order of ceasefire.

The #VRS was aware of the ABiH tricks aimed to blame and denigrate the Serb side#! The Chamber continued to neglect the facts that the other side was attacking and forcing the Serb side to respond! But, let us see what a Muslim Commander ordered his units to do to the Serb civilians on Grbavica and other Serb parts of Sarajevo, see D:2425, of 31 December 1992:

2. TASK

Capture the sector to the right: transit left, the bridge near *Elektroprivreda*. Carry out the attack in the direction of *11 Plavih* /restaurant/, the south side of the Grbavica stadium, *Palma*, *Šoping*, *Strojerad* and the four high-rise apartment buildings with the goal of destroying the enemy along these axes and capturing important features.

3. Information on adjacent units:

To our right, in the direction from Ozrenska Street, the 1st Battalion of the 6th bbr /Mountain Brigade/ is attacking with the goal of: cutting off Ozrenska Street and joining up with the 101st bbr in the sector of elevation 648, where it is to dig in and await orders for further operations. The 1st Battalion of the 10th bbr is attacking along the *Osmica* axis with the task of cutting of the Lukavica – Pale road and capturing Zlatišće.

The enemy will attempt, like a drowning man, to save what can be saved. It is possible that the enemy will resort to using Muslims and other non-Serbs as human shields, which must be taken into account in this operation. A part of the population, particularly women and children, who attempt to cross over to our side should be allowed through while at the same time ensuring absolute security of the soldiers.

Since it is impossible to capture such a fortified settlement as this without destroying and torching buildings, which are at the same time strong fortifications, destroy and torch everything in order to carry out the operation safely. As they are known for their audacity and lack of principles, no captured soldiers, particularly those carrying any weapons, should be trusted.

What would the Prosecution pay for a similar Serb document. Let us see what the

Muslim intelligence report said about Grbavica as a part of Sarajevo: D2426, p.5

- In recent days, there have been rumours among the soldiers of the 4th Battalion of the 101st mtbr /Motorised Brigade/, who are for the most part not satisfied by the work of this unit's command, that the command in this battalion's zone of responsibility is to be taken over by Mušan TOPALović, aka Caco. The commander of the 4th mtb /Motorised Battalion/, Enis SRNA, who is, according to certain (unverified) information, on friendly terms with Caco, commented on these rumours by saying, "It is better tactically for one man to cover Grbavica so it can be cleared more easily."

After that attack, which according to Tucker was a major military offensive, the Bosnian Serbs carried out mainly defensive or retaliatory operations, trying to pressure the other side to accept the *status quo*.¹¹³⁶⁷

3562. In 10 November 1992, a cease-fire agreement was signed among the three parties, which was followed two days later by Galić's order to all SRK units to refrain from firing and to ask for his permission to respond to fire.¹¹³⁶⁸ **(#EXCULPATORY#!!!)** According to Abdel-Razek, while the shelling incidents were numerous in the period of August through to October, November was relatively quiet.¹¹³⁶⁹ On 19 November, Mladić issued Directive 4, in which he instructed the SRK to keep Sarajevo and Igman under "full blockade" and "tighten the circle".¹¹³⁷⁰ **(Nothing unusual for the war that had been declared to the Serbs and the Mladić's Army!)**

3563. In a meeting on 20 November 1992 with the Accused, Morillon of UNPROFOR protested the "deliberate obstruction" of UNHCR and UNPROFOR convoys by Bosnian Serb forces over the previous three weeks.¹¹³⁷¹ The Accused responded that the Bosnian Serbs **(At all levels, because they saw the UN agencies as an enemy!)** were "predisposed to be obstructive" because UNPROFOR was smuggling weapons and rations to the ABiH and UNHCR was delivering more aid to the Bosnian Muslims than the Bosnian Serbs.¹¹³⁷² On 22 November, the SRK lodged a protest with the UN, complaining about the ABiH putting pressure on SRK positions and causing civilian casualties.¹¹³⁷³ On 27 November, Morillon and Tucker met with the Accused, Koljević, and Mladić.¹¹³⁷⁴ Morillon had a private discussion with the Accused, during which the latter agreed that the demilitarisation of

¹¹³⁶⁷ P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 49.

¹¹³⁶⁸ D3388 (SRK Order, 12 November 1992); Stanislav Galić, T. 37221–37227 (15 April 2013). Another cease-fire then took effect on 27 November 1992. See D3389 (SRK Order, 26 November 1992). But see D3390 (Response by Stanislav Galić to UNPROFOR protest, 28 November 1992) (indicating that the UN protested to Galić about a number of SRK activities in this period, which Galić denied any SRK responsibility for).

¹¹³⁶⁹ P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 23. See also Stanislav Galić, T. 37217–37219 (15 April 2013) (testifying that the SRK refrained from firing on 10 November due to a cease-fire that was in place and because of the potential repercussions in the media); D3387 (SRK combat report, 10 November 1992).

¹¹³⁷⁰ P976 (Directive 4, 19 November 1992), p. 5.

¹¹³⁷¹ P4216 (UNPROFOR report re meeting with Radovan Karadžić, 20 November 1992), para. 2.

¹¹³⁷² P4216 (UNPROFOR report re meeting with Radovan Karadžić, 20 November 1992), para. 2. See also D1514 (Minutes of meeting between Radovan Karadžić and a member of a humanitarian organisation, 28 November 1992), paras. 9, 12 (under seal) (the Accused raising concerns that food was not being equally distributed between the Bosnian Serbs and Bosnian Muslims in Sarajevo).

¹¹³⁷³ D3467 (SRK protest letter to UNPROFOR, 22 November 1992).

¹¹³⁷⁴ P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 72; Piers Tucker, T. 23243–23247 (18 January 2012); D539 (UNPROFOR report re meeting with Radovan Karadžić and Ratko Mladić, 27 November 1992).

Sarajevo could be a catalyst for peace throughout BiH.¹¹³⁷⁵ (#EXCULPATORY#!) Morillon also noted his belief that the Bosnian Serb authorities were interested in progress.¹¹³⁷⁶

(#EXCULPATORY#!) Concerning the obstructions, the very same document confirms that it was not always the VRS bad will or action, but the local population was protesting, and the next para of the P04216 shows it:

4. Convoy to SRBENICA. Di Karadzic offered to assist getting a convoy to SRBENICA as evidence of Serb goodwill. He said he would arrange for a Serb escort to meet the convoy at ZVORNIK which would ensure any local objections to the convoy's passage could be cleared away. The convoy should however not

The Chamber successfully skipped anything that was in favour of the President, such as:

10. Remarks. The meeting was very constructive.

If we remember the President's action in Bratunac in Dec. 92, persuading the civilian population to let the convoys pass, see: D03119:

At the end, KARADŽIĆ gave the message to the assembled people that the convoys of humanitarian aid that were going to the population of Srebrenica should be let through without hindrance, although the same people had done great harm to them.

“The Serbs were the first nation in the history of international humanitarian organisations and in the work of the Red Cross to let, in the Serbian-Bulgarian war humanitarian aid go through their territory to their enemy.”

While leaving this municipality, KARADŽIĆ met representatives of the convoy which, passing without hindrance through Bratunac, took aid to the Muslim population in Srebrenica.

The Chamber completely #neglected the President efforts to facilitate the humanitarian aid#, as well as that it wasn't always the VRS, but the people who made an obstacles.

3564. In December 1992, during the fight for Oteš, the fighting and the shelling in and around Sarajevo was intensifying, prompting Abdel-Razek to hold a press conference in which he stated that the UN mandate was weak and that he was struggling to fulfil it as none of the parties was co-operating with the UN.¹¹³⁷⁷ Tucker also confirmed that the period between 1 and 10 December “involved the worst sustained shelling of Sarajevo since the start of the war” by the Bosnian Serbs; while it concentrated around Oteš and Stup, in the west of Sarajevo, the city was also shelled by the Bosnian Serbs with the aim of breaking the people’s and their leaders’ will to resist.¹¹³⁷⁸ (How possibly the Chamber could accept this kind of

¹¹³⁷⁵ D539 (UNPROFOR report re meeting with Radovan Karadžić and Ratko Mladić, 27 November 1992), para. 4.

¹¹³⁷⁶ D539 (UNPROFOR report re meeting with Radovan Karadžić and Ratko Mladić, 27 November 1992), para. 12; Richard Mole, T. 5875 (17 August 2010).

¹¹³⁷⁷ P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 10–11, 12–13, 17, 27; P1269 (UNPROFOR report re Sarajevo, 6 December 1992); Hussein Abdel-Razek, T. 5535–5536, 5573–5576 (20 July 2010), T. 5639–5640 (21 July 2010); D519 (SRK combat report, 23 December 1992); D505 (Article from Independent entitled “UN Chief in Sarajevo Calls for Intervention to End Conflict”, 18 January 1993). See also D3391 (SRK combat report, 6 December 1992); D3392 (SRK combat report, 6 December 1992) (both indicating heavy fighting between the two sides); Stanislav Galić, T. 37171–37172 (15 April 2013) (testifying that capturing Oteš was a military necessity as the ABiH forces nearly surrounded Ilidža Brigade in the area); P1435 (UNMO report, 11 December 1992), paras. 13–30. Following the conference Abdel-Razek also made it clear to his superiors that he wanted to leave Sarajevo as he was unable to make progress. See Hussein Abdel-Razek, T. 5536 (20 July 2010).

¹¹³⁷⁸ P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 82–83, 86 (testifying also that in an attempt to break the siege of Sarajevo the ABiH attacked Ilidža which made the SRK panic, pummel the area from which the attack came with heavy weapons, and then also counter attack and shell the city persistently in order to “punish” the other side); P936 (SKY news report re Sarajevo, with transcript); D534 (Article from AFP entitled “Fierce Fighting Raging Around Sarajevo”, 3 December 1992). See also P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), pp. 261–262 (wherein General Nambiar expresses his deep concern about the escalation of the conflict in the Sarajevo area in a meeting with Mladić on 8 December 1992).

#guessing of a UN officer, who couldn't know what was in the heads of the SRK officers?#) According to Tucker, more than 1,500 rounds of explosives were fired per day at that time and the fight for Oteš involved house to house fighting as well as support by Bosnian Serb infantry and artillery.¹¹³⁷⁹ By 7 December, Oteš and parts of Stup were captured by the Bosnian Serbs but the fighting in the surrounding areas petered out only around 19 December.¹¹³⁸⁰ Thereafter, the intensity of the shelling in the city reduced.¹¹³⁸¹ On 13 December, a three year old, Anisa Pita, was shot and wounded in her right leg on the porch of her residence in Širokača.¹¹³⁸² In mid-December, the UN attempted to negotiate a cessation of hostilities agreement, which involved the withdrawal of heavy weapons around Sarajevo, but while signed by Mladić and Petković on 22 December, it was eventually not accepted by the Bosnian Muslim side.¹¹³⁸³ At midnight on 24 December, Bosnian Serbs opened a 20 minute barrage of fire on Sarajevo from all around the city, and against random civilian targets.¹¹³⁸⁴ **But, let us see what the #contemporaneous documents of the VRS# said, having in mind that the President got the same information, though concised and on a level of the entire VRS. See D04625, of 24 Dec. 92:**

At around 1100 hours, the enemy opened fierce fire with infantry weapons, rifle-launched grenades and mortar shells from the direction of the Secondary School of Economics and the Faculty of Mechanical Engineering.

(#Abuse of the school objects#! Both schools were on the Muslim side of the front line, which indicates that the Muslim side opened fire against the Serb settlements. The same happened at midnight on 7 January 1993.¹¹³⁸⁵ **But, look what the UN reported on 9 Jan. 93, (D00523**

1. GENERAL ASSESSMENT. RELATIVELY QUIET .
 2. OPERATIONAL ACTIVITY.
 A. GENERAL
 (1) SITUATION REMAINED QUIET DURING REPORTING PERIOD. THE NIGHT WAS EXTREMELY QUIET. SPORADIC SHELLING REPORTED IN MILJACKA (BP0539) AND THE AREA CLOSE TO THE PRESIDENCY.

¹¹³⁷⁹ P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 83–85, 89–90 (claiming also that this figure was probably an understatement); P4219 (UNMO daily situation report, 6 December 1992); P4218 (UNMO daily situation report, 5 December 1992); P1428 (UNMO report, 4 December 1992). See also Adjudicated Fact 133 (providing that fire into Sarajevo was intense between September and December 1992).

¹¹³⁸⁰ P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 87–88; Stanislav Galić, T. 37163 (15 April 2013), T. 37475 (22 April 2013); D3381 (Map of Sarajevo marked by Stanislav Galić); D536 (Article from AFP entitled “Serbs Cut Airport Road”, 8 December 1992).

¹¹³⁸¹ P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 88.

¹¹³⁸² See discussion on Scheduled Incident F.1.

¹¹³⁸³ Hussein Abdel-Razek, T. 5631–5638 (21 July 2010); D518 (Cease-fire agreement between Ratko Mladić and Milivoje Petković, 22 December 1992).

¹¹³⁸⁴ P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 109–114 (this sort of co-ordinated fire indicated to Tucker that it must have been approved by Galić). See also D2452 (Report of Ilidža Brigade, 25 December 1992) (noting that ABiH was opening fire on Ilidža during the day on 25 December 1992). **This is obvious that the Serb artillery tried to neutralize the Muslim artillery, D02452:**

Our artillery did not manage to neutralise enemy firing positions so enemy forces continued to open fire late into the night. An /?insignificant/ number of people were wounded in the shelling, but considerable material damage was inflicted.

¹¹³⁸⁵ P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 109–110.

Also, other reports, such as D2476 of 7 Jan. 93 show an increased Muslim activity, and that was reported to the Mains Staff as a strictly confidential, D2476:

1. During the night of 6 and 7 January 1993, the enemy intensively shelled our positions at Zenik, with ten 120-mm MB /mortar/ shells from the direction of Ginje. At 0300 hours, the 13 enemy 105 mm howitzer shells fell on the civilian inhabitants of Rakovica from the direction of Goduša.

At 0705 hours, VBR fire was opened from the direction of Igman and 10 shells fell in Debelo Brdo in the zone of responsibility of the Osjek Battalion.

At 0825 hours, three salvos of three 105 mm howitzer shells were fired on Hadžići from the direction of Radava Voda.

At 1600 hours, the enemy fired 82-mm MB shells from the direction of Golo Brdo and 12 shells hit the army barracks in /?Žunovnica/

This is how it must be, since the Chamber didn't allow the Defence to point out many necessities, caused by the Muslim Army#!

3565. In January 1993, the ABiH was preparing for an offensive¹¹³⁸⁶ and the city continued to be shelled, including the Old Town where a shell fell on people queuing for water, killing a number of people.¹¹³⁸⁷ KDZ185 testified that when he arrived to Sarajevo, the shelling was heavy, with a daily average of 1,200 shells being fired.¹¹³⁸⁸ In January and February, the winter was at its coldest, with severe shortages of electricity, gas, and oil, and morale in the city was at its lowest.¹¹³⁸⁹ Humanitarian convoys “continued to be harassed” and prevented from reaching the civilian population.¹¹³⁹⁰ **(By whom? Left as such, unspecified who was**

¹¹³⁸⁶ D336 (John Wilson and Graham Messervy-Whiting's report to ICFY, 22 January 1993) (in which Wilson also predicted, in paragraphs 6, 8–9, 11, and 13(d), that the SRK would continue to “maintain the siege” without taking the city while the ABiH would be launching an offensive if its position in negotiations was weak and it needed to provoke international intervention); John Wilson, T. 4135–4138 (23 June 2010). Wilson's prediction came true as the ABiH launched an attack on SRK positions on 31 January 1993. See D349 (SRK combat report, 31 January 1993). **Finally, the Chamber brought the other side conduct. This was a civil war, and if anything is clear about Sarajevo, it is the Serb position not to initiate any firing.**

¹¹³⁸⁷ P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 59, 83; P2007 (BBC news report re Sarajevo, with transcript); P2004 (BBC news report re Sarajevo, with transcript); Martin Bell, T. 9799–9800 (14 December 2010).

¹¹³⁸⁸ P6060 (Record of interview with KDZ185), e-court p. 14; KDZ185, T. 4187–4188 (28 June 2010). See also D3395 (SRK combat report, 11 January 1993) (indicating that some 200 shells were fired by the ABiH on various SRK positions and that the SRK units opened fire on ABiH positions in the Mojmiilo and Hrasnica sectors); D3396 (SRK combat report, 15 January 1993); D3397 (SRK combat report, 24 January 1993) (stating that the ABiH opened infantry fire and fired a small number of shells on the SRK-held territory). **As it can be seen, not all of those shells were Serbian. It was of a crucial importance that the UN finds out #who was initiating the fire, as the Accused asked Gen. Morillon, P04216:#**

f. Dr. Karadzic also asked UNPROFOR to try and establish who started exchanges of fire. I explained the aim of setting up hot lines and of the urgency of accepting the deployment of UNMOs.

¹¹³⁸⁹ P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 116–117. See also P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 42 (testifying that by 1993 the civilian population was “fully engaged in the grind of survival”); D1140 (Letter to UN Secretary General, 2 February 1993), e-court p. 1 (under seal) (the author stating that the “ongoing destruction of Sarajevo” and the “suffering of its people” was deeply moving).

¹¹³⁹⁰ P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 140.

responsible, it remains open to a conclusion that it was a Serb responsibility! In an attempt to escape the deprivation in the city at this time, hundreds of civilians attempted to cross the airport to Butmir and Mt. Igman each night and would be shot at by Bosnian Serbs and killed or injured.¹¹³⁹¹ **(#No siege#! But we know exactly that the entire military units went out from the city to the other areas, to attack the SRK from the outer ring. The UN reports suggested different conclusion, see D523:**

(2) (227) PEOPLE (INCLUDING 207 MEN) WERE STOPPED AND TURNED BACK WHILE TRYING TO CROSS THE AIRPORT DURING NIGHT 09/10. MOST OF THEM COMING FROM DOBRINJA, BUT DUE TO FOGGY WEATHER SOME OF THESE PEOPLE COULD NOT BE STOPPED. 59 VEHICLE MOVEMENTS, (INCLUDING 32 TRUCKS), WERE DETECTED ON IGMAN MOUNTAINS.

B. ASSESSMENT. THE NIGHTLY AIRPORT CROSSINGS ARE BECOMING AN INCREASING PROBLEM. LARGER NUMBERS OF PEOPLE (NOW MOSTLY MEN) ARE CROSSING. DENSE FOG AND A NEW TACTIC OF CROSSING IN LARGER GROUPS RESULT IN MORE PEOPLE SLIPPING PAST FREBAPT SOLDIERS WHO ARE BEING OVERWHELMED. THE DANGER IS THAT AS MORE MEN SLIP FROM ONE SIDE TO THE OTHER, THE SERBS MAY DECIDE THAT UNPROFOR IS UNABLE TO STOP THE FLOW OF POTENTIAL FIGHTERS AND INTERVENE WITH FIRE, PLACING UN TROOPS AT RISK AND ESCALATING THE CONFLICT. AS WELL, FREBAPT FINDS ITS SOLDIERS WORKING DAY (ESCORTING AID, ETC) AND NIGHT (STOPPING CROSSINGS) - A NEGOTIATED SETTLEMENT IS ESSENTIAL, ALTHOUGH THIS SEEMS UNLIKELY. A SEPARATE REPORT WILL BE SENT ON THIS CRITICAL SITUATION.

The #Serb side handed over the Airport to the UN exclusively for a humanitarian flights and the use of UN#, giving up a significant strategic and tactical advantage. The Muslim side abused this situation to gain a military advantage, and the Serbs were right when shooting in an enemy using a foggy night to change position!

3566. According to the SRK report of 4 February 1993, the ABiH fired ten shells on Ilidža, resulting in the wounding of a child; however the SRK did not respond.¹¹³⁹² **(#EXCULPATORY#! Obviously, it was aimed to get the Serb legitimate respons and depict it as an illegal fire!)** On 11 February 1993, the Bosnian Muslim authorities announced that they would refuse to accept further aid in Sarajevo because the Bosnian Serbs were refusing to allow relief convoys into the eastern enclaves.¹¹³⁹³ UNHCR immediately suspended all aid flights into Sarajevo.¹¹³⁹⁴ On 12 February, the SRK reported that after the ABiH fired another ten shells on SRK-held territory, its units responded to the attack.¹¹³⁹⁵ On 14 February, the ABiH launched an infantry attack on the Slaviša Vajner Čiča Barracks also resulting in the SRK response.¹¹³⁹⁶

¹¹³⁹¹ P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 116–120 (testifying that 5 to 30 people were killed or injured each night during these airport crossings); P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 18; Youssef Hajir, T. 8841 (2 November 2010); John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6176–6177.

¹¹³⁹² Stanislav Galić, T. 37336–37338 (16 April 2013), T. 37925–37927 (8 May 2013); D3410 (SRK combat report, 4 February 1993). See also D2776 (SRK combat report, 3 February 1993), para. 1.

¹¹³⁹³ P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 132.

¹¹³⁹⁴ P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 132; KDZ240, T. 16124–16125 (5 July 2011) (closed session).

¹¹³⁹⁵ D3403 (SRK combat report, 12 February 1993), paras. 1–2; Stanislav Galić, T. 37338–37340 (16 April 2013).

¹¹³⁹⁶ D3404 (SRK combat report, 14 February 1993). See also D3487 (SRK combat report, 25 February 1993).

3567. By 3 March 1993 the warring parties had signed a BiH-wide cease-fire agreement,¹¹³⁹⁷ according to which (i) the hostilities in Sarajevo and elsewhere were to cease, (ii) UNPROFOR was to monitor the confrontation lines in Sarajevo and the removal of heavy weapons (weapons above 12.7 mm calibre) from Mojmiro, Dobrinja, Lukavica, Gornji Kotorac, Vojkovići, Hrasnica, Sokolovići, Butmir, Ilidža, Oteš, Stup, and Nedžarići, (iii) civil infrastructures were to be restored, and (iv) Blue Routes were to be established in order to ensure freedom of movement for civilians and humanitarian aid.¹¹³⁹⁸ **(#EXCULPATORY#)** This cease-fire was signed contrary to Galić's wishes.¹¹³⁹⁹ Additionally, the ABiH never intended to respect it.¹¹⁴⁰⁰ Instead it mounted an attack designed to cut the SRK's main re-supply line along the Pale road in response to which, on 21 March 1993, the SRK shelled the whole of Sarajevo, including civilian targets and the Old Town; around 2,400 shells fell that day.¹¹⁴⁰¹ The next day the ABiH shelled Ilidža while the SRK was engaging in an offensive operation in Stup.¹¹⁴⁰² **(This is so illogical to accept this kind of #the assessments of the people who were hidden somewhere and couldn't know who fired and at what targets#! If even 10% of those shells landed in the City residential areas, there would be a horrible effects of destruction, and many, many casualties. All of those grenades fell on the c/l of each side. It is difficult to rebut so many arbitrary assertions, except by drawing the Appeal's Chamber attention on this illogics and to compare Sarajevo with Dresden, which probably sustained less bombs than Sarajevo, according to this assessments.)**

On 2 April 1993, General Manojlo Milovanović, Chief and Deputy Commander of the VRS Main Staff,¹¹⁴⁰³ issued an order setting out in detail the procedures for checking UNPROFOR and humanitarian aid convoys.¹¹⁴⁰⁴ On 11 April 1993, the RS Prime Minister Vladimir Lukić

¹¹³⁹⁷ The Accused and Mate Boban signed the agreement in January 1993, while Izetbegović only signed it in March, once the UN agreed to place the heavy weapons under its control. See D924 (ICFY Agreement for Peace in BiH, 3 March 1993), p. 2; P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 155. See also para. 366.

¹¹³⁹⁸ D924 (ICFY Agreement for Peace in BiH, 3 March 1993), pp. 6, 9, 19–21. See also para. 366.

¹¹³⁹⁹ P1055 (UNPROFOR report re meeting with Stanislav Galić, 27 March 1993).

¹¹⁴⁰⁰ D343 (ABiH Supreme Command Staff Order to 2nd Corps, 16 March 1993); KDZ185, T. 4295–4296 (29 June 2010). **(It should also be noticed that the ABiH attacked the Serb lines, and the French bat. post too, on the very same day of 16 March, see D01497. Having all that in mind, how possibly there could have been drawn any inference that the Serbs wanted to terrorise the City?)**

¹¹⁴⁰¹ P1048 (Record of interview with KDZ185), e-court pp. 5, 19 (under seal); P5908 (Record of interview with KDZ185), para. 5; KDZ185, T. 4184–4185 (28 June 2010) (private session), T. 4225–4226 (28 June 2010), T. 4239–4241 (private session), T. 4295–4296 (29 June 2010), T. 4305–4306, 4309–4318 (29 June 2010) (partly private session); P1065 (UNPROFOR report re shelling in Sarajevo, 21 March 1993); P1066 (SRK combat report, 22 March 1993); P1050 (UNPROFOR daily report, 21 March 1993); D344 (SRK combat report, 19 March 1993); D346 (ABiH 1st Corps combat report, 20 March 1993); D347 (SRK combat report, 21 March 1993); D348 (ABiH 1st Corps combat report, 21 March 1993); D3405 (SRK combat report, 15 March 1993); D3406 (SRK combat report, 18 March 1993).

¹¹⁴⁰² D3407 (SRK combat report, 22 March 1993); Stanislav Galić, T. 37348–37349 (16 April 2013). See also D3476 (SRK combat report, 24 March 1994); D4566 (SRK combat report, 28 March 1993); D3438 (SRK combat report, 29 March 1993).

¹¹⁴⁰³ Manojlo Milovanović, T. 25431–25432 (28 February 2012).

¹¹⁴⁰⁴ D2163 (VRS Main Staff Order, 2 April 1993). See also Dragomir Milošević, T. 32894–32895 (30 January 2013), T. 33237–33238 (5 February 2013); Milenko Indić, T. 32423–32424 (22 January 2013). According to those procedures, before a convoy could move, a request had to be made to the VRS Main Staff via the VRS Liaison Group headed by Indić and had to list, *inter alia*, the number of personnel and the type of vehicles in the convoy, the type and quantity of cargo transported, the route the convoy was taking, and the convoy's expected time of arrival. If the VRS Main Staff approved the convoy, the VRS Liaison Group would inform the relevant SRK units and its soldiers at relevant check-points would inspect the convoy "completely and thoroughly" to ensure that it was carrying only the type and quantity of cargo specified in the request. If a convoy appeared at a check-point unannounced, or without a declaration of what it was carrying, or using a different route to the one requested, it would "not be allowed to pass" and would be turned back until it complied with the correct procedures. **But, it wasn't only because of the procedure, it was impossible to a soldiers that hadn't been notified by the Main Staff to accept the convoy, to let it passed.** See D2163 (VRS Main Staff Order, 2 April 1993), paras. 3, 5; Stanislav Galić, T. 37573 (23 April 2013), T. 38025 (9 May 2013); Dragomir Milošević, T.

wrote a letter to the UN Secretary General protesting the use of humanitarian convoys to transport ammunition to ABiH units in Butmir, Sokolović Kolonija, and Hrasnica and stating that the RS government had issued an order to “strictly control all humanitarian convoys”.¹¹⁴⁰⁵

(There should be mentioned that the SRK of the VRS discovered a quantity of #ammunition smuggled by the UN to the Muslims in Sarajevo. See D242: #

UNHCR are now apparently operating convoys without UNPROFOR protection but whether this is as the direct result of the ammunition incident at SAREJEVO yesterday is not clear.

And here is an excerpt from the Lukic’s letter to the UN SG:

“With deep regret, we note that this is not the first occasion on which humanitarian operations have been misused for military purposes. On several occasions we have informed you about numerous examples of such unacceptable conduct. The government of the Serb republic has also pointed out the fact that the process of arming Muslim and Croat military units is taking place simultaneously with humanitarian operations. On the other hand, it has been demanded from us to secure the free passage of humanitarian convoys and their escorts. This incident, which took place two days ago and which was the most serious one so far, has caused a deep revolt among our people, and we have been facing their spontaneous reactions in the field. We would like to stress that persistent abuse of humanitarian operations is threatening all humanitarian efforts and could paralyze them completely. The government of the Serb republic believes that the Muslim and Croat sides as well as the Office of the UN High Commissioner for Refugees [UNHCR] and the UN are responsible for this situation. Despite everything we have done to promote our cooperation, we cannot accept the UN and the UNHCR tolerating the transport of military equipment.

on one hand, the pressure over the Serb side to facilitate a free flow of the humanitarian convoys, and on the other – such a #flagrant abuse of it with a detrimental effects to the peace efforts of the same UN agencies! #

3568. On 4 April 1993 the ABiH forces fired six shells on Grbavica resulting in the VRS protesting to the UN about cease-fire violations by the ABiH.¹¹⁴⁰⁶ On 17 April, a nine year old girl was shot and wounded while playing in front of her house in Sedrenik.¹¹⁴⁰⁷

3569. In early May 1993, fighting between the ABiH and the SRK along the confrontation line continued.¹¹⁴⁰⁸ On 6 May, the Security Council passed Resolution 824 which established Sarajevo as one of the safe areas, along with Tuzla, Žepa, Goražde, Bihać, and Srebrenica; it also provided for an immediate cease-fire and declared that the safe areas should be free from armed attack by all parties or any other hostile acts.¹¹⁴⁰⁹ Further, it declared that all parties

32894–32895 (30 January 2013), T. 33237–33238 (5 February 2013); D2774 (Witness statement of Milenko Indić dated 19 January 2013), paras. 161–162; Milenko Indić, T. 32423–32424 (22 January 2013); KW570, T. 32218–32219 (18 January 2013); D2845 (SRK instructions, 22 August 1993), p. 1; Adrianus van Baal, T. 8419–8420, 8439 (27 October 2010); P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 69; D2164 (VRS Main Staff Order, 9 April 1993); D3408 (SRK combat report, 5 April 1993), para. 7; D3261 (VRS Main Staff Order, 27 February 1994); D3469 (SRK combat report, 24 April 1993), para. 5.

¹¹⁴⁰⁵ D3575 (TANJUG news report, 11 April 1993), p. 1; D3563 (Witness statement of Vladimir Lukić dated 18 May 2013), para. 38.

¹¹⁴⁰⁶ D345 (VRS protest to UNPROFOR, 6 April 1993); D3408 (SRK combat report, 5 April 1993); D4567 (SRK combat report, 4 April 1993). *See also* D3468 (SRK combat report, 8 April 1993) (reporting that ABiH opened fire from Dobrinja and that SRK returned small arms fire in the Dobrinja sector); D3469 (SRK combat report, 24 April 1993) (reporting that one of the SRK brigades was engaged in intense combat).

¹¹⁴⁰⁷ *See discussion on Scheduled Incident F.2.*

¹¹⁴⁰⁸ D3409 (SRK combat report, 5 May 1993); D3441 (SRK combat report, 4 May 1993).

¹¹⁴⁰⁹ P984 (UNSC Resolution 824, 6 May 1993). *See also* P820 (Witness statement of David Harland dated 4 September 2009), para. 102; P897 (UNPROFOR Weekly Situation Report (Sarajevo), 15 July 1995), p. 3; Michael Rose, T. 7523 (8 October 2010).

should respect the rights of UNPROFOR and international humanitarian agencies to free and unimpeded access and demanded full co-operation with UNPROFOR.¹¹⁴¹⁰ Nevertheless, the ABiH launched a number of attacks on 15 May, which were responded to by the SRK.¹¹⁴¹¹ Galić testified that on that day the SRK response was restrained as one of the neighbourhoods from which the ABiH opened fire was a densely populated area.¹¹⁴¹² **(#EXCULPATORY#)** On the same day, Galić ordered the SRK to ensure the unhindered passage of humanitarian aid to Sarajevo and to adhere to the Geneva Conventions and Additional Protocols.¹¹⁴¹³ **(#EXCULPATORY#)**

3570. When David Harland, a Civil Affairs Officer for the UNPROFOR and later a political advisor to the Commander of the UNPROFOR BiH Command in Sarajevo,¹¹⁴¹⁴ arrived in Sarajevo in June 1993, the city seemed eerily empty, with burnt out cars on the streets, anti-sniping barricades made of containers and constant background noise of gunfire; its buildings were peppered with damage from shelling and gunfire.¹¹⁴¹⁵ On 1 June, two shells exploded in the suburb of Dobrinja during a football game resulting in a large number of casualties.¹¹⁴¹⁶ **(This incident is contested, and the Serb side never accepted it as their act. But, Harland came to Sarajevo after 17 months of a street fights, and if he was a competent officer, he shouldn't wonder what he saw. Rather, he had a reason to conclude quite opposite, since Sarajevo was only scratched superficially in comparison with the other similar cases. There was more than 80% of the city inhabited territory that never sustained any shell whatsoever, because there was no any military installation! The Chamber didn't notice such an exceptions, as two third of municipalities without crimes, or so huge areas of Sarajevo without shelling! These examples entirely rebut all the allegations about a systemic terror and other crimes!)** On 3 June, the SRK command reported that the ABiH opened sniper and mortar fire on a number of SRK-held areas, including civilian targets in Ilidža, resulting in the wounding of four soldiers and the killing of two women; Galić testified that the SRK did not respond to the attacks due to the cease-fire in force at the time.¹¹⁴¹⁷ On 15 June, another general cease-fire was signed and, on 17 June, the SRK command reported that the ABiH shelled SRK positions and that the ABiH forces would not be observing the cease-fire.¹¹⁴¹⁸ In a meeting with Andreev of UNPROFOR on 22 June 1993, Mladić acknowledged the urgency of “unblocking” Sarajevo for both sides and promised that all humanitarian convoys would be able to pass across RS territory but that the Bosnian Serbs would continue to check convoys at Sarajevo airport.¹¹⁴¹⁹ On 25 June, Mladić issued Directive 5, in which he instructed VRS units to thwart the “unblocking of Sarajevo” to be followed by “quick and rigorous operations to liberate the axis

¹¹⁴¹⁰ P984 (UNSC Resolution 824, 6 May 1993), p. 2.

¹¹⁴¹¹ D3411 (SRK combat report, 15 May 1993). *See also* D3470 (SRK combat report, 21 May 1993).

¹¹⁴¹² Stanislav Galić, T. 37358–37359 (18 April 2013). *See also* D3442 (SRK combat report, 17 May 1993); D3412 (SRK combat report, 19 May 1993); D3413 (SRK combat report, 28 May 1993).

¹¹⁴¹³ D3482 (SRK Order, 15 May 1993), p. 1; Stanislav Galić, T. 37616–37618 (23 April 2013); D2561 (SRK Order, 15 May 1993), p. 1; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 97.

¹¹⁴¹⁴ P820 (Witness statement of David Harland dated 4 September 2009), para. 5.

¹¹⁴¹⁵ P820 (Witness statement of David Harland dated 4 September 2009), paras. 25–27.

¹¹⁴¹⁶ *See* discussion on Scheduled Incident G.4.

¹¹⁴¹⁷ D3443 (SRK combat report, 3 June 1993); Stanislav Galić, T. 37487–37489 (22 April 2013). *See also* D3471 (SRK combat report, 10 June 1993).

¹¹⁴¹⁸ D629 (SRK Order, 16 June 1993); D3415 (SRK combat report, 17 June 1993); Stanislav Galić, T. 37381–37383 (18 April 2013). *See also* D3444 (SRK combat report, 23 June 1993); D3416 (SRK combat report, 24 June 1993); D3420 (SRK report, 11 June 1993).

¹¹⁴¹⁹ D1499 (UNPROFOR report re meeting with Ratko Mladić, 22 June 1993), pp. 1–2 (Mladić also promised to co-operate on making Sarajevo a safe area so long as safety assurances were found for Lukavica and Grbavica).

Sarajevo-Kijevo village-Trnovo village-Rogovo pass-Kalinovik” and the area around Igman and Bjelašnica; the code-name for the operation was “Lukavac 93”.¹¹⁴²⁰ Lukavac 93 was thus launched by the SRK, Drina Corps, and Herzegovina Corps, with the SRK engaged in the area of Jahorina-Igman-Bjelašnica axis.¹¹⁴²¹ The SRK launched attacks with the aim of capturing Mt. Igman as the connection between Sarajevo and the rest of the BiH went across and underneath Sarajevo airport through to Mt. Igman.¹¹⁴²² **Pertaining the crossing of the Airport, let us see what had been said in the UN report, D00523:**

B. ASSESSMENT. THE NIGHTLY AIRPORT CROSSINGS ARE BECOMING AN INCREASING PROBLEM. LARGER NUMBERS OF PEOPLE (NOW MOSTLY MEN) ARE CROSSING. DENSE FOG AND A NEW TACTIC OF CROSSING IN LARGER GROUPS RESULT IN MORE PEOPLE SLIPPING PAST FREBATT SOLDIERS WHO ARE BEING OVERWHELMED. THE DANGER IS THAT AS MORE MEN SLIP FROM ONE SIDE TO THE OTHER, THE SERBS MAY DECIDE THAT UNPROFOR IS UNABLE TO STOP THE FLOW OF POTENTIAL FIGHTERS AND INTERVENE WITH FIRE, PLACING UN TROOPS AT RISK AND ESCALATING THE CONFLICT. AS WELL, FREBATT FINDS ITS SOLDIERS WORKING DAY (ESCORTING AID, ETC) AND NIGHT (STOPPING CROSSINGS). A NEGOTIATED SETTLEMENT IS ESSENTIAL, ALTHOUGH THIS SEEMS UNLIKELY. A SEPARATE REPORT WILL BE SENT ON THIS CRITICAL SITUATION.

Therefore, the #Airport had been abused#, and the UN didn't prevent it! Due to these attacks, Izetbegović asked that the talks in Geneva, set for July, be postponed, while NATO threatened the Bosnian Serb side with air strikes.¹¹⁴²³ Michael Rose, who was the Commander of the UNPROFOR BiH Command in Sarajevo from January 1994 to January 1995,¹¹⁴²⁴ testified that the capture of Mt. Igman by the SRK was considered a full encirclement of Sarajevo and that therefore the Bosnian Serbs were given an ultimatum to withdraw.¹¹⁴²⁵ **(After this assertion, there should be no more talks about “encirclement of Sarajevo” and a siege of the City, since there was a ground connection between the City and the rest of BiH. So, both, this finding and the finding of the siege can not be in the same Judgment. The Muslim side had a great privilege in the protection of the UN and other international organisations, so that they could initiate all the fights, and once they failed, they call the UN to help them, see this ultimatum, as well as: D01497 :**

1. FIGHTING AROUND SARAJEVO. SARAJEVO is suffering yet more convulsions and hostilities continue in Eastern Bosnia. The cease fire around SARAJEVO agreed last week did not last 48 hours. It was broken by the BH Army however the situation is turning in the Serb's favour after five days of heavy fighting. President Izetbegovic has just asked for UNPROFOR mediation.

That is how it went always: the #Muslim side starts a battle, and if they are successful, nobody intervene, but if they start to lose, they cry for the UN mediation. As expected, the Serbs were blamed!#)

¹¹⁴²⁰ P843 (Directive 5, 25 June 1993), paras. 2, 4.

¹¹⁴²¹ Stanislav Galić, T. 37390 (18 April 2013), T. 37604 (23 April 2013) (although Dragomir Milošević testified that the operation started between 6 and 7 June); P5981 (SRK Order, 26 June 1993), para. 2; Savo Simić, T. 30040–30043 (12 November 2012) (testifying that the main objective of the operation was to establish a link between the south and southeastern part of the RS); D568 (Speech of Dragomir Milošević, 30 March 1996), p. 4.

¹¹⁴²² P820 (Witness statement of David Harland dated 4 September 2009), paras. 43–46; Michael Rose, T. 7572 (8 October 2010); Francis Roy Thomas, T. 6849–6850 (15 September 2010).

¹¹⁴²³ P820 (Witness statement of David Harland dated 4 September 2009), para. 49; David Fraser, T. 8152 (19 October 2010).

¹¹⁴²⁴ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 5.

¹¹⁴²⁵ Michael Rose, T. 7572–7573 (8 October 2010).

3573. On 5 July 1993, the SRK command reported to the VRS Main Staff that the ABiH opened fire on a number of frontlines resulting in three dead and two wounded soldiers; Galić testified that SRK units did not respond in this instance as they were “preparing”.¹¹⁴²⁶ On 10 July, the SRK command reported that the ABiH opened infantry and mortar fire; it also noted that SRK units in all sectors were in full combat readiness and firing.¹¹⁴²⁷ On 11 July, Munira Zametica, a 48 year old woman was shot dead while collecting water from the Dobrinja river in Dobrinja.¹¹⁴²⁸ On 12 July, a shell exploded in Dobrinja near a water pump where people were queuing for water, resulting in a number of casualties.¹¹⁴²⁹ **(Both incidents #not proven to be a Serb liability#, see there!)** On 18 July, the SRK command reported that its units were engaged in the Lukavac 93 operation while the ABiH opened infantry and mortar fire on a number of SRK-held positions, as well as on Grbavica and Ilidža, killing two civilians.¹¹⁴³⁰ According to Galić, the ABiH was at this time trying to attack on the confrontation lines within Sarajevo and slow down the Lukavac 93 attacks taking place outside Sarajevo.¹¹⁴³¹ On 30 July, in a meeting with UNPROFOR, Milovanović expressed concern about the smuggling of weapons and ammunition in humanitarian convoys.¹¹⁴³² That day, UNPROFOR reported that its freedom of movement across RS territory was being affected by “misunderstandings, bureaucracy and over zealous check-points”.¹¹⁴³³ **(Generally speaking, #none of this pertained to the President at all. The VRS was entitled to take care of it’s own safety#, and no president or any other authority could have ordered them to neglect it and behave as ordered and against it’s security interests!)**

3574. The SRK eventually managed to capture and take control of Mt. Igman and Bjelašnica.¹¹⁴³⁴ Following a meeting with Briquemont, Andreev, Mladić, Plavšić, and Krajišnik on 5 August 1993, the Accused agreed to the withdrawal of the SRK forces from Mt. Igman, despite Mladić’s protests, and on 14 August an agreement was signed according to which UNPROFOR was to monitor the vacated territory, which, together with the airstrip, became a demilitarised zone (“DMZ”).¹¹⁴³⁵ However, neither party respected the DMZ—the ABiH was present in the northern part of the zone while there were some Bosnian Serb troops

¹¹⁴²⁶ Stanislav Galić, T. 37384–37386 (18 April 2013); D3417 (SRK combat report, 5 July 1993) (indicating that the SRK units were to continue preparing for the Lukavac 93 operation).

¹¹⁴²⁷ D2819 (SRK combat report, 10 July 1993), paras. 1–2; Dragomir Milošević, T. 32802–32804 (29 January 2013). *See also* D2820 (SRK combat report, 16 July 1993).

¹¹⁴²⁸ *See* discussion on Scheduled Incident F.3.

¹¹⁴²⁹ *See* discussion on Scheduled Incident G.5.

¹¹⁴³⁰ D3421 (SRK combat report, 18 July 1993).

¹¹⁴³¹ Stanislav Galić, T. 37405–37408 (18 April 2013); D3422 (SRK combat report, 25 July 1993) (indicating exchange of fire between the two sides); D3465 (SRK combat report, 24 July 1993); D2798 (SRK combat report, 28 July 1993); D3423 (SRK combat report, 29 July 1993); D4631 (Letter from Manojlo Milovanović to UNPROFOR, 2 August 1993); D3446 (SRK combat report, 2 August 1993); D3447 (SRK combat report, 8 August 1993).

¹¹⁴³² D3579 (UNPROFOR fax, 30 July 1993), p. 2; D3563 (Witness statement of Vladimir Lukić dated 18 May 2013), para. 51.

¹¹⁴³³ D3579 (UNPROFOR fax, 30 July 1993), p. 2 (adding, however, that the Bosnian Serb leadership did not appear to have a “genuine policy” of obstructing convoys at this time).

¹¹⁴³⁴ P820 (Witness statement of David Harland dated 4 September 2009), paras. 43–46; Michael Rose, T. 7572 (8 October 2010); Francis Roy Thomas, T. 6849–6850 (15 September 2010).

¹¹⁴³⁵ P820 (Witness statement of David Harland dated 4 September 2009), paras. 50–55; P824 (UNPROFOR report re meeting with Radovan Karadžić, 5 August 1993), pp. 2–3; Michael Rose, T. 7573 (8 October 2010); D722 (UNPROFOR report re letter from Ambassador Sacirbey, 19 October 1994), e-court p. 4; P2414 (Witness statement of KDZ182), p. 87 (under seal); KDZ182, T. 13160–13161 (10 March 2011); D1135 (Map of Sarajevo marked by KDZ182); Stanislav Galić, T. 37604–37605 (23 April 2013); D4645 (Letter from Radovan Karadžić to Boutros Boutros Ghali, Bill Clinton, Lord Owen, and Stoltenberg, 7 August 1993); D2755 (Fax from Vere Hayes, undated). *See also* Adjudicated Fact 2783.

in the southern part; the DMZ was properly demilitarised only at the beginning of 1995.¹¹⁴³⁶

(It should be not only fair, but inevitable to mention a #drastic abuse of this zone by the ABiH#, when it intruded and killed two dosen of the medical military people, i.e. non-combat personnel. Had the Serbs done such a thing, there would be an alarm all over the world. Thus, the story about this war, particularly around Sarajevo is a history of the UN failure to exercise it's task, to be an impartial peacekeeper, and a history of a bias in favour of the Muslim side, and no court deliberation could annul it! Particularly the testimonies of ssuch a biased UN representatives must not be valued as impartial!)

3575. On 11 August 1993, the military commanders of the three warring sides in BiH signed the Military Agreement for Peace in BiH, eventually leading to a follow-up agreement allowing UNMOs freedom of movement throughout BiH and turning the administration of Sarajevo, with the exclusion of Pale, to the UN.¹¹⁴³⁷ This was followed up by an order from Galić to all SRK units not to open fire on Sarajevo “at any cost” and to remove “possible troublemakers” and “soldiers eager for adventure and provocations especially against UNPROFOR” by giving them secondary duties.¹¹⁴³⁸ **(#EXCULPATORY#!)** On 13 August, SRK command reported that the ABiH was launching mainly infantry attacks along various axes but that SRK units were not responding to provocations, “except for repulsing heavier attacks”.¹¹⁴³⁹ On 19 August, the SRK command, having listed ABiH activities, reported that all units were in full combat readiness and were “not responding to provocations unless forced to do so, and then only with infantry weapons and sniper rifles.”¹¹⁴⁴⁰ On 31 August, Dragomir Milošević proposed opening several routes for the delivery of humanitarian aid to Sarajevo.¹¹⁴⁴¹ **(#All EXCULPATORY#!)**

3576. On 2 September 1993, the SRK command again reported on the ABiH opening small arms and sniping fire on SRK positions and on Grbavica from, *inter alia*, Sedrenik; the SRK units returned fire on Sedrenik using a 12.7 mm anti-aircraft machine gun.¹¹⁴⁴² On 3 September, Nafa Tarić, a 35 year old woman and her eight year old daughter were shot and wounded by a single bullet in the centre of Sarajevo.¹¹⁴⁴³ On 4 September, Galić reported to the VRS Main Staff that some of the soldiers were exhausted and that “considering that they respond only in exceptional circumstances, the question [...] is, how long can they restrain themselves”.¹¹⁴⁴⁴

¹¹⁴³⁶ P2414 (Witness statement of KDZ182), pp. 57, 88 (under seal); P2447 (Witness statement of KDZ182), p. 62; P1774 (UNPROFOR report re meeting with Ejup Ganić, 2 October 1994); Milenko Indić, T. 32465 (22 January 2013); D2784 (ABiH 1st Corps minutes of meeting at Sarajevo airport, 5 January 1995).

¹¹⁴³⁷ P5041 (Military Agreement for Peace in BiH, 11 August 1993) (Mladić representing the Bosnian Serbs, Rasim Delić the Bosnian Muslims, and Milivoj Petković the Bosnian Croats); P2538 (Patrick Treanor's research report entitled “Radovan Karadžić and the Serbian Leadership 1990-1995”, 1 May 2009), para. 191. *See also* para. 379.

¹¹⁴³⁸ P2665 (SRK order, 11 August 1993). *But see* D4617 (SRK Order, 11 August 1993).

¹¹⁴³⁹ D3424 (SRK combat report, 13 August 1993). *See also* D3447 (SRK combat report, 8 August 1993).

¹¹⁴⁴⁰ D2827 (SRK combat report, 19 August 1993). Dragomir Milošević testified that this order clearly did not instruct the troops to open sniper fire on civilians. Dragomir Milošević, T. 32836–32837 (29 January 2013). *See also* D4570 (SRK combat report, 20 August 1993).

¹¹⁴⁴¹ D2849 (SRK proposal, 31 August 1993), p. 1; Dragomir Milošević, T. 32899 (30 January 2013).

¹¹⁴⁴² D3425 (SRK combat report, 2 September 1993); Stanislav Galić, T. 37410–37411 (18 April 2013) (testifying that this weapon is a more precise weapon).

¹¹⁴⁴³ *See* discussion on Scheduled Incident F.4.

¹¹⁴⁴⁴ D3429 (SRK combat report, 4 September 1993), p. 2; Stanislav Galić, T. 37424–37429 (18 April 2013) (testifying that the SRK command was warning the Main Staff that there could be unauthorised and random fire from SRK soldiers and that he personally took measures to prevent that from happening). *See also* D2809 (SRK combat report, 13 September 1993) (in which the SRK command

3577. KDZ450 testified that the period between October 1993 and February 1994 was a “very difficult period” for the city for a number of reasons, including the volume and intensity of shelling and sniping activity, which impeded the supply of humanitarian aid to the city.¹¹⁴⁴⁵ Following the rejection of the Owen-Stoltenberg plan by the Bosnian Muslim side at the end of September 1993,¹¹⁴⁴⁶ **(Look what the Chamber did: #an opinion of the witness (KDZ450) the Chamber promoted to a “fact” and “evidence”. Let us see what KDZ450 really said: T. 10549# “So the operations had resumed, and I think that they had resumed because there was failure, the failure of the agreement Owen-Stoltenberg in September. So this was for the first period)** the situation in Sarajevo deteriorated and shelling was on the increase.¹¹⁴⁴⁷ **The witness KDZ450 continued on the same page T.10549: As far as the second period is concerned, between the 5th February and the end of the month of July, I will tell you that this was a period of relative stability. There was the total exclusion area for heavy weaponry, a cease-fire after the 5th of February, and the opening of the blue routes, which enabled to stabilise the humanitarian situation, and the military situation. There was no more shelling during that period. The town was not shelled any more, and there were some sniping activities which were very few and which started again towards the end of the period but not in a heavy way. Why was it? Because both sides were monitored by the UN, and the Muslim side had been given a hint that the UN know that they staged Markale I, see: Gen. Rose, and only if both sides respected the CFAs there was no firing. (#First, it was his “thinking”, and not an established fact as it is suggested in this para of the Judgment.# This shelling was a two way street, wasn’t it? For that reason the only way to allocate a responsibility would be to find out who initiated the fire, and that was what the President asked from Gen. Morillon to be done by the UN, see: P04216)** Francis Roy Thomas, a senior UNMO in Sarajevo between 15 October 1993 and 14 July 1994,¹¹⁴⁴⁸ testified that, upon his arrival in Sarajevo on 15 October 1993, there was an unsuccessful attempt by the ABiH to take the Pale road, which was the Bosnian Serb’s connection between Pale and Lukavica.¹¹⁴⁴⁹ **Certainly, the firght that followed had been initiated by ABiH, not the VRS!** On 16 October, UNPROFOR reported that convoy deliveries to Sarajevo had increased recently; however, distribution to the civilian population had been very limited because large quantities of aid had been diverted to the military or stockpiled by Bosnian Muslim authorities while a smaller amount had been diverted to the black market.¹¹⁴⁵⁰ **(That happened all the times. And how then the Serb side was responsible for tha lack of food in the City?)** On 19 October, ABiH soldiers, disguised as Bosnian Serbs, shot at the UNPROFOR BiH Commander and also began using tanks to fire

reports that, given the frequency of ABiH operations, he foresees that certain units will not be able to tolerate the consequences of those operations and will be forced to return fire); D3426 (SRK combat report, 22 September 1993); Dragomir Milošević, T. 32719–32720 (28 January 2013). **Absolutely out of the reach of the Accused.**

¹¹⁴⁴⁵ KDZ450, T. 10549 (19 January 2011), T. 10652–10654 (20 January 2011); D632 (Order of ABiH 1st Corps, 8 December 1993). See also P820 (Witness statement of David Harland dated 4 September 2009), para. 61; David Harland, T. 2038–2039 (6 May 2010); Adjudicated Fact 134.

¹¹⁴⁴⁶ P820 (Witness statement of David Harland dated 4 September 2009), paras. 56–59. See also para. 382.

¹¹⁴⁴⁷ P820 (Witness statement of David Harland dated 4 September 2009), paras. 60–63; P845 (UNPROFOR report re meeting with Radovan Karadžić, 15 October 1993); P830 (UNPROFOR Weekly Political Assessment, 16 October 1993), p. 5. See also D3427 (SRK combat report, 13 October 1993) (in which SRK command reports that ABiH troops opened fire on a number of axes and that SRK units “periodically opened fire” when their positions were threatened); D3450 (SRK combat report, 24 October 1993).

¹¹⁴⁴⁸ P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 13.

¹¹⁴⁴⁹ P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 46, 82.

¹¹⁴⁵⁰ P830 (UNPROFOR Weekly Political Assessment, 16 October 1993), p. 2.

from the city in an attempt to draw retaliatory fire.¹¹⁴⁵¹ **(There were #two constant motives of the ABiH to make this kind o tricks: to denigrate the Serbs in the eyes of the internationals, to increase the daily pressure on the Serbs, and another, to gain an international military intervention#! The Internationals knew it all the time, but it was not sufficiently reflected in this Judgment. At least, all the incidents that hadn't been successfully investigated – couldn't be charged and allocated to the Serbs and the President!)** On 29 October, Dragomir Milošević issued an order to the SRK units to intensify sniping against ABiH forces and that each brigade should set up a platoon-strength sniper group of 31 soldiers, each of whom should be supplied with sniper rifles.¹¹⁴⁵² **(The entire period of more than a year and a half, the SRK didn't have snipers in its units. However, the snipers are legal when used against exclusively military objects!)** In late October and early November 1993, Sarajevo was heavily bombarded, with some 500 shells falling on the Old Town on 27 October alone.¹¹⁴⁵³ **The old town had an 80% of the rural and unsettled territory. If those shells had fallen into the urban core, there wouldn't be any "old town", all would be ruined to trashes!)**

3578 . On 3 November 1993, UNPROFOR reported that the Bosnian Serbs were causing more difficulties for the humanitarian aid supply to Sarajevo than they had for some time, and that convoys carrying food, medicine, and equipment had been delayed.¹¹⁴⁵⁴ **(Let us see P823:**

* The hard-liners appear to have won the power struggle in Sarajevo. PM Silajdzic has announced a new cabinet: more influential, more Muslim and more hard-line than its predecessor. The BH position on the war seems to be clear: there can be no peace settlement until the Muslims get back all the areas that were predominantly Muslim on the eve of the war. The war is therefore almost certain to continue at least through to the end of the winter.

Taking into account the fact that the Serbs invested a lot in the Owen-Stoltenberg peace plan, see the same doc.p.6, and all together it is clear that the Muslim side, a widely protected by the UN and other internationals caused all of the problems, forcing the

¹¹⁴⁵¹ P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 88–89 (testifying also that he only saw ABiH using tanks once or twice during his time in Sarajevo, while there were numerous occasions where he observed Bosnian Serbs using tank fire); Francis Roy Thomas, T. 6813 (15 September 2010).

¹¹⁴⁵² D2902 (SRK Order, 29 October 1993). Milošević denied that this order could have been a basis for the firing on civilians in Sarajevo. Dragomir Milošević, T. 33272–33274 (6 February 2013).

¹¹⁴⁵³ P823 (UNPROFOR Weekly Political Assessment, 3 November 1993), p. 7; P820 (Witness statement of David Harland dated 4 September 2009), para. 71; P1569 (UNMO report, 18 October 1993). See also D3428 (SRK combat report, 26 October 1993), para. 8 (reporting that “[d]espite disturbances and the chaos in Sarajevo, the enemy forces are firing various types of weapons on our positions as the line of contact” while the SRK is assessing “the possibilities of moving [their] forward line”); Stanislav Galić, T. 37416–37418 (18 April 2013). In contrast, the SRK report of 5 November notes that the ABiH fired around 800 shells in the whole month of October. The report also notes that in the area of Grbavica, 101 shells fell in the period from September to November. See D3431 (SRK report, 5 November 1993).

¹¹⁴⁵⁴ P823 (UNPROFOR Weekly Political Assessment, 3 November 1993), p. 7. **However, the same document #confirms the Serb suspicions about the UN abuses#, see P00823: also, just to say that the Serbs made a new obstacles to the HA is not correct unless added at least what had been said in the same document, see below:**

The BH media is blaming the UN for many of its woes, including organized crime. Ukrainian and French troops allegedly conduct a wide range of black-market and other illegal activities in Sarajevo, often in full view of the Sarajevo public. The allegations may be well founded.

Serb side to be cautious about the smuggling the war stuff to the Muslims.

The Serbs invested heavily in the Owen-Stoltenberg peace package brokered in Geneva. Since the collapse of that package, the Serbs have been less certain, and less unified, in their political strategy.

On 11 November, the Accused issued Directive 6, in which he ordered the VRS to create objective conditions for the achievement of the VRS “war goals”, including the “liberation of Sarajevo”; one of the tasks of the SRK units was to “prevent the deblockade of Sarajevo”.¹¹⁴⁵⁵ This was followed up by a supplement to the directive, sometime in December of the same year, in which the Accused ordered the VRS to seize Žuč and Mojnilo in order to ensure “the most favourable position for dividing the town”.¹¹⁴⁵⁶ **(Taking into account all the facts, primarily that the Muslim side declared a war to the Serbs, then that the Muslim side didn't accept the Serb proposals to demilitarise Sarajevo, to give the city under the UN administration, and didn't respect any of the ceasefires, the Serbs had been entitled to win and liberate the entire city. The President didn't issue a final executive order for this move!)**

3579. The shelling of the city, including on heavily populated areas, continued in November and December, often reported by the UNMOs as random SRK fire with no discernible target.¹¹⁴⁵⁷ **(However, none of the UNMO-s reports could be of any help, since they didn't know who was where, which forces were deployed around the city, and the UNPROFOR officers also confirmed that the UNMO reports were “useless”. They had been informed by their Muslim interpreters, and these information were not accurate at all!)** On 2 November, Ramiza Kundo, a 38 year old woman, was shot and wounded while carrying water in the west end of Sarajevo.¹¹⁴⁵⁸ UNPROFOR reported that in mid-December the ABiH was launching “heavy infantry attacks” from Sarajevo on Serb-held territory.¹¹⁴⁵⁹ On 26

¹¹⁴⁵⁵ P3039 (Directive 6, 11 November 1993), para. 3(1)(a) and p. 9.

¹¹⁴⁵⁶ P4925 (Supplement to Directive 6, 12 December 1993), para. 2(a); P3052 (VRS Main Staff Order, 14 December 1993); P5045 (Interim Report from Stanislav Galić to the VRS Main Staff, 27 December 1993). See also Dragomir Milošević, T. 33092–33099 (4 February 2013).

¹¹⁴⁵⁷ P1571 (UNMO report, 21 November 1993); P1572 (UNMO report, 30 November–1 December 1993); P1573 (UNMO report, 2–3 December 1993); P1574 (UNMO report, 4–5 December 1993); P1575 (UNMO report, 6–7 December 1993); P1576 (UNMO report, 13–14 December 1993); P1577 (UNMO incident report, 19–26 December 1993); P1578 (UNMO report, 24–25 December 1993); P1579 (UNMO report, 26–27 December 1993); P1580 (UNMO report, 27–28 December 1993); P1581 (UNMO report, 30–31 December 1993); P1582 (UNMO incident report, 25 December 1993–1 January 1994); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 33, 93–95; P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 24; D2804 (SRK combat report, 8 December 1993) (indicating that SRK opened mortar fire on 8 December). On the other side, the SRK reported that in the month of November around 140 shells landed on its territory. See D3431 (SRK report, 5 November 1993).

¹¹⁴⁵⁸ See discussion on Scheduled Incident F.5.

¹¹⁴⁵⁹ D3490 (UNPROFOR report, 15 January 1994), p. 3. **This very document is completely exculpatory for the Accused and the Serbs, and after this document, it is required that every single incident be investigated and undoubtedly proven who did it and why. See some of it.**

Taking the benefit of the UNPROFOR protection and supplied by the humanitarian aid convoys, the BiH forces have been reorganized, resupplied and trained. Their morale is now high, and especially since they seized the VARES pocket.

And this is how the new commander conceived the UN mandate in the SZ-s

- to promote the withdrawal of military and para military units from the Safe Areas other than those troops of the Bosnian Government,

December UNMOs also reported increased sniping activity in the city resulting in the wounding of women and children.¹¹⁴⁶⁰ **(But the UNMO reports “suggested” that the Serb side was acting, not the Muslim side, as the UNPROFOR reported. But let us see some of the paragraphs of the UNPROFOR document-report D3490 from January 1994: And that is what happened from the “demilitarized” Srebrenica:**

For a few months, the BiH units from SREBRENICA have been shelling the BSA positions, trying to provoke them. In SARAJEVO the BiH army provoke the BSA on a daily basis. This is very easy for us to notice as the BiH mortars are generally located near UNPROFOR units and Headquarters.

And what happened in Sarajevo as a “Safe zone”, on a daily basis:

Since the middle of December, the BiH army jumped another step by launching heavy infantry attacks from SARAJEVO to the Serb held suburbs of the city.

This is an important drift of the concept of the Safe Areas. The BiH army attacks the Serbs from a Safe Area, the Serbs retaliate, mainly on the confrontation line, and the Bosnian Presidency accuses UNPROFOR for not protecting them against the Serb aggression and appeal for Air Strikes against the Serb gun positions.

No reasonable Chamber would neglect this evidence, and no reasonable chamber would accept all the allegations against the Serbs and their conduct in Sarajevo!

3580. In early January 1994, Sarajevo, including many of its residential areas, experienced heavy shelling again, resulting in a large number of civilian casualties.¹¹⁴⁶¹ In a meeting with the Accused on 3 January 1994, De Mello of UNPROFOR stated that the Joint Declaration on the provision of humanitarian relief, signed by the Accused,¹¹⁴⁶² was being “totally disregarded” by Bosnian Serb forces at check-points and that the “petty harassment” of convoys had become intolerable, indicating that the Bosnian Serbs had a deliberate strategy to

¹¹⁴⁶⁰ P1561 (UNMO report, 25-26 December 1993); P1560 (Map of Sarajevo showing shelling sites, 25-26 December 1993); Francis Roy Thomas, T. 6800–6806 (15 September 2010).

¹¹⁴⁶¹ D178 (Annex VI to UNSG’s Report, 6 June 1994); **Let us see where these shells landed: see D00178:**
Combat and Shelling Activity: UNPROFOR monitors counted 732 shells landing in the city during the morning, most of them in the Jewish cemetery area of the Grbavica district. 4126/ Reporters who witnessed the combat from the Holiday Inn Hotel said that it was the heaviest fighting in weeks so close to the city centre. 4127/ Source(s): Reuters; Agence France Presse.
Targets Hit: The area of the old Jewish cemetery; the Grbavica district; the airport; the Holiday Inn; the Central Bank; the area near the Presidency building. Source(s): Reuters; Associated Press; Agence France Presse.

Therefore, “#most of them (hit) the Jewish cemetery#, (in the Serb hands) and Grbavica, (the Serb settlement. It was clear that the shells weren’t of the Serb origin since they never shelled their areas.).
P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 93, 96; Francis Roy Thomas, T.6860–6864 (15 September 2010); P1583 (UNMO report, 2–3 January 1994); **This, P01583 confirms only an exchange of fire, not any unilateral Serb actions. It is worthless unless established who initiated and who wanted the fire.** P1584 (UNMO report, 3–4 January 1994); P1585 (UNMO report, 4–5 January 1994);); **P01585, only an exchanges of fire. Who is to be blamed? How the Serbs would be liable for this event?** P1586 (UNMO report, 4–5 January 1994); P1587 (UNMO report, 7–8 January 1994); D631 (UNMO report, 10-11 January 1994); P1588 (UNMO incident report, 1–8 January 1994); P1589 (UNMO incident report, 8–15 January 1994); P1590 (UNMO incident report, 22–29 January 1994); P1591 (UNMO summary of incident reports, January 1994), p. 1; P1592 (UNMO summary of shoot reports, January 1994); P1598 (UNMO summary of victims, December 1993 to February 1994), p. 2; P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 24.

¹¹⁴⁶² See para. 384.

“grind UNPROFOR to a halt”.¹¹⁴⁶³ The Accused denied that this strategy existed but reiterated that humanitarian convoys had to be checked for weapons and ammunition.¹¹⁴⁶⁴ On 6 January, Sanija Dževlan, a 32 year old woman, was shot and wounded while riding her bicycle in Dobrinja.¹¹⁴⁶⁵ **(A rather peculiar incident, see there!)** On 22 January, three shells landed in Alipašino Polje, resulting in the deaths of six children.¹¹⁴⁶⁶ On his arrival in Sarajevo, on 23 January 1994,¹¹⁴⁶⁷ Rose was told that there was indiscriminate shelling within the city centre by the Bosnian Serbs.¹¹⁴⁶⁸ At that time, the intensity of the shelling was approximately 1,500 to 2,000 shells per day, going both ways, and sniping was also common.¹¹⁴⁶⁹ **(“Going both ways” is the crucial information. Why the Serbs are blamed for it, particularly since the Serbs didn’t have any intention to change the confrontation line?)** According to Thomas, the high casualty rate in this period was partly caused by the fact that the Bosnian Serbs were shelling areas known to be used by civilians to avoid dangerous areas exposed to sniper fire.¹¹⁴⁷⁰ **(Pure speculation, without any valuable corroboration!)**

3581. On 26 January, Galić issued an order in which he outlined a two-stage operation in Sarajevo; in the first stage the SRK units were ordered to prevent the “de-blocking” of Sarajevo and the linking of ABiH units from Sarajevo with ABiH units outside of Sarajevo by engaging in “decisive defence” and through improving the SRK’s strategic-tactical position by capturing features such as Debelo Brdo, Mojmiilo, Grdonj, Hum, and Čolina Kapa.¹¹⁴⁷¹ **(All of these locations were a dominant spots, a top of hills, for which the international rarely knew that were occupied by the Muslim forces. For that lack of knowledge, all the shells fired from hills were allocated to the Serb side!)** In the second stage, which was to start in the spring of 1994 and last 20 to 30 days, the SRK was to continue the above activities, prevent any supplies from getting into the city, prevent any medical evacuation, and “liberate the Serb part of the City of Sarajevo”.¹¹⁴⁷² **(According to the circumstances, it was legitimate. The Muslim side insisted on the continuation of the war until their total victory!)** Despite the above, the humanitarian situation in Sarajevo began to improve; during a meeting with Rose on 30 January, the Accused stated that he had in the preceding days instructed the civilian and the military authorities to “ease further” the movement of UN convoys.¹¹⁴⁷³ **(#EXCULPATORY#, had this been taken into account. The President was doing many other jobs, and he use to deal with the humanitarian issues only when asked**

¹¹⁴⁶³ P5034 (UNPROFOR report re meeting with Radovan Karadžić, 4 January 1994), paras. 2–3 (adding that UNPROFOR personnel were often personally searched at Bosnian Serb check-points, making it impossible for them to escort UNHCR convoys).

¹¹⁴⁶⁴ P5034 (UNPROFOR report re meeting with Radovan Karadžić, 4 January 1994), para. 3.

¹¹⁴⁶⁵ See discussion on Scheduled Incident F.6.

¹¹⁴⁶⁶ See discussion on Scheduled Incident G.6.

¹¹⁴⁶⁷ P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 5, 21.

¹¹⁴⁶⁸ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 23 (conceding that there was also shelling directed at the Bosnian Serbs in Grbavica). See also David Harland, T. 2317–2318 (11 May 2010); D178 (Annex VI to UNSG’s Report, 6 June 1994).

¹¹⁴⁶⁹ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 30. See also P1584 (UNMO report, 3–4 January 1994); P1586 (UNMO report, 4–5 January 1994); P1588 (UNMO incident report, 1–8 January 1994); D3452 (SRK combat report, 6 January 1994).

¹¹⁴⁷⁰ P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 96; P1587 (UNMO report, 7–8 January 1994), para. 9.

¹¹⁴⁷¹ P5968 (SRK Order, 26 January 1994), pp. 5, 8.

¹¹⁴⁷² P5968 (SRK Order, 26 January 1994), pp. 6, 8.

¹¹⁴⁷³ D700 (UNPROFOR report re meeting with Radovan Karadžić and Ratko Mladić, 30 January 1994), para. 2; Michael Rose, T. 7484 (7 October 2010) (testifying that when he arrived in BiH in January 1994, the flow of aid was “clearly not too bad”); D691 (TANJUG news report, 30 January 1994), p. 1; P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), p. 90.

by the internationals. However, the President nominated the Vice President Koljevic to lead the Committee for coordination of actions with the UN agencies!

3582. On 4 and 5 February 1994, two shelling incidents took place, one in Dobrinja and the other at Markale market in the centre of Sarajevo, resulting in a large number of casualties.¹¹⁴⁷⁴ On 9 February, as a result of these two incidents and particularly the Markale incident,¹¹⁴⁷⁵ a cease-fire negotiated by Rose was agreed upon by both sides whereby WCPs would be established, as well as a TEZ, a 20 kilometre circle around the city, from which both sides would withdraw all heavy weapons by 21 February.¹¹⁴⁷⁶ The cease-fire was to start on 10 February and UN troops were to be positioned on key terrain between the warring parties.¹¹⁴⁷⁷ In subsequent negotiations, the Accused and Yasushi Akashi, Special Representative of the Secretary General from January 1994,¹¹⁴⁷⁸ agreed that there would be seven WCPs for SRK weapons, which would be located at the outskirts of the city, while one WCP would be set up in the city itself for ABiH weapons; all would be monitored by the UNPROFOR soldiers.¹¹⁴⁷⁹ While the Bosnian Serbs attempted to negotiate a protocol to the agreement, under which they would be entitled to redeploy the weapons in case of an attack by the ABiH, this was not accepted by the UN.¹¹⁴⁸⁰ **This is# not entirely true#. Gen. Rose said that if the Serbs are attacked, the UN can do nothing to prevent them taking their weapons in order to defend. Hadn't there be the Mamorandum, the Serb side would have never accepted this Agreement. See:D842**

6. On the issue of self-defence, General Rose noted that it would not be possible for the Muslims to attack Serb regrouping centres due to the presence of UNPROFOR at such sites. However, in the event of such an action, UNPROFOR would provide the first line of defence but, it was also understood that if the Serbs wished to withdraw their weapons, for example in the face of a massive attack, there was nothing UNPROFOR could do to stop them. It was hoped that such an eventuality would not occur as it would indicate a total breakdown of the peace process in Sarajevo.

¹¹⁴⁷⁴ See discussion on Scheduled Incidents G.7 and G.8.

¹¹⁴⁷⁵ Harland testified that the overall effect of the Markale shelling was the stabilisation of the situation around Sarajevo. See P820 (Witness statement of David Harland dated 4 September 2009), para. 76. See also P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 40; Michael Rose, T. 7338–7340 (6 October 2010).

¹¹⁴⁷⁶ P820 (Witness statement of David Harland dated 4 September 2009), paras. 79–80; P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 40–44 (testifying that the Bosnian Serb side was threatened with NATO air strikes if it did not pull out its guns 20 kilometres away from Sarajevo); Michael Rose, T. 7256, 7263–7264 (5 October 2010), T. 7338–7340 (6 October 2010), T. 7547–7550, 7562–7563 (8 October 2010); D718 (Map of Sarajevo and surrounding areas); P1642 (SRK Order, 10 February 1994); D162 (Michael Rose's book entitled "Fighting for Peace: Bosnia, 1994"), p. 48; D713 (UNPROFOR report re talks with Radovan Karadžić and Alija Izetbegović, 6 February 1994); Yasushi Akashi, T. 37691–37692 (24 April 2013); Adrianus van Baal, T. 8477–8480 (28 October 2010); D830 (UNPROFOR report re cease fire negotiations in Sarajevo, 8 February 1994); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 97–98; P2119 (Witness statement of KDZ450 dated 17 January 2011), para. 86 (under seal); P2121 (UNPROFOR report re Joint Commission meeting, 10 February 1994); Stanislav Galić, T. 37446–37448 (18 April 2013); Milenko Indić, T. 32446–32448 (22 January 2013). KDZ450 testified that Galić was eventually relieved of his duty as the SRK Commander because he had agreed to the TEZ and the WCPs, all of which was against Mladić's wishes. See P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 38–39; Stanislav Galić, T. 37449 (18 April 2013). All weapons above 81mm were considered heavy weapons for the purposes of the agreement. See P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 15. See also Adjudicated Facts 2784, 2785.

¹¹⁴⁷⁷ P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 97.

¹¹⁴⁷⁸ Yasushi Akashi, T. 37665 (24 April 2013).

¹¹⁴⁷⁹ D842 (UNPROFOR report re meeting with Radovan Karadžić and Alija Izetbegović, 21 February 1994), paras. 11–12; P2120 (UNPROFOR report re meeting with Stanislav Galić, 16 February 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 46–49; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 104–105; P1593 (SRK map of Sarajevo showing weapon sites); P1594 (SRK map of Sarajevo showing weapon sites); P1595 (SRK map of Sarajevo showing weapon sites); P1596 (SRK map of Sarajevo showing weapon sites); P1654 (Agreement between Yasushi Akashi and Radovan Karadžić, 18 February 1994); P1818 (Witness statement of Adrianus van Baal dated 26 October 2010, para. 11; P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 20–21; P2119 (Witness statement of KDZ450 dated 17 January 2011), paras. 89, 91 (under seal);

Therefore, the Serb side had all the rights to protect itself, if the UN do not to that! But, let us first see what had been said in this D00716 document, pertaining to this issue, D716:

1) Regarding the definition of UNPROFOR "control" of re-grouped weapons, Dr. Karadzic raised no objection to our definition, although he emphasized their right to self-defense, therefore the right of regaining their weapons in the event of attacks from the Muslim side. I reiterated UNPROFOR's determination in having both sides adhere to the current cease-fire, adding that its reinforced presence should be considered as the security guarantee for the Serb side.

Was there any guarantee? #The UN didn't prevent the ABiH attacks on the Serb settlements#? There is no agreement that can survive if one side violate it and jeopardize the very survival of the other side to the agreement. Also, this heavily compromised the UN and it's guaranries, as happened on Sinai, or Western Slavonia, or on Igman Mt. 1993, when the Muslim forces passed freely through the UN territory and butchered the Serb medical personnel!

As a result of the above cease-fire agreement, delivery of aid to Sarajevo improved.¹¹⁴⁸¹ On 17 February, UNPROFOR reported that the humanitarian situation was relatively good, with a steady flow of food; however, the civilian population was receiving less than a third of the aid delivered as some of it was diverted to the military, some appeared on the black market, and the majority could not be accounted for.¹¹⁴⁸² **(So, the Serb side was under a permanent pressure to facilitate the flow of the humanitarian aid, because the Muslim civilians were starving, but as a matter of fact, the Serbs were facilitatinf the aid to their militant enemy Army! The Serb Main Staff knew that, and developed a very tense relation with the President, who was too trustful of the internationals and their demands!)**

3583. As agreed, by 21 February, the sites suspected of containing heavy weapons were inspected and found to be clear; according to Rose, during the withdrawal process, the Serbs produced a far greater number of weapons than the other side, reflecting the disparity between the two sides.¹¹⁴⁸³ However, both sides were also disingenuous in complying with the

KDZ450, T. 10558–10559, 10590–10591 (19 January 2011) (private session); D961 (UNPROFOR report re meeting with Stanislav Galić, 18 February 1994). See Adjudicated Fact 2786. Since the ABiH stored a large amount of its equipment in the Koševo tunnel, that too was later agreed as a WCP. See P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 99.

¹¹⁴⁸⁰ D717 (UNPROFOR report re weapons collection points in Sarajevo, 16 August 1994), e-court p. 4; P2118 (UNPROFOR report re weapon collection points in Sarajevo, 12 September 1994); Yasushi Akashi, T. 37693–37695 (24 April 2013), T. 37753–37757 (25 April 2013); Michael Rose, T. 7556–7562 (8 October 2010); D716 (UNPROFOR report re meetings with Radovan Karadžić and Alija Izetbegović, 20 February 1994); KDZ450, T. 10563–10565, 10591–10593 (19 January 2011) (private session), T. 10577–10583 (19 January 2011); D842 (UNPROFOR report re meeting with Radovan Karadžić and Alija Izetbegović, 21 February 1994), paras. 5–7; KDZ304, T. 10501, 10509–10510 (18 January 2011), T. 10534–10537 (19 January 2011). But see Adrianus van Baal, T. 8473–8474 (27 October 2010), T. 8496–8497 (28 October 2010); Dragomir Milošević, T. 33249–33251 (5 February 2013).

¹¹⁴⁸¹ P827 (UNPROFOR Weekly Political Assessment, 17 February 1994), pp. 1, 3; Michael Rose, T. 7484 (7 October 2010). See also D3466 (SRK Order, 16 January 1994) (ordering that “full protection and unhindered movement” be given to humanitarian convoys in order to avoid conflicts with UNPROFOR, especially during the Geneva talks); Stanislav Galić, T. 37570–37571 (23 April 2013).

¹¹⁴⁸² P827 (UNPROFOR Weekly Political Assessment, 17 February 1994), p. 3.

¹¹⁴⁸³ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 50; Michael Rose, T. 7549 (8 October 2010) (testifying that the ABiH agreed to stop using its heavy weapons but did not agree to place them under the control of the UN; instead in a symbolic gesture it produced some weapons in one of the barracks in the city); **(The Muslim side was allowed to avoid many restrictions provided by the agreements which the Serb side respected!)** P1818 (Witness statement of Adrianus van Baal dated 26 October 2010, paras. 14, 16; P2132 (UNPROFOR report re meeting with Stanislav Galić, 15 February 1994); P1558 (Witness statement

agreement; for example, the SRK positioned a number of inoperative weapons around Sarajevo for the purpose of handing them over to WCPs¹¹⁴⁸⁴ while the ABiH had a number of heavy weapons on Mt. Igman to which the UN was never given access.¹¹⁴⁸⁵

3584. On 24 February 1994, Andreev, De Mello, and Koljević agreed in principle to the creation of Blue Routes within Sarajevo for the delivery of humanitarian aid.¹¹⁴⁸⁶ The routes included the Dobrinja-Butmir route for Bosnian Muslim civilians, the Lukavica-Ilidža route for Bosnian Serb civilians, and the pedestrian crossing in downtown Sarajevo at the Bratstvo Jedinstvo Bridge.¹¹⁴⁸⁷ **(#EXCULPATORY#! the Serb side didn't have any need for the opening of the Blue Routes, on the contrary, they exposed their safety to jeopardy, but they opened the routes!)**

3585. As a result of the cease-fire agreement, Sarajevo was relatively calm for the rest of February; there were almost no war-related civilian deaths in the city in the last three weeks of February and few casualties later on.¹¹⁴⁸⁸ While the ABiH continued to fire at SRK positions immediately following the cease-fire, the SRK forces kept abiding by the cease-fire and eventually the ABiH stopped its firing as well.¹¹⁴⁸⁹ To Rose and Thomas, this indicated that the Bosnian Serb side had absolute control over its heavy weaponry.¹¹⁴⁹⁰ **(At that time certainly the level of control was very high, but it is not the point: it have shown that the Serb side was frank about the ceasefire!)**

of Francis Roy Thomas dated 13 May 2009), paras. 100, 104; P2119 (Witness statement of KDZ450 dated 17 January 2011), para. 93 (under seal); D962 (UNPROFOR daily report, 20 February 1994), para. 7; D4612 (SRK report, 22 February 1994).

¹¹⁴⁸⁴ P820 (Witness statement of David Harland dated 4 September 2009), para. 81; P847 (VRS Main Staff Order, 9 February 1994); P848 (Order of Drina Corps, 9 February 1994); Rupert Smith, T. 11866–11867 (15 February 2011); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 143; P1670 (SRK Order, 21 August 1994); Michael Rose, T. 7260–7262 (5 October 2010), T. 7549–7552 (8 October 2010); P1641 (SRK proposal re artillery, 10 February 1994) (indicating that the SRK proposed to set aside artillery that is out of order for the purposes of the agreement); D714 (UNPROFOR report re situation in BiH, 13 August 1994), pp. 3, 4; P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), paras. 13–16, 29; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 100–102; P2447 (Witness statement of KDZ182), pp. 63–64; P2414 (Witness statement of KDZ182), pp. 64–65 (under seal); KDZ182, T. 13032 (9 March 2011); D3493 (Letter from Radovan Karadžić to Yasushi Akashi, 27 February 1994) (in which the Accused indicates that he has been made aware of problems relating to the re-grouping of the SRK weapons and promises to fix them); Dragomir Milošević, T. 32725–32728 (28 January 2013), 33216–33221 (5 February 2013); Milenko Indić, T. 32447–32449 (22 January 2013), T. 32641–32646 (24 January 2013); P6087 (VRS Main Staff information, 12 February 1994); P6016 (SRK list of technical and material equipment, 21 February 1994). Galić testified that the SRK honoured the agreement to the “last letter”. However, in anticipation of the agreement, Galić had already issued an order on 9 February for the SRK units to move defective weapons to fire positions around Sarajevo in order to then remove them once the agreement was signed and in order to have working weapons remain in their positions. He also ordered that this operation be conducted during the night. *See* Stanislav Galić, T. 37448 (18 April 2013), T. 37952–37959 (8 May 2013); P6303 (SRK Order, 9 February 1994); D2802 (SRK combat report, 20 February 1994). Accordingly, and in light of all the other evidence listed in this footnote, the Chamber does not accept Galić’s evidence that he complied with the agreement to the “last letter”.

¹¹⁴⁸⁵ P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 103, 105; Francis Roy Thomas, T. 6848–6849 (15 September 2010); Michael Rose, T. 7260–7261 (5 October 2010); KDZ450, T. 10594–10595 (19 January 2011) (private session); KDZ304, T. 10463–10464 (18 January 2011).

¹¹⁴⁸⁶ Harland testified that negotiations for the opening of Blue Routes had been on-going for a long time but went “nowhere” until the Bosnian Serbs felt an urgent need to forestall NATO air strikes through “bold and conciliatory gestures”. *See* P820 (Witness statement of David Harland dated 4 September 2009), para. 89. The concept of ‘Blue Routes’ into Sarajevo was first proposed at the ICFY in January 1993. *See* para. 389. *See also* Adjudicated Fact 3020.

¹¹⁴⁸⁷ P820 (Witness statement of David Harland dated 4 September 2009), para. 90.

¹¹⁴⁸⁸ P820 (Witness statement of David Harland dated 4 September 2009), paras. 82–84, 91, 95; P827 (UNPROFOR Weekly Political Assessment, 17 February 1994), pp. 1–2; P849 (UNPROFOR Weekly Political Assessment, 1 March 1994), pp. 1–2; P850 (UNPROFOR Weekly Political Assessment, 9 March 1994), pp. 1–2; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 45; P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 10; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 107; P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 94; P4998 (Ewa Tabeau’s expert report entitled “Population Losses in the ‘Siege’ of Sarajevo 10 September 1992 to 10 August 1994”, 10 May 2002), p. 33 (indicating that the number of casualties fell significantly between February and August 1994); P5002 (Ewa Tabeau’s expert report entitled “Killed and Wounded Persons from the Siege of Sarajevo: August 1994 to November 1995”, 19 March 2007), pp. 40–41. On

3586. March 1994 was an encouraging time for Sarajevo as the cease-fire continued to hold.¹¹⁴⁹¹ By 15 March, the trams started operating again, which signified the beginning of better living conditions.¹¹⁴⁹² Life in Sarajevo improved as utilities were restored, including running water, and for the first time people started hoping for a return to normality.¹¹⁴⁹³ On 17 March, the Blue Routes Agreement was negotiated between the parties under which several routes, including the Airport Routes, were opened on 23 March for the movement of civilians from both sides and to re-supply the city with humanitarian aid.¹¹⁴⁹⁴ KDZ450 testified that the combination of the cease-fire, the TEZ, and the opening of the Blue Routes contributed to a significant improvement in the freedom of movement of convoys.¹¹⁴⁹⁵ **(Due to the Serb needs and intentions, namely not to advance towards the city and not to conquer any additional territory, since committed to the return of a substantial amount of the areas already kept, #this condition could have been maintained throughout the war, and Sarajevo wouldn't suffer a bit#! The same would be in a case #Sarajevo was demilitarised and handed over to the UN for administration, both proposed and supported by the Serbs and the President, but rejected by the Muslims#!)** Rose confirmed that the flow of aid “improved immensely” in February as a result of the TEZ.¹¹⁴⁹⁶ He recalled that aid came to a halt during the crisis in Goražde in April 1994,¹¹⁴⁹⁷ **Not to forget that at that time the UN again employed the NATO to bomb the Serb positions. The people were very angry and any movement of the UN and its agencies could have resulted in an uncontrolled outrage and hostilities.)** but that after April 1994 aid flowed into Sarajevo “more or less unblocked”.¹¹⁴⁹⁸ Harland also agreed that the opening of the Blue Routes led to “substantial relief of the humanitarian situation” in Sarajevo.¹¹⁴⁹⁹

the other hand, the SRK lost a number of soldiers in the area on 9 February 1994. *See* D832 (SRK combat report, 3 March 1994), para. 5.

- 11489 Michael Rose, T. 7263–7264 (5 October 2010); P1642 (SRK Order, 10 February 1994); Adrianus van Baal, T. 8481–8485 (28 October 2010); D832 (SRK combat report, 3 March 1994), p. 2; P2119 (Witness statement of KDZ450 dated 17 January 2011), para. 70 (under seal) KDZ450, T. 10691–10692 (20 January 2011); D969 (UNMO report, 18 February 1994); D831 (SRK combat report, 16 February 1994); D4575 (SRK combat report, 21 February 1994); D4576 (SRK combat report, 22 February 1994); D3474 (SRK combat report, 28 February 1994); D3475 (SRK combat report, 1 March 1994); D4578 (SRK combat report, 11 March 1994); D4610 (Radovan Karadžić’s Order, 13 March 1994) (in which the Accused instructed the VRS Main Staff to exercise maximum restraint and refrain from responding to fire during Bajram); D4580 (SRK combat report, 17 March 1994); D3433 (SRK combat report, 31 March 1994); D833 (UNPROFOR report re meeting Between Adrianus van Baal and Manojlo Milovanović, March 1994), e-court p. 4; D2803 (Report re truce violations, undated); P2711 (Letter from SRK to UNPROFOR, 1 March 1994).
- 11490 Michael Rose, T. 7263–7264 (5 October 2010); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 107.
- 11491 P849 (UNPROFOR Weekly Political Assessment, 1 March 1994), p. 1; P820 (Witness statement of David Harland dated 4 September 2009), paras. 91, 97.
- 11492 P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 62; Michael Rose, T. 7257, 7269–7270 (5 October 2010); P850 (UNPROFOR Weekly Political Assessment, 9 March 1994), p. 2; P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 48; D702 (Report of humanitarian organisation, 29 March 1994), paras. 28–29 (under seal).
- 11493 Michael Rose, T. 7256–7257 (5 October 2010); Adrianus van Baal, T. 8461–8462 (27 October 2010); P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 24, 70; KDZ450, T. 10549 (19 January 2011).
- 11494 *See* para. 390.
- 11495 KDZ450, T. 10549 (19 January 2011); P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 94.
- 11496 Michael Rose, T. 7484 (7 October 2010).
- 11497 *See* P3042 (VRS Main Staff Report, 11 April 1994) (ordering that all relations with UNPROFOR “should be suspended” following a decision of the Supreme Command); P1786 (VRS Main Staff Report, 14 April 1994), p. 3 (stating that there had been no movement of UNPROFOR and humanitarian organisations across RS territory on 14 April in accordance with the decision of the Supreme Command); David Fraser, T. 8027, 8030 (18 October 2010) (testifying that this document was consistent with UNPROFOR’s assessment that humanitarian aid and freedom of movement were “controlled by the Serbs”).
- 11498 Michael Rose, T. 7484–7485 (7 October 2010) (adding that UNPROFOR rarely met the objectives of the World Health Organisation when it came to humanitarian aid, but that there were strong flows of aid into Sarajevo in particular periods).
- 11499 P820 (Witness statement of David Harland dated 4 September 2009), paras. 97, 120. *See also* Rupert Smith, T. 11349–11350 (8 February 2011) (testifying that “everything” which Sarajevo needed came from flights landing at the airport and convoys travelling on

3588. By 19 March, however, the level of sniping in the city started increasing.¹¹⁵⁰⁰ According to Adrianus van Baal, the Chief of Staff of UNPROFOR BiH Command at the time,¹¹⁵⁰¹ sniping activity continued during this time despite the cease-fire agreement—it was specifically directed at trams in Sarajevo.¹¹⁵⁰² Both Thomas and KDZ450 testified that after the creation of the TEZ, sniping became an important factor in the war and that the Serbs resorted to sniping because they lost the advantage of their heavy weapons and because the ABiH was undertaking “tunneling” towards the Serb lines at the time.¹¹⁵⁰³ **(So, it was a #legitimate action, because the UN didn’t prevent the Muslim side in this violation of the Agreement#. Otherwise, what would be a Serb interest for a deterioration of situation in Sarajevo? None whatsoever. The other, Muslim side did have its interests to keep the from pages of media dedicated to Sarajevo!)**

3589. In March 1994, Bosnian Muslims and Bosnian Croats formed a federation which tilted the military balance against the Bosnian Serb side; this signified a massive change in the strategic situation in BiH, leading in particular to the unwillingness of the Bosnian Muslims to sign up to any peace accord which they felt was unjust and would reward the Bosnian Serbs.¹¹⁵⁰⁴ **(This was their manipulation, since their objective was to “liberate the entire territory, to the last feet, as the Muslim General Dzambasovic testified!)** On 21 March, Galić complained to the UN about violations of the cease-fire agreement by the ABiH, consisting mostly of infantry fire.¹¹⁵⁰⁵ On 27 March, UNPROFOR protested to the ABiH about an attack on SRK positions, calling it a direct violation of the cease-fire.¹¹⁵⁰⁶

the Blue Routes); Michael Rose, T. 7258 (5 October 2010) (testifying that after the Blue Routes were opened people could buy fresh food again).

11500 P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 63, 65; P1656 (Letter from Radovan Karadžić to Yasushi Akashi, 21 and 28 March 1994), e-court p. 5; P1564 (UNMO report on sniping victims from March to June 1994); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 119; Francis Roy Thomas, T. 6808–6810 (15 September 2010); P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 70.

11501 P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 5.

11502 Van Baal testified that the SRK’s focus on trams was due to Milovanović being opposed to the running of the trams. According to Van Baal, Milovanović even stated at one of their meetings that trams would be targeted if allowed to operate. See P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), paras. 36, 40–45; Adrianus van Baal, T. 8444–8451 (27 October 2010); D825 (Manojlo Milovanović’s book entitled “My View of the War in Bosnia 1992–1995”), p. 31. However, Van Baal made no record of this statement by Milovanović in his notes, which were taken contemporaneously during the meeting in question. See D1090 (Handwritten notes of Adrianus van Baal). In addition, during his testimony before the Chamber, Milovanović denied that he ever made such a statement to Van Baal. He testified that he told Van Baal that the UN should encourage Bosnian Muslims to put a stop to urban transport otherwise he could not guarantee that “some idiot won’t open fire”. See Manojlo Milovanović, T. 25689–25691 (1 March 2012). Given that Van Baal did not record Milovanović’s statement in his contemporaneous diary despite it being such a striking threat, the Chamber is not persuaded by Van Baal’s evidence that this is what transpired in his meeting with Milovanović. Instead, the Chamber accepts Milovanović’s evidence as to the statement he made to Van Baal. **For the first time, a Serb, though the Prosecution witness, was trusted.**

11503 P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 70; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 62–63.

11504 Michael Rose, T. 7248–7250 (5 October 2010), T. 7327–7328 (6 October 2010); P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 20; Yasushi Akashi, T. 37676–37677 (24 April 2013) (testifying that the Bosnian Serbs were more powerful in the beginning of the conflict but that Bosnian Muslim and Bosnian Croats became more powerful towards the end which meant they were against any long-term freezing of the military situation); D3489 (Excerpt from Yasushi Akashi’s book entitled “In the Valley between War and Peace”), p. 103. **This was an exact reason for the President’s statements that the Serbs must “heat up” and finish the war, and that was a legitimate move.**

11505 D834 (Letter from Stanislav Galić to UNPROFOR, 21 April 1994); Adrianus van Baal, T. 8488–8489 (28 October 2010); KDZ450, T. 10644–10645 (20 January 2011).

11506 P2122 (UNPROFOR protest letter to ABiH, 31 March 1994); KDZ450, T. 10649–10650 (20 January 2011),

3590. In mid-April, the TEZ was being openly violated.¹¹⁵⁰⁷ According to Anthony Banbury, a Civil Affairs Officer in UNPROFOR and later an assistant to Akashi,¹¹⁵⁰⁸ April 1994—during the crisis in Goražde—¹¹⁵⁰⁹ was a particularly bad period for Sarajevo, with a prevalence of sniping and mortar attacks, and very little gas, electricity, and water in the city.¹¹⁵¹⁰ The period of May and June 1994, however, was generally quiet around Sarajevo.¹¹⁵¹¹ On 28 May 1994, UNPROFOR reported that there had been a “major influx” of humanitarian and commercial goods into Sarajevo, leading to rapid deflation in food prices and the opening of new shops.¹¹⁵¹² **(And that was against the interests of criminals who run the black market, and these criminals used to deteriorate the Sarajevo situation, in order to have the prices raised!)**

3591. On 25 May, the VRS Main Staff reported to the Accused that the ABiH opened sniper fire in the area of the Vrbanja Bridge and Zlatište and ordered the SRK units to respect the cease-fire.¹¹⁵¹³ On the same day, a bus was shot at in Dobrinja resulting in the wounding of two women.¹¹⁵¹⁴ June was marked by fighting in other parts of BiH and the failure of peace talks in Geneva, which in turn resulted in the Bosnian Serb side cutting off electricity and gas to Sarajevo and halting aid convoys into the city.¹¹⁵¹⁵ **(Any inference to this situation must count in a possibility that the #fights were causing these stops#. Also, it is evident that the Serb side favored the calm situation in Sarajevo, while the Muslim side wanted Sarajevo in the world headlines! No a speculations should be allowed in such a serious case!)** Thus, from around the middle of June 1994, the humanitarian situation in Sarajevo began to deteriorate again.¹¹⁵¹⁶ In his book, Rose wrote that in this period the Bosnian Serb leadership “lapsed into a state of lunacy, blocking convoys and cutting off communication with the world”.¹¹⁵¹⁷ **(With all due respect, General Rose was not a psychiatrist, and couldn't have known that. However, everyone could have known that the internationals, including the #UN presented there, were exhausting the Serb side#, leading them to a defeat, and that would be a reason for a “lunacy-like” status!)** In response to a protest from Akashi about these restrictions, the Accused wrote on 24 June that UNPROFOR was

¹¹⁵⁰⁷ P829 (UNPROFOR Weekly Political Assessment, 16 April 1994), p. 1.

¹¹⁵⁰⁸ P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 3, 5; Anthony Banbury, T. 13305–13306 (15 March 2011).

¹¹⁵⁰⁹ P820 (Witness statement of David Harland dated 4 September 2009), paras. 102–118; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 13; P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 66–102; D3496 (UNPROFOR report, 16 April 1994); D3497 (UNPROFOR report, 17 April 1994). *See also* para. 391.

¹¹⁵¹⁰ P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 12. *See also* P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 21, 64–65.

¹¹⁵¹¹ P820 (Witness statement of David Harland dated 4 September 2009), para. 120; D177 (UNPROFOR Weekly Summary, 14–20 May 1994) (reporting sporadic fire and few civilian casualties between 14 and 20 May). *But see* P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 24 (testifying that May was marked by sniping and some shelling activities). *See also* D3434 (SRK combat report, 5 May 1994) (indicating that the ABiH opened sniper fire on 5 May but that the SRK did not respond and was preparing for the Strela 94 operation).

¹¹⁵¹² P2520 (UNPROFOR Weekly Political Assessment, 28 May 1994), p. 5.

¹¹⁵¹³ D3453 (VRS Main Staff report, 25 May 1994).

¹¹⁵¹⁴ *See* discussion on Scheduled Incident F.7.

¹¹⁵¹⁵ P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 108–119 (testifying that, nevertheless, the standard of living in Sarajevo was better due to the lack of shelling, even though sniping incidents remained a feature of daily life); P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 68; Adrianus van Baal, T. 8393–8399 (27 October 2010); P1819 (Letter from Adrianus van Baal to Ratko Mladić, 28 June 1994).

¹¹⁵¹⁶ P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 116, 118.

¹¹⁵¹⁷ D162 (Michael Rose’s book entitled “Fighting for Peace: Bosnia, 1994”), p. 167; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 117. *See also* P860 (Letter from Sergio Vieira de Mello to Radovan Karadžić, 31 July 1994, and Letter from VRS to UNPROFOR, 30 July 1994), e-court pp. 2–3 (in which De Mello expressed his dismay to the Accused at further restrictions on UNPROFOR’s freedom of movement).

taking little notice of the convoy procedures by carrying “undeclared goods and equipment”.¹¹⁵¹⁸ In a meeting on 27 June with Banbury and Rose, Krajišnik stated that improvements in the quality of life in Sarajevo had angered many Bosnian Serbs living outside Sarajevo and that the Bosnian Serb side was about to send a letter to UNPROFOR stating that the Airport Routes were being misused and therefore had to be closed.¹¹⁵¹⁹ Despite these threats, all the Blue Routes remained open and were heavily used in late June and early July 1994.¹¹⁵²⁰ **(#EXCULPATORY#, although stupid from the Serb side!)**

3592. On 8 June 1994, following the talks in Geneva, the parties signed an Agreement on the Cessation of Offensive Actions, which was to last for one month.¹¹⁵²¹ This prompted Galić to issue a declaration to the SRK units encouraging them to respect the agreement.¹¹⁵²² **(#EXCULPATORY#!)** However, by the end of June sniping activities on both sides had increased.¹¹⁵²³ On 19 June, a tram was shot at while travelling on Zmaja od Bosne street, resulting in casualties.¹¹⁵²⁴ **(Not proven beyond doubt who was responsible!)** On 26 June, Sanela Muratović, a 16 year old girl, was shot and wounded while walking in the west end of Sarajevo¹¹⁵²⁵ **(#Along a trenches!)**

3593. According to Rose, during the summer of 1994, the ABiH violated the cease-fire on more occasions than the SRK but this did not result in NATO air strikes against the ABiH because by the end of summer NATO changed its position that it would respond to violations by both sides.¹¹⁵²⁶ **(It was only a small peace of an overall bias against the Serbs in BiH!)** In the meantime, incidents of sniping in the city increased in the months of July and August, particularly on trams.¹¹⁵²⁷ On 22 July, Seid Solak, a 13 year old boy was shot and wounded while walking in the Čengić Vila area of Sarajevo.¹¹⁵²⁸ On 23 July, the SRK command reported to the VRS Main Staff that the ABiH had opened infantry fire on SRK

¹¹⁵¹⁸ D695 (Letter from Radovan Karadžić to Yasushi Akashi, 24 June 1994) (also stating that the Bosnian Muslims were mounting a military offensive and refusing to exchange prisoners); Michael Rose, T. 7463–7464 (7 October 2010) (stating that he would have taken “grave exception” to the allegations contained in this letter).

¹¹⁵¹⁹ P2465 (UNPROFOR report, 28 June 1994), paras. 7–8 (indicating that this anger probably explained why the Bosnian Serbs wanted to close the Airport Routes); P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 21 (stating that it was his impression that Bosnian Serb leaders found the increased living standards in Sarajevo objectionable); P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 102.

¹¹⁵²⁰ D1172 (UNPROFOR report, 17 August 1994), p. 3; D1161 (UNPROFOR Weekly Political Assessment, 11 July 1994), p. 5; Anthony Banbury, T. 13465 (16 March 2011). *See also* P2470 (UNPROFOR report, 1 September 1994), p. 5 (stating that the 10,000th UNHCR flight landed at Sarajevo airport on 12 July 1994).

¹¹⁵²¹ P2470 (UNPROFOR report, 1 September 1994), p. 4; D1147 (UNPROFOR report, 21 June 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 113; P1665 (Agreement on Cessation of Hostilities in BiH, June 1994).

¹¹⁵²² Stanislav Galić, T. 37429–37432 (18 April 2013); D3430 (Letter from Stanislav Galić to SRK members, undated).

¹¹⁵²³ P1771 (UNPROFOR report re anti-sniping measures, 25 June 1994); D3455 (SRK combat report, 24 June 1994); D2554 (SRK combat report, 26 June 1994).

¹¹⁵²⁴ *See* discussion on Scheduled Incident F.8.

¹¹⁵²⁵ *See* discussion on Scheduled Incident F.9.

¹¹⁵²⁶ Michael Rose, T. 7554–7556 (8 October 2010); D715 (UNPROFOR report re situation in BiH, 15 February 1994), e-court p. 3; D835 (Letter from Manojlo Milovanović to Michael Rose) (complaining that the SRK had been tricked by the UN in relation to this agreement and urging it to stop ABiH from engineering works towards SRK territory); D836 (SRK combat report, 6 July 1994); D2808 (SRK combat report, 1 July 1994); Yasuhi Akashi, T. 37714 (24 April 2013); Adrianus van Baal, T. 8492–8493, 8506 (28 October 2010) (conceding that strikes were only conducted against the Bosnian Serb side but stating also that the UN was unable to verify the claims of cease-fire violations made by the Bosnian Serb side as it had no access to their territory); Anthony Banbury, T. 13462 (16 March 2011); D966 (UNPROFOR Weekly Situation Report, 28 June 1994), p. 4.

¹¹⁵²⁷ P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 68; P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), paras. 43, 56; P1822 (UNMO report on sniping incident of 11 August 1994).

¹¹⁵²⁸ *See* discussion on Scheduled Incident F.10.

lines on various axes.¹¹⁵²⁹ On the same day, Milovanović issued an order to the SRK to “carry out all necessary preparations” for the closure of the Airport Routes to civilians and humanitarian traffic.¹¹⁵³⁰ On 26 July, citing the smuggling of weapons into the city as the reason, the Bosnian Serbs, under the orders of the Accused, decided to close the airport to commercial convoys using the Airport Routes; this resulted in Rose feeling obliged to close the airport, for security reasons, to all civilian traffic thus stopping the humanitarian airlift.¹¹⁵³¹ **(The Serb side didn’t impose a ban of the humanitarian convoys, but the commercial had to be banned, because it enabled the 1st Corps of ABiH, of about 40,000 combatants within Sarajevo to make offensives!)** On 27 July, the SRK command reported a number of infantry attacks by the ABiH, noting that SRK units responded both with infantry fire and mortars.¹¹⁵³² According to Rose, for the first time in many months the situation in Sarajevo was “moving backwards”.¹¹⁵³³

3594. By August 1994, the situation in Sarajevo began to deteriorate as incidents of sniping were on the increase.¹¹⁵³⁴ **(Not to leave it impersonal, #all the deteriorations were initiated by the ABiH, because a peace was the last thing they wanted#!. Stil they expected a massive foreign intervention#!)** On 1 August the ABiH launched a number of attacks on the SRK from within the TEZ and from the outer ring.¹¹⁵³⁵ On 2 August, while the ABiH attack continued, resulting in SRK casualties, the SRK sent a request to the UN to recover the weapons in the northwestern part of its area; however, the response was negative.¹¹⁵³⁶ On the same day, De Mello reported to Annan that the situation in Sarajevo was “dire” following the closure of the Airport Routes as only two UNHCR convoys were permitted entry to Sarajevo in July 1994, the humanitarian airlift had not yet resumed, and UNHCR warehouses had emptied.¹¹⁵³⁷ **(Prior to this report, there could be another, that the Muslim side is thwarting all the agreements, and that there will be a deterioration. But, while the Serbs were suffering, the UN neither reported, nor released the Serb weaponry for the defence. There was a #maximal number of 17,000 Serb soldiers, while the Muslim Army had three divisions, 12th in the city with 40,000 soldiers#, and additional 14th and 16th**

¹¹⁵²⁹ D3435 (SRK combat report, 23 July 1994).

¹¹⁵³⁰ P1639 (SRK Order, 23 July 1994) (indicating that the order was made pursuant to an oral order of the Accused). To Rose this indicated a “very close relationship” between the military and civilian authorities on the Bosnian Serb side. See Michael Rose, T. 7259–7260 (5 October 2010); Vlade Lučić, T. 30812–30813 (3 December 2012) (testifying that it was unclear whether this order was implemented or not because it was only an order to carry out “preparations”).

¹¹⁵³¹ P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 127–129; P1668 (UNPROFOR report re negotiations in BiH, 2 August 1994); Michael Rose, T. 7258–7260 (5 October 2010), T.7431–7433 (7 October 2010); P1639 (SRK Order, 23 July 1994); P859 (UNPROFOR report re closing of Sarajevo routes, 26 July 1994) (attaching the letter of the Accused explaining his decision to close some of the Blue Routes); P820 (Witness statement of David Harland dated 4 September 2009), para. 122; P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 102; D3928 (Article from Večernje Novosti entitled “Moslems to Blame for Blockade, Failure of Balkan Policy”, 28 July 1994); John Zamenta, T. 42463–42464 (29 October 2013); P2470 (UNPROFOR report, 1 September 1994), p. 8 (describing the Mt. Igman route as Sarajevo’s “lifeline route”).

¹¹⁵³² D3457 (SRK combat report, 27 July 1994).

¹¹⁵³³ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 129. See also KDZ450, T. 10549–10550 (19 January 2011); P2470 (UNPROFOR report, 1 September 1994), p. 6 (stating that following the closure of the Airport Routes the “strangulation of Sarajevo” recommenced).

¹¹⁵³⁴ P820 (Witness statement of David Harland dated 4 September 2009), para. 125; KDZ450, T. 10549–10550 (19 January 2011). See also P5002 (Ewa Tabeau’s expert report entitled “Killed and Wounded Persons from the Siege of Sarajevo: August 1994 to November 1995”, 19 March 2007), p. 57 (indicating that the proportion of sniping incidents increased in the period between August 1994 and May 1995).

¹¹⁵³⁵ Adrianus van Baal, T. 8493–8495 (28 October 2010); D837 (SRK combat report, 1 August 1994).

¹¹⁵³⁶ D838 (SRK combat report, 2 August 1994), para. 3; Adrianus van Baal, T. 8498–8499 (28 October 2010).

¹¹⁵³⁷ P1668 (UNPROFOR report re negotiations in BiH, 2 August 1994), paras. 1–2; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 128.

around the city, with the same number of troops! This is the real heritage of the “international community” in the Balkans!) On 5 August, the Bosnian Serbs seized a number of heavy weapons from a WCP in Ilidža and in response NATO launched air strikes, targeting an SRK anti-tank gun located in the TEZ; when threatened with more strikes, the Bosnian Serbs returned the weapons the next day.¹¹⁵³⁸ Violations of the TEZ by the ABiH continued following the air strikes.¹¹⁵³⁹ On 10 August, the SRK command reported that its units were responding to attacks, including with sniper rifles.¹¹⁵⁴⁰ On 11 August, after the humanitarian airlift had resumed, fire was opened on a UNHCR aircraft at the Sarajevo airport from ABiH controlled territory, resulting in the closure of the airport and the cancellation of UNHCR flights.¹¹⁵⁴¹ **(That was what the Muslim side wanted, to stop the HA and to have Sarajevo suffer. This have never been the Serb objective! There was no such an example of shame and dishonesty in a conduct of the UN and other international, including humanitarian institutions!)**

3595. By 12 August, the trams stopped operating due to sniping.¹¹⁵⁴² **(It should have been considered a miracle, that throughout the war of that lasted 44 months the trams were running almost all the time along the several parallel front lines of both sides. The Serb side should be commended for such a restraint, since the trams had been used for the transport of military personnel too. A several incidents included in the Indictment #had never been proven beyond a reasonable doubt to be the Serb liability!#)** On that day, in a meeting between Rose, Koljević, Gvero and Tolimir, the Bosnian Serbs accepted the proposed anti-sniping agreement, which had been negotiated by Rose during the course of the previous weeks.¹¹⁵⁴³ On 14 August, the Anti-sniping Agreement was signed at Sarajevo airport under which both sides agreed to issue, within the next 24 hours, orders explicitly forbidding sniping activities against military personnel, civilians, and UN personnel.¹¹⁵⁴⁴

¹¹⁵³⁸ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 132; P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 64; Adrianus van Baal, T. 8476–8477, 8499–8502 (28 October 2010); D837 (SRK combat report, 1 August 1994). Also in August, Rose threatened Ejup Ganić with air strikes as the ABiH was firing on the Ilijaš and Visoko areas. See P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 134–135; D839 (Letter from Adrianus van Baal to ABiH Supreme Command Staff, 12 August 1994).

¹¹⁵³⁹ D840 (Letter from Adrianus van Baal to ABiH Supreme Command Staff, August 1994); D839 (Letter from Adrianus van Baal to ABiH Supreme Command Staff, 12 August 1994).

¹¹⁵⁴⁰ D2828 (SRK combat report, 10 August 1994) (indicating that on 10 August, in the area of responsibility of the 3rd Sarajevo Infantry Brigade, two ABiH soldiers were killed by sniper fire and UNPROFOR was involved in pulling their bodies out); Dragomir Milošević, T. 32838–32839 (29 January 2013).

¹¹⁵⁴¹ D827 (Letter from Adrianus van Baal to ABiH Supreme Command Staff, 13 August 1994); Adrianus van Baal, T. 8461 (27 October 2010); Anthony Banbury, T. 13471 (16 March 2011). See also John Zametica, T.42466–42467 (29 October 2013) (testifying that Bosnian Muslim forces often deliberately shelled Sarajevo airport in order to prevent flights from landing and to increase black market prices). On 15 and 18 August, another two mortar rounds landed at Sarajevo airport, which UNPROFOR determined were fired from ABiH-controlled territory. See D828 (Letter from Adrianus van Baal to ABiH Supreme Command Staff, 15 August 1994); P2458 (UNPROFOR Weekly BiH Political Assessment, 11 September 1994), para. 12; P865 (UNPROFOR report on meeting with Bosnian Serb and Bosnian Muslim leadership, 26 September 1994), para. 17 (under seal) (de Mello reminding Izetbegović at a meeting of his obligation to make it public that the ABiH had targeted the airport on 18 August).

¹¹⁵⁴² P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 136.

¹¹⁵⁴³ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 136; P1669 (UNPROFOR report re meeting with Nikola Koljević and Milan Gvero, 13 August 1994); P820 (Witness statement of David Harland dated 4 September 2009), paras. 126–127; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 28–32; P2465 (UNPROFOR report, 28 June 1994); P2123 (UNPROFOR letter to ABiH, 15 July 1994).

¹¹⁵⁴⁴ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 139–140 (on the Bosnian Serb side, the agreement was signed by Koljević and Dragomir Milošević); P820 (Witness statement of David Harland dated 4 September 2009), paras. 129–131; P861 (UNPROFOR report re agreement on elimination of sniping in Sarajevo, 14 August 1994); P862 (Letter from UNPROFOR to Romanija Corps, 17 August 1994) (indicating that the SRK did not agree to having anti-sniping teams on its side); P1617 (Report from SRK Security-Intelligence Organ to SRK Command, 15 August 1994); P1818 (Witness statement of Adrianus van Baal dated 26 October

Dragomir Milošević issued such an order to the SRK units on 18 August, instructing all the troops to immediately stop sniping activities and activities from other weapons.¹¹⁵⁴⁵ There was a marked effect after this agreement was signed as the sniping incidents stopped almost immediately and went down from about 100 per week to about 10 per week; this lasted for about one month before a gradual increase in incidents occurred once again.¹¹⁵⁴⁶ Also in mid-August, the UN reported that the ABiH was violating the cease-fire agreement by firing on the SRK from within the TEZ.¹¹⁵⁴⁷

3596. On 19 August, at a meeting with Rose, Mladić, Tolimir, Koljević, Krajišnik, and Buha, the Accused explained that the Airport Routes had been closed not to stop the delivery of humanitarian aid to Sarajevo but to prevent the smuggling of black market goods and weapons.¹¹⁵⁴⁸ He also stated that he would not consider reopening them until the Bosnian Muslims released all Bosnian Serb POWs, and that he would close them for 30 days for every Bosnian Serb killed by sniping in Sarajevo.¹¹⁵⁴⁹ Nevertheless, according to Rose, there was an improved flow of aid to Sarajevo following the Anti-Sniping Agreement.¹¹⁵⁵⁰ The civilian population had also been growing food in community and private gardens, which was sold in city shops at moderate prices.¹¹⁵⁵¹ However, there had been no progress on reopening the Airport Routes and consequently the city was receiving most of its supplies via the tunnel in Butmir.¹¹⁵⁵²

3597. On 8 September 1994, in a meeting with the Accused, Koljević, and Zametica, UNPROFOR again called for the reopening of the Airport Routes.¹¹⁵⁵³ The Accused agreed to consider a step-by-step process for opening the Airport Routes, starting with civilian traffic first, then humanitarian traffic, and then commercial traffic.¹¹⁵⁵⁴ In the meantime, UNPROFOR was reporting that humanitarian flights were landing at Sarajevo airport and that UNHCR land convoys were delivering food; as a result, by 15 September, 100% of food needs in Sarajevo were met.¹¹⁵⁵⁵ That same day, Brinkman of UNPROFOR protested to the

2010, paras. 54–55; P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 70, 104; P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 95; P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 40–41; Dragomir Milošević, T. 32827–32829, 32839 (29 January 2013). *See also* Adjudicated Fact 2789.

¹¹⁵⁴⁵ Dragomir Milošević, T. 32840–32841 (29 January 2013); P863 (Excerpt from SRK Order, 18 August 1994).

¹¹⁵⁴⁶ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 141; Michael Rose, T. 7267 (5 October 2010); P820 (Witness statement of David Harland dated 4 September 2009), para. 133; David Harland, T. 2097 (7 May 2010); P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 50; Dragomir Milošević, T. 32841–32842 (29 January 2013); P2447 (Witness statement of KDZ182), p. 35, KDZ182, T. 13040–13041 (9 March 2011). Between 14 August and 8 September 1994, UNPROFOR reported four sniping incidents in the city. *See* P864 (UNPROFOR report re violations of anti-sniping agreement, 12 September 1994); P1818 (Witness statement of Adrianus van Baal dated 26 October 2010, para. 57; P2414 (Witness statement of KDZ182), pp. 35–36 (under seal); KDZ182, T. 13040–13041 (9 March 2011); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 42–43; P1773 (UNPROFOR report re efficacy of Anti-Sniping Agreement, 15 September 1994); Dragomir Milošević, T. 32841–32842 (29 January 2013) (testifying that SRK resumed sniping once the other side started opening sniping fire on them).

¹¹⁵⁴⁷ D717 (UNPROFOR report re weapons collection points in Sarajevo, 16 August 1994), paras. 1–2; Adrianus van Baal, T. 8495–8496 (28 October 2010).

¹¹⁵⁴⁸ D704 (UNPROFOR report re meeting with Radovan Karadžić, 19 August 1994), para. 11.

¹¹⁵⁴⁹ D704 (UNPROFOR report re meeting with Radovan Karadžić, 19 August 1994), para. 11.

¹¹⁵⁵⁰ Michael Rose, T. 7484, 7493 (7 October 2010). *See also* Michael Rose, T. 7429 (7 October 2010) (testifying that the UN managed to maintain a flow of aid throughout the conflict “in spite of all the difficulties that were placed in front of it”); P2457 (UNPROFOR Weekly BiH Political Assessment, 28 August 1994), para. 16.

¹¹⁵⁵¹ P2457 (UNPROFOR Weekly BiH Political Assessment, 28 August 1994), para. 16.

¹¹⁵⁵² P2457 (UNPROFOR Weekly BiH Political Assessment, 28 August 1994), para. 2. Regarding this tunnel, *see* para. 3782.

¹¹⁵⁵³ D1136 (UNPROFOR report, 9 September 1994), para. 5.

¹¹⁵⁵⁴ D1136 (UNPROFOR report, 9 September 1994), para. 5. *See also* D1162 (UNPROFOR report, 14 September 1994), p. 2 (reporting that Muratović and Koljević endorsed this proposal in a meeting on 14 September 1994).

¹¹⁵⁵⁵ D1173 (UNPROFOR report, 9 September 1994), pp. 7–8; D1164 (UNPROFOR report, 15 September 1994), p. 3; Anthony Banbury, T. 13481, 13512 (16 March 2011) (testifying that in September 1994 the supply of humanitarian aid to Sarajevo was “satisfactory”). Banbury explained that the airport was a “critical” source of humanitarian supplies for the civilian population, and that there were around

ABiH over the opening of fire from ABiH positions at a convoy travelling on one of the open Blue Routes.¹¹⁵⁵⁶ **(This kind of evidence prevents any chamber of making inferences on account of the Serbs, and only a clear proofs should be used instead! If this feature had been registered to happen several times, the Prosecution should have been obliged to have the clear proofs for every single incident, and no a circumstantial evidence should be used to charge the Serbs! Such a comfortable position of the Prosecution meant: if something #hadn't been established, it must had been done by the Serbs – is not a fair#! The chambers of the Tribunal had an unlimited confidence in only one side, the Prosecution, so #if somewhere there was a smoke, there must be Indians#!**

3598. By mid-September 1994, the quiet period came to an end as the ABiH forces launched an attack against the Bosnian Serb side on the Pale-Ilidža road which was easily repelled by the SRK but then led to the SRK blocking convoys into Sarajevo again.¹¹⁵⁵⁷ The UN reported that the heaviest fighting since February 1994 erupted in Sarajevo on 18 September, with a large number of shells exchanged between the two sides; according to the UN report, the ABiH initiated the fighting by firing mortars from residential areas within the city while the SRK responded in a restrained manner.¹¹⁵⁵⁸ **(This is all based on a genuine evidence, a contemporaneous documents of both sides and the UN forces, but in the corps of inferences this wasne reflected properly!)** Rose immediately wrote to both sides requesting them to immediately halt the military action and stop violating the TEZ.¹¹⁵⁵⁹ Following the offensive, the supply of humanitarian aid was interrupted and the humanitarian situation deteriorated.¹¹⁵⁶⁰ In a meeting on 20 September with Rose and in the presence of the Accused, Milovanović, and Koljević, Krajišnik stated that “it would be difficult to stop Serb soldiers from shooting at airplanes” if certain demands were not met, including that UNPROFOR formally recognise Bosnian Serb ownership of the airport, pay rent, and end the movement of Bosnian Muslim government delegations.¹¹⁵⁶¹ The Accused indicated that he wanted these demands included in an agreement which would supplement the Airport Agreement.¹¹⁵⁶²

eight to 15 UNHCR flights arriving in Sarajevo each day when the airport was operational. *See* Anthony Banbury, T. 13335 (15 March 2011), 13512 (16 March 2011); KDZ088, T. 6405–6406 (8 September 2010) (closed session) (testifying that an “exceptionally large number” of aircraft carrying humanitarian aid landed in Sarajevo throughout the conflict); Milenko Indić, T. 32474 (22 January 2013) (testifying that there was somewhere between five to ten flights into Sarajevo airport each day); KDZ240, T. 16110 (5 July 2011) (closed session).

¹¹⁵⁵⁶ D1165 (UNPROFOR protest to VRS, 15 September 1994); Anthony Banbury, T. 13482–13483 (16 March 2011).

¹¹⁵⁵⁷ P820 (Witness statement of David Harland dated 4 September 2009), paras. 134–135; David Harland, T. 2227–2231 (10 May 2010); P834 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 20 September 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 149; Michael Rose, T. 7256 (5 October 2010); David Fraser, T. 8102–8103 (19 October 2010); D773 (UNMO report, 19 September 1994); D777 (VRS Main Staff Order, 16 September 1994); D774 (UNPROFOR report re Sarajevo TEZ violations, 18 September 1994). According to KDZ450, this was the first attack by the ABiH that involved heavy weapons since the signing of the cease-fire. *See* KDZ450, T. 10598–10600 (19 January 2011).

¹¹⁵⁵⁸ P1673 (UNPROFOR report re Sarajevo heavy weapons exclusion zone, 19 September 1994), paras. 1–3 (also reporting that this was an attempt by the BiH authorities to move Sarajevo to front page news and portray the SRK as the aggressor shelling indiscriminately into civilian areas); D775 (SRK combat report, 19 September 1994). *See also* Michael Rose, T. 7563–7566 (8 October 2010); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 65–66; David Fraser, T. 8106–8108 (19 October 2010); P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 110; KDZ450, T. 10624–10627 (20 January 2011).

¹¹⁵⁵⁹ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 149; P1673 (UNPROFOR report re Sarajevo heavy weapons exclusion zone, 19 September 1994), e-court pp. 3–4. Rose also had a meeting with Izetbegović in which the latter explained that the attack was in response to SRK sniping. *See* P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 150.

¹¹⁵⁶⁰ Michael Rose, T. 7484 (7 October 2010), T. 7604–7605 (8 October 2010).

¹¹⁵⁶¹ P834 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 20 September 1994), para. 4.

¹¹⁵⁶² P834 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 20 September 1994), para. 4.

3599. On 21 September, the SRK reported that the ABiH had opened infantry, sniper, and some mortar fire on SRK positions on both that day and the preceding day.¹¹⁵⁶³ On 22 September, following two sniping incidents in the city—one against a civilian and another against a UN soldier—Rose called for another air strike against a Bosnian Serb tank in the TEZ to the west of Sarajevo, which was followed by a Bosnian Serb attack on an UNPROFOR tank, wounding the driver.¹¹⁵⁶⁴ In a meeting with the UN the next day, Mladić demanded an apology and told General David Fraser, who was in Sarajevo from April 1994 to May 1995 working as an assistant to the UNPROFOR commander of Sector Sarajevo,¹¹⁵⁶⁵ that no convoy would pass through the Bosnian Serb territory without an apology; this materialised on the ground as all Serb check-points were closed for larger vehicles.¹¹⁵⁶⁶ This decision of the VRS Main Staff to stop the movement of all humanitarian organisations in the territory of the RS led the RS Minister of Health to draft a complaint to the Main Staff noting a shortage of medical supplies and humanitarian aid in RS territory.¹¹⁵⁶⁷ On 25 September, Mladić informed UNPROFOR, via a liaison officer, that the safety of aircraft flying into Sarajevo airport could no longer be guaranteed; consequently, flights into Sarajevo were suspended.¹¹⁵⁶⁸ **(There could not be such a violations of the Serb security, with the NATO destructive attacks, political denigration and pressures from the entire international community, including Serbia and Russia, without any Serb response. What kind of response in the military realm, that was a matter of the Army itself, but this amount of disgraceful jeopardy against a small Serb community is not seen ever in history!)**

3600. On 2 October 1994, in a meeting with the Accused, Zametica, Tolimir, Koljević, Krajišnik and Buha, De Mello insisted on reopening Sarajevo airport for humanitarian flights but the Accused reiterated his position that the airport would not reopen until the Airport Agreement was renegotiated and that the Airport Routes would remain closed until all Bosnian Serb POWs in Tarčin were released.¹¹⁵⁶⁹ However, he agreed to re-establish freedom of movement for humanitarian convoys travelling on the other Blue Routes.¹¹⁵⁷⁰ During a subsequent meeting on 5 October 1994, which was also attended by Akashi and Rose, Akashi agreed to ask the UN headquarters if there was any way to acknowledge that UNPROFOR

¹¹⁵⁶³ D776 (SRK combat report, 21 September 1994).

¹¹⁵⁶⁴ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 152; Michael Rose, T. 7566–7569 (8 October 2010); D719 (Letter from Manojlo Milovanović to UNPROFOR, 23 September 1994); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 66–67; David Fraser, T. 8114 (19 October 2010); P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 113; KDZ450, T. 1062910631 (20 January 2011); P2127 (UNPROFOR report re air strike, 22 September 1994); P2128 (Extract from UNPROFOR logbook, 22 September 1994) (under seal); P2129 (UNPROFOR letter to Ratko Mladić, 24 September 1994). This was preceded by the ABiH opening fire on SRK-held areas in the preceding two days.

¹¹⁵⁶⁵ Fraser worked for two different Sector Sarajevo commanders during his time in Sarajevo, first for General Andre Sibirou and then for General Herve Gobilliard. See P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 4–5.

¹¹⁵⁶⁶ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 67; D719 (Letter from Manojlo Milovanović to UNPROFOR, 23 September 1994).

¹¹⁵⁶⁷ D3873 (Aide mémoire of RS Minister of Health, 2 October 1994); Radovan Radinović, T. 41608–41611 (19 July 2013) (testifying that the VRS was more restrictive than the politicians when it came to the issue of humanitarian convoys).

¹¹⁵⁶⁸ P6272 (UNPROFOR report, 27 September 1994), para. 3; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 152; D3500 (UNPROFOR report, 7 October 1994), para. 15 (the Accused and Mladić acknowledging at a meeting with UNPROFOR that the airport was closed in response to the NATO air strikes).

¹¹⁵⁶⁹ P4866 (UNPROFOR report, 2 October 1994), paras. 5–7.

¹¹⁵⁷⁰ P4866 (UNPROFOR report, 2 October 1994), para. 5.

“took over” the airport from the Bosnian Serbs in return for which the Bosnian Serbs would reopen Sarajevo airport to both UNPROFOR and UNHCR flights.¹¹⁵⁷¹

3601. On 6 October 1994, the ABiH conducted an operation on Mt. Igman, going through the DMZ and killing a number of SRK soldiers and four Serb nurses located there; it also established positions in the area, contrary to the August 1993 agreement.¹¹⁵⁷² As a result, in the days that followed, the SRK opened sniper fire on Sarajevo and shelled the city, targeting civilians.¹¹⁵⁷³ Having lodged a strong protest with the ABiH, Rose also had a meeting with Mladić and Tolimir on 10 October in which Mladić threatened to operate against Sarajevo and restrict the freedom of movement of the UN if ABiH units were not cleared out of the DMZ.¹¹⁵⁷⁴ On 8 October, a tram was shot at on Zmaja od Bosne street, resulting in casualties.¹¹⁵⁷⁵ On 27 October, Milošević issued a warning to SRK units, stating that the “enemy does not respect any rules or principles of humanity” and that even though the SRK tried to “obey all Geneva conventions until now [...] if the enemy continues in the same way, they will force us that as of today we respond on [*sic*] every bullet fired [...] by firing at the selected target under the Muslim control in Sarajevo”.¹¹⁵⁷⁶ **(What Gen. Milosevic said was #a legitimate reprisal#, to force the other side to stop with the illegal activities, although he didn't execute it. Also, Gen. Milosevic didn't need any President's approval, since it is a matter of operational-tactical level of command, and a matter of the security of his forces. The UN negotiated the DMZ on Mt. Igman, and was supposed to prevent any abuse of this zone!)** On 31 October, foreign media reported that ABiH forces had opened fire at UN planes at Sarajevo airport, but that the airlift had not been suspended.¹¹⁵⁷⁷

3602. By November 1994, the ABiH forces were still positioned on Mt. Igman and launched an offensive from there, targeting both Bosnian Serbs and one UNPROFOR observation

¹¹⁵⁷¹ D3500 (UNPROFOR report, 7 October 1994), paras. 13, 16 (reporting also that Mladić and Krajišnik stated that if their demands were not met, they would consider closing the airport again); Yasushi Akashi, T. 37716–37718 (24 April 2013).

¹¹⁵⁷² P820 (Witness statement of David Harland dated 4 September 2009), para. 142; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 155; P867 (UNPROFOR report on meeting with Ratko Mladić, 10 October 1994); Michael Rose, T. 7572–7579 (8 October 2010); D721 (Letter from General Rose to Ejup Ganić, 16 October 1994); D722 (UNPROFOR report re letter from Ambassador Sacirbey, 19 October 1994); P2447 (Witness statement of KDZ182), p. 57; P2414 (Witness statement of KDZ182), pp. 90–91 (under seal); KDZ182, T. 13095–13098 (9 March 2011); P2439 (UNPROFOR report re Mount Igman incident, 8 October 1994); P2440 (UNPROFOR report re Mount Igman incident, 7 October 1994); D1120 (AFP daily report entitled “UN Believes Bosnians Attacked Serbs from DMZ”, 13 October 1994); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 67–69; David Fraser, T. 8152–8153 (19 October 2010); D783 (Map of Mt. Bjelašnica and Mt. Treskavica area with confrontation lines, 1994); D2783 (UNPROFOR Memo, 6 October 1994). *See also* D3500 (UNPROFOR report, 7 October 1994), para. 6 (indicating that Mladić and the Accused met with Akashi the day before this incident and Mladić referred to the ABiH troops leaving Sarajevo through the Butmir tunnel and launching attacks on Mt. Igman).

¹¹⁵⁷³ Michael Rose, T. 7272 (5 October 2010); P2447 (Witness statement of KDZ182), p. 57; P2414 (Witness statement of KDZ182), pp. 58–59, 61 (under seal); KDZ182, T. 13098–13102 (9 March 2011). *See also* P1487 (Ratko Mladić’s notebook, 4 September 1994–29 January 1995), pp. 101–102. Following the ABiH attack on Mt. Igman, UNPROFOR attempted to get the parties to sign a number of follow up agreements to the anti-sniping agreement of 14 August 1994 and the cease-fire agreement of 9 February 1994 but was not successful. *See* P2447 (Witness statement of KDZ182), pp. 61–62; P2422 (Amendment to Anti-Sniping Agreement, October 1994); P2423 (Appendix I and II to Cease-fire Agreement); P2424 (Cease-fire Agreement, October 1994); KDZ182, T. 13107–13108 (10 March 2011); D1122 (UNPROFOR report, 20 November 1994) (under seal).

¹¹⁵⁷⁴ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 68–69 (testifying that Mladić threatened to act against the city). *But see* P867 (UNPROFOR report on meeting with Ratko Mladić, 10 October 1994), para. 2; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 155; P820 (Witness statement of David Harland dated 4 September 2009), para. 143.

¹¹⁵⁷⁵ *See* discussion on Scheduled Incident F.11.

¹¹⁵⁷⁶ Later in the report Milošević forbids any “devious killing, injuring or capturing” that is not in accordance with the Geneva Conventions and international law. *See* D2812 (Warning of SRK command, 27 October 1994); Dragomir Milošević, T. 32735–32737 (28 January 2013).

¹¹⁵⁷⁷ D1121 (AFP daily report entitled “UN: Government Forces Fire on Planes at Airports”, 31 October 1994); KDZ182, T. 13102–13103 (9 March 2011), T. 13108–13109 (10 March 2011).

post.¹¹⁵⁷⁸ According to Rose, this did not result in NATO air strikes because by that time NATO was no longer willing to launch strikes against the Bosnian Muslims.¹¹⁵⁷⁹ **(Look at that! That is known as an unbiased approach of the “international community” meanwhile, the Serbs are attacked and bombed for a legitimate use of their weaponry in defence against the same offensives! And yet, the top of the Serb military and political officials are all indicted and sentenced by the UN Court!)**

3603. On 17 November, Dragomir Milošević informed UNPROFOR that the SRK was imposing additional measures on convoy movement, including the inspection of all humanitarian convoys crossing SRK frontlines.¹¹⁵⁸⁰ On 18 November, a woman and her seven year old son were shot at while walking on Zmaja od Bosne street, resulting in the death of the boy and injuries to the woman.¹¹⁵⁸¹ **(#Not established to be the Serb responsibility! So many peculiarities and contradictions!#)** On 19 November, Gobilliard met with the Accused and Krajišnik, among others, and the Accused threatened that if the ABiH continued to fire from within the TEZ, the Bosnian Serbs would retaliate.¹¹⁵⁸² The situation in Sarajevo deteriorated and the number of reported cease-fire violations increased, although, according to Rose, that number was exaggerated as the civilian casualties in fact decreased.¹¹⁵⁸³ At the same time, however, there was a “total halt” in the movement of convoys, the volume of humanitarian supplies was very low, and the arrival of humanitarian flights depended on the good will of the Bosnian Serbs; the Sarajevo population was being “strangled” as the Bosnian Serbs wanted to apply as much pressure on the city as possible before the winter set in.¹¹⁵⁸⁴ **(There was no other Serb condition than to respect all the agreements mutually signed. No army and a warring side throughout the world would stand so many deceptions and trickery that certainly jeopardized so many lives of civilians and military personnel, without any consequence!)** On 23 November, a tram was

¹¹⁵⁷⁸ P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 157–158, 160; P1676 (UNPROFOR report re discussions with Radovan Karadžić and Ejup Ganić, 23 October 1994); Michael Rose, T. 7580–7581 (8 October 2010); D723 (UNPROFOR report re demilitarised zone violations by ABiH, 29 October 1994), e-court pp. 1–4, 9; D162 (Michael Rose’s book entitled “Fighting for Peace: Bosnia, 1994”), pp. 188, 191 (indicating that Izetbegović was directly responsible for not withdrawing the troops from Mt. Igman); P1776 (UNPROFOR report re meeting with Radovan Karadžić and General Tolimir, 20 November 1994); P2426 (UNPROFOR report re meeting between Hervé Gobilliard and Dragomir Milošević, 23 November 1994); D1121 (AFP daily report entitled “UN: Government Forces Fire on Planes at Airports”, 31 October 1994); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 68–70; D2797 (SRK combat report, November 1994).

¹¹⁵⁷⁹ Michael Rose, T. 7581, 7591 (8 October 2010).

¹¹⁵⁸⁰ P2425 (From SRK to UNPROFOR, 17 November 1994).

¹¹⁵⁸¹ See discussion on Scheduled Incident F.12.

¹¹⁵⁸² P1762 (Witness statement of David Fraser dated 17 October 2010), p. 70; P1776 (UNPROFOR report re meeting with Radovan Karadžić and General Tolimir, 20 November 1994), p. 1.

¹¹⁵⁸³ P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 69; David Fraser, T. 8118–8121 (19 October 2010); D778 (UNPROFOR report, 17 November 1994); P2454 (UNPROFOR report, 19 November 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 168 (also testifying that the ABiH would fire into the air in this period in order to increase the tension around Sarajevo); D162 (Michael Rose’s book entitled “Fighting for Peace: Bosnia, 1994”), p. 197; Michael Rose, T. 7485 (7 October 2010); P2414 (Witness statement of KDZ182), pp. 47–48 (under seal); P2419 (VRS Main Staff Order, 6 November 1994); P2420 (Report of 2nd Light Infantry Brigade re VRS Main Staff order, 7 November 1994); D2823 (SRK combat report, 6 November 1994).

¹¹⁵⁸⁴ P2414 (Witness statement of KDZ182), pp. 27, 28 (under seal); P2447 (Witness statement of KDZ182), p. 62 (adding that the ABiH wanted to gain territory also before the winter set in); P2425 (From SRK to UNPROFOR, 17 November 1994) (in which Dragomir Milošević informed UNPROFOR that that the SRK would strictly control the crossings of the frontlines by UNPROFOR and humanitarian organisations). **A strict control doesn’t mean halt.# A power that is giving the passage is entitled to control many more matters, such as distribution of the aid to the end users, but the Serb side didn’t insist on that#!.**

shot at while travelling on Zmaja od Bosne street, resulting in the wounding of two women.¹¹⁵⁸⁵

3604. At the beginning of December 1994, the SRK shelled Sarajevo's downtown area with wire-guided missiles from within the TEZ.¹¹⁵⁸⁶ On 5 December, at a meeting between Rose and Andreev on one side and Gvero and Tolimir on the other, Gvero connected the opening of the airport to assurances from NATO that it would not bomb targets in Bosnian Serb territory.¹¹⁵⁸⁷ The effectiveness of the WCPs began to deteriorate and on 6 December VRS members forcibly removed a number of weapons from various sites around Sarajevo.¹¹⁵⁸⁸ On 8 December, Andreev wrote to the Accused protesting the Bosnian Serb forces' refusal to provide the necessary security guarantees for UNPROFOR and UNHCR flights into Sarajevo airport.¹¹⁵⁸⁹ On 10 December, UNPROFOR reported that the first convoys in almost a month had arrived in Sarajevo.¹¹⁵⁹⁰ On 12 December, Rose met with Krajišnik, Koljević, Gvero, and Tolimir and told the participants at this meeting that the "endless bureaucracy and checks" of the convoys were unacceptable.¹¹⁵⁹¹ They, in turn, gave assurances that regular convoys would run until a more permanent agreement on convoy procedures was reached.¹¹⁵⁹² According to Banbury, around mid-December, the Bosnian Serbs eased restrictions on freedom of movement in order to come across as the more reasonable party in peace negotiations with President Carter.¹¹⁵⁹³ **(This kind of conclusions made by somebody who couldn't know it for sure are unacceptable. Although Harland remarks could not undermine the fact that the Serbs once again eased restrictions, his #guessing the Serb reasons are pure speculations, particularly since it was not the first time the Serbs made concessions#!)**

3605. On 22 December, a shelling incident took place in the Old Town of Sarajevo, in Baščaršija, resulting in a number of casualties.¹¹⁵⁹⁴ **(In the Milosevic case it wasn't established who fired it, and he as the #Commander of the SRK was acquitted for this incident!#).**

¹¹⁵⁸⁵ See discussion on Scheduled Incident F.14.

¹¹⁵⁸⁶ P820 (Witness statement of David Harland dated 4 September 2009), paras. 151–152, 157; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 183; P870 (UNPROFOR daily report, 1 December 1994), p. 3; P872 (UNPROFOR Weekly Situation Report, 10 December 1994), p. 5; P2427 (UNPROFOR protest letter to SRK, 2 December 1994) (complaining about the attack and indicating that the projectiles landed at the Presidency, the Ministry of Interior, and a cinema); P2447 (Witness statement of KDZ182), pp. 67–68; KDZ182, T. 13178–13179 (10 March 2011).

¹¹⁵⁸⁷ P2456 (UNPROFOR report, 5 December 1994), para. 5; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 75 (to Banbury this indicated the Accused's ability to control access to the airport). Gvero repeated this statement on 10 December at another meeting with the UN. See P872 (UNPROFOR Weekly Situation Report, 10 December 1994), p. 2.

¹¹⁵⁸⁸ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 180; P2414 (Witness statement of KDZ182), pp. 27–28 (under seal).

¹¹⁵⁸⁹ P2475 (UNPROFOR letter to Radovan Karadžić, 8 December 1994), p. 2; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 78.

¹¹⁵⁹⁰ P872 (UNPROFOR Weekly Situation Report, 10 December 1994), p. 5; P820 (Witness statement of David Harland dated 4 September 2009), para. 156.

¹¹⁵⁹¹ P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 182; P1640 (UNPROFOR report, 12 December 1994), paras. 3, 9; P2476 (UNPROFOR report, 13 December 1994); P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 79–83.

¹¹⁵⁹² P2476 (UNPROFOR report, 13 December 1994), paras. 5–6; P1640 (UNPROFOR report, 12 December 1994), para. 3.

¹¹⁵⁹³ P2453 (UNPROFOR report, 15 December 1994), paras. 2(d), 3, 5; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 84–85 (stating that this was an example of the Accused being able to "turn the pressure on and off as he pleased"); Anthony Banbury, T. 13321–13323 (15 March 2011). Yasushi Akashi testified that both the Bosnian Serbs and the Bosnian Muslims viewed humanitarian aid as "something very political and militarily significant" and that both sides interfered with humanitarian aid. See Yasushi Akashi, T. 37767–37768 (25 April 2013); D3489 (Excerpt from Yasushi Akashi's book entitled "In the Valley between War and Peace"), p. 16.

¹¹⁵⁹⁴ See discussion on Scheduled Incident G.9.

3606. On 31 December 1994, the COHA was signed under the auspices of Jimmy Carter, followed by the agreement on its implementation signed on 11 January 1995; it was to last for an initial period of four months, subject to renewal by the parties.¹¹⁵⁹⁵ As part of this agreement, the parties also agreed to provide full freedom of movement to UNPROFOR and UNHCR for the delivery of humanitarian aid resulting in the re-opening of the Blue Routes, including the Airport Routes.¹¹⁵⁹⁶ As a result, the situation in Sarajevo improved, and January and February 1995 were relatively peaceful.¹¹⁵⁹⁷ There was also a substantial improvement in the humanitarian situation and more than 5,000 people were using the Airport Routes daily.¹¹⁵⁹⁸

None of them were the Serbs. However, only five day later the ABiH issued a Directive to continue offensive combat operations of the BH Army. Being protected by the UN and NATO, they got an advantage that couldn't be compensated by anything. See D02016.

5 January 1995
(time/date/hour of issue)

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Kakanj
(Place of issue)

(time of delivery)

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TO THE COMMAND OF: 1st, 2nd, 3rd, 4th, 5th, 7th CORPS and
IBOG /Eastern Bosnia Operations Group/ Goražde

DIRECTIVE TO CONTINUE OFFENSIVE
COMBAT OPERATIONS OF THE BH ARMY

¹¹⁵⁹⁵ P1648 (Agreement on Cessation of Hostilities, 31 December 1994); P2428 (UNPROFOR report, 1 January 1995); P820 (Witness statement of David Harland dated 4 September 2009), paras. 158, 160–161 (testifying also that this agreement on implementation was never really implemented as all sides had other plans); P873 (Cease-fire Agreement, 11 January 1995); P874 (UNPROFOR report re cease-fire agreement, 11 January 1995); Rupert Smith, T. 11298 (8 February 2011), T. 11841 (15 February 2011); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 186–188, 190–194; KDZ182, T. 13183 (10 March 2011) (also testifying that neither side complied with the agreement in its entirety); Yasushi Akashi, T. 37674, 37723–37726 (24 April 2013); D3503 (UNPROFOR fax, 19 December 1994); D3504 (UNPROFOR fax, 20 December 1994); D3505 (Letter from Yasushi Akashi to Radovan Karadžić, 24 December 1994). *See also* para. 410.

¹¹⁵⁹⁶ *See* para. 410.

¹¹⁵⁹⁷ Anthony Banbury, T. 13314–13315 (15 March 2011); D1018 (UNPROFOR letter to Nikola Koljević, 4 February 1995) (indicating Smith's intention to open airport routes to civilian traffic); Martin Bell, T. 9903, 9906–9907 (15 December 2010); KDZ182, T. 13183 (10 March 2011).

¹¹⁵⁹⁸ D1166 (UNPROFOR Weekly Situation Report, 18 February 1995), p. 2; Anthony Banbury, T. 13314–13315 (15 March 2011), T. 13488–13489 (16 March 2011); D1124 (UNPROFOR report, 7 April 1995), para. 5; KDZ182, T. 13109–13111, 13183 (10 March 2011); P2478 (UNPROFOR Weekly Situation Report (Sarajevo), 4 March 1995), para. 19; P2455 (UNPROFOR Weekly Situation Report (Sarajevo), 11 March 1995), para. 10 (adding that the airport was closed to humanitarian flights on 7 March and 11 March after planes were hit by gunfire); D1123 (UNPROFOR report on the implementation of COHA during March 1995), p. 4; P2480 (Minutes of Kiseljak's Civil Affairs monthly meeting, 21 March 1995); Vladimir Radojčić, T. 31278 (12 December 2012) (recalling that after cease-fires were signed more humanitarian aid would arrive in Sarajevo). *But see* D2287 (UNPROFOR daily report, 9 February 1995), p. 1 (reporting that Bosnian Serb forces had rejected "a lot" of convoy requests for the following day and that this posed a "real threat" to UNPROFOR's freedom of movement).

2. The BH Army, currently organised into six corps (1st, 2nd, 3rd, 4th, 5th and 7th), ~~one~~ division (~~BOG~~), one guard brigade, one reconnaissance and sabotage brigade and one mountain brigade, GŠA /Army General Staff/ and the RV i PVO /Air Force and Anti-Aircraft Defence/, having conducted a series of successful offensive operations of tactical, and partly operational, importance, and having liberated 1,800 square kilometres of area, is currently defending the free territory along the following axis:

Nedžarić (east part of the landing strip) – Vojničko Polje – Old People's Home –

Stupsko Brdo – the Dobrinja river – Stup – UPI /Agricultural Processing

Complex/ *Hladnjača* /cold storage depot/ - Azići:

(200 metres east) – bridge over the Miljacka river – *Centrotrans* – 21 May Street –

Lemezi – tt /trig point/ 566 – Zabrđe – Mijatovića Kosa – Vis (tt 696) – tt 850

(750 metres S/Z /northwest/) – Ugorsko (1,000 metres west) – Hrastik – Balina

Brdo (750 metres north) – Hotonj village – Brijeg (tt 703) 250 metres j/z

/southwest/ – Slatina village – Cemetery – Grdonj (500 metres north) – tt 906 (100

metres south) – Pašino Brdo (250 metres south) – Hladivode – tt 929 (250 metres

east) – Borije – Hrasova Glava (tt 896) – Kozija Čuprija – Kosmatica – Bistrik

Kula (750 metres north) – Berkuša – Debelo Brdo (tt 745) – Jewish Cemetery –

Vrbanja Bridge – National Museum – Omladinsko Šetalište – Bristol Hotel –

Electricity Supply Board building – *Strojorad* – Grbavica Stadium west – Demino

Brdo – tt 623 – tt 699, 500 metres south – *Keli* café – j/i /southeast/ slopes of

Mojmilo (Trapara houses) – Veljine – part of Dobrinja 3 – landing strip.

Bezistan – Stojčevac – Igran playground /?of the/ *Butmir* PI /?Agricultural Institute/

– along the landing strip (250 metres southwest) – Donji Kotorac – Sokolović

Kolonija – *Famos* drainage canal – Gajevo – quarry above Krupac – Stazije (750

metres east) – Zoranović village – Dubrave – Prečko Polje – Šabanci – Dejičići – Kuk

– Crvena Strana – Oblič (tt 1876) – Zubovi – Ilijaš (tt 1879) – M.V Ljeljen –

Djevigrad (tt 2034) up to juncture with the 4th K.

(First, this directive (28 pages) directly thwarted the Jimmy Carter's peace Agreement, only five days after signed. Second, the list of "liberated" Sert settlements within Sarajevo, undoubtedly indicates who was starting the offensives in Sarajevo, while the Internationals accused Serbs for defending their settlements! Finally, this Directive clearly ordered the recapture of the entire BH territory, and thus quitting of the existence of the Serbian people in BH. Asim Dzambasovic testified that their objective

was to recapture the whole BH. The Serb side had to behave in accordance with the challenges and dangers that faced, and any chamber would take it into consideration.)

3607. Yet, towards the end of February 1995 there was an increase in sniping incidents in the city, including the sniping of civilians.¹¹⁵⁹⁹ On 27 February, a tram was shot at while travelling on Zmaja od Bosne street, resulting in a number of casualties.¹¹⁶⁰⁰ In March the situation deteriorated in other parts of BiH, and the COHA was beginning to collapse, largely due to ABiH activities, which then led to the resumption of sniping and shelling in Sarajevo on a regular basis.¹¹⁶⁰¹ On 3 March, another tram on Zmaja od Bosne street was shot at, resulting in casualties, while Tarik Žunić, a 14 year old boy, was shot at in the Sedrenik area while walking home from school.¹¹⁶⁰² On 5 March, Mladić told General Rupert Smith, commander of UNPROFOR BiH Command,¹¹⁶⁰³ that the SRK's increase in sniping in Sarajevo was in response to Serb casualties suffered in the military offensives launched by the ABiH, which to Smith was an explicit recognition that sniping was used by the SRK as a punitive measure rather than for any military gain.¹¹⁶⁰⁴ **(However, a proper reading of the document doesn't show what is said in this para. Mladić didn't say that it was ordered to do so, but explained that the other side is provoking this responses, see: P01470**

(3) The airport tunnel.

3. Gen Smith questioned Gen Mladić on the reason for the upsurge in sniping attacks in Sarajevo. Gen Mladić cited recent Serb casualties from BiH attacks. Gen Mladić also accused UNPROFOR of permitting BiH forces to use the Safe Area of Sarajevo to mount attacks against Bosnian Serbs. Gen Smith strongly denied the assertion that UNPROFOR had failed in its mission, rather the parties have failed to cooperate with the UN.

No mentioning of a deliberate punishing action by Mladić. Whenever the Serb side tried #to be objective and to understand a feature, not to justify it, that was understood as a Serb confession of crimes#! #And, if Smith testified something else, why it wasn't in this report of his own?#)

On 8 March 1995, Directive 7 was signed by the Accused, ordering the SRK to, among other things, prevent the lifting of the blockade of Sarajevo “from without” by using “decisive defence”.¹¹⁶⁰⁵ As a result, the conditions in Sarajevo deteriorated with an alarming upsurge in

¹¹⁵⁹⁹ Rupert Smith, T. 11310, 11331 (8 February 2011), T. 11461–11463 (9 February 2011).

¹¹⁶⁰⁰ See discussion on Scheduled Incident F.15.

¹¹⁶⁰¹ P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 91–92; P2478 (UNPROFOR Weekly Situation Report (Sarajevo), 4 March 1995); Anthony Banbury, T. 13315 (15 March 2011); P820 (Witness statement of David Harland dated 4 September 2009), paras. 164–167; P876 (UNPROFOR Memo re meeting with Ratko Mladić, 6 March 1995); Rupert Smith, T. 11309–11310, 11329–11331 (8 February 2011), T. 11461–11463 (9 February 2011), T. 11583–11592 (10 February 2011); D1019 (Ratko Mladić letter to UNPROFOR, 11 February 1995); D1020 (Ratko Mladić letter to UNPROFOR, 13 February 1995); D1023 (Ratko Mladić letter to UNPROFOR, 24 February 1995); D1024 (Ratko Mladić letter to UNPROFOR, 3 March 1995); P1470 (UNPROFOR report re meeting with Ratko Mladić, 5 March 1995), para. 6; P2255 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 14 March 1995), e-court p. 6; P2429 (UNPROFOR report, 21 March 1995); D1124 (UNPROFOR report, 7 April 1995), para. 5(c).

¹¹⁶⁰² See discussion on Scheduled Incidents F.16 and F.17.

¹¹⁶⁰³ Rupert Smith, T. 11296–11298 (8 February 2011).

¹¹⁶⁰⁴ Rupert Smith, T. 11309–11311 (8 February 2011); P1470 (UNPROFOR report re meeting with Ratko Mladić, 5 March 1995), para. 3; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 94–95; P2455 (UNPROFOR Weekly Situation Report (Sarajevo), 11 March 1995), para. 9; Anthony Banbury, T. 13330–13331 (15 March 2011).

¹¹⁶⁰⁵ P838 (Directive 7, 8 March 1995), pp. 7, 11–12. While the English translation of P838 refers to the lifting of the “siege” on page 7, the Chamber recalls the CLSS memorandum attached to D235 and the explanation therein as to how the BCS word “deblokada” (which is used on page 7 of P838) should be translated. The memorandum provides that the accurate translation is the “lifting of the blockade”.

military activity, including a substantial increase in sniping activities against civilians causing the tram service to be stopped.¹¹⁶⁰⁶ **(That was a Muslim choice! They could have cease fighting and respect the Carter's agreement, but they have chosen to issue the above presented Directive (D2016) deciding as the Directive provided, the liberation of the entire BiH, which meant expelling all the Serbs from Sarajevo and Bosnia itself! What Army would allow that?)** In this period, Grbavica was sniped by the ABiH, resulting in the deaths of two Serb girls; this in turn led to increased shelling in Sarajevo and prompted the Accused to close the Blue Routes.¹¹⁶⁰⁷ Thus, on 12 March 1995, the city was subjected to the heaviest shelling since September 1994, while the number of sniping casualties in the period up to 18 March was the highest since August 1994.¹¹⁶⁰⁸ According to Smith, the bulk of the shelling and sniping in this period came from the Bosnian Serb side and, in his view, was aimed at harassing the population at large.¹¹⁶⁰⁹ **(This is #another guessing and speculation#. Taking into account the fact the entire Sarajevo was militarised and filled with the armament and military units, there can not be said that it was for a purpose of harassing the population. The more probable inference is that the fire was aimed at some of the firing places of the ABiH. Also, Smith was (mis)informed by his associates, and they didn't know how to differentiate the Serb from the Muslim fire, because both armies had the same positiond on the hills!)** On 14 March, Akashi met with the Accused, Mladić, Krajišnik, and Koljević, and the Accused reiterated the Bosnian Serb policy that the Airport Routes would close for one month for every Bosnian Serb killed by sniping in Sarajevo.¹¹⁶¹⁰ Subsequent attempts to negotiate the reopening of the Airport Routes failed.¹¹⁶¹¹ On 25 March 1995, Smith met with Koljević who openly admitted that the Bosnian Serb side's intention now was to pursue the end of the war through military means; in Smith's view, given that the Serbs lacked manpower, they were going to do this by relying on fire-power.¹¹⁶¹² By the end of March, there was a widespread resumption of fighting in

See D235 (Directive 3, 3 August 1992). Accordingly, the Chamber considers that the reference to the "siege" in the English translation of P838, page 7, is inaccurate and has therefore used the term "lifting of the blockade" in the text above.

¹¹⁶⁰⁶ P820 (Witness statement of David Harland dated 4 September 2009), paras. 169–171; P878 (UNPROFOR report re cease-fire agreement, 29 March 1995), para. 1.

¹¹⁶⁰⁷ P820 (Witness statement of David Harland dated 4 September 2009), para. 171; P879 (VRS Main Staff Report, 11 March 1995); David Harland, T. 2099–2100 (7 May 2010); Rupert Smith, T. 11329–11337 (8 February 2011), T. 11592–11594 (10 February 2011); P2256 (SRK combat report, 12 March 1995); P2257 (UNPROFOR Weekly Situation Report, 18 March 1995), para. 7; D1123 (UNPROFOR Report on the implementation of the Cessation of Hostilities Agreement During March 1995); Yasushi Akashi, T. 37730 (24 April 2013); D3509 (UNPROFOR report, 12 March 1995), paras. 1, 4; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 100; John Zametica, T. 42462 (29 October 2013); Dragomir Milošević, T. 33227–33228 (5 February 2013) (testifying that he could not recall this action but could not "exclude the possibility" that it took place).

¹¹⁶⁰⁸ P2257 (UNPROFOR Weekly Situation Report, 18 March 1995), paras. 6–8; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 99–101; Rupert Smith, T. 11332–11334, 11337–11338 (8 February 2011).

¹¹⁶⁰⁹ Rupert Smith, T. 11333–11334 (8 February 2011). *See also* P2479 (UNPROFOR report, 14 March 1995), para. 3 (listing the Accused and Mladić's complaints to the UN about the Muslim and Croat offensives in BiH in breach of the COHA).

¹¹⁶¹⁰ P2255 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 14 March 1995), p. 7; P2479 (UNPROFOR report, 14 March 1995), para. 6; Rupert Smith, T. 11335 (8 February 2011); P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 98.

¹¹⁶¹¹ P2258 (UNPROFOR report re meeting with Nikola Koljević, 27 March 1995), para. 5 (recounting a meeting with Koljević in which he stated that the policy of closing the airport for every Bosnian Serb killed by sniping was necessary to thwart the efforts of the Bosnian Muslims to force the Bosnian Serbs from Sarajevo); Rupert Smith, T. 11339 (8 February 2011). At a meeting on 5 April 1995, Koljević stated that another Bosnian Serb man had been killed by sniper fire, which meant that the Airport Routes had to close for a total of 90 days. *See* P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 119; P2484 (UNPROFOR report, 5 April 1995), para. 5; P2485 (Anthony Banbury's notes, 5 April 1995), e-court p. 3.

¹¹⁶¹² P2258 (UNPROFOR report re meeting with Nikola Koljević, 27 March 1995), paras. 1–2; Rupert Smith, T. 11338–11340 (8 February 2011). According to Smith, the same was the case with the Bosnian Muslim side. In his view, at this stage both sides wanted to resolve

Sarajevo.¹¹⁶¹³ On 29 March, UNPROFOR reported that an increase in Bosnian Serb firing at UN aircraft at Sarajevo airport led to the suspension of flights between 17 and 24 March.¹¹⁶¹⁴

3608. By April 1995 it became clear that the peace talks were going nowhere as a result of which the COHA was no longer operative, the TEZ was being violated by both sides, and the situation in Sarajevo escalated with a daily average of firing incidents close to 1,000.¹¹⁶¹⁵ On 5 April, the Accused indicated to Smith that a decision had been made to start a counter-offensive and that the Bosnian Serb Forces would employ weapons they had not used yet.¹¹⁶¹⁶ On 7 April, a modified air bomb exploded in Hrasnica inflicting civilian casualties.¹¹⁶¹⁷ On 8 April, the Bosnian Serbs halted the humanitarian airlift, alleging that the UN was violating the Airport Agreement by smuggling arms to the ABiH and subsequent attempts to negotiate the reopening of the airport failed.¹¹⁶¹⁸ In mid-April, two members of UNPROFOR were killed by sniper fire.¹¹⁶¹⁹ On 21 April, Akashi and Smith met with both sides separately to negotiate an extension of the COHA; however, while both sides expressed a desire to extend it, they demanded that it be done on their terms so no mutual agreement was reached.¹¹⁶²⁰ According to Akashi, while the Bosnian Serbs and Bosnian Croats were in favour of “some kind of continuation” of the COHA, the Bosnian Muslims were against it.¹¹⁶²¹ **Important #for the**

the situation through military means and not through negotiations. *See* Rupert Smith, T. 11342–11343 (8 February 2011), T. 11593–11595 (10 February 2011); P2248 (Radovan Karadžić’s Order to RS Government, VRS Main Staff, and Presidents of Municipalities, 26 March 1995).

¹¹⁶¹³ P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 99; P2032 (BBC news report re targeting safe areas, with transcript); D182 (Order of ABiH 12th Division, 20 March 1995); P1778 (UNPROFOR report re meeting with General Milošević, 21 March 1995).

¹¹⁶¹⁴ P878 (UNPROFOR report re cease-fire agreement, 29 March 1995), para. 3; P820 (Witness statement of David Harland dated 4 September 2009), para.171; D1123 (UNPROFOR report on the implementation of the COHA during March 1995), para. 17.

¹¹⁶¹⁵ P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 120; P2486 (UNPROFOR Weekly Situation Report (Sarajevo), 16 April 1995), paras. 1, 3–4; P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 51; P820 (Witness statement of David Harland dated 4 September 2009), para. 174; P882 (UNPROFOR Weekly Situation Report (Sarajevo), 14 April 1995), pp. 1–2; Rupert Smith, T. 11341 (8 February 2011); P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 39; P2011 (Video footage of Sarajevo, with transcript); P2414 (Witness statement of KDZ182), p. 52 (under seal); KDZ182, T. 13054–13055, 13057–13058 (9 March 2011), T. 13185–13186 (10 March 2011); D1117 (UNPROFOR protest letter to Rasim Delić, 26 April 1995); P2442 (UNPROFOR letter re heavy weapon violations in safe areas, 26 April 1995).

¹¹⁶¹⁶ Rupert Smith, T. 11344–11346 (8 February 2011); P2260 (UNPROFOR report re meeting with Radovan Karadžić, 5 April 1995), paras. 9–10, 14.

¹¹⁶¹⁷ *See* discussion on Scheduled Incident G.10.

¹¹⁶¹⁸ P820 (Witness statement of David Harland dated 4 September 2009), para. 173. On 19 April 1995, in a meeting between Smith, Aguilar, Harland, Krajišnik, Mandić, and Stanišić, Krajišnik stated that he agreed “in principle” to the resumption of the humanitarian airlift, but that the details were in the hands of Koljević, who was in charge of humanitarian aid. *See* P881 (David Harland’s note re meeting in Pale on Sarajevo Airport, 20 April 1995), p. 2; P820 (Witness statement of David Harland dated 4 September 2009), para. 173. At another meeting with Mandić on 26 April 1995, Harland sought assurances that security guarantees would be provided for flights carrying UN civilians and UNHCR flights, but these assurances were never provided. *See* P884 (David Harland’s note re discussions in Pale on Sarajevo airport, 26 April 1995), p. 1; P820 (Witness statement of David Harland dated 4 September 2009), para. 176.

¹¹⁶¹⁹ P820 (Witness statement of David Harland dated 4 September 2009), para. 172; P880 (UNPROFOR Memo re anti-sniping project, 24 April 1995); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 34–36, 72; David Fraser, T. 8016–8017 (18 October 2010); Rupert Smith, T. 11333 (8 February 2011); D2907 (UNPROFOR report, 18 April 1995); P2414 (Witness statement of KDZ182), pp. 8, 42, 72–73 (under seal); P2407 (Witness statement of KDZ304), p. 10; KDZ304, T. 10514–10515 (18 January 2011); P2011 (Video footage of Sarajevo, with transcript). While Harland, Fraser, KDZ304, and KDZ182 testified that one of those two French soldiers was killed by the SRK while erecting anti-sniping barriers, Edin Garaplija gave evidence that he was in fact shot by Nedžad Herenda, a member of the Bosnian Muslim Ševe unit. As discussed later, the Chamber considers this to be an accurate reflection of the events. The witnesses all agree that the other UN soldier shot in this period was shot by the ABiH in the area of Dobrinja. *See* para. 4505, fn. 15085.

¹¹⁶²⁰ P2261 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 22 April 1995), para. 1; Rupert Smith, T. 11347–11350 (8 February 2011), T. 11596–11599 (10 February 2011). *See also* P2489 (UNPROFOR Weekly Situation Report (Sarajevo), 24 April 1995), paras. 3–5.

¹¹⁶²¹ Yasushi Akashi, T. 37222 (24 April 2013).

inferences#! During this meeting, the Accused told Akashi that the Airport Routes would remain closed as long as sniping against Bosnian Serbs continued.¹¹⁶²² **Since the sides signed an anti-sniping agreement, the UN was obliged to force the Muslim side to obey with it.** Akashi and Smith had two more rounds of these meetings on 30 April and 1 May but no progress was made; afterwards, Smith reported that the Bosnian Muslim side refused the continuation of COHA but promised it would exercise restraint while the Bosnian Serb side unanimously decided to resolve the situation by military means.¹¹⁶²³ At the meeting of 30 April, which was attended, among others, by Akashi, Smith, Janvier, Koljević, and Krajišnik, the Accused stated that the Bosnian Serbs would not uphold the Airport Agreement as long as the Anti-Sniping Agreement was not being upheld by the other side.¹¹⁶²⁴ According to Harland, from this point there was no resumption of humanitarian airlift until the end of the war.¹¹⁶²⁵ The Airport Routes also did not reopen until the end of the war.¹¹⁶²⁶ Consequently, by May 1995, the humanitarian situation in Sarajevo was rapidly deteriorating.¹¹⁶²⁷ **T#hat was the choise of the Muslim side. They exercised a deeply illegal actions, counting on the NATO support, and the UN helped them, leading the Serb side into disastrous defeat and annihilation.#**

3609. In response to Bosnian Serb mortar attacks on civilian areas of Sarajevo on 7 and 8 May 1995, Smith requested that NATO conduct air strikes but his request was denied; Smith informed the Accused of his reasons behind the request during their meeting on 9 May, at which point the Accused did not deny that civilian areas were attacked.¹¹⁶²⁸ **#Didnt deny, but didn't admit too#! How possibly the President could deny or confirm something that required an investigation. The inferences based upon this kind of "remarks" shouldn't be valid, since there is another inference, namely that the President couldn't either deny or confirm it. Every single time the Serbs being frank, it is used against them, one or the other way!)** On 12 May, an ABiH offensive around Sarajevo started and the SRK suppressed the ABiH attacks displaying military prowess and dominant fire power.¹¹⁶²⁹ **(For any "inference" pertaining to this fact there must be brought in mind that the #ABiH started the offensive#.** By mid-May, the TEZ had largely collapsed and both sides were using their heavy weapons liberally, particularly around the

¹¹⁶²² P2261 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 22 April 1995), para. 10; Rupert Smith, T. 11348–11349 (8 February 2011).

¹¹⁶²³ Rupert Smith, T.11352–11355 (8 February 2011), T.11601–11603 (10 February 2011); P2262 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 30 April 1995), paras. 1–2, 4–5; P2263 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 1 May 1995), pp. 3–4; D3511 (UNPROFOR report, 22 April 1995), para. 5; Yasushi Akashi, T. 37733–37735 (24 April 2013) (testifying that during their meeting he thought the Accused's position was non-compromising and that he was at that point ready to defy the international community).

¹¹⁶²⁴ P2262 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 30 April 1995), para. 11.

¹¹⁶²⁵ P820 (Witness statement of David Harland dated 4 September 2009), para. 173.

¹¹⁶²⁶ P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 100.

¹¹⁶²⁷ P820 (Witness statement of David Harland dated 4 September 2009), paras. 182–183; David Harland, T. 2217 (10 May 2010); P2407 (Witness statement of KDZ304), p. 33; P886 (UNPROFOR Weekly Situation Report (Sarajevo), 13 May 1995), p. 2; P2441 (UNPROFOR Weekly Situation Report (Sarajevo), 19 May 1995), p. 3. *See also* Adjudicated Facts 3088, 3089.

¹¹⁶²⁸ P2264 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995), para. 3; Rupert Smith, T. 11355–11360 (8 February 2011). *See also* P2415 (UNPROFOR protest letter to SRK, 7 May 1995) (in which Gobilliard complained to Dragomir Milošević about constant firing on civilians around the city and on the Mt. Igman route); P1762 (Witness statement of David Fraser dated 17 October 2010), p. 72.

¹¹⁶²⁹ P820 (Witness statement of David Harland dated 4 September 2009), paras. 180–183; P886 (UNPROFOR Weekly Situation Report (Sarajevo), 13 May 1995); D184 (ABiH 1st Corps combat report, 16 May 1995); Rupert Smith, T. 11469–11470 (9 February 2011); D1118 (UNPROFOR Weekly Situation Report (Sarajevo), 21 May 1995); D1119 (ABiH Security Information Center Sarajevo report, 18 May 1995) (indicating that fire was opened by the ABiH on Grbavica from civilian areas and from the areas in the vicinity of the UN); Dragomir Milošević, T. 32718–32719 (28 January 2013); KDZ304, T. 10496–10498 (18 January 2011).

confrontation lines.¹¹⁶³⁰ In late May, there was an outbreak of fighting along the confrontation lines and both sides withdrew heavy weapons from the WCPs; the Bosnian Serb side then used them to shell civilian areas in Sarajevo, as a result of which, on 24 May, Smith issued an ultimatum that they would be subject to air strikes if they did not cease firing their heavy weapons on that day.¹¹⁶³¹

(#Against any rule, logics and military necessity#! As a matter of fact, it was an #ultimatum to return the weapons to the WCPs, in the middle of the Muslim fearce offensive#, which would be detrimental, and nobody would obey such an order. Although the President begged Gen. Milovanovic to return some weapons, see D987:

been after me all day. I didn't want to talk to him. I just, he managed to find me. He asked me if I could do something in the next few minutes. Is it that difficult to give back those four weapons, some four weapons. Nikola is here too, he heard it. I told

On the same day, two modified air bombs exploded in Safeta Zajke street and Majdanska street, killing and injuring a number of people.¹¹⁶³² The Bosnian Serbs did not return the weapons as instructed by Smith and air strikes were launched on 25 May; this led to further shelling of Sarajevo, as well as a number of UN personnel being detained around BiH and a crisis point in the relationship between the UN and the Bosnian Serb side.¹¹⁶³³ On 26 May, yet another modified air bomb exploded, this time on Safeta Hadžića street, injuring a number of people.¹¹⁶³⁴ On 27 May, an incident between the UN and the SRK soldiers took place on the Vrbanja Bridge, deepening the crisis even further.¹¹⁶³⁵ On 27 May, at a meeting of Akashi's staff, Banbury wrote that they were "paralysed on everything" including humanitarian aid.¹¹⁶³⁶ On 28 May, UNPROFOR reported that, in response to NATO air strikes, the Bosnian Serbs blocked land access to Sarajevo and severely restricted UNPROFOR's freedom of movement.¹¹⁶³⁷ On 26 May, Dragomir Milošević issued an order to SRK units to establish a "full blockade" of UNPROFOR and to disregard UN requests for food and water.¹¹⁶³⁸ According to Harland, at this time the Bosnian Serbs sought to impose a

¹¹⁶³⁰ P2441 (UNPROFOR Weekly Situation Report (Sarajevo), 19 May 1995), pp. 1–2; P2414 (Witness statement of KDZ182), pp. 93–94 (under seal); D2900 (Order of ABiH 12th Division, 20 May 1995); P1762 (Witness statement of David Fraser dated 17 October 2010), p. 72; P2407 (Witness statement of KDZ304), p. 10. *See also* Adjudicated Fact 2791.

¹¹⁶³¹ P820 (Witness statement of David Harland dated 4 September 2009), para. 183; Rupert Smith, T. 11365–11372 (8 February 2011), 11470–11472 (9 February 2011), T. 11477–11483 (10 February 2011); D185 (12th Division ABiH combat report, 24 May 1995); D1009 (Excerpt from Rupert Smith's book entitled "The Utility of Force: The Art of War in the Modern World"); D1027 (UNPROFOR press statement, 22 May 1995); P2267 (UNPROFOR report re telephone conversation with Ratko Mladić, 25 May 1995); P2268 (UNPROFOR report re telephone conversations with Ratko Mladić, 26 May 1995); D1051 (UNPROFOR report on air strikes, 26 May 1995); P2447 (Witness statement of KDZ182), p. 74. Smith conceded that the ABiH also had heavy weapons outside of the WCP. *See* Rupert Smith, T. 11866–11871 (15 February 2011); D1052 (ABiH 1st Krajina Corps combat report, 31 May 1995). *See also* Adjudicated Facts 2792, 2793; Section IV.D.1.a: NATO air strikes.

¹¹⁶³² *See* discussion on Scheduled Incidents G.11 and G.12.

¹¹⁶³³ Rupert Smith, T. 11367–11369 (8 February 2011), T. 11493–11498 (10 February 2011); D1058 (UNPROFOR report to Marrack Goulding, 30 May 1995), paras. 8–12; D987 (Intercept of conversation between Radovan Karadžić and General Milovanović, 25 May 1995). *See also* Adjudicated Facts 2793, 2794, 2796; Section IV.D: Hostages component.

¹¹⁶³⁴ *See* discussion on Scheduled Incident G.13.

¹¹⁶³⁵ D1058 (UNPROFOR report to Marrack Goulding, 30 May 1995), para. 13; P2447 (Witness statement of KDZ182), pp. 75–76. *See also* Section IV.D: Hostages component.

¹¹⁶³⁶ P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 167; P2498 (Anthony Banbury's notes, 27 May 1995), e-court p. 1.

¹¹⁶³⁷ P6275 (UNPROFOR Weekly Situation Report, 28 May 1995), para. 6; D1058 (UNPROFOR report to Marrack Goulding, 30 May 1995), para. 14.

¹¹⁶³⁸ P6097 (SRK Order, 26 May 1995), pp. 1–2; Dragomir Milošević, T. 33231 (5 February 2013) (explaining that the purpose of this order was to exert greater control over the movement of UNPROFOR convoys).

“total blockade” on Sarajevo and cut off its food supply completely.¹¹⁶³⁹ Following these events the WCPs ceased to exist.¹¹⁶⁴⁰

3610. Due to the total blockade on its freedom of movement, UNPROFOR fortified the road over Mt. Igman so that at least some humanitarian aid could be provided to Sarajevo.¹¹⁶⁴¹ Until the end of the war, this road was the only viable route for the delivery of humanitarian aid to Sarajevo.¹¹⁶⁴² However, this road was also used by ABiH forces at night, as a result of which the SRK forces fired on vehicles using that route at night.¹¹⁶⁴³ On 6 June UNHCR reported that a third of the civilian population of Sarajevo (approximately 100,000 people) was totally dependent on aid, that Sarajevo airport would be completely emptied of supplies by the following day, that the bakery would run out of flour on 8 June, that only 15% of the aid target would be achieved by 10 June, by which point there would be no aid to distribute to the civilian population.¹¹⁶⁴⁴ However, on 8 June, UNHCR and UNPROFOR met with the Accused and Koljević and successfully negotiated an agreement to deliver humanitarian aid to Sarajevo by land through the Sierra 1 check-point.¹¹⁶⁴⁵ **(However, #there was no interruption in providing the food to the civilians#. And had it not been distributed to the ABiH and to the black market, there would be stocks for more days. Just for an inference!)**

3611. In the last months of the conflict, the balance of power evolved and the ABiH was able to attack in much greater strength and with better equipment.¹¹⁶⁴⁶ **(How come? Who delivered them the “better equipment”? What way? Does it mean that the pressure over the Serbs about food and other needs was fake, since there was so many channels to smuggle even a “new equipment”#?)** According to Akashi, at that juncture the BiH government, supported by the US government, did not want a long-term cease-fire as that would have made Bosnian Serb territorial gains permanent.¹¹⁶⁴⁷ On 16 June 1995, the ABiH started a series of large-scale attacks, trying to break out of Sarajevo; they saw some success in the early stages, but were pushed back with heavy casualties.¹¹⁶⁴⁸ **(Are those casualties**

¹¹⁶³⁹ P820 (Witness statement of David Harland dated 4 September 2009), para. 178.

¹¹⁶⁴⁰ P2447 (Witness statement of KDZ182), p. 77.

¹¹⁶⁴¹ P820 (Witness statement of David Harland dated 4 September 2009), para. 178; David Harland, T. 2178, 2203–2204 (10 May 2010); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 22 (testifying that when the airport was closed the only way to move in and out of Sarajevo was across Mt. Igman); P2407 (Witness statement of KDZ304), pp. 18, 25 (testifying that the only way that UNPROFOR could “bypass the blockade” established by the SRK was to use the Igman road, as all other access routes were blocked by SRK forces); Dragomir Milošević, T. 33232 (5 February 2013) (testifying that UNPROFOR was forced to use the Mt. Igman road at this time because all the other roads into Sarajevo were blocked). *See also* D4487 (UNPROFOR Report on meetings in Sarajevo and Pale, 13 November 1994), para. 2 (under seal).

¹¹⁶⁴² P820 (Witness statement of David Harland dated 4 September 2009), para. 178.

¹¹⁶⁴³ P2407 (Witness statement of KDZ304), p. 26; Dragomir Milošević, T. 33239 (5 February 2013).

¹¹⁶⁴⁴ P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 172; P2503 (Anthony Banbury’s notes, 6 June 1995), e-court p. 2; P4192 (UN Weekly Situation Report, 29 May–4 June 1995), para. 14.

¹¹⁶⁴⁵ D1125 (UNPROFOR daily report to UNSC, 9 June 1995), p. 1; P890 (UNPROFOR Weekly Situation Report (Sarajevo), 10 June 1995), p. 3; P820 (Witness statement of David Harland dated 4 September 2009), para. 191.

¹¹⁶⁴⁶ Martin Bell, T. 9911–9912 (15 December 2010).

¹¹⁶⁴⁷ Yasushi Akashi, T. 37673–37674 (24 April 2013); D3489 (Excerpt from Yasushi Akashi’s book entitled “In the Valley between War and Peace”), p. 32. *See also* P2407 (Witness statement of KDZ304 undated), pp. 23–24 (testifying about ABiH attacks in early June followed by disproportionate SRK response resulting in a protest by Gobilliard to Dragomir Milošević); P2134 (UNPROFOR protest letter to Dragomir Milošević, 8 June 1995).

¹¹⁶⁴⁸ P820 (Witness statement of David Harland dated 4 September 2009), paras. 190, 203 (testifying that the offensive was a military operation, directed primarily at the SRK); P892 (UNPROFOR Weekly Situation Report Sarajevo), 24 June 1995), pp. 1–2; David Harland, T. 2340–2351 (11 May 2010); D183 (Orders of 102nd Mountain Brigade of ABiH, May to June 1995); D186 (111th Brigade ABiH combat report, 16 June 1995); D187 (115th Mountain Brigade ABiH combat report, 16 June 1995); D188 (105th Brigade ABiH combat report, 16 June 1995); D189 (105th Brigade ABiH combat report, 19 June 1995); D191 (12th Division ABiH combat report, 4

depicted as a civilian, or military casualties?) As a result, the SRK retaliated and the situation in Sarajevo deteriorated, with a number of civilians killed at water lines and market places and the SRK firing modified air bombs at the city.¹¹⁶⁴⁹ **(#JUSTIFIABLE, MILITARY NECESSITY# NOT AIMED AGAINST CIVILIANS#)** On the same day two modified air bombs exploded in different parts of Sarajevo, injuring a number of people.¹¹⁶⁵⁰ On 17 June 1995, noting the ABiH offensive, the Accused declared a state of war in the zone of responsibility of the SRK.¹¹⁶⁵¹ Its aim was to “enable the full engagement of human and material potential” in defence of the RS and to “take all necessary measures to achieve the defined aims” of defeating the enemy.¹¹⁶⁵² The situation was becoming desperate and the morale was very low as the SRK adopted a new strategy to clench their grip on urban Sarajevo in response to every hill taken by the ABiH outside of Sarajevo.¹¹⁶⁵³ UNPROFOR’s freedom of movement inside Sarajevo was also limited due to proliferation of ABiH check-points.¹¹⁶⁵⁴ **(For inferences!)** In a letter to the Accused dated 15 June, Akashi described the situation in Sarajevo and the eastern enclaves as a “developing disaster” where “humanitarian supplies and relief personnel are prevented from reaching their destinations, warehouses are empty, [and] whole families are crying out for food”.¹¹⁶⁵⁵ At the end of June and the beginning of July, Sarajevo experienced heavy fighting since the SRK was responding to the continued offensives of the ABiH **(...#”RESPONDINGH TO THE CONTINUED OFFENSIVE” WAS LEGAL AND LEGITIMATE, BUT THERE WAS NO INDISCRIMINATORU FIRE, NOR CIVILIAN CASUALTIES#)** by indiscriminately shelling and sniping downtown areas, resulting in civilian casualties.¹¹⁶⁵⁶ **(But, #the only source of this information was the Muslim Ministry for health, see P00896**

The Ministry of Health reported that almost 40 Bosnian civilians were killed during the week, and over 100 injured. These figures have not been confirmed by UNMOs, as the Bosnian authorities no longer allow UNMOs free access to the hospitals.

So, neither the Serbs, nor the UN could have checked anything, and thus the Muslim propaganda was free to disseminate a #fake news as much as wanted!) On 24 June,

July 1995); Martin Bell, T. 9866 (15 December 2010); P2414 (Witness statement of KDZ182), p. 52 (under seal); D1130 (UNPROFOR report, 18 June 1995), e-court pp. 5, 9; D1131 (UNPROFOR Weekly Situation Report, 18 June 1995), para. 8; P2407 (Witness statement of KDZ304), pp. 29–30; KDZ304, T. 10506–10508 (18 January 2011) (private session) (testifying that the offensive was conducted on the confrontation line); D958 (UNPROFOR Weekly Situation Report, 17 June 1995). *See also* discussion on Scheduled Incidents G.14 and G.15, and the evidence outlined therein.

¹¹⁶⁴⁹ P820 (Witness statement of David Harland dated 4 September 2009), paras. 195–199, 203; P892 (UNPROFOR Weekly Situation Report (Sarajevo), 24 June 1995), pp. 1–2; P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 54–55; P2006 (BBC news report re Sarajevo, with transcript); P1679 (BBC news report re Sarajevo, with transcript); Martin Bell, T. 9796–9797 (14 December 2010). *See also* discussion on Scheduled Incidents G.14 and G.15.

¹¹⁶⁵⁰ *See* discussion on Scheduled Incidents G.14 and G.15.

¹¹⁶⁵¹ D2904 (Radovan Karadžić’s Decision, 17 June 1995).

¹¹⁶⁵² D2904 (Radovan Karadžić’s Decision, 17 June 1995), p. 1.

¹¹⁶⁵³ P820 (Witness statement of David Harland dated 4 September 2009), paras. 204–206; P894 (UNPROFOR Memo re meeting in Lukavica, 29 June 1995); P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), p. 32 (testifying that the summer of 1995 was one of the worst periods in terms of sniping and shelling).

¹¹⁶⁵⁴ D1128 (UNPROFOR daily report, 16 June 1995), para. 1; KDZ182, T. 13123 (10 March 2011).

¹¹⁶⁵⁵ P5084 (UNPROFOR report re letter sent to Radovan Karadžić, 15 June 1995), p. 2 (noting that the letter was also sent to Alija Izetbegović).

¹¹⁶⁵⁶ P820 (Witness statement of David Harland dated 4 September 2009), paras. 213–215; P896 (UNPROFOR Weekly Situation Report (Sarajevo), 2 July 1995), pp. 1–3; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 179; P2507 (Anthony Banbury’s briefing notes, 1 July 1995), para. 2; P2274 (UNPROFOR letter to Ratko Mladić, 26 June 1995); Rupert Smith, T. 11420–11421 (9 February 2011). *See also* P2407 (Witness statement of KDZ304), pp. 31–32; KDZ304, T. 10492–10493 (18 January 2011); D1132 (UNPROFOR report, 28 June 1995).

UNPROFOR reported that the first food convoys in more than four weeks had reached Sarajevo but would satisfy the needs of only 20% of the civilian population.¹¹⁶⁵⁷

3612. Throughout July 1995 the situation in the battlefield around Sarajevo was relatively quiet as the Bosnians Serbs focused their attention on Srebrenica, but the shelling and sniping in the city continued unabated, having no apparent military value.¹¹⁶⁵⁸ **(According to his own words, #this witness was not educated to make any military assessments#, see cross exam in this case . Also, the only person able to answer such a question would be the commander in charge, to be asked and to be facilitated an opportunity to justify his action. This #must not be acceptable in a serious court#! The #main issue was who started#? If the Serb side started unprovoked fire, they must have been insane, because they would get a return of fire, and that would be without any “military value”! But, if the Muslim side initiated fire, that wouldn’t be without any military value, because it was usually aimed to get the Serb return fire and be blamed. Neither from the Serb side such a returning fire wouldn’t be “without a military value” because there must had been a returning fire, in order to silent the enemy weapons and discourage them from an advancement!)** According to Harland, in early July the humanitarian situation in Sarajevo had become “desperate” and the “civilian population’s morale was very low, as was UNPROFOR’s”.¹¹⁶⁵⁹ Despite the agreement reached on 8 June 1995, the Bosnian Serb authorities continued to obstruct convoys.¹¹⁶⁶⁰ **(#Left as it is, this is suggested that it was a Serb “bad will”, and not circumstances#. But, it can not be taken into account without remarks that exactly at that time the Muslims launched a big offensive against the Serbs in Sarajevo. Only in the entirety of the situation it could be estimated properly. How possibly any agreement could have been maintained?)** Thus, UNPROFOR and UNHCR again resorted to using the Mt. Igman road in early July 1995 to provide aid, mainly flour, to Sarajevo.¹¹⁶⁶¹ However, Bosnian Serb forces, mainly the units of the Ilidža Brigade, regularly attacked convoys using this route.¹¹⁶⁶² On 15 July, UNPROFOR reported that civilians in

¹¹⁶⁵⁷ P892 (UNPROFOR Weekly Situation Report (Sarajevo), 24 June 1995), pp. 1, 4; P820 (Witness statement of David Harland dated 4 September 2009), para. 190; P2443 (UNPROFOR report re humanitarian situation in Croatia and BiH, 6 July 1995), p. 3 (reporting that the prospect for future aid convoys reaching Sarajevo was “not good” because ABiH forces shelled a convoy in the area of Rajlovac, in response to which Koljević indicated that the Bosnian Serbs would not allow convoys for the next week unless they received written security guarantees from the Bosnian Muslim authorities). *See also* Adjudicated Fact 3090.

¹¹⁶⁵⁸ P820 (Witness statement of David Harland dated 4 September 2009), paras. 217–219; P822 (UNPROFOR Weekly Situation Report (Sarajevo), 8 July 1995), pp. 1–2; P897 (UNPROFOR Weekly Situation Report (Sarajevo), 15 July 1995), pp. 1, 4; P2134 (UNPROFOR protest letter to Dragomir Milošević, 8 June 1995), e-court pp. 2–3; D4646 (SRK Order, 26 July 1995).

¹¹⁶⁵⁹ P820 (Witness statement of David Harland dated 4 September 2009), para. 204; P2443 (UNPROFOR report re humanitarian situation in Croatia and BiH, 6 July 1995), pp. 2–3 (reporting that UNHCR was facing the most serious disruption in its food distribution program in Sarajevo since it began in 1992 as the suspension of UNHCR airlift operations since 8 April 1995 was causing UNHCR to fall well below its food supply targets); P822 (UNPROFOR Weekly Situation Report (Sarajevo), 8 July 1995), p. 1.

¹¹⁶⁶⁰ P2443 (UNPROFOR report re humanitarian situation in Croatia and BiH, 6 July 1995), p. 3 (stating that Bosnian Serb authorities had not given clearance for the delivery of aid to Sarajevo since 20 June 1995 and were demanding 50% of deliveries, rather than the usual 23%); KDZ182, T. 13186–13188 (10 March 2011).

¹¹⁶⁶¹ P2507 (Anthony Banbury's briefing notes, 1 July 1995), para. 4 (stating that UNHCR was considering sending a convoy to Sarajevo via Mt. Igman at dawn on 2 July 1995); P896 (UNPROFOR Weekly Situation Report (Sarajevo), 2 July 1995), p. 5 (stating that a UNHCR convoy carrying 62 tonnes of food arrived in Sarajevo at 3:30 a.m. via the Mt. Igman route)

¹¹⁶⁶² P2407 (Witness statement of KDZ304), pp. 25–26 (under seal); P896 (UNPROFOR Weekly Situation Report (Sarajevo), 2 July 1995), p. 3. A humanitarian convoy arriving on the night of 3 to 4 July 1995 was attacked by the Bosnian Serbs, causing injuries to two drivers and damage to two vehicles, while a second convoy arriving on the night of 6 to 7 July 1995 proceeded without incident. *See* P822 (UNPROFOR Weekly Situation Report (Sarajevo), 8 July 1995), p. 3; P820 (Witness statement of David Harland dated 4 September 2009), para. 218. On the evening of 14 July 1995, a convoy carrying flour on Mt. Igman was attacked from Bosnian Serb territory. Two vehicles were destroyed and two drivers injured. *See* P897 (UNPROFOR Weekly Situation Report (Sarajevo), 15 July 1995), pp. 4–5; Nikola Mijatović, T. 30764 (30 November 2012) (testifying that this report was “not accurate” and the Bosnian Serbs were not the ones who opened fire); D2512 (Report of 1st Ilidža Infantry Brigade, 14 July 1995) (referring to an artillery attack on an “unannounced” convoy of trucks travelling on Mt. Igman). *See also* Rupert Smith, T. 11417 (9 February 2011); P2407 (Witness statement of KDZ304),

Sarajevo were surviving on whatever food they had stockpiled, on what they could grow in vegetable gardens, and whatever goods were brought into Sarajevo through the tunnel.¹¹⁶⁶³ On 19 July, in a meeting with Smith, Mladić agreed to allow UNPROFOR and UNHCR to move convoys into Sarajevo using a route from Kiseljak.¹¹⁶⁶⁴ However, on 30 July, Mladić informed Smith that the Bosnian Muslims had attacked convoys using this route the day before in order to make the route impossible to use, leaving Mt. Igman as the only alternative.¹¹⁶⁶⁵ Mladić also stated that use of the Mt. Igman route by the ABiH was “illegal” and something which the Bosnian Serbs would “never accept”.¹¹⁶⁶⁶ In another meeting with Mladić on 31 July, Smith emphasised the need to reopen Sarajevo airport for the delivery of humanitarian aid and to simplify procedures for checking convoys.¹¹⁶⁶⁷ Mladić responded that the airport could not be opened until ABiH forces withdrew from Mt. Igman and that convoy procedures would be simplified in proportion to the “growth of mutual trust” between UNPROFOR and the VRS.¹¹⁶⁶⁸

3613. On 8 August 1995, the VRS Main Staff issued an urgent order instructing all the corps to warn their units to save ammunition of all calibres as much as possible.¹¹⁶⁶⁹ On 18 August, Milošević issued an order to all SRK units to use “all means to prevent a new offensive to lift the blockade of Sarajevo”.¹¹⁶⁷⁰ On 21 August, in a meeting with Koljević, Pedauye of UNPROFOR emphasised the importance of opening Sarajevo airport before the onset of winter.¹¹⁶⁷¹ Koljević, noting that the Bosnian Muslims were using the tunnel under the airport for military purposes, responded that the Bosnian Serbs were prepared to open the airport only if humanitarian activities were separated from the military ones.¹¹⁶⁷² **For inference!**

3614. On 28 August 1995, the second Markale market incident took place which led to NATO air strikes, as described later in this judgement.¹¹⁶⁷³ On 2 September 1995, Harland and Smith decided to open the airport for anyone wanting to cross it.¹¹⁶⁷⁴ When they informed Krajišnik of this intention, Krajišnik threatened to shoot any vehicle that crossed the airport without Bosnian Serb approval.¹¹⁶⁷⁵ UNPROFOR ignored the threat, which was never carried out—as

p. 26 (testifying that the use of the Igman road was “unacceptable to the Serbs” and that they demanded that UNPROFOR use only the Blue Routes to supply Sarajevo); Dragomir Milošević, T. 33239 (5 February 2013) (testifying that convoys using the Igman route could not be inspected or controlled); Adjudicated Fact 3021. When asked about these attacks, Milošević testified that the SRK “was not shooting at humanitarian aid convoys” but “shooting at those who infiltrated [...] those convoys”, including ABiH vehicles and vehicles transporting weapons. See Dragomir Milošević, T. 33235 (5 February 2013); Nikola Mijatović, T. 30764 (30 November 2012) (testifying that there were no problems when UNPROFOR announced their convoys and were not smuggling ammunition and weapons into Sarajevo).

¹¹⁶⁶³ P897 (UNPROFOR Weekly Situation Report (Sarajevo), 15 July 1995), p. 5.

¹¹⁶⁶⁴ P4178 (Agreement Between General Smith and General Ratko Mladić, 19 July 1995), paras. 4, 6.

¹¹⁶⁶⁵ D2621 (Letter from VRS to UNPROFOR, 30 July 1995), e-court p. 2.

¹¹⁶⁶⁶ D2621 (Letter from VRS to UNPROFOR, 30 July 1995), e-court p. 2; Dragomir Milošević, T. 33242–33243 (5 February 2013) (testifying that the Bosnian Serbs did not provide consent to use of the Mt. Igman road); Vladimir Radojčić, T. 31289 (12 December 2012) (testifying that the Bosnian Serbs objected to use of the Mt. Igman road because it was used to supply the ABiH).

¹¹⁶⁶⁷ D1047 (VRS Main Staff Report, 31 July 1995), p. 3.

¹¹⁶⁶⁸ D1047 (VRS Main Staff Report, 31 July 1995), p. 3.

¹¹⁶⁶⁹ D2813 (VRS Main Staff Order, 8 August 1995).

¹¹⁶⁷⁰ D4619 (SRK report, 18 August 1995), p. 2 (noting also that there have been many false reports by the SRK units and ordering that all measures be taken for complete and correct reporting).

¹¹⁶⁷¹ P2287 (UNPROFOR report re meetings with Bosnian Serb leadership, 22 August 1995), para. 15.

¹¹⁶⁷² P2287 (UNPROFOR report re meetings with Bosnian Serb leadership, 22 August 1995), para. 14.

¹¹⁶⁷³ See discussion on Scheduled Incident G.19.

¹¹⁶⁷⁴ P820 (Witness statement of David Harland dated 4 September 2009), para. 240.

¹¹⁶⁷⁵ P820 (Witness statement of David Harland dated 4 September 2009), para. 240.

a result, traffic began to flow in and out of Sarajevo for the first time since 1992.¹¹⁶⁷⁶ On 14 September, the Accused and Holbrooke agreed on a framework for a cease-fire agreement according to which both the ABiH and the VRS were first to stop all operations within and around the TEZ in Sarajevo, the VRS was to remove its heavy weapons outside of the TEZ while the ABiH was to place its heavy weapons under the control of the UN, and NATO was to cease the air strikes; the framework also envisaged that after all of these steps were completed, an agreement would be signed on cessation of hostilities, first in Sarajevo and then in the rest of BiH.¹¹⁶⁷⁷ At a meeting on 20 September, Smith informed Dragomir Milošević that as part of the cease-fire UNPROFOR required “full and unhindered” freedom of movement, including the removal of Bosnian Serb check-points on roads into Sarajevo.¹¹⁶⁷⁸ On 25 September 1995, Sarajevo trams started working again.¹¹⁶⁷⁹ At meetings on 6 and 8 October, Krajišnik, Dragomir Milošević, and Indić, among others, proposed the opening of several routes into Sarajevo for the delivery of humanitarian aid.¹¹⁶⁸⁰ Following these developments, the situation improved and a cease-fire was agreed upon on 12 October.¹¹⁶⁸¹ The fighting subsided by 14 October 1995.¹¹⁶⁸² **(#Everything depended strictly on the Muslim side conduct!#)**

b. Sniping

3615. The Prosecution alleges that the Accused, together with a number of others, participated in a joint criminal enterprise to establish and carry out a campaign of sniping against the civilian population of Sarajevo between April 1992 and November 1995 the primary purpose of which was to spread terror among the civilian population.¹¹⁶⁸³ In order to illustrate that campaign¹¹⁶⁸⁴ the Prosecution presented, *inter alia*, detailed evidence in relation to 16 sniping incidents listed in Schedule F of the Indictment.¹¹⁶⁸⁵ These incidents included sniping of trams as well as sniping of individual victims who found themselves on the streets

¹¹⁶⁷⁶ P820 (Witness statement of David Harland dated 4 September 2009), para. 240.

¹¹⁶⁷⁷ D1017 (Drina Corps Order, 14 September 1995), p. 1. *See also* D1053 (UNPROFOR letter to Ratko Mladić, 4 September 1995); P2106 (Witness statement of KDZ304), pp. 5–7 (under seal); P2111 (UNPROFOR report re withdrawal of heavy weapons, 18 September 1995); Adjudicated Fact 2800.

¹¹⁶⁷⁸ D2899 (Fax from UNPROFOR, 20 September 1995), para. 3 (adding that Miletić and Milošević found it “difficult to accept” this requirement, but ultimately decided to comply with it).

¹¹⁶⁷⁹ P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 194; P2511 (Anthony Banbury's notes, 26 September 1995), e-court p. 1.

¹¹⁶⁸⁰ These routes included the Ilidža–Kiseljak, Ilidža–Tarčin and Airport–Mt. Igman routes. *See* P908 (Minutes from the first meeting on the implementation of cease-fire agreement, 6 October 1995), e-court p. 5; P909 (Minutes from the second meeting on the implementation of cease-fire agreement, 8 October 1995), e-court p. 3; P820 (Witness statement of David Harland dated 4 September 2009), para. 243.

¹¹⁶⁸¹ P820 (Witness statement of David Harland dated 4 September 2009), paras. 240–242, 244–245; P910 (BiH Government's acceptance of the cease-fire agreement, 11 October 1995); P911 (RS Government's acceptance of the cease-fire agreement, 11 October 1995).

¹¹⁶⁸² Adjudicated Fact 2802.

¹¹⁶⁸³ Indictment, para. 15.

¹¹⁶⁸⁴ Indictment, paras. 15, 82 (referring to the sniping incidents in Schedule F as being “illustrative examples” of the campaign).

¹¹⁶⁸⁵ Originally, the Indictment contained an additional scheduled incident of sniping but it was withdrawn by the Prosecution pursuant to Rule 73bis. *See* Rule 73 bis Decision.

of Sarajevo, all alleged to have been perpetrated by the “Sarajevo Forces”.¹¹⁶⁸⁶ In addition, the Prosecution also brought general evidence going to the nature of sniping in Sarajevo and a number of unscheduled sniping incidents, in order to establish a pattern of conduct by the Bosnian Serb military and political authorities.¹¹⁶⁸⁷

3616. In response, the Accused argues that there is no evidence that the SRK was tasked with opening sniper fire against civilians; instead the SRK sniping practice was strictly “military on military” and the victims of sniping incidents were simply caught in the exchange of fire and shot by stray bullets.¹¹⁶⁸⁸ The Accused does concede, however, that civilian deaths may have occurred during the war due to “uncontrolled sniper[s]” but argues that there was an attempt by the SRK not to harm civilians.¹¹⁶⁸⁹ In addition, the Accused claims that ABiH snipers opened fire on their own civilians.¹¹⁶⁹⁰ The Prosecution argues in turn that the Accused’s suggestions that ABiH forces fired on their own civilians are implausible and not supported by reliable evidence, while his claims that the victims were caught in exchanges of fire are also unsupported by the evidence.¹¹⁶⁹¹ **(Both the President’s assertions were supported by the evidence. For instance, the #UNPROFOR officials confirmed that the Muslim forces fired against their own people, see D2399, as early as it could be, while General Nambiar was the Commander:**

Lt.Gen. Satish Nambiar, Force Commander of UNPROFOR, has tonight written to President Izetbegovic of Bosnia-Herzegovina regarding this most recent example of a deliberate attack on UNPROFOR’s humanitarian presence by Presidential forces. He has called for the perpetrators, who must clearly have been acting against orders, to be brought to immediate and salutary justice.

This high officer was with the greatest integrity, does the Prosecution-Chamber not agree?.....@@@.Garaplija testified that Nedžad Herenda, a Muslim MUP high official was responsible for killing a French soldier... Also, at least Alma, a woman wounded in the tram, described that she heard two rounds from the automatic rifle, and a bullet from the second round hit her in the tram, where she wasn’t visible to the shooter. Neither an automatic rifle could be a sniper, nor she could have been a target. In the same case there was a sufficient evidence of the fire exchange around the Vrbanja Bridge. The Defence is not worried for what the Prosecution is claiming, but what the Chamber is non-critically admitting “impressions, “believes” and thoughts of the low ranking UN officers and the extreme adversary combatant-witnesses!#)

a. Sniping in general

¹¹⁶⁸⁶ Sarajevo Forces are defined in the Indictment as (i) members of JNA operating in and around Sarajevo until about 20 May 1992, (ii) members of the VRS, in particular the SRK, and (iii) members of other forces operating in or with responsibility over the Sarajevo area. See Indictment, para. 18.

¹¹⁶⁸⁷ As indicated to the parties during the case, the Chamber will not be making findings as to the responsibility of the Accused for specific unscheduled incidents. See T. 5481 (19 July 2010). See also fn. 11204.

¹¹⁶⁸⁸ Defence Final Brief, para. 2171; Closing Arguments, T. 48030 (2 October 2014).

¹¹⁶⁸⁹ Defence Final Brief, para. 2171.

¹¹⁶⁹⁰ Defence Final Brief, para. 2181.

¹¹⁶⁹¹ Prosecution Final Brief, Appendix C, para. 12.

3617. With respect to sniping, the Chamber heard from two experts in this case, namely Patrick van der Weijden, a trained sniper himself, commissioned by the Prosecution,¹¹⁶⁹² and Mile Poparić, a ballistics expert, commissioned by the Accused,¹¹⁶⁹³ both of whom have produced an expert report for the purpose of this case.¹¹⁶⁹⁴

3618. Van der Weijden drew a distinction between a “popular sniper” and a “professional military sniper” noting that the latter is better trained in a number of specialised skills (including the ability to camouflage), has more and better quality equipment, and usually operates in a “shooter/spotter team”.¹¹⁶⁹⁵ A popular sniper, on the other hand, usually operates alone, with less equipment, and having had less training.¹¹⁶⁹⁶ Van der Weijden also noted that the term “sniper” has been popularised by the media as it got a “new impulse” in the Balkan conflict and has since then been used to indicate a hidden shooter, shooting at whoever gets in his sight, including women and children.¹¹⁶⁹⁷ According to Poparić, every bullet fired from small arms in Sarajevo was regarded as a bullet fired from a sniper weapon, which is “grossly erroneous” since sniper fire and ordinary small arms fire are “essentially very different” even though the difference between the two has become “imperceptibly blurred”.¹¹⁶⁹⁸ However, contrary to Poparić’s position, the Chamber considers that for the purpose of entering factual and legal findings on the sniping incidents alleged in the Indictment, which are charged as murder, unlawful attacks on civilians, and terror, the distinction between a popular sniper and a professional military sniper is not important. **(This is very wrong conclusion, since a trained and professional sniper is always under a strict control of his superiors, and he has a controlled number of bullets, and is obliged to report his spendings and his results, which no a professional and tasked sniper shooter would miss to do. However, in a civil war in the region where everyone had the rifles of 7,9 calibres even from the WWII, and other hunting rifles, this is not a case, both rather opposite, any illegal shooting would rather be kept hidden.)** What matters instead is the identity of the perpetrators, regardless of their level of training or the specific weapons they used, and whether their actions satisfied the elements of the crimes charged.¹¹⁶⁹⁹ Accordingly, the Chamber’s use of the term “sniper” throughout this judgement will be in line with the above-described popular use of the term, encompassing both professional military sniper teams and hidden shooters operating alone and targeting individuals and objects. **(However, this doesn’t cover the issue of the small arms fire, that had been unjustifiably proclaimed as a sniper fire, and that was the crucial remark of Mr. Potparic, and is supported by the events, such as the Alma’s incident. There can not be an automatic weapon, firing rounds, to be considered as a sniper!)**

¹¹⁶⁹² See P1611 (Patrick van der Weijden’s *curriculum vitae*).

¹¹⁶⁹³ See D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), which also contains Poparić’s *curriculum vitae* at page 2. Mile Poparić never served as a sniper nor does he have any combat experience. However, he has had training in the use of infantry weapons. See Mile Poparić, T. 39020 (30 May 2013).

¹¹⁶⁹⁴ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”); D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012).

¹¹⁶⁹⁵ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”); pp. 2–4; P1762 (Witness statement of David Fraser dated 17 October 2010), p. 31; David Fraser, T. 8019 (18 October 2010).

¹¹⁶⁹⁶ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”); p. 2. But note Mile Poparić’s evidence that snipers can operate alone, in pairs, or in groups of snipers. See D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 27.

¹¹⁶⁹⁷ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”); p. 2. See also P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 88; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 58.

¹¹⁶⁹⁸ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 26.

¹¹⁶⁹⁹ See *Galić* Appeal Judgement, para. 254, fn. 711.

3619. The Chamber also heard that in an urban setting, large buildings or factories offer multiple possibilities to establish shooting positions, making it difficult for the enemy to locate the shot.¹¹⁷⁰⁰ In those situations, snipers will prefer to stay away from the windowsills or if possible shoot through loopholes created by using a hole shot in the wall.¹¹⁷⁰¹ They will also choose positions on either side of the frontline but not right on it.¹¹⁷⁰² Van der Weijden also testified that in built up areas the shooting ranges of a sniper are at an average of 75 metres while long shots are possible only from dominating positions, with an overview from above.¹¹⁷⁰³ He further noted that sniper rifles are usually fitted with magnifying scopes of varying sizes, making it possible to identify whether individuals are combatants or civilians, even at ranges of over two kilometres.¹¹⁷⁰⁴ In terms of judging a distance when shooting, in a relatively static situation, where the frontlines remain unchanged for weeks or months as in Sarajevo, a sniper can choose an object for target practice and then set the settings on his scope for future shots at the same distance.¹¹⁷⁰⁵ As for machine guns, which can also be used for sniping, the typical scope would have a magnification of four and, if the machine gun was placed on a tripod and used in a static frontline, the sniper would have relatively accurate fire up to 1,500 metres.¹¹⁷⁰⁶

3620. In terms of target identification, Van der Weijden testified that in an urban battle zone, more civilians are present and most targets will only be visible for a short moment.¹¹⁷⁰⁷

(However, all of these civilians could also have been Serbs, and the most probably could have been an acquaintance of the shooter, if not a relative. The same, people, the same cloathing, the same race and language, no a single possibility to differentiate urban Serbs from urban Muslims or Croats. Throughout the war there was up to 50,000 Serbs in the Muslim part of Sarajevo. Why any commander would task a shooter to fire arbitrarily? On the other hand, every victim in Sarajevo was a possibility to blame and pressure only the Serbs!)

Thus, strict rules of engagement are usually provided to guide the sniper.¹¹⁷⁰⁸ He has to be extremely careful when taking his shots and must positively identify his target as the enemy beforehand.¹¹⁷⁰⁹ As for the targets themselves, Van der Weijden explained that it is easy for people unaccustomed to shooting to get confused about the origin of fire as the bullet usually strikes before the sound of the shot reaches the victim.¹¹⁷¹⁰ He

¹¹⁷⁰⁰ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 4.

¹¹⁷⁰¹ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 4.

¹¹⁷⁰² P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 5.

¹¹⁷⁰³ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 5.

¹¹⁷⁰⁴ According to Van der Weijden, a sniper can distinguish between civilians and combatants through a number of indicators, including the target’s size, the way in which he or she moves, clothing, sex, age, and actions. A sniper can also use a rangefinder on his rifle to identify children, noting that if children are hit at great distance with the use of the rangefinder, they would have been identified as such in order to be hit. P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), Appendix B, pp. 1-3. See also P1762 (Witness statement of David Fraser dated 17 October 2010), p. 31.

¹¹⁷⁰⁵ Patrick van der Weijden, T. 6950, 6963 (27 September 2010).

¹¹⁷⁰⁶ Patrick van der Weijden, T. 6950-6951 (27 September 2010). P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), Appendix A, p. 1.

¹¹⁷⁰⁷ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), Appendix B, p. 1.

¹¹⁷⁰⁸ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 5. According to Van der Weijden, the sniper is permitted to shoot a civilian only if that civilian poses an immediate threat to the sniper or his comrades; however, if the sniper is not sure that there is such a threat, he should not use force. Patrick van der Weijden, T. 6952 (27 September 2010); P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), Appendix B, p. 1.

¹¹⁷⁰⁹ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), Appendix B, p. 1.

¹¹⁷¹⁰ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 7. This was confirmed by Dragan Mioković, an investigator at CSB Sarajevo, who testified that sniping victims on Zmaja od Bosne street in Sarajevo often had no idea where the bullets that injured them had come from, but nevertheless always assumed that they had come from the Metalka building and/or the four white high-rises in Grbavica. See P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 36.

also explained that being exposed to sniping causes great anxiety to the population as they never feel safe and never know exactly when or from where the shot would come.¹¹⁷¹¹ **(So, more cotious should be allegations about a perpetrators, whenever it was impossible to establish a fact beyond a reasonable doubt, not as it was in this case!)**

i. *Sniping in Sarajevo*

(A) Nature of sniping in the city

3621. The Chamber heard that sniping within Sarajevo was constant throughout the conflict, resulting in many civilian casualties and the setting up of anti-sniping barriers all over the city to protect civilians.¹¹⁷¹² Fraser testified that during his time there both sides conducted sniping activities which usually ended up in a tit-for-tat type of exchange.¹¹⁷¹³ Both sides, according to Fraser, were also indiscriminate and would shoot at men, women, and children.¹¹⁷¹⁴ This was confirmed by KDZ182 who told the Chamber that both sides would kill innocent people, including women, children, and the elderly, in order to show they were in control and to exert pressure through the reporting of the media.¹¹⁷¹⁵ **(Why would the Serbs “shoot at their own leg” causing a severe pressure and condemnation from the entire world? And how they could have been sure not to kill another Serb on the streets, since there was at least 50,000 out of 300,000 inhabitants under the Muslim controle?)** However, both KDZ182 and Fraser, as well as many other witnesses, testified that the Serbs shot more, particularly in the Sedrenik and the so-called “Sniper Alley”¹¹⁷¹⁶ areas.¹¹⁷¹⁷ Harland also stated that both sides sniped but because the Bosnian Serbs held the higher ground around Sarajevo, they had a lot more opportunity and capacity to do

¹¹⁷¹¹ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–‘94”), p. 7.

¹¹⁷¹² P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 86; P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 26, 47–49; Aernout van Lynden, T. 2398–2401 (19 May 2010); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), paras. 35, 37; Jeremy Bowen, T. 10107–10111 (13 January 2011); P2074 (BBC news report re Sarajevo, with transcript); P2075 (BBC news report re Sarajevo, with transcript); P2106 (Witness statement of KDZ304), pp. 9–10 (under seal); David Harland, T. 2026–2029 (6 May 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 57; P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 18, 23–24; P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 37–38; P2018 (BBC news report, with transcript); P2010 (Video footage of Sarajevo); P1762 (Witness statement of David Fraser dated 17 October 2010), p. 34.

¹¹⁷¹³ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 24; David Fraser, T. 8054 (18 October 2010). *See also* P6060 (Record of interview with KDZ185), e-court p. 13. Thomas testified that both sides used snipers as “instruments of policy”. *See* P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 61. *See also* P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 87; P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 24.

¹¹⁷¹⁴ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 24.

¹¹⁷¹⁵ P2414 (Witness statement of KDZ182), pp. 40, 46–47 (under seal). *See also* Anthony Banbury, T. 13317 (15 March 2011) (testifying that the large majority of sniping victims in Sarajevo were civilians).

¹¹⁷¹⁶ Sniper Alley was the stretch of Zmaja od Bosne street in the Marin Dvor area of Sarajevo and in front of the Holiday Inn. *See* P1762 (Witness statement of David Fraser dated 17 October 2010), p. 26.

¹¹⁷¹⁷ At the airport, the shooting was done by both sides in equal measure. *See* P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 24, 26; David Fraser, T. 8015 (18 October 2010); P2414 (Witness statement of KDZ182), pp. 7, 41 (under seal); P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 24. According to KDZ182, during his time in Sarajevo there were 66 incidents involving Serb sniper fire and six incidents involving ABiH sniper fire. *See* P2414 (Witness statement of KDZ182), pp. 41–42 (under seal). *See also* P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 87 (testifying that the sniping threat was greater within the city due to the domination of high ground by the Serb side); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 217 (testifying that the level of sniping was greater on the Bosnian Serb side, while the greater number of civilians killed were within the city); P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 163; P2495 (Anthony Banbury's notes, 23 May 1995), e-court p. 2; P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 29; P2031 (BBC news report re Sarajevo, with transcript). Some witnesses also acknowledged that the Bosnian Serb reluctance to report their casualties, coupled with the media's home base location being on the ABiH-held side of Sarajevo resulted in a somewhat unbalanced view of the sniping activity in the city. *See* P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 62–63; P820 (Witness statement of David Harland dated 4 September 2009), para. 299; David Harland, T. 2144–2145 (10 May 2010). **(But, Ms. Tabeau**

so.¹¹⁷¹⁸ **(This is #an amateurish and irresponsible assertion, so more since the witness admitted that he didn't have a military education#. Namely, all the Serb position on the hills were too distant from the city targets, while the Muslim side kept all the skyscrapers and other high buildings in a close vicinity of targets. As found in the para 3620, it was a very difficult and delicate job to find out who and from where!)**

Van Baal testified that the SRK used sniping as a “means of repression and terror”—the sniping was carried out without any discrimination and citizens, women, and children were targeted “at unexpected places and unexpected times”.¹¹⁷¹⁹ **(This is #unacceptable “expert opinion” of a witness on facts#! How possibly he could have known that? We already have seen that this witness lied about his conversation with General Milovanovic! His believes and impressions must not be a judicial factor!)** Rose himself testified that the presence of snipers in Sarajevo made normal life impossible and that there was an atmosphere of fear in the city.¹¹⁷²⁰ Tucker testified that when he arrived to the city in October 1992 there was constant sniper fire and intense periods of small arms fire around the perimeters of the city.¹¹⁷²¹ **(Certainly, because #it was a civil war with 44 months of a street fights.# And there were undoubtedly at least two, sometimes three sides, and taking into account the Muslim secret formations such as “Seve” (“Larks”) “Laste” and others, there had been even more than three sides, and throughout 1,400 days of the street fightings, having in mind a stray bullets and “uncontrolled elements” whose existence had been established, one would expect a many more victims of so called “snipers” that hadn't been snipers at all!)** Richard Mole, a senior UNMO in Sarajevo between 16 September and 26 December 1992,¹¹⁷²² testified that during his time in Sarajevo there was continual background noise of small arms and artillery fire in the city.¹¹⁷²³ **(But, there was #a war, as a choice of the Muslim side#, and that was why Mr. Mole was there!)** Even when Sarajevo was “calm”, the Bosnian Serbs would engage in sniping in order to put pressure on the city.¹¹⁷²⁴ **(This is an absurd assertion. The only side that would be under a pressure would be the Serb side. It was well established that the Muslim side designed a huge strategy of trickery, in order to cause an international military intervention, and the Serb were well aware of this strategy. #These two facts are irreconcilable! But, the crucial question is: why these internationals, who admitted that they #didn't convey any, let alone a thorough investigation of incidents, expressed their “opinions” and “impressions” as an expert reports, so easily accusing one side#? By this manner is heavily compromised the international presence in the crisis areas, and the UN should reconsider thi practice, that this representatives participate in a litigations before courts, particularly in expressing their opinions and prejudices as a facts!)** A number of local citizens of Sarajevo confirmed the above, testifying that the civilians in the city were continuously targeted by Bosnian Serb sniper fire no matter where they were, and that certain areas, such

¹¹⁷¹⁸ P820 (Witness statement of David Harland dated 4 September 2009), paras. 294–295, 298 (testifying also that the Bosnian Muslim side engaged in two types of sniping: (i) counter-sniping which was the endless game of tit-for-tat, or (ii) killing civilians to provoke a response from the Serbs).

¹¹⁷¹⁹ P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), paras. 48–49. *See also* KDZ182, T. 13093 (9 March 2011); P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 53; P2000 (BBC news report re Sarajevo, with transcript).

¹¹⁷²⁰ Michael Rose, T. 7266–7267 (5 October 2010).

¹¹⁷²¹ P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 22.

¹¹⁷²² P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 4.

¹¹⁷²³ P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 65. *See also* Adjudicated Fact 135.

¹¹⁷²⁴ KDZ450, T. 10550 (19 January 2011).

as Marin Dvor and Sedrenik, were particularly dangerous as far as sniper fire was concerned.¹¹⁷²⁵ **(It #was already established that the Muslim side was interested in keeping the city on the headlines of media#, and that the Serb side was interested in opposite#. How these citizens of Sarajevo could have known who was firing around the city? Look at para 3620 of this Judgment! This had never been established beyond a reasonable doubt, but if there is to be concluded by an inference, all the arguments and circumstances indicate that it weren't the Serbs! #A "guessing" that the Serb side fired is baseless, and can not be used in a criminal terms!# It must be Indians#!)** In addition, when in operation, the Sarajevo trams and the people onboard were also subjected to sniper fire from the Bosnian Serb side.¹¹⁷²⁶ **(The only that may not be contested is a fact that some bullets hit a trams, but none could have said that there were the Serbs firing. How would Ms. Livnjak could have known it, while she was driving the tram? Or, how a #mechanic technician KDZ477 could have known it, and would he be an unbiased witness, belonging to, and working for the other side#? No investigation was conveyed in a presence, let alone participation of the Serb side. The other side could have produced as many incidents as they wanted, and allocate it to the Serbs! Their trickery was a permanent practice, why would they miss such opportunities?)** Confirming the evidence above about the targeting of civilians, the demographic expert Ewa Tabeau produced reports in which she analysed civilian deaths in Sarajevo and came to the conclusion that in the period between 1 April 1992 and August 1994, an absolute minimum of 503 civilians died as a result of sniper or firearm fire, while another 2,215 were wounded.¹¹⁷²⁷ **(#Civilian or combatant, doesn't matter#! Ms. Tabeau seemed to be counting whatever the Muslim side depicted as a civilian casualty#. Also, look at the fn. 11729 (real 11727) and see how this method is unreliable and irrelevant for a criminal case. Did Tabeau have taken into account the number of citizens of Sarajevo that left the city in the first months of the war, and how it was reflected in her report? #There was about 6,000 combat casualties in Sarajevo, in 1,400 days of war, while Tabeau claimed that for the period of 840 days there was 503 allegedly civilian casualties as a consequence of a sniper fire.# So, there was an average lose of 4,29 combat casualties, and 0,6 allegedly civilian sniper casualties#.**

¹¹⁷²⁵ See e.g. P1978 (Witness statement of Nedžib Dožo dated 7 December 2010), paras. 21–23; P21 (Witness statement of Mirsad Kučanin dated 21 February 1996), pp. 2–3; P2413 (Witness statement of KDZ289 dated 19 April 1996), p. 3; P2922 (Witness statements of KDZ079 dated 17 May 2006), para. 17; P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 86, 88–93; P492 (Witness statement of Sabina Šabanić dated 22 May 2006), para. 7; P2164 (Witness statement of KDZ477 dated 13 February 2010), para. 13; P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 2; Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1728; P496 (Witness statement of Tarik Žunić dated 21 April 2006), pp. 2–3; P496 (Witness statement of Tarik Žunić dated 25 April 2010), p. 2. See also Section IV.B.1.b.iii.A.: Zmaja od Bosne street (formerly Vojvode Putnika); Section IV.B.1.b.iii.C: Sredrenik.

¹¹⁷²⁶ P2164 (Witness statement of KDZ477 dated 13 February 2010), para. 13; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), paras. 6–7, 15; P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 66; P1762 (Witness statement of David Fraser dated 17 October 2010), p. 39; David Fraser, T. 8127–8128 (19 October 2010). See also para. 3645.

¹¹⁷²⁷ Tabeau reached these numbers by using two main sources of information in the said period, namely the Households Survey conducted in September 1994 in the ABiH-held Sarajevo and the records of the Bakije Funeral home, the largest funeral home in Sarajevo. She then compared them to the 1991 census and, in order to distinguish between military and civilian casualties, to the ABiH lists of fallen soldiers. See P4997 (Ewa Tabeau's expert report entitled "Persons Killed and Wounded in Sarajevo During the First Months of the 'Siege' from 1 April to 9 September 1992", 1 May 2009), pp. 1–2, 4–7; P4998 (Ewa Tabeau's expert report entitled "Population Losses in the 'Siege' of Sarajevo 10 September 1992 to 10 August 1994", 10 May 2002), pp. 1–4; Ewa Tabeau, T. 28173–28176, 28196–28197 (26 April 2012). Tabeau explained that the real number of civilian deaths is most likely higher because the number of those reported as soldiers in the Household Survey was higher than the numbers seen in ABiH lists of fallen soldiers, due to, among other things, families hoping to obtain a military pension. See P4997 (Ewa Tabeau's expert report entitled "Persons Killed and Wounded in Sarajevo During the First Months of the 'Siege' from 1 April to 9 September 1992", 1 May 2009), p. 8. **(Ms. Tabeau never counted on how many Muslim families had been leaving Sarajevo permanently. This methodology is not valid even for ducks and other birds, let alone for a human population in a civil war!)**

#Even if these 503 casualties all were civilians, how anyone could have established that it was from a sniper fire, and in particular, how anyone could have established that it was from the Serb snipers#? This is not serious! Hwo is entitled to charge the Serb side for this alleged crimes, that could have bneen committed by the other side too, or many of the cases could have been a collateral casualties in a legal exchange of fire. The only “villain” is undoubtedly the civil war, and supposedly those who wanted it, but not the Serbs!) As for the period between September 1994 and November 1995, Tabeau used different sources of information and was able to conclude that, at a minimum, some 449 individuals died from war-related causes, including sniping, within the confrontation lines of Sarajevo.¹¹⁷²⁸ In addition, in this period, an absolute minimum of 77 civilians were wounded due to sniping.¹¹⁷²⁹ **(#Look at that statistics: even if true, in 440 days of the urbar war, there was 449 “war related deaths!!! That would be around one a day average!!! No differentiation between combat and civilian casualties!# #Neither of it could have been allocated to the Serbs#. What the Serbs, who were against the civil war, and against the militarisation of Sarajevo, and who proposed and accepted all the proposals that the city be administered by the UN, and who respected the COHAs, have to do with these “war-related” deaths? Even this 77 civilians wounded due to sniping can not be charged to the Serbs, because it was not properly established! Every single casualty or wounded person caused by a small infantry weapons this Court counts as a “sniper related”, which is far from being true, and further, it is suggested that only the Serbs used the small weapons, which is even less true. #THIS MUST NOT BE DONE THIS WAY#!))**

3622. All SRK units had snipers rifles and dedicated marksmen.¹¹⁷³⁰ They had various M48 rifles of 7.9 mm calibre in its arsenal.¹¹⁷³¹ These rifles had optical sights and were referred to as sniping rifles.¹¹⁷³² In addition, they had M76 sniper rifles which also used 7.9 mm calibre ammunition, albeit different to the ammunition used for the M48 rifles.¹¹⁷³³ Finally, the SRK

¹¹⁷²⁸ For this period, Tabeau’s main source of information in relation to the wounded civilians were patient records of the three main Sarajevo hospitals. This source was somewhat incomplete as it did not include the records of a number of smaller hospitals in the city and because it included only hospitalised patients. Tabeau also used a number of different sources relating to those killed in Sarajevo, including again the Bakije Funeral home records. For this period, however, she was unable to determine which deaths were attributed to shelling and which to sniping since, unlike the Household Survey, the sources she used here did not contain that type of information. She therefore classified 449 deaths as being war-related. See P5002 (Ewa Tabeau’s expert report entitled “Killed and Wounded Persons from the Siege of Sarajevo: August 1994 to November 1995”, 19 March 2007), pp. 3–5, 11–12, 17–18, 23, 51–54; Ewa Tabeau, T. 28206–28209 (26 April 2012).

¹¹⁷²⁹ P5002 (Ewa Tabeau’s expert report entitled “Killed and Wounded Persons from the Siege of Sarajevo: August 1994 to November 1995”, 19 March 2007), pp. 6–7, 51–57 (adding that the real number was probably more around 320 civilians, based on the comparison she made to other partially overlapping sources). **(This is unacceptable, since in Sarajevo all the state institutions functioned constantly, and particularly the ABiH knew exactly it’s casualties, registering them every day , as same as the VRS or any other army. Since the ABiH was supposed to remunerate the families for their military loses, no way that it could have been left to families to define the status of victims.**

¹¹⁷³⁰ Dragomir Milošević, T. 32820–32821 (29 January 2013) (adding that it was difficult to find good “marksmen specialists” as the SRK soldiers did not want to be located close to the confrontation lines). See Adjudicated Fact 2808.

¹¹⁷³¹ Stanislav Galić, T. 37463–37464 (22 April 2013).

¹¹⁷³² Stanislav Galić, T. 37463–37464 (22 April 2013); D2827 (SRK combat report, 19 August 1993); D2828 (SRK combat report, 10 August 1994) (both orders referring to “sniper rifles”); P5945 (Report of 1st Romanija Infantry Brigade to SRK, 29 October 1993). Van der Weijden referred to this rifle in his report but explained that it was a hunting rifle owned by many civilians in the region who used it to arm themselves when they became combatants. P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–‘94”), Appendix A, pp. 3–4.

¹¹⁷³³ Dragomir Milošević, T. 32818–32820 (29 January 2013). See Adjudicated Fact 2812.

had semi-automatic 7.62 mm calibre rifles that could be equipped with optical sights,¹¹⁷³⁴ which meant that they could fire with precision from up to 400 metres away, with an overall range of 800 metres.¹¹⁷³⁵

(If there was a “possibility” to reach 800 metres, it is still #not a proof, not even a “probability”#. As Gen. Galic testified, the regular soldiers weren’t allowed to shoot without being tasked, and since they had been tasked in a limited number of cases, they had to report back, and a commander who tasked him would have known about a result! In a situation when the internationals alleged any fire as a sniping, the commanders would have known whether it was their soldier done it!)

However, Stanislav Galić, the SRK Commander from September 1992 to August 1994,¹¹⁷³⁶ testified that there were no sniping units as such in the SRK, but only a small number of sharpshooters who would be assigned across various units down to the level of company.¹¹⁷³⁷

Thus, the level of command and control which could issue tasks to snipers was at the level of the platoon commander at the highest and, occasionally, that of the company commander.¹¹⁷³⁸

Higher levels of command did not deal with snipers except in extraordinary circumstances.¹¹⁷³⁹

3623. Contradicting Galić, Dragan Maletić, commander of the 1st Company of the 3rd Battalion of the 1st Romanija Infantry Brigade,¹¹⁷⁴⁰ and KDZ310, a soldier in this battalion,¹¹⁷⁴¹ both testified that there was a sniper squad in the battalion and that it was directly subordinated to the battalion commander rather than to company or platoon commanders.¹¹⁷⁴²

(The Chamber should have already known that #every single unit of the SRK had the two lines, one oriented toward the city, and another confronted to the ABIH units in the outer ring#, in the country, without any urban settlements. These units had to have a sniper squad. Also, those oriented towards the city had some solitary snipers, a perfectly legal and legitimate, but their use was strictly restricted to a very exceptional targets. So, General Galic didn’t deny existence of the “sharpshooters” treated and used as snipers, but he denied the existence of a “sniper units”! But, let us see what would be the efficiency of such a “sniper squads”, had they been in the units oriented towards the city: even if all the casualties from the Tabeau report (503) were killed by the Serb snipers, it would be 15 casualties a month! Who would and could afford such a squads for such a unsubstantial effects?)

In addition, the order of Galić’s deputy dated 4 November 1992 shows that the SRK

¹¹⁷³⁴ Stanislav Galić, T. 37463–37464 (22 April 2013); P1279 (SRK request to VRS Main Staff, 10 July 1995). According to Van der Weijden’s report, the VRS had the following 7.62 mm calibre semi-automatic rifles in its arsenal: Zastava M76, Zastava M59/66, and SVD Dragunov or M91. P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), Appendix A, p. 1.

¹¹⁷³⁵ Stanislav Galić, T. 37463–37464 (22 April 2013). These ranges were confirmed by Van der Weijden. See P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), Appendix A.

¹¹⁷³⁶ Stanislav Galić, T. 37155 (15 April 2013); Dragomir Milošević, T. 32503 (23 January 2013). See Adjudicated Fact 27.

¹¹⁷³⁷ Stanislav Galić, T. 37192 (15 April 2103), T. 37465 (22 April 2013), T. 37840–37842 (7 May 2013), T. 38060 (9 May 2013).

¹¹⁷³⁸ Stanislav Galić, T. 37472 (22 April 2013).

¹¹⁷³⁹ Stanislav Galić, T. 37472 (22 April 2013), T. 37840–37842 (7 May 2013) (conceding, however, that it was possible that sniper squads existed at a battalion level but denying any personal knowledge of such squads).

¹¹⁷⁴⁰ The 3rd Battalion later became part of the Sarajevo Mechanised Brigade and was renamed as the 2nd Infantry Battalion. See Dragan Maletić, T. 30844 (3 December 2012); D2418 (Witness statement of Božo Tomić dated 5 November 2012), paras. 8, 25–26; Božo Tomić, T. 30178–30179 (13 November 2012); D2267 (Vlado Lizdek’s interview with OTP), pp. 5–6; D2622 (Witness statement of Željko Bambarež dated 9 December 2012), para. 5.

¹¹⁷⁴¹ P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 28–29.

¹¹⁷⁴² D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 31; Dragan Maletić, T. 30846–30848 (3 December 2012), T. 30873–30874 (4 December 2012); P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 40–41, 43–44.

Command would issue orders specifically concerning the use of snipers in SRK units.¹¹⁷⁴³ Furthermore, on 29 October 1993, Milošević issued an order on behalf of Galić to all the SRK brigades to intensify sniping against the ABiH forces; the order also instructed each brigade to set up a platoon-strength “sniper group” of 31 soldiers, each of whom should be supplied with sniper rifles and silencers.¹¹⁷⁴⁴ KDZ304 thought that SRK snipers were highly professional and were under the control of the SRK command.¹¹⁷⁴⁵ Van der Weijden also testified that it appeared from some of the SRK orders that snipers were deemed to be an important asset for the SRK commanders.¹¹⁷⁴⁶ **(Again, the Chamber had forgotten or undermined the fact that the SRK had a front line to the City long between 42 and 64 kilometres, while the same Corps had a frontline long several hundred kilometres on the outer ring, towards the 4th Corps of ABiH (Konjic), towards 3rd Corps (Zenica) and towards 2nd Corps (Tuzla) of the ABiH. Why would the SRK keep ist snipers in the units towards the city? And it it was so, how come the effects were so poor?)** Similarly, Fraser thought that the Serb snipers were controlled and regulated at the corps level, as shown by one of the SRK orders, and because three of the notorious sniping areas, namely Sedrenik, Sniper Alley, and the airport, crossed a number of different SRK Brigades.¹¹⁷⁴⁷ Furthermore, the sniping activities appeared to be coordinated, and whenever he and UNPROFOR met with the SRK Commanders, namely Galić and later Milošević, to protest about sniping incidents, the number of incidents would decrease, giving him the impression that there was some control over the snipers’ activities.¹¹⁷⁴⁸ Van Baal thought that there was a clear line, both politically and at the “highest military level”, on the use of snipers as far as the Serb side was concerned.¹¹⁷⁴⁹

(#Weijden got “an impression”, Fraser “thought, as well as Van Baal#... How all of this “thoughts owners” could have known all of that? Theyr thoughts and impressions couldnt be more acceptable than the original documents and testimonies of the Serb eye-witnesses! On the other hand, all the “thoughts” and “believes” are highly influenced by the will and readiness of a witness to rely on his own believes! A Van Ball “thoughts” are much more an information about him, than about the

¹¹⁷⁴³ P1010 (SRK Order re designation of sniper positions, 4 November 1992) (indicating also that every SRK unit should have at least two snipers); Dragomir Milošević, T. 32832–32833 (29 January 2013).

¹¹⁷⁴⁴ D2902 (SRK Order, 29 October 1993). Dragomir Milošević denied that this order could have been a basis for the firing on civilians in Sarajevo. See Dragomir Milošević, T. 33272–33274 (6 February 2013).

¹¹⁷⁴⁵ P2407 (Witness statement of KDZ304), pp. 8, 10.

¹¹⁷⁴⁶ Patrick van der Weijden, T. 6941–6943, T. 6946–6949 (27 September 2010); P1614 (Order of 2nd Sarajevo Light Infantry Brigade, 14 August 1994), para. 12; P1208 (Order of 2nd Light Infantry Brigade, 30 July 1994), para. 4; P1617 (Report from SRK Security-Intelligence Organ to SRK Command, 15 August 1994), p. 2; P1618 (SRK Order, 1 October 1995), para. 4. See also P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 30–31; P6060 (Record of interview with KDZ185), e-court pp. 13–14.

¹¹⁷⁴⁷ David Fraser, T. 8018, 8021–8023 (18 October 2010); P1762 (Witness statement of David Fraser dated 17 October 2010), p. 25; P1613 (SRK Order, 19 January 1995), para. 5. See also P2414 (Witness statement of KDZ182), p. 36 (under seal). As far as Sniper Alley was concerned, Fraser conceded that the Muslim side benefited politically from the incidents that happened in that area and could not explain why the SRK commanders would allow something like that to happen. See David Fraser, T. 8123–8124 (19 October 2010). See also KDZ304, T. 10524 (19 January 2011); Dragomir Milošević, T. 32842 (29 January 2013) (testifying that the SRK had no political interest in continuing the sniping activity).

¹¹⁷⁴⁸ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 8, 11, 21–22, 23, 25. See also P6060 (Record of interview with KDZ185), e-court pp. 12–13. As noted in paragraph 3595, following the signing of the Anti-Sniping Agreement in August 1994, the number of people killed and wounded on Zmaja od Bosne reduced dramatically, leading Rose and others to conclude that both parties had strict control over their snipers. See P2447 (Witness statement of KDZ182), p. 35, KDZ182, T. 13040–13041 (9 March 2011); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 141. See also P6060 (Record of interview with KDZ185), e-court pp. 3, 13.

¹¹⁷⁴⁹ P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), paras. 48, 50, 58; Adrianus van Baal, T. 8534–8535 (28 October 2010). See also P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 27–29, 67–68 (testifying that in his experience there were very few rogue shooters on both sides); KDZ450, T. 10574–10575 (19 January 2011), T. 10676 (20 January 2011).

SRK. How Van Ball could have known it? On the other hand, all kind of “thoughts” and believes” are a matter of willingness to think that way, or believe that direction. No believes are possible contrary to a will to believe, even when a believe in God is at a question! This must be dismissed as irrelevant for such a serious process! Rose thought that sniping was clearly a part of the Bosnian Serbs’ policy of terrorising the civilian population of Sarajevo and that there was “clear control” over the sniping in the city.¹¹⁷⁵⁰ KDZ182 believed that the SRK snipers in Sarajevo were not just locals operating randomly but were perfectly co-ordinated and had the aim of terrorising civilians.¹¹⁷⁵¹ **(Another #“believe”#)** John Hamill, an artillery officer in the Irish Army and UNMO in BiH from May 1993 to July 1994,¹¹⁷⁵² thought that snipers in Sarajevo operated as the “tools of the management” and were under the control of someone in a position of authority.¹¹⁷⁵³ **(Another #“thouths”#. How come there was #no any document indicating that the SRK ordered, or even tolerated a sniper activities against the civilians?#)** Milenko Indić, the SRK’s liaison officer with UNPROFOR,¹¹⁷⁵⁴ testified that the “SRK just controlled sniper group formations” but stated that it could not control the opening of fire and so the sniping was not stopped.¹¹⁷⁵⁵

3624. Van der Weijden emphasised the importance of proper training for snipers, stating that, for a long range shot, the shooter must be either well trained or very experienced to make first round hits.¹¹⁷⁵⁶ To show that this was the case, the Prosecution presented to the Chamber a number of documents showing that the SRK organised training for snipers during the Indictment period. For example, training for five sniper squad commanders was organised in 1994,¹¹⁷⁵⁷ and an eight-day course for sniper instructors took place on 23 January 1995.¹¹⁷⁵⁸ Over 100 sniper instructors would have been trained by January 1995.¹¹⁷⁵⁹ This confirms Fraser’s evidence that during his time in Sarajevo, namely 1994 and 1995, the sniper activity was confined to professional sharpshooters and that amateur shooters were long gone.¹¹⁷⁶⁰ **(So what? Still it has to be kept in mind that the outer front line was up to ten times longer than the one towards the city! The first education and training was conveyed too**

¹¹⁷⁵⁰ Michael Rose, T. 7267–7268 (5 October 2010).

¹¹⁷⁵¹ P2414 (Witness statement of KDZ182), pp. 36, 44 (under seal); KDZ182, T. 13091–13095 (9 March 2011).

¹¹⁷⁵² John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6059–6060. Hamill became an artillery officer in September 1974 and had 20 years of experience with the Irish Defence Forces prior to serving as a UNMO on six occasions. See John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6059–6060, 6124; John Hamill, T. 9673 (13 December 2010).

¹¹⁷⁵³ John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6217.

¹¹⁷⁵⁴ D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 39.

¹¹⁷⁵⁵ D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 144.

¹¹⁷⁵⁶ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), pp. 3–4, 106.

¹¹⁷⁵⁷ P1615 (Report from 1st Igman Infantry Brigade to SRK Command, 21 January 1995), para. 3. Van der Weijden estimated that five sniper squad commanders would have been responsible for between 30 to 40 snipers. See Patrick van der Weijden, T. 6943–6944 (27 September 2010).

¹¹⁷⁵⁸ P1616 (SRK Order, 5 January 1995); P1612 (SRK Order, 29 January 1995), p. 6; P1613 (SRK Order, 19 January 1995), para.4. The instructors were told to bring their own rifles, namely M76, which was, according to Van der Weijden, the standard sniper rifle of the JNA. See Patrick van der Weijden, T. 6938–6940, 6945–6946 (27 September 2010). See also David Fraser, T. 8018–8023 (18 October 2010); P1783 (Report of 1st Ilijaš Infantry Brigade to SRK re training, 13 January 1995); P1784 (Report of 3rd Sarajevo Infantry Brigade to SRK re training, 5 January 1995).

¹¹⁷⁵⁹ Patrick van der Weijden, T. 6945 (27 September 2010).

¹¹⁷⁶⁰ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 24, 31; David Fraser, T. 8019–8020 (18 October 2010). See also KDZ450, T. 10555–10556 (19 January 2011). Van der Weijden also testified that, according to SRK documents, the SRK snipers worked in pairs, using sound suppressors, as is normally done by professional snipers who operate in two-man teams, consisting of the shooter and the marksman or spotter. See Patrick van der Weijden, T. 6942–6943, 6951–6952 (27 September 2010); P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 3; P1208 (Order of 2nd Light Infantry Brigade, 30 July 1994), para. 4.

late, 1994 and 1995. Meanwhile the data show that in 1994 and 1995 there was much less civilian casualties caused by a small arms, and thus from snipers too, see: @ a conclusion would have to be that either these sniper shooters had been trained for the outer front line, or that the trained shooters were more capable to notice and differentiate civilians from soldiers!)??

3625. Contradicting the evidence outlined above, **(But, there is no “evidence outlined above” that would be contradictory to the Gen. Milosevic’s testimony! Those are only allegations, thoughts and believes, without any probative value!)** Dragomir Milošević denied that civilians were deliberately targeted by sniper fire in Sarajevo, arguing that they were caught in combat activities, although he could not exclude the possibility that a “deranged mind on the Serbian side engaged in such activity”.¹¹⁷⁶¹ **(That explains why the #Prosecutor couldn’t submit any document that the SRK Command was responsible for any incident!#)** Galić explained that the main task of SRK snipers or sharpshooters was to neutralise ABiH sniper enemy fire and target important military targets, and that civilians were not targeted but rather became collateral damage.¹¹⁷⁶² A number of other SRK soldiers and officers also testified that their specific units never deliberately targeted Sarajevo civilians by opening sniper fire on them and/or that snipers were used only on military targets and in response to ABiH fire.¹¹⁷⁶³ They also denied using sniper fire on trams and other modes of public transport in the city.¹¹⁷⁶⁴ In his book, however, Milovanović wrote that sniping was a huge problem for both parties in Sarajevo “having completely got out of control”.¹¹⁷⁶⁵ Milošević conceded that he had received, from UNPROFOR and the media, allegations about Serb soldiers sniping at civilians, but claimed that the media exaggerated the situation on the ground and could not be trusted while at the same time he tried to establish if the information from UNPROFOR was true or not.¹¹⁷⁶⁶ Similarly, Galić also conceded that he received protests about sniping or infantry fire causing civilian casualties, usually from UNPROFOR and through Indić.¹¹⁷⁶⁷ Indić, on the other hand, testified that

¹¹⁷⁶¹ Dragomir Milošević, T. 32836–32837, 32840–32841 (29 January 2013), T. 33197–33207 (5 February 2013); D2827 (SRK combat report, 19 August 1993) (in which Milošević reported to the VRS Main Staff that SRK units were ordered to open sniper fire only on targets that pose a threat to SRK soldiers). *See also* D2774 (Witness statement of Milenko Indić dated 19 January 2013), paras. 139–140.

¹¹⁷⁶² Stanislav Galić, T. 37465–37466 (22 April 2013), T. 37845–37846, 37852–37854 (7 May 2013), T. 38060 (9 May 2013).

¹¹⁷⁶³ *See e.g.* Božo Tomić, T. 30214 (13 November 2012); D2519 (Witness statement of Dragan Maletić dated 9 November 2012), paras. 20, 26; Dragan Maletić, T. 30883–30886, 30889–30890 (4 December 2012); D2525 (Photograph of Sarajevo marked by Dragan Maletić); D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 25; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 43; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 36; D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 41. Gengo testified that the Serbian side’s response to sniper fire depended on the origin of the fire; sometimes they used a machine-gun, or if fire was opened from a forest, they used mortars to respond. *See* Slavko Gengo, T. 29784–29785 (6 November 2012); D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 27.

¹¹⁷⁶⁴ *See* Dragomir Milošević, T. 33209–33210 (5 February 2013); D2341 (Witness statement of Dušan Škrba dated 14 October 2012), para. 15; D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 28; D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 18; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 27; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 28; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 29–30; D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 10; D2387 (Witness statement of Stojan Džino dated 4 November 2012), paras. 50–51; D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 25; D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 32; D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 20; D2622 (Witness statement of Željko Bambarez dated 9 December 2012), paras. 15–16.

¹¹⁷⁶⁵ D825 (Manojlo Manojlović’s book entitled “My View of the War in Bosnia 1992–1995”), p. 31.

¹¹⁷⁶⁶ Dragomir Milošević, T. 33276–33277 (6 February 2013) (adding that the extent of activities he had to carry out did not give him the opportunity to personally carry out the entire procedure of establishing guilt—he instead relied on the assistance of the military police and prosecutor’s office).

¹¹⁷⁶⁷ Stanislav Galić, T. 37788–37792 (7 May 2013) (clarifying that he never received protests in relation to individual sniping incidents listed in Schedule F of the Indictment).

while he received protests about sniper fire being opened, he never received protests about such fire causing civilians casualties.¹¹⁷⁶⁸ **(Had it not be so, as these witnesses testified, the Prosecution would be able to charge this President with more cases, more credible and properly investigated incidents. However, the #President couldn't be liable for anything that he didn't order, didn't tolerate, and his commanders didn't know, and didn't tolerate, let alone ordered#! And finally, he couldn't be liable for something wthat had never been criminally reported with a valuable investigating documents, and, maybe the most important, neither the President nor anybody else ever intervened in preventing the investigation bodies to proceede with a regular action after a criminal report!)**

(A) ABiH sniping practices

3626. As noted above, the Bosnian Muslim side had and used snipers throughout the conflict, particularly targeting the suburb of Grbavica, including the civilians located therein.¹¹⁷⁶⁹ In addition, according to the BiH MUP report of 13 October 1993 on the activities of the 2nd Independent Battalion of the ABiH, which had its headquarters in the Sarajevo dental clinic on Meše Selimovića street, the battalion had a number of “death sowers”,¹¹⁷⁷⁰ one of which was placed near its headquarters, overlooking the Nemanjina street and two to three sniper nests on the third floor of the dental clinic, covering the petrol station plateau at Koševo, a large part of Moša Pijade street, and the area around the medical school.¹¹⁷⁷¹ **(All of these localities were deep in the Muslim territory, and therefore, the citizens of the Muslim controlled Sarajevo were targets of these snipers!)** The Chamber also heard that special sniper groups, referred to as Ševe and Laste, operated from ABiH-held territory.¹¹⁷⁷² Edin

¹¹⁷⁶⁸ D2774 (Witness statement of Milenko Indić dated 19 January 2013), paras. 142–143.

¹¹⁷⁶⁹ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 24. Maletić whose company was stationed along Miljacka, between the Vrbanja and Bratsvo Jedinstvo bridges, testified that the unit facing his unit had snipers and had used them, which is why a large number of civilians had been killed in Grbavica and Vraca. D2519 (Witness statement of Dragan Maletić dated 9 November 2012), paras. 8–9, 19, 32. *See also* Stanislav Galić, T. 37468–37469 (22 April 2013); Dragomir Milošević, T. 32821–32823 (29 January 2013); D2824 (Order of ABiH, March 1993); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 156; D201 (1st Romanija Brigade combat report, 13 July 1992); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 36; Jeremy Bowen, T. 10107–10108 (13 January 2011); P2074 (BBC news report re Sarajevo, with transcript); P820 (Witness statement of David Harland dated 4 September 2009), para. 171; P879 (VRS Main Staff Report, 11 March 1995); David Harland, T. 2099–2101 (7 May 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 46–47; P2022 (BBC news report re Grbavica, with transcript); Michael Rose, T. 7268 (5 October 2010); P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 133; D3526 (Order of ABiH 1st Motorised Brigade, 2 October 1993); D4633 (Order of ABiH 1st Corps, 12 December 1993); P1753 (Order of ABiH 12th Division, 19 September 1995); D2825 (Report of 1st Romanija Infantry Brigade, undated); D2826 (1st Romanija Infantry Brigade combat report, 25 July 1992); P2407 (Witness statement of KDZ304), p. 28; KDZ304, T. 10485 (18 January 2011); KDZ088, T. 6369–6372 (8 September 2010) (closed session); D564 (SRK combat report, 23 July 1992), para. 1; D2779 (VRS Main Staff notes of meeting at Sarajevo airport, 7 April 1993), p. 2.

¹¹⁷⁷⁰ KDZ485 explained that the “death sower” is a type of machinegun that can fire rounds at very high velocity thus making it difficult for the target to escape. *See* KDZ485, T. 8881 (3 November 2010); P1905 (Witness statement of KDZ485), Supplemental Information Sheet.

¹¹⁷⁷¹ D858 (BiH MUP Report re ABiH’s 11th Independent Battalion, 19 October 1993), pp. 2–3.

¹¹⁷⁷² Stanislav Galić, T. 37468 (22 April 2013), T. 38061 (9 May 2013); Dragomir Milošević, T. 32821–32822 (29 January 2013); D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 37; D2774 (Witness statement of Milenko Indić dated 19 January 2013), paras. 151–152; Francis Roy Thomas, T. 6830–6834 (15 September 2010); P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 68 (testifying that snipers on the BiH side were supplied by the police rather than the army). *See also* para. 4505. While Mirsad Kučanin, a CSB Sarajevo inspector, acknowledged the existence of a special police unit called Laste, which did get involved in combat, he also testified that it was poorly equipped and carried only rifles and some captured weapons. Kučanin encountered this unit when they were securing his crime scenes. P27 (Witness statement of Mirsad Kučanin dated 4 September 2000), p. 3.

Garaplija, a former member of the BiH MUP's SDB, confirmed that Ševe was a special MUP unit that operated during the conflict with the task of sniping at Bosnian Serb positions.¹¹⁷⁷³ **(#[eve and Laste had been a secret criminal units#, and they fired against the UN personnel and the Muslim civilians too. Garaplija testified that!)** According to Galić, the 1st Corps of the ABiH had around 500 snipers in Sarajevo because the Zrak factory, which produced optical sights, was in ABiH-held territory.¹¹⁷⁷⁴ Thomas testified that it was difficult for him to visit and inspect sniper locations in ABiH-held territory due to the BiH government's stonewalling.¹¹⁷⁷⁵ He was successful in seeing one such location, however, which was located in Dobrinja and which was manned by very professional police officers who had good sniping equipment.¹¹⁷⁷⁶

(A) Sniping investigations and anti-sniping measures undertaken in the city

3627. A number of witnesses before this Chamber, including both members of the BiH MUP and UNPROFOR, participated in the investigation of sniping incidents in Sarajevo. **(For inference! The# Serb side had never been allowed to participate in such an investigation#, nor to have an insight in the investigative materials, and this is something that should be provided by the UN regulations# – a side which may be marked as responsible must have an access to such an investigation with full participation! To leave it entirely to the only one side to the conflict would be a classic conflict of interests, because the entire Muslim government fought for a unitary independent Bosnia contra the interests and rights of the Christian majority!)** With respect to the BiH MUP investigations, the CSB Sarajevo's department for serious criminal acts was tasked with investigating sniping incidents in which one or more people were killed.¹¹⁷⁷⁷ This department was notified of any such incident by the local police station concerned and would in turn inform an investigative judge of the Sarajevo Supreme Court who would become the head of the investigating team.¹¹⁷⁷⁸ A team was then formed, including an investigator, criminal technicians, and a ballistics expert.¹¹⁷⁷⁹ The investigative judge was responsible for the investigation, for ensuring that no legal errors were made, and for conveying instructions to the investigator who would then pass them on to the other members of the team.¹¹⁷⁸⁰ The bulk of the investigation was carried out by ballistic experts and criminal technicians, whose task was to determine the type of the projectile used and the direction from which it came.¹¹⁷⁸¹ Upon completion of the investigation, the investigator would write up an official report on the

¹¹⁷⁷³ Edin Garaplija, T. 33382–33384, 33388 (7 February 2013). Garaplija also testified about this unit's other activities, which he labeled terrorist activities. See para. 4505.

¹¹⁷⁷⁴ Stanislav Galić, T. 37468 (22 April 2013), T. 38060–38061 (9 May 2013).

¹¹⁷⁷⁵ P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 64; Francis Roy Thomas, T. 6830–6834 (15 September 2010).

¹¹⁷⁷⁶ P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 64.

¹¹⁷⁷⁷ P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 4; P1905 (Witness statement of KDZ485), para. 5.

¹¹⁷⁷⁸ The investigating judge could authorise an investigator to conduct the investigation on his behalf. See P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 2, 4. See also P1905 (Witness statement of KDZ485), para. 5.

¹¹⁷⁷⁹ P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 4–5; P1905 (Witness statement of KDZ485), para. 5. Mirza Sabljica testified that in most serious cases the investigation team would include two ballistics experts rather than one. See P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 9.

¹¹⁷⁸⁰ P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 5. See also Dragan Mioković, T. 8555 (28 October 2010); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 67–68; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4643–4644; P1905 (Witness statement of KDZ485), para. 6.

¹¹⁷⁸¹ P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 5; P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 7, 67.

basis of his notes and “verbal comments” of the experts, providing a chronological description of the work conducted.¹¹⁷⁸² Later on, the investigator would also collect other documents prepared during the investigation, and would pass them on, together with his own report, to the investigating judge.¹¹⁷⁸³ It was for the judge to then prepare a report outlining the findings of the investigation and appending the documents prepared by the CSB and its experts.¹¹⁷⁸⁴ On rare occasions, the investigative judge would ask that further investigation be conducted, usually consisting of additional questioning of witnesses.¹¹⁷⁸⁵

3628. If no ballistic expert was available,¹¹⁷⁸⁶ determination of the origin and/or direction of fire was made by one of the criminal technicians who were also trained to determine the direction of fire.¹¹⁷⁸⁷ **(#Had it been valid and sufficient, there would not be an education of ballistic experts#. To put aside the fact that a mere direction was not sufficient to establish an origin of fire, because in all the directions there were both side trenches. A distance was more important. For inference!)** With respect to methods that were used for establishing the origin and/or direction of fire, they depended on the type of the incident and the scene in question, as well as any evidence found on the scene and any assistance from eye-witnesses.¹¹⁷⁸⁸ For example, in cases of sniping of trams, the first step was to examine the damage on the tram, including identifying the bullet’s entry and exit holes and their dimensions.¹¹⁷⁸⁹ **(Wrong! For a purpose of defining a direction of fire and a possible source, there should have been established first a precise site of contact of a bullet and tram. We have seen that a tram which had been hit continued to move, sometimes it was examined in its garage, or meters and meters far from the site of contact. It had been born in mind that a fire could have come from any neighbouring window, from a private appartments, a public buildings, from anywhere. For inference! In such a cases the biased investigators were free to allocate a responsibility to whichever side they wanted!)** Once this was done, a rope, glass tubes,¹¹⁷⁹⁰ a measuring level, and a small optical device¹¹⁷⁹¹ would be used to establish the bullet’s entry angle and to determine the direction of fire and facilities from which the bullet may have originated.¹¹⁷⁹² **(#How, if a tram moved?#)** This was done by connecting the entry and exit holes with a tube and a rope,¹¹⁷⁹³

¹¹⁷⁸² P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 5.

¹¹⁷⁸³ P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 5; P1905 (Witness statement of KDZ485), para. 7. *See also* KDZ485, T. 8900–8902 (3 November 2010).

¹¹⁷⁸⁴ P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 5.

¹¹⁷⁸⁵ P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 33–34.

¹¹⁷⁸⁶ According to KDZ485, “there were not too many [ballistics experts] to go around” during the war. P1905 (Witness statement of KDZ485), para. 11; KDZ485, T. 8900 (3 November 2010).

¹¹⁷⁸⁷ P1905 (Witness statement of KDZ485), para. 11. KDZ485 could recall only one sniping incident where the ballistics expert was absent from the scene. KDZ485, T. 8900 (3 November 2010).

¹¹⁷⁸⁸ P1905 (Witness statement of KDZ485), para. 12.

¹¹⁷⁸⁹ Mirza Sabljica, T. 7732 (12 October 2010); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 68.

¹¹⁷⁹⁰ Mirza Sabljica testified that the team had a number of these tubes of different sizes, depending on the type and caliber of the ammunition that was used. *See* Mirza Sabljica, T. 7743 (12 October 2010).

¹¹⁷⁹¹ The device was a type of sophisticated binocular, with a 16 time zoom, made for the BiH MUP in order to assist in their investigations. Mirza Sabljica did not know if this device was ever tested as reliable for the purpose for which it was used. He did admit, however, that the device would be affected by certain aberrations in light and noted that the team did not have the equipment necessary to take into account those aberrations. *See* Mirza Sabljica, T. 7733, 7744–7745 (12 October 2010).

¹¹⁷⁹² Mirza Sabljica, T. 7732–7735, 7743 (12 October 2010); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 68. *See also* P21 (Witness statement of Mirsad Kučanin dated 21 February 1996), e-court p. 2; P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 2, 11; P1905 (Witness statement of KDZ485), para. 14; P1924 (Photograph of Sarajevo marked by KDZ485).

¹¹⁷⁹³ According to Mirza Sabljica, the wall of the Sarajevo trams was somewhere between 12 and 15 centimetres thick. *See* Mirza Sabljica, T. 7742 (12 October 2010).

measuring the sides of the resulting triangle and its hypotenuse, using trigonometry to calculate the entry angle, and then, finally, using the optical device to look through the hole¹¹⁷⁹⁴ to sight the area and potential facilities from which the bullet could have originated.¹¹⁷⁹⁵ Mirza Sabljica, a ballistics expert working for CSB Sarajevo,¹¹⁷⁹⁶ testified that the investigation team usually insisted on the tram remaining at the location of the incident although that was often impossible as trams were sometimes moved by the driver to avoid being shot again.¹¹⁷⁹⁷ **(Exactly! And it never stopped at spot where it had been hit. For inference!)** If the tram could not be returned to the location at which it was when hit,¹¹⁷⁹⁸ the investigators would only take measurements and calculate the bullet's entry angle but would not use the optical device to conduct the sighting exercise as the difference in a few centimetres in the position of the tram would result in a different direction of fire.¹¹⁷⁹⁹ In these instances, the ballistic experts were therefore able to establish only the general direction of fire but not the precise location from which the bullet had been fired.¹¹⁸⁰⁰ The sniping investigations related to sniping of apartments were conducted in the same manner, using the equipment and the methodology described above.¹¹⁸⁰¹

3629. Sabljica also explained that the ballistics experts could not establish the distance which the bullets had travelled and, for that reason, in areas where VRS and ABiH positions were close to each other, they would not specify the exact origin of fire from within VRS-held territory or outside but simply referred to cardinal directions.¹¹⁸⁰² Dragan Mioković, an investigator in CSB Sarajevo,¹¹⁸⁰³ stated that given the circumstances in which the investigations were carried out, the BiH MUP “practically just documented these incidents” rather than elucidating the crimes, which is why medical reports were not of primary importance when conducting investigations.¹¹⁸⁰⁴ **(For inference! Than, how any of those incidents could be addressed to the Serbs? There #had never been a proper investigation#, and one may number the cases out!)**

3630. Generally, UNPROFOR would be informed about the sniping incidents, either from its own troops or through protests by warring factions, and would conduct its own investigation

¹¹⁷⁹⁴ The device would be lightly fixed to the tube that was inserted through the bullet's entry and exit holes and the investigators could look to see what particular buildings could be seen through it. *See* Mirza Sabljica, T. 7735 (12 October 2010).

¹¹⁷⁹⁵ However, the bullet would sometimes get stuck in the body of a tram and there would be no exit hole. Mirza Sabljica, T. 7732–7735, 7743 (12 October 2010); P1734 (Sketch drawn by Mirza Sabljica); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 68. *See also* P21 (Witness statement of Mirsad Kućanin dated 21 February 1996), e-court p. 2; P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 2, 11.

¹¹⁷⁹⁶ For Mirza Sabljica's qualifications, *see* Mirza Sabljica, T. 7702, 7705–7706 (11 October 2011); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 1–8, 60.

¹¹⁷⁹⁷ P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 67–68; P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 5; P1905 (Witness statement of KDZ485), para. 13.

¹¹⁷⁹⁸ Mirza Sabljica, T. 7736, 7746 (12 October 2010); P1905 (Witness statement of KDZ485), para. 13.

¹¹⁷⁹⁹ Mirza Sabljica, T. 7736, 7745–7746 (12 October 2010).

¹¹⁸⁰⁰ P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 68–69; P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), p. 34.

¹¹⁸⁰¹ Mirza Sabljica, T. 7734–7735 (12 October 2010); P1905 (Witness statement of KDZ485), para. 12.

¹¹⁸⁰² P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 7.

¹¹⁸⁰³ For Dragan Mioković's qualifications, *see* Dragan Mioković, T. 8544–8545, 8548–8551 (28 October 2010); P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 2, 28–29.

¹¹⁸⁰⁴ Mioković testified that medical reports would be submitted to the investigating judge separately, after the team had completed its work. *See* P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 34–35. KDZ485 testified, however, that when investigating an incident, one of duties of the police was to establish if anyone was injured or killed and to follow up at the hospital or the mortuary. *See* P1905 (Witness statement of KDZ485), paras. 7, 15.

and also assist the BiH MUP in their investigations.¹¹⁸⁰⁵ **(Not entirely correct: some of the UN officers testified that the #UN had never made an investigation in a criminal sense#, and therefore their “investigations” couldn’t be used in a criminal procedure, see below!)** Fraser testified that because UNPROFOR was not supposed to get involved in exchanges between the warring factions, it took great care to determine whether sniping incidents were directed against civilians or not.¹¹⁸⁰⁶ If they were, it would then exercise particular caution to determine which side fired the shot against the civilian.¹¹⁸⁰⁷ Fraser conceded, however, that the UNPROFOR investigation was not a criminal investigation.¹¹⁸⁰⁸ **(For inference. In such a case, it #couldn’t be used in a criminal court#! So more it was necessary to include the SRK experts in investigation. However, a very few incidents had been reported to the SRK Command!)** Instead, UNPROFOR would get information from its troops positioned in the area of the incident and from the local authorities, including the local police, and would then protest, verbally or in writing, with the party found to have conducted the sniping attack.¹¹⁸⁰⁹ **(It can not be said “found”# because it was not found, it was alleged by the party which had been in a “conflict of interest”, i.e. very interested in denigrating the Serbs and causing an international military intervention#! For inference! No wonder why the most of incidents had been allocated to the Serbs, because the “local authorities, particularly local police, was an extremely politicized and engaged in combats formation, well aware of a need to cause the intervention!)** Rose testified that the UN could not determine beyond reasonable doubt from where the sniper fire had come because it did not conduct investigations that would have established that.¹¹⁸¹⁰ **(For inference! Therefore, #all of those “opinions” and “believes” of the internationals, the UN people and journalists should have been dismissed as an unreliable information, depended of believes and lacking any knowledge about the deployment of the forces, and a total absence of an objective investigation#. The UN military officers correctly admitted this lack of investigation, why the UN Court would make a precedent and accept this highly doubtful evidence as a facts?)**

3631. In addition, prompted by the number of sniping incidents in the Sniper Alley area, Sector Sarajevo also created an international anti-sniping task force wherein snipers from each UNPROFOR battalion were given anti-sniping tasks in their area of responsibility, with the aim of protecting civilians.¹¹⁸¹¹ This force had a co-ordination centre and sniping incidents were reported to the Sector Sarajevo headquarters as soon as possible after they occurred.¹¹⁸¹² While part of the task force’s duties was to deter both sides, it principally had to deter the

¹¹⁸⁰⁵ David Fraser, T. 8016, 8054–8055 (18 October 2010); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 22–23; P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 18–20.

¹¹⁸⁰⁶ David Fraser, T. 8015–8016 (18 October 2010).

¹¹⁸⁰⁷ David Fraser, T. 8016 (18 October 2010).

¹¹⁸⁰⁸ David Fraser, T. 8054–8055 (18 October 2010). *See also* KDZ304, T. 10523 (19 January 2011).

¹¹⁸⁰⁹ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 23; David Fraser, T. 8016, 8054–8055 (18 October 2010), T. 8124–8125 (19 October 2010); P2414 (Witness statement of KDZ182), p. 31 (under seal).

¹¹⁸¹⁰ Michael Rose, T. 7293–7294 (5 October 2010).

¹¹⁸¹¹ David Fraser, T. 8016 (18 October 2010); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 32, 34; P2407 (Witness statement of KDZ304), pp. 10–11; P1773 (UNPROFOR report re efficacy of Anti-Sniping Agreement, 15 September 1994).

¹¹⁸¹² P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 32–33, 37; P1771 (UNPROFOR report re anti-sniping measures, 25 June 1994); P1772 (UNPROFOR report re sniping in Sarajevo, 6 September 1994); KDZ182, T. 13083 (9 March 2011) (private session); P2407 (Witness statement of KDZ304), p. 15; P2113 (UNPROFOR report re anti-sniping, 23 September 1994).

Bosnian Serbs from shooting at civilians.¹¹⁸¹³ It would do that by, for example, physically interposing UNPROFOR soldiers between the Serb snipers and the civilians in the Sniper Alley area and then engaging the snipers themselves.¹¹⁸¹⁴ It would also install passive barriers throughout the city, although at times the BiH authorities would not allow this.¹¹⁸¹⁵ **For inference, the Muslim side was not interested in stopping this practice, as they refused to demilitarise Sarajevo and give it under the UN administration! Games, after games, endlessly! Naturally, in this case the UN couldn't accuse the Serb side for firing towards their forces. Also, the UN was well aware that the Muslim side exercised a trickery, as with a mobile mortars. Certainly, it was much easier to do the same trickery with snipers, and the UN anti-sniper force needed some time to get to the site, and it was sufficient to have the scene staged! To charge the Serb side on the basis of such an inadequate evidence could happen only with a decisive will to damage the Serb position!** Another one of its tasks was to photograph all the possible areas in Grbavica where the Serbs were shooting from and observe the identified locations thus becoming very familiar with the sniper positions in the area.¹¹⁸¹⁶ That information would have then been sent up to the battalion and the sector level.¹¹⁸¹⁷ All of the above meant that the anti-sniping task force was “very good in determining the point of origin for specific incidents” and that UNPROFOR commanders were “certain” that Bosnian Serb forces were engaging in sniping attacks against civilians in Sarajevo.¹¹⁸¹⁸ **(#Wrong! Since the confrontation line was double, following each other closely, a position within this double ring could have been shot from either side in all of the directions. It was easier to accept the allegations and hints served by the Muslim side, than to investigate. This kind of “impressions” is not**

¹¹⁸¹³ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 33–34; P2414 (Witness statement of KDZ182), pp. 6–7, 40–41 (under seal); KDZ182, T. 13083–13084 (9 March 2011) (private session). KDZ304 explained that it was difficult to monitor the snipers on the Bosnian Muslim side as most of the UNPROFOR forces, with the exception of RusBat, had no access to SRK-held areas and could not observe or verify the number or the identity of sniping victims on the Serb side. Since RusBat never reported any sniping incidents on the Serb side, the anti-sniping task force was unable to locate the sniper nests on the Bosnian Muslim side. See P2407 (Witness statement of KDZ304), pp. 13–15. **However, the UN forces could have noticed the direction from which it was fired. For inference. In that case, they wouldn't be able to determine who and when fired.**

¹¹⁸¹⁴ P2407 (Witness statement of KDZ304), p. 11. Fraser testified that this did not always work as UNPROFOR lost a number of soldiers through sniping, one of whom was shot by the Serbs while located in one of the UNIS towers, while another was shot near the airport by the Bosnian Muslim side. **The one killed in the UNIS tower certainly couldn't be recognized and differentiated from a Muslim sniper shooter. For inference.** See P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 33–34, 36; David Fraser, T. 8016 (18 October 2010). KDZ182 testified that UNPROFOR soldiers would engage the snipers only in a situation of self-defence, and were able to do that because they had thermal cameras which allowed them to see where the snipers were. He also confirmed that an UNPROFOR soldier was shot by the Bosnian Muslim side at the airport. See P2414 (Witness statement of KDZ182), pp. 29, 42, 44, 72 (under seal). See also P5908 (Record of interview with KDZ185), para. 8; P1075 (Photograph of UN APC in Sarajevo); D2907 (UNPROFOR report, 18 April 1995); D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 158.

¹¹⁸¹⁵ David Fraser, T. 8016 (18 October 2010), T. 8121–8122 (19 October 2010); P1762 (Witness statement of David Fraser dated 17 October 2010), p. 34; P2414 (Witness statement of KDZ182), p. 40 (under seal); P6060 (Record of interview with KDZ185), e-court p. 13; P5908 (Record of interview with KDZ185), para. 8; P1069 (Photograph of anti-sniping barricades in Sarajevo); P1070 (Photograph of anti-sniping barricades (Maršal Tito Barracks)); P1071 (Photograph of anti-sniping barricades (Dobrinja)); P1072 (Photograph of anti-sniping barricades (Dobrinja)); P1073 (Photograph of anti-sniping barricades in Sarajevo); P1074 (Photograph of anti-sniping barricades (Parliament building)); P1075 (Photograph of UN APC in Sarajevo); P2407 (Witness statement of KDZ304), p. 11. Fraser also explained that while the barriers had a positive impact, they would simply result in moving the problem elsewhere as the snipers would find new positions from which they could gauge the target. See David Fraser, T. 8163–8164 (19 October 2010).

¹¹⁸¹⁶ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 24–25, 29; David Fraser, T. 8016–8018 (18 October 2010).

¹¹⁸¹⁷ David Fraser, T. 8018 (18 October 2010); P2407 (Witness statement of KDZ304), p. 12; P2112 (UNPROFOR report re sniper fire in Sarajevo, 21 September 1994).

¹¹⁸¹⁸ David Fraser, T. 8018 (18 October 2010). Fraser also testified that UNPROFOR did not use reports produced by the BiH government agencies. See David Fraser, T. 8034 (18 October 2010).

sufficient for the purpose of a criminal trial. If it is not provable at any time by another expert, this is not valid. For reference!)

3632. The Accused argues that both the BiH MUP and the UN investigators working on scheduled sniping incidents were “exceptionally unreliable” as they were biased and their work was riddled with mistakes.¹¹⁸¹⁹ The Prosecution responds that this is a broad allegation based on mis-characterisation of the evidence the relevant witnesses gave.¹¹⁸²⁰ As will be seen below, in its analysis of the scheduled sniping incidents the Chamber has considered and analysed a number of CSB Sarajevo and UN reports prepared on the basis of the investigation methods outlined above. These were produced by ballistics experts and/or criminal technicians who were, in most cases, on site soon after the incident happened and who used accepted ballistics methods to determine the direction of fire. **(#Even if they determined the direction, it was not sufficient to determine which side fired#. In the same direction there were both sides and both confrontation lines. #Appart from their obvious bias, their concerns for their safety if not satisfied the Muslim authorities must be higher than the same of the UN Generals, who used to say that because of living there, the didn't dare to say the truth#!)** These individuals, particularly the UNPROFOR and its anti-sniping force, also had extensive knowledge of notorious sniping positions in the city, as well as access to the scene, contemporaneous information, and eye-witnesses. Given these factors, the Chamber generally gave considerable weight to the CSB Sarajevo and UN reports when analysing the scheduled sniping incidents. In doing so, the Chamber was also constantly cognisant of the shortcomings of the investigations conducted during the war, such as for example the difficulties faced by investigators when working on a crime scene while under threat of enemy fire, their inability to determine the exact origin of fire as opposed to the direction of fire, and inconsistencies between ballistic and other investigative reports. **(Beside that, #the very same investigators admitted that they didn't convey the investigations as properly as in a peace time#! This is quite sufficient for the principle “In dubio pro reo”, and it would be unlawful if the President, or anyone, would be sentenced under these conditions! This could be used only for a moral and propaganda matters, but not for a criminal procedur!)** Whenever issues arose with respect to particular reports, they were considered by the Chamber in relation to each particular incident. Accordingly, while finding this type of evidence to be generally reliable and credible, the Chamber approached it as one piece of the puzzle assessed against the totality of evidence tendered in relation to each incident. **(#This kind of analogy in deliberating in a serious criminal process, particularly against an accused who was so far from any possible perpetrator, who issued so many orders against any firing towards civilians, while the Prosecutor didn't have any evidence to the contrary – would be too much of injustice#, even for some well known regimes!)**

3633. The Chamber also heard from one of the Prosecution investigators, Barry Hogan, who visited Sarajevo on many occasions and prepared various materials relating to the incidents listed in Schedule F of the Indictment.¹¹⁸²¹ He testified that he visited each of the locations where the victims listed in Schedule F were wounded or killed, accompanied by one of those

¹¹⁸¹⁹ Closing Arguments, T. 47954–47959, 47989–47991 (2 October 2014).

¹¹⁸²⁰ Closing Arguments, T. 48056–48059 (7 October 2014).

¹¹⁸²¹ Barry Hogan, T. 11192–11193 (3 February 2011).

victims or eyewitnesses, and used a GPS unit to produce an accurate reading of the position of the victim and/or a tram at the time the shooting took place, as recounted by that victim or witness. **(For inference! How long after the incident he visited the sites? Event from this “operation” the Serb side was excluded, although it could have helped obtaining some useful information! This is far from any required standard and can not be used even for an inference!).** These were then used to produce a map recording all the incident sites.¹¹⁸²² Hogan would then stand at the location where the victims were wounded and/or killed and would take GPS readings from there.¹¹⁸²³ Hogan also explained that no local police reports or UN reports were used for the purpose of this exercise.¹¹⁸²⁴ As for the origin of fire, the victims/witnesses simply indicated the direction from which the fire had come, as they were not in a position to identify the exact locations from which the bullets were fired.¹¹⁸²⁵ **(#Nota bene!!! How then Mr. Hogan could have identified it!#)** These victims and/or witnesses were pointing out locations purely from memory as they were not given their own witness statements or any other materials in order to refresh their memories.¹¹⁸²⁶ The Chamber has considered Hogan’s evidence and found that he was a reliable and truthful witness. **(It was not a matter of whether Hogan was truthful witness, the main issue was whether he could decide from which side of the confrontation line was shooter? If he was in the Muslim controlled territory, no bullet could have come only from a Serb territory, because between the spot and a shooter there were the positions of the both Armies! Not to mention that Mr. Hogan was employed by the Prosecution, which certainly didn’t expect anything but a confirmation of a Serb liability! Such an investigation shouldn’t be recognised unless the suspected side participated in it!)** He was meticulous and did not overstep the boundaries of his mandate. However, the Chamber notes that his mandate was limited to simply recording the locations of the incident sites. In addition, for each alleged incident, his GPS recordings were dependent on the recollection of a singular victim/witness who was not given any material to refresh his or her memory despite being taken to the relevant locations years after the incident. **Exactly. For inference! #Another crucial element had almost never been established, a position of victim, pertaining a position of their body in relation to the azimuth#. A small deviation in 360 degrees would result in tens or hundreds of metres deviation of a source of fire!)** Thus, at times, as will be seen below,¹¹⁸²⁷ there was some inconsistency between those recollections and the official reports created by the BiH MUP and/or other evidence. Accordingly, while accepting Hogan’s evidence as credible, the Chamber is fully aware of its limitations and also of the fact that his activities were dependent on the recollections of others. **(And on the above described position of bodies.)**

¹¹⁸²² Barry Hogan, T. 11204–11206, 11230–11231, 11255 (3 February 2011); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents).

¹¹⁸²³ Barry Hogan, T. 11232–11233, 11241–11245 (3 February 2011) (adding that the readings were taken in degrees, minutes, and seconds but that later, when preparing the maps, he converted those measurements into decimal degrees which did not affect the location of the incident as recorded on the maps. *See also* P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents)).

¹¹⁸²⁴ Barry Hogan, T. 11231–11235 (3 February 2011); D990 (Photographs of GPS device).

¹¹⁸²⁵ Barry Hogan, T. 11231 (3 February 2011).

¹¹⁸²⁶ Barry Hogan, T. 11288 (3 February 2011).

¹¹⁸²⁷ *See e.g.* para. 3963.

3634. Finally, as noted above,^{11828 (11828)} the Chamber heard from two experts relating to sniping in Sarajevo. For the Prosecution, Van der Weijden conducted investigations into all scheduled sniping incidents and considered the alleged origin of fire, as well as the opportunity the shooter in each incident would have had to identify the target as a combatant. He visited the incident sites in 2006 and 2009 and inspected the exact locations at which the victims were shot, using the GPS co-ordinates obtained by Hogan and provided to him by the Prosecution; while there, he observed the surroundings, usually from the location of the wound on the victims' bodies, checking for a clear line of sight to a possible shooting position.¹¹⁸²⁹ He then visited the areas he identified as possible shooting positions to see if it would be technically feasible to fire from them.¹¹⁸³⁰ **(Feasible or not, he could only establish #whether it was possible, but he didn't establish whether or not was it probable, let alone for sure that it was a place of the source of fire#!)** He would then eliminate the locations offering no views on the incident sites and/or offering no tactical advantage to the shooter, and would eventually arrive at the area he thought the shot had come from.¹¹⁸³¹ **(His "thoughts" are not enough for the criminal case, because it is not "beyond reasonable doubt". How possibly he excluded another position a few tens of yards deep in the Muslim territory, although in the same direction? No way! For inference!)**

3635. When conducting this exercise, Van der Weijden was also provided with witness statements in which the origin of fire was often suggested by the witnesses; however, this did not have much effect on his investigation as he would, using the method described above, independently assess whether their account was feasible.¹¹⁸³² For some incidents, he was also given reports prepared by the BiH MUP, but noted that these were not "very helpful" as they were not "very complete".¹¹⁸³³ **(For inference! That is what the Defence kept saying all the times!)** Van der Weijden conceded that he did not review the medical information pertaining to the injuries of the victims in question nor did he always have knowledge of the exact position the victim was in when shot, but again explained that he was concerned mainly with lines of sight and with the general layout of the incident site.¹¹⁸³⁴ **And this is exactly what can not be used in a criminal case. The logics as "there could have been a Serb, therefore it was a Serb" is not acceptable in any serious court! Taking into account the lines of the two armies close to each other, taking into account that we do have evidence that the Muslim Army used to shoot at their own people, any allegation about the Serb sniper action must be proven "beyond a reasonable doubt". For inference!)** Van der Weijden was only broadly aware of the confrontation lines in Sarajevo and not in relation to each specific incident; however, according to him, having detailed knowledge of these lines was not necessary since his investigation was concerned purely with the inquiry into where the shot might have come from, rather than from which side of the confrontation line it originated.¹¹⁸³⁵ **(Exactly! But it could have not been used in a criminal case related to the responsibility! What for could this be used? Not for a criminal case! To many limitations**

¹¹⁸²⁸ See para. 3617.

¹¹⁸²⁹ Patrick van der Weijden, T. 6953, 6968–6969 (27 September 2010).

¹¹⁸³⁰ Patrick van der Weijden, T. 6953, 6970–6971 (27 September 2010).

¹¹⁸³¹ Patrick van der Weijden, T. 6967–6968 (27 September 2010).

¹¹⁸³² Patrick van der Weijden, T. 6954 (27 September 2010).

¹¹⁸³³ Patrick van der Weijden, T. 6971–6972 (27 September 2010).

¹¹⁸³⁴ Patrick van der Weijden, T. 6954, 6969–6970 (27 September 2010).

¹¹⁸³⁵ Patrick van der Weijden, T. 6965–6966, 6971 (27 September 2010).

to be able to accuse the Serb side, or any side!) He also noted that he never established that any of the shots were fired by a trained sniper as opposed to a regular soldier,¹¹⁸³⁶ and accepted that he was never able to reach a definitive conclusion as to the exact location from which the bullet had come from.¹¹⁸³⁷ **(Therefore, nobody should be blamed, let alone convicted due to this evidence. For inference!)**

3636. The Accused argues that Van der Weijden is the Prosecution's most important witness with respect to the alleged sniping incidents but is of highly questionable credibility, given that he attended only several military courses. In addition, according to the Accused, Van der Weijden was aware of the confrontation lines in Sarajevo only in "broad lines" and reached his conclusions purely by looking at the layout of the incident site, trying to establish possible origins of the shots.¹¹⁸³⁸ Further, the Accused claims that Van der Weijden was never able to reach a definitive conclusion as to the exact origin of fire and acknowledged that the BiH MUP reports were not very helpful as they were incomplete.¹¹⁸³⁹ The Prosecution responds that the Accused mis-characterised Van der Weijden's conclusions since, for a number of incidents, namely, F.1, F.3, F.6, and F.12, Van der Weijden either concluded there was only one possible origin of fire or excluded any reasonable possibility that the fire originated from ABiH-held territory.¹¹⁸⁴⁰ The Prosecution also notes that Van der Weijden's conclusions are only a part of the totality of evidence for each scheduled incident.¹¹⁸⁴¹ **(#Nobody could have excluded the BiH territory#, since between all and every of those sites there were a strips of the BH territory, full of the Army members, and a c/l along with the Serb lines was also possessed by a huge number of the ABiH soldiers! How it is possible that a UN Court accept this kind of a broad "findings" that if it was excluded the ABiH territory as a source of fire, that automatically meant that a Serb soldier under the President control fired from the Serb territory, as it there was a video surveillance, or there were no other armed people, like HVO, like a rogue elements of all the three sides! All of it sounds as: #“on the hill there is some smoke, there must be Indians”# And, the European Indians are the Serbs, and they earned it through their alliance with this Europe and the West!)**

3637. The Chamber has analysed Van der Weijden's qualifications and testimony and is satisfied that he is an expert in sniping and a reliable witness and that his evidence, as far as its main purpose is concerned—namely to establish the lines of sight between possible origins of fire and the alleged location of the incident—can be accepted as generally credible.¹¹⁸⁴² The Chamber also notes, however, that Van der Weijden's methodology was dependent on the information given to him by the Prosecution as to the location of incident sites, which at times was confusing and/or internally inconsistent.¹¹⁸⁴³ In addition, as he himself stated, his investigation was concerned purely with the inquiry into where the shot might have come

¹¹⁸³⁶ Patrick van der Weijden, T. 6967 (27 September 2010).

¹¹⁸³⁷ Patrick van der Weijden, T. 6972 (27 September 2010).

¹¹⁸³⁸ Defence Final Brief, paras. 2163–2165.

¹¹⁸³⁹ Defence Final Brief, paras. 2166–2167.

¹¹⁸⁴⁰ Closing Arguments, T. 47734 (30 September 2014).

¹¹⁸⁴¹ Closing Arguments, T. 47734 (30 September 2014).

¹¹⁸⁴² The Chamber has noted in relation to each individual incident where his evidence was not relied upon, due mainly to the inaccurate or confusing information he was given by the Prosecution.

¹¹⁸⁴³ See *e.g.* discussion in relation to Scheduled Incident F.11.

from, rather than from which side of the confrontation line it originated from, and he willingly admitted that he was never able to reach a definitive conclusion as to the exact location where the bullet originated. Accordingly, his evidence was approached as one of a number of factors in the Chamber's assessment of the totality of the evidence and, at times, was of relatively limited value in the Chamber's determination on the origin of fire in the incidents alleged. **(Not even so. Even if a body had been moved before an investigation arrived, the #direction of incoming fire could have not been accurately established, since any fire could have come from each of 360⁰ # Any disturbance of the crime scene would alter findings, let alone if an investigation had been conveyed a years after!)**

3638. While preparing his expert report, Poparić visited Sarajevo twice, in September 2010 and May 2011.¹¹⁸⁴⁴ The first visit lasted three days and its purpose was for Poparić to familiarise himself with the sites and to help the Accused prepare for cross-examination of Prosecution witnesses.¹¹⁸⁴⁵ The purpose of the second visit was to prepare the Accused's legal adviser for the site visit.¹¹⁸⁴⁶ Poparić explained that during the visits he was led to the relevant locations by a former member of the SRK who knew the best way to some of the more inaccessible areas.¹¹⁸⁴⁷ He also explained that in addition to the two official visits, he went to Sarajevo on a few more occasions on his own, usually when he needed further clarification, but did not meet with the victims of the sniping incidents.¹¹⁸⁴⁸

3639. During his visits, Poparić visited locations of the scheduled incidents and locations from which the shots might have originated.¹¹⁸⁴⁹ However, with respect to six scheduled sniping incidents that took place on Zmaja od Bosne street, he conceded that he did not go inside the four white high-rises in Grbavica claiming that this was not necessary because he had photographs from the *Dragomir Milošević* case and because it was not clear on which floors the sniper nests were located.¹¹⁸⁵⁰ His analysis of the incidents relevant to the high-rises was in any event based primarily on (i) the height of the four high-rises and (ii) the distance between the high-rises and the incident site, which allowed him to calculate the maximum angle of descent of any bullets fired from there.¹¹⁸⁵¹ Poparić also clarified that he did not go inside the Metalka building but stood next to it to see the view down Franje Račkog street; he also had a set of photographs taken from the building in 2001, at the time when there was no vegetation, for the purposes of the *Dragomir Milošević* case.¹¹⁸⁵² Poparić did not dispute Van der Weijden's findings as to what was visible from the white high-rises and the Metalka building and assumed them to be correct for the purposes of his analysis.¹¹⁸⁵³

¹¹⁸⁴⁴ Mile Poparić, T. 39173 (4 June 2013).

¹¹⁸⁴⁵ Mile Poparić, T. 39173 (4 June 2013).

¹¹⁸⁴⁶ Mile Poparić, T. 39173 (4 June 2013).

¹¹⁸⁴⁷ Mile Poparić, T. 39173–39177 (4 June 2013).

¹¹⁸⁴⁸ He did meet, however, with a person who took one of the victims of one of the scheduled incidents to the hospital. *See* Mile Poparić, T. 39177–39180 (4 June 2013).

¹¹⁸⁴⁹ Mile Poparić, T. 39177 (4 June 2013).

¹¹⁸⁵⁰ Mile Poparić, T. 39183–39189 (4 June 2013).

¹¹⁸⁵¹ According to Poparić, that angle was about ten degrees. *See* Mile Poparić, T. 39184–39185 (4 June 2013).

¹¹⁸⁵² Mile Poparić, T. 39185–39189 (4 June 2013).

¹¹⁸⁵³ Mile Poparić, T. 39189–39190 (4 June 2013).

3640. In terms of the equipment, Poparić had a compass, a camera, and a measuring tape.¹¹⁸⁵⁴ The compass was not of much use to him due to the fact that many of incident locations were in or near certain facilities so there was no dispute about them.¹¹⁸⁵⁵ He also did not use a GPS to identify the relevant locations because this was not necessary given that he had photographs and other information.¹¹⁸⁵⁶ In addition, small differences in measurements would not have made much difference for sniping incidents due to the fact that the trajectory of a bullet is horizontal and straight.¹¹⁸⁵⁷ He also did not use a laser rangefinder which would have been useful only if there was information about the nature of the wounds of the victims, which was not available.¹¹⁸⁵⁸

3641. As for the type and quality of materials available to him, Poparić explained that what was lacking in the materials available was information relating to medical and forensic evidence.¹¹⁸⁵⁹ When preparing his report, he consulted a forensic medicine doctor in relation to one of the incidents¹¹⁸⁶⁰ but did not consult any professional snipers.¹¹⁸⁶¹ When pointed out to him that he used a map of confrontation lines from 1995 in relation to incidents from 1993, while failing to specify the date of the map in his report, Poparić denied that he deliberately and repeatedly omitted relevant information from his report and that he had developed premises based on incorrect information.¹¹⁸⁶² **(But, the confrontation line didn't change a bit, particularly in the areas of interest for the sniping incidents, in the central parts of the city!)**

3642. The Prosecution submits that Poparić was neither credible nor reliable and that his evidence should be disregarded as a whole.¹¹⁸⁶³ The Accused on the other hand claims that Poparić, unlike the Prosecution witnesses, stated all the facts, thus successfully challenging the Prosecution evidence.¹¹⁸⁶⁴ The Chamber has analysed both Poparić's expert report and his testimony on the scheduled sniping incidents alleged in the Indictment and has found that on many occasions he ventured outside of his area of expertise and made conclusions on issues in which he had no training, such as for example determining entry and exit wounds from videos and photographs.¹¹⁸⁶⁵ **(The prosecution experts didn't even try to depict the basic medicine data, such as entry and exit wounds, nor ever determined the orientation of a victim, and in some reports of the contemporaneous investigation of the BiH MUP, there was a wrongfully marked azimuth for the entire 90 degrees!)** As will be seen from the Chamber's analysis in relation to each scheduled sniping incident, Poparić often jumped to

¹¹⁸⁵⁴ Mile Poparić, T. 39182–39183 (4 June 2013).

¹¹⁸⁵⁵ Mile Poparić, T. 39183 (4 June 2013).

¹¹⁸⁵⁶ Mile Poparić, T. 39180–39181 (4 June 2013).

¹¹⁸⁵⁷ Mile Poparić, T. 39181–39182 (4 June 2013).

¹¹⁸⁵⁸ Mile Poparić, T. 39182–39183 (4 June 2013).

¹¹⁸⁵⁹ Mile Poparić, T. 39191 (4 June 2013).

¹¹⁸⁶⁰ This was Dr. Dušan Dunjić and the consultation related to Scheduled Incident F12. See Mile Poparić, T. 39191–39193, 39198 (4 June 2013).

¹¹⁸⁶¹ Mile Poparić, T. 39193–39194 (4 June 2013).

¹¹⁸⁶² Mile Poparić, T. 39195–39198 (4 June 2013).

¹¹⁸⁶³ The Prosecution claims that Poparić changed his theories freely in an attempt to maintain that fire did not originate from Serb-held positions or that victims were caught in cross-fire. He produced graphic images that were inaccurately manipulated and distorted, and he intentionally omitted contrary evidence of which he was aware on the ground that it was “totally irrelevant”. According to the Prosecution he also engaged in methodologically-flawed analyses and conducted limited on-site personal examinations. See Prosecution Final Brief, Appendix C, paras. 5–11.

¹¹⁸⁶⁴ Closing Arguments, T. 48012–48013 (2 October 2014).

¹¹⁸⁶⁵ See e.g. paras. 3719, 3738.

conclusions, making questionable leaps in logic.¹¹⁸⁶⁶ At times, he also reached conclusions based on incorrect information.¹¹⁸⁶⁷ In addition, while expressing opinions as to what could and could not be seen from certain buildings in Sarajevo, such as the four white high-rises and the Metalka building,¹¹⁸⁶⁸ he also conceded that he never entered those buildings.¹¹⁸⁶⁹ All of these aspects of Poparić's evidence tended to compromise his credibility and impartiality. Accordingly, the Chamber has found his evidence to be of limited value, as will be seen in the sections analysing each specific scheduled incident. **(It was not necessary to have Mr. Poparić unmistakable, since the #Prosecution experts didn't establish what happened but only what could have happened#. Beside that, many Prosecution witnesses brought their convictions, believes, esteems and other "opinions" about the things they had never been educated for. For inference, to collect all of those opinions for the Sarajevo part, such as Thomas, Harland and others.)**

i. Scheduled sniping incidents

3643. The Prosecution submits in its Final Brief that the sniping fire in all scheduled incidents, with the exception of Scheduled Incident F.5, originated from "well-known SRK positions", namely Grbavica; Špicasta Stijena; the Orthodox Church in Dobrinja; upper parts of Hrasno Brdo and Ozrenska street; the School for the Blind, the Faculty of Theology, and other areas of Nedžarići; and Baba Stijena.¹¹⁸⁷⁰ In addition, it alleges that the victims, as well as the bus and trams they were on, were deliberately targeted in those incidents and were not legitimate military objectives.¹¹⁸⁷¹ Each scheduled sniping incident is discussed below according to the broad geographical area of Sarajevo where it took place. Some of these areas were notorious for sniper activity, such as Zmaja od Bosne street, Marin Dvor area, and Sedrenik.

(A) Zmaja od Bosne street (formerly Vojvode Putnika)

3644. According to the Indictment, Scheduled Sniping Incidents F.8, F.11, F.12, F.14, F.15, and F.16 took place on Zmaja od Bosne street, along Sniper Alley, and targeted trams and pedestrians in the area.¹¹⁸⁷² The Prosecution claims that the origin of fire in all those incidents was south of Zmaja od Bosne, namely the four white high-rises on Lenjinova street, the Metalka building, and the Jewish cemetery, all located in the area of Grbavica and controlled by the SRK.¹¹⁸⁷³

¹¹⁸⁶⁶ See e.g. paras. 3758, 3763.

¹¹⁸⁶⁷ See e.g. para. 3719.

¹¹⁸⁶⁸ See para. 3667.

¹¹⁸⁶⁹ As noted above in paragraph 3667, Poparić justified his decision not to enter the relevant buildings by saying, *inter alia*, that there was no evidence indicating the floors at which sniper nests operated. However, as will be seen below, this is incorrect—for example, exhibit P1738, which contains photographs of sniper nests in the four white high-rises clearly indicates the floors at which those nests were located. See P1738 (Photographs of sniper nests).

¹¹⁸⁷⁰ Prosecution Final Brief, Appendix C, para. 2.

¹¹⁸⁷¹ Prosecution Final Brief, Appendix C, para. 3.

¹¹⁸⁷² Indictment, Schedule F. See also Prosecution Final Brief, Appendix C, para. 15; Closing Arguments, T. 47741–47742 (30 September 2014).

¹¹⁸⁷³ Prosecution Final Brief, Appendix C, paras. 13–16. See also Closing Arguments, T. 47741–47742 (30 September 2014).

3645. Zmaja od Bosne street, in particular the stretch near the Holiday Inn and the area around Marin Dvor,¹¹⁸⁷⁴ was one of the most dangerous locations in Sarajevo during the war, where many civilians were wounded or killed by sniper fire; for that reason, it was also known as Sniper Alley.¹¹⁸⁷⁵ It was close to the confrontation lines on Miljacka River,¹¹⁸⁷⁶ and the trams that ran along it, as well as the pedestrians, were visible from a number of skyscrapers and high-rise buildings surrounding the area.¹¹⁸⁷⁷ The intersections where Franje Račkog and Đure Daničića streets (which run from Miljacka River) cut across Zmaja od Bosne were particularly dangerous areas.¹¹⁸⁷⁸ In addition, in front of the Holiday Inn, at the intersection between Franje Račkog and Zmaja od Bosne streets, the trams had to enter a so-called “S-curve” in the tracks,¹¹⁸⁷⁹ in order to cross from one side of the street to the other, and thus had to slow down, becoming an easier target.¹¹⁸⁸⁰ Because Zmaja od Bosne street was so dangerous, large transport containers and lorries filled with sand were placed on the south side, on the most exposed parts, such as intersections.¹¹⁸⁸¹ Another dangerous area open to

11874 The Chamber understands the Marin Dvor area to stretch from the St. Joseph Church in the east to the outer limits of the Maršal Tito Barracks in the west. David Fraser, T. 8081–8083 (18 October 2010); D771 (SRK combat report, 22 June 1994); D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 42–43, Image 18.

11875 P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 7; KDZ289, P485 (Transcript from *Prosecutor v. D. Milošević*), T. 1624; P2413 (Witness statement of KDZ289 dated 19 April 2006), p. 3; Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1657; P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 66; P21 (Witness statement of Mirsad Kučanin dated 21 February 1996), e-court p. 2; P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), p. 33; P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 13–14; P1765 (Map of Sarajevo marked by David Fraser); D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 42; P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 52; P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 143; P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), paras. 15, 35; Jeremy Bowen, T. 10111–10112 (13 January 2011); P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 24; P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 35, 53; P2012 (Video footage of Sarajevo); P2000 (BBC news report re Sarajevo, with transcript); Martin Bell, T. 9778–9779 (14 December 2010). See also Adjudicated Facts 70, 71, 122, 2915.

11876 P2923 (Witness statement of KDZ090 dated 19 April 2006), para. 10; KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 831 (under seal); P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 12; Sabina Šabanić, P491 (Transcript from *Prosecutor v. D. Milošević*), T. 1471–1474, 1487; P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 4; D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 42, Image 18.

11877 KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 835–837 (under seal); P119 (Witness statement of Huso Palo dated 24 February 1996), p. 2; Huso Palo, P120 (Transcript from *Prosecutor v. Milošević*), T. 1539; Sabina Šabanić, P491 (Transcript from *Prosecutor v. Perišić*), T. 693, 696; P492 (Witness statement of Sabina Šabanić dated 16 November 1995), p. 2; P492 (Witness statement of Sabina Šabanić dated 22 May 2006), para. 6; Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1657–1658; P1762 (Witness statement of David Fraser dated 17 October 2010), p. 14.

11878 Alen Gičević, T. 7642–7647 (11 October 2010); D728 (Photograph of Sarajevo marked by Alen Gičević); D729 (Map of Sarajevo marked by Alen Gičević); Mirza Sabljica, T. 7677–7678 (11 October 2010); P1724 (Aerial photograph of Sarajevo marked by Mirza Sabljica); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), paras. 16–17, 34. See Adjudicated Fact 2916.

11879 At one point during the case, the Accused attempted to show that there had been no such S-curve at the intersection of Franje Račkog and Zmaja od Bosne streets at the time of the scheduled incidents, and that the S-curve was constructed sometime after the conflict. See Patrick van der Weijden, T. 7039–7051 (28 September 2010); D653 (Map of Sarajevo marked by Patrick van der Weijden); D654 (Map of Sarajevo). However, the Prosecution brought sufficient evidence to indicate that the S-curve in that location has existed since 1984. See Patrick van der Weijden, T. 7191–7195, 7197 (29 September 2010); P1630 (Map of Sarajevo marked by Patrick van der Weijden); P1631 (Aerial photograph of Sarajevo marked by Patrick van der Weijden); Mirza Sabljica, T. 7680–7682 (11 October 2010); P1726 (Map of Sarajevo marked by Mirza Sabljica); Alen Gičević, T. 7611 (11 October 2010).

11880 P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 7; Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 857–858; KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 825–826 (under seal); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 66; Mirza Sabljica, T. 7678, 7680 (11 October 2010); P1724 (Aerial photograph of Sarajevo marked by Mirza Sabljica); P1725 (Map of Sarajevo marked by Mirza Sabljica); Patrick van der Weijden, T. 7036–7039 (28 September 2010); D652 (Aerial photograph of Sarajevo marked by Patrick van der Weijden); Barry Hogan, T. 11203–11204, 11218, 11286–11287 (3 February 2011); P2189 (Aerial photograph of Sarajevo marked by Barry Hogan); P2213 (Image re scheduled sniping and shelling incidents in Sarajevo); D2656 (Photograph of Sarajevo marked by Milorad Katić); P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 48.

11881 Alen Gičević, T. 7612–7613 (11 October 2010); P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 3; P1692 (Photograph of Sarajevo marked by Alen Gičević); P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 33–34; P5908 (Record of interview with KDZ185), para. 8; P1074 (Photograph of anti-sniping barricades (Parliament building)); Adjudicated Fact 123; P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 47–48.

sniper attacks on Zmaja od Bosne was the area of Pofalići, close to Hotel Bristol,¹¹⁸⁸² as well as the area near the Presidency building.¹¹⁸⁸³

3646. A number of locations and buildings are relevant to sniping incidents that took place on Zmaja od Bosne street.¹¹⁸⁸⁴ One such building is a high-rise referred to as “Metalka”, which is located in the neighbourhood of Grbavica,¹¹⁸⁸⁵ on the southern side of Miljacka River, some 300 metres from Zmaja od Bosne street.¹¹⁸⁸⁶ Its eastern side affords a view down Franje Račkog street.¹¹⁸⁸⁷ To the southeast of Metalka is a building similar in appearance and known as the “Invest Banka” building, which affords a view down Đure Daničića street from its eastern part.¹¹⁸⁸⁸ Just south of Invest Banka is another building with a red façade (“Red Façade building”),¹¹⁸⁸⁹ while further east of Metalka is the co-called Unioninvest building.¹¹⁸⁹⁰ Southeast of the Unioninvest building, located on the slopes of Debelo Brdo, is the Jewish cemetery.¹¹⁸⁹¹ Also in Grbavica, on the street formerly known as Lenjinova street (now Grbavička street), stand four white skyscrapers, each 18 storeys tall.¹¹⁸⁹² They dominate Grbavica and face the Maršal Tito Barracks.¹¹⁸⁹³

3647. On the northern side of Miljacka River, to the northeast of the Holiday Inn stand two skyscrapers referred to as the “Unis towers”.¹¹⁸⁹⁴ The School of Technology is to the west of

¹¹⁸⁸² Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 870–872; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 7; P440 (Map of Sarajevo marked by Slavica Livnjak).

¹¹⁸⁸³ Jeremy Bowen, T. 10112–10114 (13 January 2011); P2076 (BBC news report re Sarajevo, with transcript).

¹¹⁸⁸⁴ Barry Hogan, T. 11202–11203 (3 February 2011); P2188 (Aerial photograph of Sarajevo marked by Barry Hogan).

¹¹⁸⁸⁵ Grbavica is a neighbourhood in the municipality of Novo Sarajevo. See Adjudicated Fact 65.

¹¹⁸⁸⁶ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), pp. 87, 91, 94, 97, 100. See also Patrick van der Weijden, T. 7016 (27 September 2010); KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 824 (under seal); P2923 (Witness statement of KDZ090 dated 19 April 2006), para. 9; Alen Gičević, T. 7611, 7642–7645 (11 October 2010); P1691 (Photograph of Sarajevo marked by Alen Gičević); D728 (Photograph of Sarajevo marked by Alen Gičević); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 66–67; P1720 (Photograph of Sarajevo marked by Mirza Sabljica); P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), p. 33; Barry Hogan, T. 11199–11204, 11219 (3 February 2011); P2186 (Panoramic photograph of Sarajevo marked by Barry Hogan); P2188 (Aerial photograph of Sarajevo marked by Barry Hogan); P2189 (Aerial photograph of Sarajevo marked by Barry Hogan); P2208 (Photograph of Sarajevo marked by Barry Hogan).

¹¹⁸⁸⁷ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 42–43, Image 18; D2656 (Photograph of Sarajevo marked by Milorad Katić).

¹¹⁸⁸⁸ Poparić testified that while the Invest Banka building offers a direct view down Đure Daničića street, its close proximity to other buildings on Đure Daničić street presented a “serious obstacle” to its use as a firing position. See D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 42–43, Image 18.

¹¹⁸⁸⁹ Alen Gičević, T. 7628–7629, 7642–7645 (11 October 2010); D725 (Photograph of Sarajevo marked by Alen Gičević); D728 (Photograph of Sarajevo marked by Alen Gičević); Patrick van der Weijden, T. 7021–7027 (28 September 2010); D649 (Aerial photograph of Sarajevo marked by Patrick van der Weijden); D650 (Aerial photograph of Sarajevo marked by Patrick van der Weijden); D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 42–43, Image 18.

¹¹⁸⁹⁰ Alen Gičević, T. 7628, 7642–7645 (11 October 2010); D725 (Photograph of Sarajevo marked by Alen Gičević); D728 (Photograph of Sarajevo marked by Alen Gičević); D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 42–43, Image 18.

¹¹⁸⁹¹ See Adjudicated Facts 72 and 2829. See also D788 (Photograph of Sarajevo marked by Bogdan Vidović).

¹¹⁸⁹² P119 (Witness statement of Huso Palo dated 24 February 1996), p. 2; P119 (Statement of Huso Palo to BiH authorities, 24 November 1994), p. 2; Sabina Šabanić, P491 (Transcript from *Prosecutor v. D. Milošević*), T. 1453–1454; P442 (Aerial photograph of Sarajevo marked by Sabina Šabanić); P492 (Witness statement of Sabina Šabanić dated 16 November 1995), p. 2; P492 (Addendum to witness statement of Sabina Šabanić dated 16 November 1995, 24 April 2010); P492 (Witness statement of Sabina Šabanić dated 22 May 2006), para. 6; P492 (Addendum to witness statement of Sabina Šabanić dated 22 May 2006, 24 April 2010); Mirza Sabljica, T. 7675 (11 October 2010); P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), p. 33; Barry Hogan, T. 11199–11200, 11219–11220 (3 February 2011); P2186 (Panoramic photograph of Sarajevo marked by Barry Hogan); P2209 (Photograph of Sarajevo marked by Barry Hogan).

¹¹⁸⁹³ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 42–43, Image 18.

¹¹⁸⁹⁴ Sabina Šabanić, P491 (Transcript from *Prosecutor v. D. Milošević*), T. 1485; P444 (Aerial photograph of Sarajevo marked by Sabina Šabanić); Alen Gičević, T. 7642–7645 (11 October 2010); D728 (Photograph of Sarajevo marked by Alen Gičević); Barry Hogan, T.

the Holiday Inn, and across the street from the Holiday Inn stands the Faculty of Philosophy and the Museum buildings.¹¹⁸⁹⁵ To the east of the Faculty of Philosophy are the Executive Council and Assembly buildings.¹¹⁸⁹⁶ The Maršal Tito Barracks, now no longer in existence, were located to the west of the School of Technology.¹¹⁸⁹⁷

3648. The Vrbanja Bridge on Miljacka River is located just south of the Assembly building.¹¹⁸⁹⁸

3649. The so-called “salvation route” or the “road of life”, which ran north of and parallel to the Zmaja od Bosne street and was protected by transport containers and lorries filled with sand,¹¹⁸⁹⁹ was safer than any other road because it was protected from the view by a large number of buildings which provided cover for people who used it.¹¹⁹⁰⁰

(1) Confrontation lines in the area

3650. The confrontation line in the Marin Dvor area ran along Miljacka River with ABiH positions on the north side of the river and VRS positions on the south side.¹¹⁹⁰¹ The 1st Romanija Infantry Brigade and the 1st Sarajevo Mechanised Brigade of the SRK held the area of Grbavica and the positions south and east of Grbavica.¹¹⁹⁰² The 3rd Battalion of the 1st Romanija Infantry Brigade, which was later absorbed into the 1st Sarajevo Mechanised Brigade and became the 2nd Infantry Battalion of that brigade,¹¹⁹⁰³ had positions in the area

11199–11200 (3 February 2011); P2186 (Panoramic photograph of Sarajevo marked by Barry Hogan); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 59; Aernout van Lynden, T. 2580–2584 (21 May 2010); D211 (Aerial photograph of Sarajevo marked by Aernout van Lynden); D212 (Aerial photograph of Sarajevo marked by Aernout van Lynden).

11895 KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*, T. 835–836 (under seal); P436 (Aerial photograph of Sarajevo marked by KDZ090); Alen Gičević, T. 7642–7645 (11 October 2010); D728 (Photograph of Sarajevo marked by Alen Gičević); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 66–67; P1720 (Photograph of Sarajevo marked by Mirza Sabljica); Barry Hogan, T. 11202–11203 (3 February 2011); P2188 (Aerial photograph of Sarajevo marked by Barry Hogan); Aernout van Lynden, T. 2584–2590 (21 May 2010) D212 (Aerial photograph of Sarajevo marked by Aernout van Lynden).

11896 KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*, T. 835–836 (under seal); P436 (Aerial photograph of Sarajevo marked by KDZ090); Sabina Šabanić, P491 (Transcript from *Prosecutor v. D. Milošević*, T. 1486; P444 (Aerial photograph of Sarajevo marked by Sabina Šabanić); Alen Gičević, T. 7642–7645 (11 October 2010); D728 (Photograph of Sarajevo marked by Alen Gičević); Barry Hogan, T. 11199–11200, 11202–11203 (3 February 2011); P2186 (Panoramic photograph of Sarajevo marked by Barry Hogan); P2188 (Aerial photograph of Sarajevo marked by Barry Hogan).

11897 Sabina Šabanić, P491 (Transcript from *Prosecutor v. D. Milošević*, T. 1452–1454; P442 (Aerial photograph of Sarajevo marked by Sabina Šabanić); Barry Hogan, T. 11199–11200 (3 February 2011); P2186 (Panoramic photograph of Sarajevo marked by Barry Hogan); Aernout van Lynden, T. 2584–2590 (21 May 2010) D212 (Aerial photograph of Sarajevo marked by Aernout van Lynden).

11898 Barry Hogan, T. 11202–11203 (3 February 2011); P2188 (Aerial photograph of Sarajevo marked by Barry Hogan); Aernout van Lynden, T. 2584–2590 (21 May 2010); D212 (Aerial photograph of Sarajevo marked by Aernout van Lynden).

11899 Alen Gičević, T. 7610–7613 (11 October 2010); P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 3; P1691 (Photograph of Sarajevo marked by Alen Gičević); P1692 (Photograph of Sarajevo marked by Alen Gičević).

11900 P1690 (Witness statement of Alen Gičević dated 16 February 2010), pp. 3–4. *See also* Adjudicated Fact 64 (which provides that civilians developed alternative routes to traverse Sarajevo in order to avoid sniper fire but that even those would not afford protection from shelling).

11901 P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 26–27; P1770 (Photograph of Sarajevo marked by David Fraser); Stanislav Galić, T. 37467–37468 (22 April 2013); Dragan Maletić, T. 30854–30855 (3 December 2012); P6018 (Photograph of Sarajevo); Milorad Katić, T. 31404–31407 (13 December 2012); P6044 (Photograph of Sarajevo marked by Milorad Katić); P815 (Map of Sarajevo showing confrontation lines). *See also* Adjudicated Facts 67, 68, 2826. Given that the ABiH held positions north of the Miljacka River, the area of Marin Dvor was under the control of the ABiH. *See* Adjudicated Fact 2827.

11902 Stanislav Galić, T. 37184 (15 April 2013); D3382 (Map of Sarajevo); P4498 (Report of 1st Romanija Infantry Brigade, 3 September 1992); D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), paras. 2, 5; D2339 (Map of Sarajevo marked by Blagoje Kovačević); D2340 (Map of Sarajevo marked by Blagoje Kovačević); D2622 (Witness statement of Željko Bambarez dated 9 December 2012), para. 6; D2628 (Map of Sarajevo marked by Željko Bambarez); Adjudicated Facts 66, 2826.

11903 Dragan Maletić, T. 30844 (3 December 2012); D2418 (Witness statement of Božo Tomić dated 5 November 2012), paras. 8, 25–26; Božo Tomić, T. 30178–30179 (13 November 2012); D2267 (Vlado Lizdek’s interview with OTP), pp. 5–6; D2622 (Witness statement of Željko Bambarez dated 9 December 2012), para. 5.

that stretched from Vrbanja Bridge, along Miljacka River, to Strojorad, then to the football stadium, Šanac, Ozrenska street, Milinkladska street, and Slaviša Vajner Čiča Barracks.¹¹⁹⁰⁴ The 1st Company of that battalion held the line between the Vrbanja and Bratstvo Jedinstvo Bridges, along Miljacka River.¹¹⁹⁰⁵ Thus, the Metalka building and the four white high-rises in Grbavica were in the area of responsibility of the SRK.¹¹⁹⁰⁶ Further, due to Metalka being difficult to access, the troops at some point withdrew “in [the] depth” of the territory.¹¹⁹⁰⁷

3651. As for the positions to the right of Vrbanja Bridge, the area from Vrbanja Bridge towards the Jewish cemetery up to the foot of Debelo Brdo was held by the 3rd Infantry Battalion of the 1st Sarajevo Mechanised Brigade of the SRK.¹¹⁹⁰⁸ This battalion was positioned on the western side of the Jewish cemetery while the ABiH was stationed along its northeastern wall—the two sides were separated only by the width of the cemetery.¹¹⁹⁰⁹ The confrontation line at the cemetery remained unchanged throughout the conflict.¹¹⁹¹⁰ According to Blagoje Kovačević, commander of the 3rd Infantry Battalion from June 1993,¹¹⁹¹¹ the cemetery itself was never occupied by anyone as it was no-man’s land.¹¹⁹¹²

3652. On the ABiH side, the confrontation line in the Zmaja od Bosne area was manned by the ABiH’s 1st Motorised Brigade.¹¹⁹¹³ This brigade was responsible for the line on Miljacka River from the area of the Vrbanja Bridge and through Hrasno Brdo, with soldiers deployed from the School of Economics to the Elektroprivreda building, with only the river separating them from the VRS.¹¹⁹¹⁴ The 1st Motorised Brigade had outside trenches and held positions within certain buildings, namely, the cellars of the Mechanical Engineering Faculty, the School of Economics, and another faculty building, as well as in the exits that connected those

¹¹⁹⁰⁴ According to Maletić, positions to the right of the 3rd Battalion were manned by the brigade’s 1st Battalion. *See* D2519 (Witness statement of Dragan Maletić dated 9 November 2012), paras. 8–9, 17; Dragan Maletić, T. 30844 (3 December 2012); D2418 (Witness statement of Božo Tomić dated 5 November 2012), paras. 8, 25–26; Božo Tomić, T. 30178–30179 (13 November 2012); D2622 (Witness statement of Željko Bambarež dated 9 December 2012), para. 5; Blagoje Kovačević, T. 29041–29042 (18 October 2012).

¹¹⁹⁰⁵ Dragan Maletić, T. 30849 (3 December 2012); D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 9; D2521 (Map of Sarajevo marked by Dragan Maletić); [REDACTED].

¹¹⁹⁰⁶ Dragan Maletić, T. 30849–30850 (3 December 2012); [REDACTED]; Blagoje Kovačević, T. 29042 (18 October 2012); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 62, 67; P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 31. *But see* P4498 (Report of 1st Romanija Infantry Brigade, 3 September 1992), p. 4 which refers to the 2nd Infantry Battalion of the 1st Romanija Infantry Brigade holding positions near Metalka in September 1992, with the 3rd Battalion to its left. The Chamber also notes here that the English translation of the report refers to the 1st Infantry Battalion manning the positions around Metalka but the original document in BCS in fact refers to the 2nd Infantry Battalion. Thus, the English translation contains a typographical error.

¹¹⁹⁰⁷ Maletić could not remember if this took place in 1993 or 1994. Dragan Maletić, T. 30849–30851 (3 December 2012), T. 30888 (4 December 2012). Stanislav Galić confirmed that the 1st Romanija Infantry Brigade was later redeployed beyond Grbavica. *See* Stanislav Galić, T. 37184 (15 April 2013).

¹¹⁹⁰⁸ *See* Adjudicated Fact 2828; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 5; D2339 (Map of Sarajevo marked by Blagoje Kovačević); D2340 (Map of Sarajevo marked by Blagoje Kovačević).

¹¹⁹⁰⁹ *See* Adjudicated Fact 73; D3382 (Map of Sarajevo); D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), paras. 2, 5; D2339 (Map of Sarajevo marked by Blagoje Kovačević); D2340 (Map of Sarajevo marked by Blagoje Kovačević); Blagoje Kovačević, T. 29054–29056 (18 October 2012). *But see* P4498 (Report of 1st Romanija Infantry Brigade, 3 September 1992), p. 4 (which provides that in September 1992 the 1st Battalion of the 1st Romanija Infantry Brigade was manning the positions on Jewish cemetery).

¹¹⁹¹⁰ *See* Adjudicated Fact 74.

¹¹⁹¹¹ D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 2.

¹¹⁹¹² D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 22.

¹¹⁹¹³ Mirza Sabljica, T. 7704 (11 October 2010).

¹¹⁹¹⁴ Mirza Sabljica, T. 7704 (11 October 2010).

positions to the trenches.¹¹⁹¹⁵ In March 1995, however, the confrontation line along Miljacka River ran from the Vrbanja Bridge to Topal-Osman Paše street.¹¹⁹¹⁶

3653. Maletić testified that his company's counterpart on the other side of the confrontation line was a Croatian unit called Kralj Tvrtko.¹¹⁹¹⁷ It was deployed along the axis of the Wood Processing School, Šumaprojekt facilities, Mechanical Engineering Faculty, and Unioninvest building,¹¹⁹¹⁸ in solid edifices that blocked the view of his frontline forces.¹¹⁹¹⁹ The Executive Council building, the Museum complex, the Assembly building, and the Faculty of Philosophy were all in the area of responsibility of the ABiH.¹¹⁹²⁰ The ABiH also held positions on the northern base Mt. Trebević and had a view onto the intersection of Maršal Tito and Vrazova streets.¹¹⁹²¹ In addition to the eastern side of the Jewish cemetery, Debelo Brdo, from which Grbavica and the Jewish cemetery are visible, was held by the ABiH, as was Čolina Kapa—both those positions overlooked Sarajevo but were still lower than the SRK positions.¹¹⁹²² **(But, #Deberlo Brdo and Colina Kapa were much closer to the City#, with more possibilities to shoot and to be precise. Many SRK positions on the hills were so distant from the city that couldn't reach it, let alone to be precise!)**

3654. There is some controversy in the evidence in relation to several buildings along parts of the confrontation line in the area, which appear to have changed hands during the war and/or were divided between the warring parties. Sabljica testified that at the beginning of the conflict, in 1992, there were ABiH positions in one of the buildings near the Metalka building but that after 1992 they were no longer there.¹¹⁹²³ **(As the Chamber could have seen, Sabljica either wasn't properly informed, or, more probably, lied about this building for which everyone knew that was half in the Serb, and another half in the Muslim hands! For much less "controversy" the Chamber dismissed the Defence witnesses entirely!)** He also testified that the Red Façade building was in the area of responsibility of the VRS during the war.¹¹⁹²⁴ Maletić, however, testified that part of Red Façade building was held by the Muslims while another part was held by the Serbs.¹¹⁹²⁵ This was confirmed by Željko

¹¹⁹¹⁵ Mirza Sabljica, T. 7901–7902 (13 October 2010).

¹¹⁹¹⁶ Mirza Sabljica, T. 7899–7902 (13 October 2010); D765 (Map of Sarajevo marked by Mirza Sabljica).

¹¹⁹¹⁷ D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 19; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 19. The existence of this unit is also confirmed by D772 (ABiH General Staff list of ABiH units in Sarajevo, 10 April 1995) and D633 (Order of ABiH 1st Corps, 25 October 1993), para. 5.6. *See also* Francis Roy Thomas, T. 6896–6897 (16 September 2010) (testifying that his UNMOs visited the Croatian unit in question).

¹¹⁹¹⁸ D2519 (Witness statement of Dragan Maletić dated 9 November 2012), paras. 22–23; D2523 (Map of Sarajevo marked by Dragan Maletić).

¹¹⁹¹⁹ D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 25.

¹¹⁹²⁰ Alen Gičević, T. 7628–7631, 7638–7639 (11 October 2010); D725 (Photograph of Sarajevo marked by Alen Gičević).

¹¹⁹²¹ *See* Adjudicated Fact 104; P1764 (ABiH Map of Sarajevo); P1058 (ABiH map); D1380 (Map of ABiH positions in Sarajevo marked by Asim Džambasović); Alen Gičević, T. 7657–7661 (11 October 2010); D733 (Photograph of Sarajevo marked by Alen Gičević); D734 (Photograph of street sign in Sarajevo). Gičević conceded that the ABiH was deployed in a number of places in the area between the white skyscraper in Grbavica and the intersection in question. *See* Alen Gičević, T. 7662–7663 (11 October 2010); D735 (Photograph of Sarajevo).

¹¹⁹²² *See* Adjudicated Facts 105, 2830, and 2845; D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 21; Francis Roy Thomas, T. 6897–6898, 6906 (16 September 2010); D633 (Order of ABiH 1st Corps, 25 October 1993), para. 5.7; David Harland, T. 2087–2090 (7 May 2010); D134 (Aerial photograph of Sarajevo marked by David Harland); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 15–18; P1767 (Map of Sarajevo marked by David Fraser); KDZ304, T. 10496 (18 January 2011).

¹¹⁹²³ P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 63.

¹¹⁹²⁴ Mirza Sabljica, T. 7705 (11 October 2010). *See also* Alen Gičević, T. 7628–7631 (11 October 2010); D725 (Photograph of Sarajevo marked by Alen Gičević). The Chamber notes that the regular SRK combat report of 24 July 1994 refers to the presence of soldiers of the 1st Sarajevo Mechanised Brigade on top of a "Red Building". *See* D4604 (SRK Report, 24 July 1994).

¹¹⁹²⁵ Dragan Maletić, T. 30890 (4 December 2012); D2525 (Photograph of Sarajevo marked by Dragan Maletić). *See also* Francis Roy Thomas, T. 6898 (16 September 2010).

Bambarez, who in 1994 spent eight months in Grbavica as the Commander of a platoon in the 1st Company of the 3rd Battalion of the 1st Sarajevo Mechanised Brigade.¹¹⁹²⁶ According to him, the Red Façade building was divided between the two warring sides and the Muslim-controlled part of the building afforded a view through Đure Daničića street onto Zmaja od Bosne street, as well as onto Marin Dvor and the UNPROFOR check-point on Vrbanja Bridge.¹¹⁹²⁷ Bambarez, who was actually in the Red Façade building during his time in Grbavica, explained that of the two high buildings now blocking the view between the Red Façade building and Đure Daničića street one was not there during the war, while another, which was in his platoon's zone of responsibility, was there at the time but was not as high then as it is now.¹¹⁹²⁸ However, another soldier of the 3rd Battalion, Milorad Katić, testified during cross-examination that it was not possible to shoot from the ABiH part of this building onto the area in front of the Holiday Inn, as the view was obstructed by one of the buildings.¹¹⁹²⁹ **(Nobody ever said that the Red Façade building had a strait sight to Holiday Inn, but did have te best position and insight towards the Executive Council and the Assembly building, as well as to the several streets eastern from Holiday Inn, that were parallel to the street leading to the Holiday Inn and the "S-curve", i.e. Djure Danicica and Koste Hermana streets!)** In any event, in cross-examination, Bambarez testified that his time in Grbavica was relatively quiet and that he was not aware of Muslims ever firing from the Red Façade building during that time.¹¹⁹³⁰

3655. Sabljica and Gičević testified that the Unioninvest building was in the area of responsibility of the VRS during the war.¹¹⁹³¹ In contrast, Bambarez told the Chamber that it was under ABiH control.¹¹⁹³² This is confirmed by the SRK report from April 1994 to the VRS Main Staff, in which the SRK Commander Galić reported that the enemy had opened fire from the Unioninvest building.¹¹⁹³³ [REDACTED] also thought that the building was either under ABiH control or in no-man's land but was adamant that it was never in the SRK hands.¹¹⁹³⁴ Sabljica testified that by March 1995, the Unioninvest was indeed in the area of

¹¹⁹²⁶ Bambarez testified that he was first a commander of the 2nd Platoon of the 2nd Company of the 3rd Battalion of the 1st Romanija Infantry Brigade and that in June 1993 his battalion became part of the Sarajevo Mechanised Brigade of the SRK. In 1994 he was moved to Grbavica due to the killing of Mišo Čolić, a commander of the 1st Company of the 3rd Battalion. See D2622 (Witness statement of Željko Bambarez dated 9 December 2012), paras. 3, 5; Željko Bambarez, T. 31299 (12 December 2012).

¹¹⁹²⁷ D2622 (Witness statement of Željko Bambarez dated 9 December 2012), paras. 8–10; D2623 (Photograph of Sarajevo marked by Željko Bambarez). Blagoje Kovačević testified that four entrances of the Red Façade building were held by his battalion while the ABiH held one of the entrances. D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 22.

¹¹⁹²⁸ Željko Bambarez, T. 31299–31308 (12 December 2012); D2622 (Witness statement of Željko Bambarez dated 9 December 2012), paras. 8–10; D2623 (Photograph of Sarajevo marked by Željko Bambarez); D2624 (Photograph of a building marked by Željko Bambarez); D2625 (Photograph of a building marked by Željko Bambarez); D2626 (Photograph of a building marked by Željko Bambarez); D2627 (Photograph of a building marked by Željko Bambarez).

¹¹⁹²⁹ Milorad Katić, T. 31407–31411 (13 December 2012); D2651 (Witness statement of Milorad Katić dated 10 December 2012), paras. 10, 16; D2623 (Photograph of Sarajevo marked by Željko Bambarez); P6045 (Photograph of Sarajevo marked by Milorad Katić). Katić also clarified that his battalion was not deployed in that area when he was its soldier, namely until 13 March 1993, but was instead in the sector overlooking Debelo Brdo via Zlatište and up to Osmice. See Milorad Katić, T. 31413–31414 (13 December 2012). During further re-examination, Katić stated that there was in fact no view from the whole of the Red Façade building onto the targets in front of the Holiday Inn. See Milorad Katić, T. 31414–31417 (13 December 2012); D2655 (Photograph of Sarajevo marked by Milorad Katić).

¹¹⁹³⁰ Željko Bambarez, T. 31309–31311, 31328–31329 (12 December 2012).

¹¹⁹³¹ Mirza Sabljica, T. 7705 (11 October 2010); Alen Gičević, T. 7628–7631 (11 October 2010); D725 (Photograph of Sarajevo marked by Alen Gičević).

¹¹⁹³² Željko Bambarez, T. 31306, 31308 (12 December 2012). Blagoje Kovačević testified that it was the 10th Mountain Brigade of the 1st Corps of the ABiH, led by Dušan Topalović Caco, that controlled the territory from Čolina Kapa to Vranjača towards Trebević and from Vranjača to the Unioninvest building towards Grbavica. See D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 18; Blagoje Kovačević, T. 29039–29040 (18 October 2012).

¹¹⁹³³ D4581 (SRK Report, 23 April 1994), p. 1.

¹¹⁹³⁴ [REDACTED].

responsibility of the ABiH.¹¹⁹³⁵ **(#Look how even such a big fact is not established for sure, i.e. some witnesses couldn't be trusted for something they said, and shouldn't be trusted for the rest, everything they said, because no credibility. The Defence witnesses had been discredited only on the basis of impression.#)**

(1) Snipers in the area

3656. The Chamber heard that snipers were operating on both sides of Zmaja od Bosne street but that most of the snipers were on the Serb side of the confrontation line, firing into the ABiH-held territory.¹¹⁹³⁶

3657. Mirsad Kučanin, a criminal inspector within CSB Sarajevo who investigated around 100 cases of sniping and shelling in Sarajevo,¹¹⁹³⁷ testified that the most significant area where Serb snipers operated was Grbavica and that most of his investigations involved fire coming from there.¹¹⁹³⁸ According to him, there was a sniper in every house between Vrbanja and Hrasno Bridges but the fire was most frequent from the Metalka building, the four white high-rises, and the three “shopping centre” skyscrapers.¹¹⁹³⁹ In addition, the snipers fired from the Jewish cemetery covering the central part of the city called Skenderija and the Marin Dvor area.¹¹⁹⁴⁰ Aernout van Lynden, a Sky News war correspondent who reported from Sarajevo starting in May 1992,¹¹⁹⁴¹ testified that he was taken by SRK commanders to a number of high-rises in Grbavica and to the Jewish cemetery and its surrounds where he saw gun placements of various sorts, including machine-guns and sniper rifles with telescopic sites.¹¹⁹⁴² **(So what? The only reasonable conclusion-inference would be that the Serb commanders didn't hide anything, and the most reasonable recommendation should be – not to allow A. van Linden to get closer to anything. If there was a confrontation line and along it some infantry armament, it didn't mean that there was a criminal firings!)**

KDZ310 testified that there were many SRK snipers in Grbavica, adding that the area between Vrbanja Bridge and Elektroprivreda alone had, on average, seven to eight snipers.¹¹⁹⁴³ As

¹¹⁹³⁵ Mirza Sabljica, T. 7899–7902 (13 October 2010); D765 (Map of Sarajevo marked by Mirza Sabljica).

¹¹⁹³⁶ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 14, 29; David Fraser, T. 8015 (18 October 2010); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 63, 65.

¹¹⁹³⁷ P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court p. 2; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4555–4557, 4560.

¹¹⁹³⁸ P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court p. 8. *See also* P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 65; P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 52; Adjudicated Fact 121.

¹¹⁹³⁹ P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court pp. 8–9; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4609–4614; P20 (Map marked by Mirsad Kučanin).

¹¹⁹⁴⁰ P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court p. 8; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4608–4609; P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 52; Milan Mandilović, T. 5381–5383 (16 July 2010); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 65; Alen Gičević, T. 7612–7613 (11 October 2010); P1692 (Photograph of Sarajevo marked by Alen Gičević). *See also* Adjudicated Fact 124.

¹¹⁹⁴¹ P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 3–5, 11, 17.

¹¹⁹⁴² P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 94–95, 97, 99–102, 109–112 (Van Lynden also stated that the men manning these positions were in radio contact with other positions higher up in the slopes who were essentially the spotters for the snipers); P806 (Sky Newsreport re Sarajevo, with transcript); P935 (Sky Newsreport re Sarajevo, with transcript); Aernout van Lynden, T. 2425–2427 (19 May 2010).

¹¹⁹⁴³ P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 40–41, 43. *See also* P2444 (Witness statement of KDZ354 dated 5 February 2011), paras. 93–94 (under seal); KDZ354, T. 13195–13197, 13120 (10 March 2011) (testifying that everyone in

noted earlier, they were part of the sniper squad responsible only to the 3rd Battalion's commander¹¹⁹⁴⁴ and would change positions often.¹¹⁹⁴⁵ Galić confirmed that most of the SRK snipers were in Grbavica, along Miljacka River and in the white high-rises, but claimed that they were placed there to neutralise ABiH fire coming from Marin Dvor, the Faculty of Mechanical Engineering, and the government buildings.¹¹⁹⁴⁶ However, contrary to Galić, KDZ310 testified that snipers in Grbavica opened fire at whatever they saw, mainly civilians, including the elderly and children, and that their sniping was constant.¹¹⁹⁴⁷ Indeed, upon joining the battalion and receiving a 7.62 mm semi-automatic rifle,¹¹⁹⁴⁸ KDZ310 and his fellow soldiers, who were not part of the sniper squad, were told by their commander that they could open fire freely and shoot anything that moved.¹¹⁹⁴⁹ **(As it was well known to the Chamber, KDZ310 was a “non-Serb” whose family lived in the Serb controlled area all the time, in spite of the fact that he deserted from the SRK, although he was not listed and was not obliged to join the VRS. A “protected witness” who benefited from his testimonies by being protected without any need. But the same witness testified that he and his colleagues never shoted in anyone, nor he saw any killings, see T.9278 Q. Did you shoot at everything that moved? A. I never saw soldiers on the opposite side, nor a civilian. Q. Just one more question, please. You were on the ground floor, and occasional sniper shooters came to which floors? A. The upper storeys of the building. They had better visibility of the opposite side from there. Now, which one, I'm not sure. They stayed on several floors, and on some floors they created fake halls, so I'm not sure exactly from which floors they shot. Q. Thank you. Did you ever see them kill somebody? A. No. (So much about this “finding”. If it was true, how many casualties of only this squad could have been expected for 1,400 days of the war? This witness's testimony was so contradictory, that it is for wonder the Chamber even mentioned him!)**

3658. Maletić testified that his company did not have snipers and that his soldiers were positioned at the foot of the buildings, including Metalka and the four white high-rises, with semi-automatic, and automatic rifles, and machine guns.¹¹⁹⁵⁰ Because of these positions, they could only see the enemy's first line of defence.¹¹⁹⁵¹ Maletić also testified that it was prohibited to fire on civilian targets and that, therefore, his soldiers did not target trams from

Grbavica knew who the snipers were, that they had special rifles and that they would go into a high-rise building and stay there for a few hours every day).

¹¹⁹⁴⁴ According to KDZ310, the Commander of the sniper squad was Marinko Krneta. See P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 40–41, 43–44. See also D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 31; Dragan Maletić, T. 30846–30848 (3 December 2012), T. 30873–30874 (4 December 2012).

¹¹⁹⁴⁵ According to KDZ310, the snipers also used their freedom of movement to loot. See P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 43.

¹¹⁹⁴⁶ Stanislav Galić, T. 37465–37466 (22 April 2013), T. 37843–37844 (7 May 2013). See also [REDACTED].

¹¹⁹⁴⁷ KDZ310 would occasionally talk to these snipers who usually told him that they had shot someone, although he could not verify that and he never personally observed it. See P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 41, 43; KDZ310, T. 9278 (29 November 2010).

¹¹⁹⁴⁸ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 38; KDZ310, T. 9208 (29 November 2010). KDZ310 also saw various other infantry weapons around him, including M76, M53, and M84 rifles. See P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 50; P1946 (Excerpt of book on military equipment marked by KDZ310).

¹¹⁹⁴⁹ P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 37; KDZ310, T. 9275–9276, 9278 (29 November 2010).

¹¹⁹⁵⁰ Dragan Maletić, T. 30883–30886 (4 December 2012).

¹¹⁹⁵¹ While, according to Maletić, civilian zones could be attacked from some of the 1st Company's positions, this did not happen, at least not in a planned and organised manner. **For inference. Why it is in a fn.?** Maletić also explained that there were no civilians in the two apartment buildings between the Assembly building and the river as the Muslim side used them to fire on the SRK positions. See D2519 (Witness statement of Dragan Maletić dated 9 November 2012), paras. 14, 25, 27; Dragan Maletić, T. 30849–30850 (3 December 2012), T. 30886–30889 (4 December 2012). See also [REDACTED].

Metalka and/or wait for them to slow down at the S-curve.¹¹⁹⁵² When asked in cross-examination whether upper floors of Metalka afforded a view behind enemy lines, Maletić claimed his company was at the foot of the building and therefore had no knowledge about the view from the upper floors.¹¹⁹⁵³ He did concede, however, that one could see behind the enemy lines from the white high-rises in Grbavica.¹¹⁹⁵⁴ **(So what? #It is still too far from any indication let alone certainty that there was firing towards civilians#!)** The Chamber recalls that it has already found above that there was a view onto Zmaja od Bosne street from both Metalka and Invest Banka buildings, the former affording the view down Franje Račkog street and the latter affording the view down Đure Daničića street.¹¹⁹⁵⁵ In addition, the Chamber went on a site visit to Sarajevo and observed the area in and around those two buildings.¹¹⁹⁵⁶ Accordingly, even accepting as true Maletić's testimony that he and/or his troops were never on the higher floors of Metalka, the Chamber considers his proclaimed lack of knowledge on the view from Metalka disingenuous, particularly since he spent some time in the area during the conflict. Maletić did, however, concede that there was such a view from the four white high-rises and this is indeed confirmed by other evidence before the Chamber.¹¹⁹⁵⁷ **(So what? Was Mr. Maletic discredited because he wasn't sure for the upper floors of Metalka? But, another matter is extremely dubious: was it sufficient to establish that there was a visibility, to conclude tha the Serbs fired against civilians? Why would they do that? And why there, in front of the entire international media? What would be a benefit for the Serb side? How could the Serb soldiers differentiate the Serbs from "non-Serbs"?)**

3659. In contrast to Maletić, Katić testified on cross-examination that there were armed men inside the Metalka building and that they could, if they wanted to, hit targets in front of the Holiday Inn.¹¹⁹⁵⁸ During re-examination, however, he clarified that he was never at the positions in the area and that given the height of the dominant buildings on the Muslim side of the confrontation line it would have been dangerous to have positions on Metalka's upper floors; he also explained that the armed men in the building were in fact soldiers who lived there and had weapons in their apartments.¹¹⁹⁵⁹ The Chamber is not convinced by Katić's explanation during re-examination. First, it is illogical that soldiers would not have positions in Metalka because it was too dangerous and yet would then choose to live in the building. In addition, as will be seen below, the Chamber has heard evidence indicating that an improvised

¹¹⁹⁵² Dragan Maletić, T. 30889–30890 (4 December 2012); D2525 (Photograph of Sarajevo marked by Dragan Maletić).

¹¹⁹⁵³ Dragan Maletić, T. 30851–30856 (3 December 2012), T. 30886–30889 (4 December 2012); P6018 (Photograph of Sarajevo); P6024 (Photograph of Sarajevo); D2525 (Photograph of Sarajevo marked by Dragan Maletić); D2526 (Photograph of Sarajevo). *See also* [REDACTED]. The Chamber notes that P6024 was admitted only for the purpose of understanding Maletić's testimony as the Accused challenged its provenance.

¹¹⁹⁵⁴ Dragan Maletić, T. 30856 (3 December 2012); P6019 (Photograph of a tram and green building); P6020 (Photograph of a tram); P6020 (Photograph of a tram); P6021 (Photograph of Sarajevo); P6022 (Photograph of a street); P6023 (Photograph of a street). The Chamber notes that these photographs were admitted only for the purpose of understanding the testimony of the witness as the Accused challenged their provenance.

¹¹⁹⁵⁵ *See* para. 3646.

¹¹⁹⁵⁶ The Chamber recalls that in its Order on Submissions for a Site Visit, dated 15 November 2010, at paragraph 6, it stated that the purpose of its site visit to Sarajevo was not to gather evidence or receive any submissions from the parties but to allow the Chamber to become more familiar with the topography of certain key locations and thus assist its determination of the charges in the Indictment related to Sarajevo.

¹¹⁹⁵⁷ *See* para. 3666. *See also* P1738 (Photographs of sniper nests); P1762 (Witness statement of David Fraser dated 17 October 2010), p. 32.

¹¹⁹⁵⁸ Milorad Katić, T. 31404–31407 (13 December 2012); P6044 (Photograph of Sarajevo marked by Milorad Katić).

¹¹⁹⁵⁹ Milorad Katić, T. 31417–31421 (13 December 2012).

sniper nest was found on the last floor of the Metalka building.¹¹⁹⁶⁰ Furthermore, when asked if the SRK had firing positions in the Metalka and Invest Banka buildings, Galić himself confirmed that the SRK opened fire from “that sector”.¹¹⁹⁶¹ **(But, what kind of fire? Is there any difference between #“possibility” and “probability”, not to mention “certainty”#? Did Galić confirm that he had a sniper position on Metalka? If living in the Metalka upper floors without shooting from apartments would be much safer than while shooting, then Mr. Katic, who had been a president of municipality after Dr. Prijic, was disqualified without a reasonable basis?)**

3660. Blagoje Kovačević, who commanded the SRK battalion located in the area of Jewish cemetery, testified that there were no professional snipers in his battalion as they were unnecessary given the short distances between the warring parties.¹¹⁹⁶² He explained that the company that held the Jewish cemetery was called the Anti-Armour Company; it was commanded by Slavko Aleksić, who liked to represent himself as a “Chetnik”, and it had small calibre infantry weapons, such as rifles.¹¹⁹⁶³ While conceding that he had some problems in exercising control over the members of his units and that there were instances of individuals opening fire without him knowing about it, Kovačević testified that his battalion did not open fire on civilians and/or trams in the city and that they never received orders to that effect.¹¹⁹⁶⁴

3661. The FreBat was responsible for anti-sniping tasks in the area and had its vehicles and soldiers at the principal points where snipers would engage civilians, ready to place themselves between those civilians and the snipers.¹¹⁹⁶⁵ It also had special reconnaissance troops whose task was to find the snipers and engage them.¹¹⁹⁶⁶ In addition, the task force photographed all the possible areas in Grbavica where the Serbs were shooting from and mounted observation on the identified locations thus becoming very familiar with the sniper positions in the area.¹¹⁹⁶⁷ Along Sniper Alley, the reconnaissance troops engaged mostly the Serb snipers.¹¹⁹⁶⁸

5663. Fraser testified that the two warring factions in the area were close to each other and that, frequently, this proximity resulted in exchanges of fire in the area of Vrbanja Bridge and the

¹¹⁹⁶⁰ See para. 3668.

¹¹⁹⁶¹ Stanislav Galić, T. 37844 (7 May 2013).

¹¹⁹⁶² D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 36. In cross-examination, Kovačević claimed that the same was the case for the whole brigade, not just his battalion. While he conceded that the brigade had shooting positions in Grbavica he denied that these were manned by professionally trained snipers with sniper equipment. See Blagoje Kovačević, T. 29048–29053 (18 October 2012); P5930 (Report of 1st Sarajevo Mechanised Brigade to SRK, 29 October 1993). Given the evidence referred to above regarding a sniper squad in the 2nd Infantry Battalion of the 1st Sarajevo Mechanised Brigade, the Chamber does not accept Kovačević’s evidence that no snipers existed within the brigade. **(Why this witness was dismissed? He explained that his units didn’t need the snipers, since they had been very close to their adversaries. To have a snipers in units was not a crime by itself, and no professional army officer would lie about it!)**

¹¹⁹⁶³ Blagoje Kovačević, T. 29055–29059 (18 October 2012); P5931 (Anti-Tank Company request for ammunition, 16 December 1993). See also P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 109–112.

¹¹⁹⁶⁴ D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), paras. 27–28, 34–35; Blagoje Kovačević, T. 29075–29076 (18 October 2012).

¹¹⁹⁶⁵ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 32–35.

¹¹⁹⁶⁶ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 33–34, 36.

¹¹⁹⁶⁷ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 24–25, 29; David Fraser, T. 8016–8017 (18 October 2010).

¹¹⁹⁶⁸ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 33.

Jewish cemetery.¹¹⁹⁶⁹ Despite that, he thought it unlikely for civilians to be simply caught in an exchange of fire between the two factions in the Sniper Alley area because a professional sniper would take care to line up a military target and would be unlikely to miss it.¹¹⁹⁷⁰ Similarly, even a regular rifleman would normally be proficient enough in firing his weapon and thus would be able to avoid shooting civilians.¹¹⁹⁷¹ As for the trams in the area, in Fraser's opinion, it was also unlikely that those were hit by mistake; in his experience, the trams seemed to be a favourite target of snipers because of the psychological effect this had on the people in Sarajevo.¹¹⁹⁷² **(This is an opinion of a witness who was not an expert. In the very foundation of this opinion is an already formed prejudice, successfully coined by the Muslim propaganda, that the Serbs did what did their secret terrorist groups line Larks and Swallows. In the absence of proofs after an investigation, the most reasonable inference would be that the Serb side didn't do sniping against civilians, particularly in the "sniper Alley", in front of all these journalists in Sarajevo, and that it was all staged. The Chamber had already seen that the Muslim side staged many incidents in order to attract the international sympathies. What would be the best spot in Sarajevo to do that? Why they wouldn't do it on the most frequent place, as well as why the Serbs would do it on their own damage? If there is no an undoubtrtable evidence that the Serbs did it, this inference can not be refused, and as such, rebut all other inferences!)** KDZ485 could not recall any incidents where civilians were killed by snipers during combat activity as they would usually take cover or shelter during such times.¹¹⁹⁷³ **(We already know that the# Serb side never initiated any combat, since it wasn't in their interest, because they didn't intend to change the c/l and take more of the urban territories#! Nobody could contest it!. Every combat made many Serbian casualties, and the Serbs were in favor of a permanent truce in Sarajevo. So, an idea that the Serbs wanted Sarajevo to suffer is senseless, because the Muslim side wanted it, and the Serb side couldn't be interested in terrorizing of the civilians, while the Muslim side was. What would be a purpose to terrorize the civilians? It would be the most irrational conduct, and detrimental for the Serb interests. The Muslim Government would never do anything under any pressure, because their objective was to expel the Serbs out of BiH, to cause an international intervention, not to accept any political deal that would comprise the Serb demands or a Serb entity. Every single worsening of the situation in Sarajevo was incompatible with all the Serb interests.**

3664. Fraser also thought that the snipers operating in Sarajevo were "very competent", as demonstrated by the fact that in the Sniper Alley area they would regularly fire at a telephone

¹¹⁹⁶⁹ David Fraser, T. 8125 (19 October 2010).

¹¹⁹⁷⁰ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 32, 39. *See also* P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 46.

¹¹⁹⁷¹ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 32.

¹¹⁹⁷² Fraser explained that if trams stopped running it meant that the situation was grave which in turn had a psychological effect on the people in the city. *See* P1762 (Witness statement of David Fraser dated 17 October 2010), p. 39; David Fraser, T. 8127–8128 (19 October 2010). However, Maletić testified that it was prohibited to fire on civilian targets and that, therefore, his soldiers did not target the trams and/or wait for the trams to slow down at the S-curve. *See* D2519 (Witness statement of Dragan Maletić dated 9 November 2012), paras. 8–9; Dragan Maletić, T. 30883–30886, 30889–30890 (4 December 2012); D2525 (Photograph of Sarajevo marked by Dragan Maletić). Dragomir Milošević placed the blame on the Bosnian Muslim side which would fire on the SRK positions while trams were running, resulting in the SRK response and trams getting shot. *See* Dragomir Milošević, T. 33208–33209 (5 February 2013). *See also* D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 13 (testifying that one could not rule out the possibility of trams getting accidentally hit in cross-fire).

¹¹⁹⁷³ P1905 (Witness statement of KDZ485), para. 30.

pole in order to make their presence known to the UNPROFOR.¹¹⁹⁷⁴ **(This is a completely out of mind thought. Why the Serbs would need to remain the UN of their presence, while there was no a metre of the c/I without combatants, otherwise there would be an intrusion of enemies into the Serb territory.)** Furthermore, it was not uncommon for those snipers to register their positions by firing a couple of shots to check on wind and distance and to set themselves up for the day's activities.¹¹⁹⁷⁵ **(Why a Serb sniper disclose his position and warn his enemies, a potential victims and the UN monitors?)** It was also not uncommon for them to fire a round of bullets off the side of one of the UNPROFOR vehicles at the end of the day.¹¹⁹⁷⁶ Fraser did accept, however, that UNPROFOR was not in a position to check the Serb side of the confrontation line with respect to each incident as it was not given freedom of movement in that area.¹¹⁹⁷⁷ **(For inference! What would be a Serb interest to provoke the UNPROFOR? This is totally unbelievable and counterproductive!)** The Serbs would also not let UNPROFOR personnel come to their side of Miljacka River to investigate sniping incidents allegedly committed by the ABiH.¹¹⁹⁷⁸ Instead the UNPROFOR personnel had to speak to the SRK Commander and other Bosnian Serb leaders about those matters.¹¹⁹⁷⁹ **(This only shows a degree of the mutual mistrust and lack of confidence. No matter who was right, this was a reality: therefore, not a bad will, but a caution was the reason why there was no more cooperation between the SRK and the UN personnel stationed on the Muslim side. All the time there were many UNMOs and monitors in the Serb held territory, with a good cooperation, but it was agreed that there wouldn't be any crossing the front line!)**

3665. In the spring or summer of 1995, Fraser and his superior asked the Serb side if they could visit some of Serb positions; together with other UNPROFOR soldiers they were escorted by the Commander of the Ilidža Brigade to a red brick building located to the south of the four white high-rises in Grbavica.¹¹⁹⁸⁰ It was a three to four storey building with holes in the walls of the upper floors through which one could see the Muslims side of Miljacka River; there were also sandbags and other paraphernalia that could be used by snipers.¹¹⁹⁸¹ **(#A snipers are the last inference#, since the same is used by a regular soldiers tasked to stop any advancement of the Muslim Army#? That is so because a mere “possibility” is promoted into a probability, and then to a fact!# This was a frontline, and the combatants had to be protected behind some hard obstacles. There were a numerous ABiH offensives against the Serb parts of the city, and the fortification is inevitable rather than surprising feature. Again, the #Chamber is “satisfied if there was any possibility that the Serbs did something, no matter what a degree of probability existed or not. Before this Court, as far as it is concerned with the Serbs, a mere possibility is sufficient, not even probability, let alone factual certainty; “beyond reasonable doubt” doesn't work, because, if there is some smoke, there must be Indians! This is**

¹¹⁹⁷⁴ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 31.

¹¹⁹⁷⁵ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 31.

¹¹⁹⁷⁶ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 31.

¹¹⁹⁷⁷ David Fraser, T. 8127 (19 October 2010).

¹¹⁹⁷⁸ See P1762 (Witness statement of David Fraser dated 17 October 2010), p. 24.

¹¹⁹⁷⁹ David Fraser, T. 8032–8034 (18 October 2010).

¹¹⁹⁸⁰ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 27–28; P1770 (Photograph of Sarajevo marked by David Fraser); P2414 (Witness statement of KDZ182), pp. 36–39 (under seal).

¹¹⁹⁸¹ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 28.

unacceptable and is not fair! “#There is a smoke, they must be Indians!#”) Fraser, who commanded over snipers during the course of his career,¹¹⁹⁸² thought that the building was a good position for snipers and “definitely looked like it was prepared for that use”.¹¹⁹⁸³ **(#Again, not the only, but the last possible inference#! And how would look like an ordinary position of soldier on line, in an urban zone? What would be a difference? #But even if it was a sniper position, it didn’t mean automatically that a sniper was aiming at the civilians#! How possibly the Serb soldiers could deter the constant attacks of the ABiH if not from a well fortified objects? Again, it is sufficient that some possibility existed, plus an “impression” of a witness, a certainty and established facts are not required!)** KDZ182, who was also present during this visit, testified that whilst in the building he saw a certain device used for sniping that allowed the shooter to be located to the side of the gun, instead of behind it, as explained to the visiting group by the Commander of the Ilidža Brigade.¹¹⁹⁸⁴ **(#What does it mean? Nothing#! There was a street war lasting for 44 months, a static front, how else would the fortification look like? Does it always look like that when there is no evidence?)**

3666. In February and March 1996, after the BiH authorities were able to go to the neighbourhood of Grbavica again, CSB Sarajevo’s ballistic experts, including Sabljica and Zlatko Mededović, visited Metalka, the four white high-rises, and two other buildings in the area,¹¹⁹⁸⁵ on the order of an investigating judge.¹¹⁹⁸⁶ In the white high-rises, the team found five or six apartments on higher floors,¹¹⁹⁸⁷ which had been redesigned to serve as sniper nests.¹¹⁹⁸⁸ Each apartment looked the same: the partition walls that divided the rooms within each apartment had holes while the outer wall of the building, facing Zmaja od Bosne street, had the smallest opening, thereby creating what is referred to as a “tunnel”.¹¹⁹⁸⁹ The perforations on the partition walls had a conical shape so that the shooter could fire from the depth of the apartment.¹¹⁹⁹⁰ According to Sabljica, at least three such perforated walls would have separated the shooter from the fire coming into the building, as indicated by the sandbags placed behind the last partition wall, making it extremely difficult to spot the shooter from the outside.¹¹⁹⁹¹ Looking from what he believed to be the sniper’s position, Sabljica could see the stretch of Zmaja od Bosne street from the Holiday Inn to the Faculty of Natural Sciences and Mathematics just west of the Maršal Tito Barracks.¹¹⁹⁹² Photographs of

¹¹⁹⁸² P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 4, 30–31.

¹¹⁹⁸³ P1762 (Witness statement of David Fraser dated 17 October 2010), p. 29. Fraser did concede, however, that the presence of sandbags and holes in the wall did not necessarily mean that the shooters were using sniper rifles with optical sights. *See* P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 29–30; David Fraser, T. 8127 (19 October 2010).

¹¹⁹⁸⁴ P2414 (Witness statement of KDZ182), pp. 38–39, 44–45 (under seal).

¹¹⁹⁸⁵ One of the buildings was an 18 floor skyscraper on Rave Janković street, while the other was a private house in the neighbourhood of Vraca, in Smederevska street. *See* Mirza Sabljica, T. 7941–7943 (14 October 2010); P1736 (BiH MUP Reports re sniper nest sites, 25 April 1996); P1737 (Aerial photograph of Sarajevo marked by Mirza Sabljica).

¹¹⁹⁸⁶ Mirza Sabljica, T. 7675 (11 October 2010), T. 7933 (14 October 2010); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 60–62.

¹¹⁹⁸⁷ Sabljica testified that they were located above the tenth floor but could not remember exact floors. *See* P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 62.

¹¹⁹⁸⁸ Mirza Sabljica, T. 7675 (11 October 2010); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 61.

¹¹⁹⁸⁹ Mirza Sabljica, T. 7675–7676, 7706–7708 (11 October 2010); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 61. This is in line with how Van der Weijden described professional sniper nests in an urban setting. *See* P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 4.

¹¹⁹⁹⁰ P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 61.

¹¹⁹⁹¹ Mirza Sabljica, T. 7708 (11 October 2011); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 61.

¹¹⁹⁹² P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 61.

inspected sniper nests were taken during the investigation.¹¹⁹⁹³ **(But exactly this part of Zmaja od Bosne didn't have civilian casualties caused by snipers. #A mere existence of a sniper nest in a war proves nothing#. For that reason, any inference wouldn't survive!)**

3667. Based on his analysis of the material relating to the sniper nests in four white high-rises, Poparić, testified that it was obvious that they were constructed professionally.¹¹⁹⁹⁴ In his opinion, they were aimed at the Maršal Tito Barracks as the view from them reached only as far as the School of Technology.¹¹⁹⁹⁵ Poparić also thought that the way these nests were constructed showed that a response was expected from the opposite side which to him meant that they were directed at the Maršal Tito Barracks.¹¹⁹⁹⁶ During cross-examination, however, Poparić conceded that he did not go inside the four white high-rises in Grbavica, noting that it was not necessary because he had the photographs from the *Dragomir Milošević* case and thus knew what could be seen from them.¹¹⁹⁹⁷ **(Poparić was right, because had it been fired towards the “Sniper Alley” there would be a small portion of the Alley reachable, if at all, and the trajectory would be so # obliquely that it would be easy to determine, on the both, vertical and horizontal plane#. The prosecution didn't submit any incidents that were said to be caused from these buildings!)**

3668. As for the Metalka building, Sabljica and the others inspected it as well but did not find such well-equipped sniper nests as found in the white high-rises.¹¹⁹⁹⁸ However, in one of the apartments, on the eighth and top floor, they found an improvised sniping nest with an opening on one of the walls, as well as some empty automatic weapon shell casings.¹¹⁹⁹⁹ Sabljica testified that the only type of automatic weapon available in the Balkans at the time was an M84 machine-gun, which uses 7.62 mm calibre bullets,¹²⁰⁰⁰ and also confirmed that the bullet casings found in the white high-rises were of 7.62 mm calibre, as well as 7.9 mm calibre.¹²⁰⁰¹ **(Those found in Metalka couldn't be from sniper. But, anyway, why wonder,# what is peculiar in the fact that on the frontline there were casings#? What does it mean? That there were fights, nothing else. For inference. Had the Prosecution inspected the Muslim side and could compare with the findings on the Serb side, we could conclude the same, nothing but that there were a firing places along the frontline! Nothing of that corroborates the allegations about the Serb snipers acting against civilians. And for the 1,400 days of the war in Sarajevo, there wouldn't be any “impressive” effect of such an engagement!)**

¹¹⁹⁹³ Mirza Sabljica, T. 7709 (11 October 2010), T. 7933–7934, 7944–7947 (14 October 2010); P1738 (Photographs of sniper nests). The Chamber notes that Metalka is not one of the buildings featuring in P1738.

¹¹⁹⁹⁴ D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 42.

¹¹⁹⁹⁵ D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 42.

¹¹⁹⁹⁶ D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 42.

¹¹⁹⁹⁷ Mile Poparić, T. 39183–39189 (4 June 2013).

¹¹⁹⁹⁸ P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 62–63.

¹¹⁹⁹⁹ Mirza Sabljica, T. 7676–7677 (11 October 2010).

¹²⁰⁰⁰ Mirza Sabljica, T. 7709–7710 (11 October 2010). The Chamber notes that the transcript records Sabljica as having referred to an M74 machine gun. However, given that the Chamber only ever heard about M84 machine guns in this case, the Chamber considers this to have been either a mistake in interpretation or a mistake on the part of Sabljica and should have been a reference to M84.

¹²⁰⁰¹ Mirza Sabljica, T. 7939–7941 (14 October 2010); P1736 (BiH MUP Reports re sniper nest sites, 25 April 1996).

3669. As for the ABiH side of the confrontation line, according to Fraser, the “legislative building” and the UNIS towers were used as sniping nests.¹²⁰⁰² KDZ450 confirmed that snipers on the Bosnian Muslim side operated around the Presidency building, UNIS towers, and the Holiday Inn.¹²⁰⁰³ Maletić testified that the enemy unit facing his company used snipers¹²⁰⁰⁴ and that the entire area of Grbavica was under sniper fire coming from buildings such as the high-rises in Pofalići, the Mechanical Engineering Faculty, the Unis towers, the Executive Council building, the Museum, the Unioninvest building, the red high-rises in Hrasno, the Elektroprivreda building, the Bristol Hotel, Debelo Brdo, and Trebević.¹²⁰⁰⁵ According to Galić, the sniper units of the 1st Corps of the ABiH had “stronger buildings” on their side of Miljacka River, that is, buildings with reinforced concrete and higher than three floors, which gave them more possibilities for sniper use.¹²⁰⁰⁶ **(So, #only a thorough investigations of each and every incident could give an answer as to who caused it, since there were many possibilities, including the one that the Muslim side, as confirmed, could do sniping of their civilians, as well as the Executive Council and Assembly buildings#!)**

3670. Based on the evidence outlined above, the Chamber finds that sniper nests and shooting positions of both warring factions existed in the area surrounding the confrontation lines on Zmaja od Bosne. The Chamber is also convinced that SRK sniper nests and shooting positions were located on the upper floors of all four white high-rises in Grbavica, as well as on the last floor of the Metalka building. They were also scattered in a number of other buildings in the area throughout the zone of responsibility of the 3rd Battalion of the 1st Romanija Infantry Brigade, later the 2nd Battalion of the 1st Sarajevo Mechanised Brigade and were, contrary to Galić’s testimony, manned by snipers subordinated directly to the battalion commander. **(In that case #Galic couldn’t be responsible for their conduct#, let alone the President . Why would General Galic lie, while this variant would be better for him, if a lower level was commanding? Obviously it was out of his command#!)** Further, the SRK shooting positions existed on the western side of the Jewish cemetery. Thus, there were many SRK snipers, as well as forces with semi-automatic rifles in the area. The Chamber finds, relying in particular on the evidence of KDZ310, that they would target civilians, both pedestrians and those riding in trams, as well as combatants on the ABiH-held side of the confrontation line.¹²⁰⁰⁷ **(This witness was #talking about a possibility#, but he didn’t give**

¹²⁰⁰² P1762 (Witness statement of David Fraser dated 17 October 2010), p. 24; David Fraser, T. 8049 (18 October 2010). However, KDZ182 testified that as far as presence of snipers in UNIS towers was concerned, this was “an idea that was spread” and that he never saw a report or was able to check whether snipers were in fact there. He did know, however, that there were snipers in the “former parliament building”. See P2414 (Witness statement of KDZ182), pp. 40, 43 (under seal). See also D4607 (SRK Report, 30 July 1994), p. 1; D4587 (SRK Report, date illegible), p. 1.

¹²⁰⁰³ P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 133; KDZ450, T. 10669 (20 January 2011).

¹²⁰⁰⁴ D2519 (Witness statement of Dragan Maletić dated 9 November 2012), paras. 19, 32.

¹²⁰⁰⁵ D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 20. See also D2651 (Witness statement of Milorad Katić dated 10 December 2012), para. 5; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), paras. 13, 30, 36–37; Dragomir Milošević, T. 33275–33276 (6 February 2013); Stanislav Galić, T. 37450 (18 April 2013), T. 37466 (22 April 2013); D2826 (1st Romanija Infantry Brigade combat report, 25 July 1992). [REDACTED]. Edin Garaplija testified that a member of Ševe, Nedžad Herenda, operated as a sniper from the Executive Council building. See Edin Garaplija, T. 33388 (7 February 2013). Van Baal testified that he had reports that ABiH would snipe at Serb positions from “a government building and from a hotel”. See Adrianus van Baal, T. 8457, 8459–8460 (27 October 2010).

¹²⁰⁰⁶ Stanislav Galić, T. 37467–37468, 37471 (22 April 2013).

¹²⁰⁰⁷ The Chamber therefore rejects Galić’s evidence on this issue. Given the contrary evidence outlined above, the Chamber finds that Galić was disingenuous when he testified that the SRK snipers in the area only fired in order to neutralise the fire coming from the enemy. See also Adjudicated Fact 2910. **#But had the SRK been firing at the civilians, during the 1400 days of war there would be many, many more casualties from sniper fire#. Galic also testified about what he knew and**

any evidence that it happened in reality#. #He never saw any killings, and he and his colleagues never did so#, and weren't punished for that, otherwise he would say it in his testimony, while he testified to the opposite, see T. 9278, quoted above in para 3658! As a protected and privileged witness of the Prosecution, enjoying an asylum in another country, he wouldn't skip an opportunity to please his benefactor – if he could say anything like that before the court.) As for the ABiH, the Chamber is satisfied that the ABiH had snipers in UNIS towers, Mechanical Engineering Faculty, Faculty of Natural Sciences and Mathematics, and the Executive Council and Assembly buildings. It is also satisfied that it opened fire on Grbavica, including on civilians, from those positions. **(The #Chamber should be “satisfied” that those forces fired at their people and the UN forces as well. No other positions could facilitate that so easily as these positions#!)**

(1) Zmaja od Bosne street, 19 June 1994 (Scheduled Incident F.8)

3671. The Indictment alleges that on 19 June 1994 Jasmina Kučinar, a 31 year old woman, and her four year old son, Damir Kučinar were shot and lightly wounded in their legs while travelling in a crowded tram on Zmaja od Bosne street towards Alipašino Polje. According to the Indictment, Mensur Jusić, a 36 year old man, sustained a slight leg wound while Belma Sukić née Likić, a 23 year old woman, was wounded in her left armpit. The Indictment also alleges that the tram was near the Holiday Inn when the incident happened.¹²⁰⁰⁸ In its Final Brief, the Prosecution argues that the “likely origin of fire was a location 600 metres from the incident site in the area of the Jewish cemetery.”¹²⁰⁰⁹ The Accused submits that the investigators did not know the origin of fire for this incident and claims that the bullet was in fact fired from the Executive Council building.¹²⁰¹⁰ **(Another inference: #if several of the passengers had been hit, it is the most probable that it was a round of an automatic rifle, and not a sniper fire#. This can not be easily neglected as a reasonable inference!)**

3672. On 19 June 1994, at approximately 5 p.m., Mensur Jusić was riding on a tram heading down Zmaja od Bosne street in the direction of Ilidža.¹²⁰¹¹ Jasmina Kučinar was on the same tram with her four year old son.¹²⁰¹² As the tram approached the intersection of Zmaja od Bosne and Fra Anđela Zvizdovića streets, Kučinar heard a shot and saw that her son who had been sitting by the window had been injured.¹²⁰¹³ Jusić was hit in the shin of his right leg.¹²⁰¹⁴ Jusić saw that the arm of a woman standing to his right was bleeding.¹²⁰¹⁵ The

what he ordered, although could be some shooting out of his knowledge, but also out of his responsibility. For inference.

¹²⁰⁰⁸ Indictment, Scheduled Incident F.8. In its Final Brief, the Prosecution argues that the tram was hit when located just east of the S-curve. Prosecution Final Brief, Appendix C, para. 15.

¹²⁰⁰⁹ Prosecution Final Brief, Appendix C, para. 17.

¹²⁰¹⁰ Defence Final Brief, para. 2235; Closing Arguments, T. 47986–47987 (2 October 2014).

¹²⁰¹¹ See Adjudicated Fact 209. The Chamber notes that in its original form this Adjudicated Fact refers to the Vojvode Putnika street but that this is the old name for Zmaja od Bosne street and that the latter will be used throughout this judgement.

¹²⁰¹² See Adjudicated Fact 210. See also Prosecution Submission, filed confidentially on 30 January 2015, paras. 9–11.

¹²⁰¹³ See Adjudicated Fact 211. The Chamber notes that this Adjudicated Fact refers to the intersection of Vojvode Putnika and Trščanska streets. Those are former names of the said streets. The Chamber will use the current names, namely Zmaja od Bosne and Fra Anđela Zvizdovića, in this judgement.

¹²⁰¹⁴ Adjudicated Fact 212.

¹²⁰¹⁵ See Adjudicated Fact 213.

injured received medical treatment at a nearby emergency clinic.¹²⁰¹⁶ No military vehicles were present in the close vicinity of the location of the incident.¹²⁰¹⁷ No military activity was underway in the area.¹²⁰¹⁸ **(#This doesn't satisfy a minimum of criteria for a criminal case: neither we know whether it was only one bullet, nor the angle of descending, nor a horizontal declination. Why the President would sustain any charge while it could have been anyone, and it was not decided whether it was a round, or a single shot#?)**

¹²⁰¹⁶ Adjudicated Fact 214.

¹²⁰¹⁷ Adjudicated Fact 216.

¹²⁰¹⁸ Adjudicated Fact 217.

3673. Bogdan Vidović, a criminal technician in the CSB Sarajevo,¹²⁰¹⁹ participated in the investigation of the incident.¹²⁰²⁰ He testified that it happened while the westbound tram was in the area of Marin Dvor, in front of the St. Joseph Church.¹²⁰²¹ The middle part of the left hand side of the tram was hit by one bullet, which pierced the wall of the tram, entered the tram right above the floor level, flew across the aisle, and then hit the carrying frame of the seat on the right hand side of the tram. The bullet split into pieces and caused the injuries to Jusić's right lower leg,¹²⁰²² Belma Likić's left arm, and Damir Kučinar's knees.¹²⁰²³ The ballistic tests determined that the bullet fragments found in the tram belonged to a 7.9 mm calibre bullet which could have been fired from any of M48 rifle, carbine rifle, automatic rifle, or M53 machine-gun.¹²⁰²⁴ Finally, the report concludes that the bullet originated from the direction of Grbavica–Vraca and was “probably fired from the aggressor's positions” in Grbavica.¹²⁰²⁵ When questioned on this conclusion, Vidović clarified that, for security reasons, the tram was moved some three stops away from the incident site when the investigation was conducted,¹²⁰²⁶ as a result of which, the ballistics experts were not sent to the site,¹²⁰²⁷ and the exact origin of fire could not be determined.¹²⁰²⁸ Instead, only the direction of fire, which ran from Grbavica, across the Unioninvest building, towards the incident site, could be established.¹²⁰²⁹ **(Then, Vraca would be out of any possibility, since there would be an angle of about over 90 degrees! In any case, this is not correct to use it in a serious court! Why would the President be damaged because a ballistic expert wasn't there?)**

3674. During cross-examination, Vidović agreed that the fire in the area where the incident happened could have originated from the Assembly building.¹²⁰³⁰ He also agreed that because of a tree seen in a photograph shown to him, the western boundary of the Jewish cemetery had no view on the incident site and that the tram tracks could have been fired on from the cemetery's eastern boundary.¹²⁰³¹ As for the view of the site from Vraca, Vidović testified

¹²⁰¹⁹ P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 2, 11–12, 31–32, 34.

¹²⁰²⁰ P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 2–3.

¹²⁰²¹ Bogdan Vidović, T. 8172–8174, 8177–8178, 8186 (19 October 2010); D787 (Map of Sarajevo marked by Bogdan Vidović); D788 (Photograph of Sarajevo marked by Bogdan Vidović); P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 10, 26, 28; P1761 (Map of Sarajevo marked by Bogdan Vidović). *See also* P1758 (BiH MUP Report re sniping incident of 19 June 1994 on Zmaja od Bosne street), e-court p. 5.

¹²⁰²² While the reports refer to a Mesud Jusić, the Chamber is satisfied that this is Mensur Jusić referred to in the Indictment.

¹²⁰²³ P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 3–9; P1757 (BiH MUP Report re sniping incident of 19 June 1994 on Zmaja od Bosne street); P1758 (BiH MUP Report re sniping incident of 19 June 1994 on Zmaja od Bosne street), e-court pp. 5, 7; P1759 (Photographs re sniping incident of 19 June 1994 on Zmaja od Bosne marked by Bogdan Vidović). *See also* Adjudicated Fact 218. The Chamber notes that none of the BiH MUP reports on this incident refers to any injuries sustained by Jasmina Kučinar. In fact, the Chamber received no evidence indicating that Jasmina Kučinar was injured in this incident.

¹²⁰²⁴ While the ballistics report states that the bullet in question was a 7.9 mm calibre bullet, the text under some of the CSB Sarajevo photographs taken at the scene refer to a bullet of 7.62 mm calibre. The Chamber considers this to be inaccurate and finds the ballistics analysis report to be determinative on this matter. *See* P1758 (BiH MUP Report re sniping incident of 19 June 1994 on Zmaja od Bosne street), e-court p. 7; P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 27–29; Bogdan Vidović, T. 8190–8191, 8196, 8254–8255 (20 October 2010).

¹²⁰²⁵ P1757 (BiH MUP Report re sniping incident of 19 June 1994 on Zmaja od Bosne street); P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 6, 10; P1758 (BiH MUP Report re sniping incident of 19 June 1994 on Zmaja od Bosne street), e-court p. 5.

¹²⁰²⁶ P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 10, 13.

¹²⁰²⁷ P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), p. 12.

¹²⁰²⁸ P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), p. 29.

¹²⁰²⁹ Bogdan Vidović, T. 8174–8175 (19 October 2010); D787 (Map of Sarajevo marked by Bogdan Vidović).

¹²⁰³⁰ Bogdan Vidović, T. 8179, 8182 (19 October 2010); D788 (Photograph of Sarajevo marked by Bogdan Vidović).

¹²⁰³¹ Bogdan Vidović, T. 8178–8182 (19 October 2010); D788 (Photograph of Sarajevo marked by Bogdan Vidović).

that the extent of that view depended on the exact location of the tram when hit but accepted that the bullet fired from there would have hit the tram at an acute angle.¹²⁰³² However, he stated that the bullet's actual entry point led him to the conclusion that the bullet came in at a right angle rather than an acute one.¹²⁰³³ He also indicated that the incident took place during a period of cease-fire,¹²⁰³⁴ and that he believed that UNPROFOR was informed about it.¹²⁰³⁵ When questioned about the area, Vidović confirmed that a police station was located some 200 to 300 metres away from the incident site, that the command of the 1st Corps of ABiH was located in the centre of the city, and that the confrontation line was not far from the incident site, running along Miljacka River, to the east of the Vrbanja Bridge.¹²⁰³⁶

3675. Hogan visited the site of the incident with Jusić and recorded the tram's approximate location when struck by the bullet, namely the intersection of Zmaja od Bosne and Fra Anđela Zvizdovića.¹²⁰³⁷ As seen on the photographs marked by Hogan in court, there was an unobstructed view towards the Jewish cemetery from that intersection.¹²⁰³⁸

3676. Van der Weijden also investigated this incident and had at his disposal the report prepared by CSB Sarajevo, as well as the statements of Vidović and Jusić.¹²⁰³⁹ Like Hogan, he visited the site of the incident, and then went to the Jewish cemetery which is about 600 metres away and which offered several good positions with a view of the incident site.¹²⁰⁴⁰ According to Van der Weijden, the fact that the tram's left hand side was facing south when it reached the incident site indicated that the shot was fired from the Jewish cemetery.¹²⁰⁴¹ Because of the distance between the two sites, Van der Weijden was of the opinion that either a medium machine-gun or a sniper rifle was used in this incident, noting that both used either 7.62 mm or 7.92 mm calibre bullets.¹²⁰⁴² Furthermore, he noted that at this distance it would have been impossible for the shooter to identify who the people in the tram were.¹²⁰⁴³ Noting also that the witnesses heard one shot but that three people were injured, Van der Weijden explained that this could be either because other shots were not heard due to the noise produced by the tram or because the one bullet that was fired fragmented on impact.¹²⁰⁴⁴ On

¹²⁰³² Bogdan Vidović, T. 8185–8187 (20 October 2010); D789 (Map of Sarajevo marked by Bogdan Vidović).

¹²⁰³³ Bogdan Vidović, T. 8192–8195 (20 October 2010).

¹²⁰³⁴ P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 10–11.

¹²⁰³⁵ P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 18–19. Indeed, the CSB Sarajevo report on the investigation provides that the UNPROFOR conducted its own investigation of this incident. *See* P1758 (BiH MUP Report re sniping incident of 19 June 1994 on Zmaja od Bosne street), e-court p. 5.

¹²⁰³⁶ With respect to the confrontation line, Vidović explained that he marked it not based on what he observed but what he heard. P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 17–18, 23–27; P1761 (Map of Sarajevo marked by Bogdan Vidović). *See also* Bogdan Vidović, T. 8175–8176 (19 October 2010); D787 (Map of Sarajevo marked by Bogdan Vidović).

¹²⁰³⁷ Hogan explained that the tram locations he recorded were only approximations in light of the fact that the trams were moving when hit. Barry Hogan, T. 11214 (3 February 2011); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2203 (Photograph re sniping incident of 19 June 1994 on Zmaja od Bosne street marked by Barry Hogan); P2207 (Images re scheduled sniping incidents in Sarajevo); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 105, Image 71.

¹²⁰³⁸ Barry Hogan, T. 11214 (3 February 2011); P2203 (Photograph re sniping incident of 19 June 1994 on Zmaja od Bosne street marked by Barry Hogan).

¹²⁰³⁹ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 65.

¹²⁰⁴⁰ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), pp. 59–61. *See also* Patrick van der Weijden, T. 6955 (27 September 2010).

¹²⁰⁴¹ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 61. *See also* Barry Hogan, T. 11214 (3 February 2011); P2203 (Photograph re sniping incident of 19 June 1994 on Zmaja od Bosne street marked by Barry Hogan).

¹²⁰⁴² P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 59.

¹²⁰⁴³ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 62.

¹²⁰⁴⁴ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 59.

the subject of hearing the bullet, Vidović testified that one would not have been able to determine, on the basis of the sound heard, that the fire came from the Jewish cemetery.¹²⁰⁴⁵

(#It is already more than enough for the Chamber to drop the incident#. Out of so many alleged incidents, the Prosecution is squeezing a poor case to get something, but it is so hopeless and senseless!)

3677. Poparić pointed out that the CSB Sarajevo investigation team did not determine the direction from which the bullet was fired but simply assumed that it was fired from VRS positions in Grbavica.¹²⁰⁴⁶ Having gone to the scene, Poparić observed that the incident site is visible from both the Jewish cemetery and Debelo Brdo and that the closest line between the Jewish cemetery and the scene of the incident measured 570 metres.¹²⁰⁴⁷

3678. Poparić analysed the video footage recorded by Van Lynden of the VRS positions at the Jewish cemetery looking down on Marin Dvor area and concluded that the position shown in the video was not a sniper position as the soldier shown was armed with “a simple M70 7.62 mm automatic rifle.”¹²⁰⁴⁸ He also observed that the tram lines were not visible from that position because the trees blocked the view.¹²⁰⁴⁹ **(Of course, the middle of June had a very rich vegetation. For inference!)**

3679. Following his analysis of the photographs of the tram taken by the CSB Sarajevo and his own examination of the scene, Poparić came to the conclusion that the bullet came “from the front half-sphere of the tram”.¹²⁰⁵⁰ Using the size of the bullet entry point (which he determined by magnifying a photograph of it)¹²⁰⁵¹ and assuming that the bullet exited the tram wall near a seat located in a certain location,¹²⁰⁵² Poparić made an “approximate calculation” of the angle which the projectile formed with the tram wall, namely 28.8 degrees, and came to the conclusion that the bullet was fired from the BiH Executive Council building and not from the Jewish cemetery as alleged.¹²⁰⁵³ Had the bullet come from the Jewish cemetery, according to Poparić, it would have hit the tram at close to a 90 degree angle with an angle of descent being low, approximately five or six degrees.¹²⁰⁵⁴ Poparić also testified that the fact that the bullet had the energy to travel through the wall of the tram and then across the aisle where it hit the seat on the opposite side of the tram, damaging the metal railing, indicates that it was fired from a “relatively short” range thus again implicating the Executive Council building as the origin of fire.¹²⁰⁵⁵

3680. Galić told the Chamber that the day before this incident he sent a regular combat report to the VRS Main Staff in which he reported that SRK units were honouring the cease-

¹²⁰⁴⁵ Bogdan Vidović, T. 8183 (19 October 2010).

¹²⁰⁴⁶ D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 106. The Chamber notes that this is somewhat inaccurate as the forensic investigation report prepared by Vidović provides that the direction of fire was Grbavica–Vraca. It is the report prepared by the investigator that referred to the origin of fire, as opposed to the direction of fire, “most probably” being the “aggressor’s positions in Grbavica”. Both these reports are part of the CSB Sarajevo report cited by Poparić in support of his proposition above. See P1758 (BiH MUP Report re sniping incident of 19 June 1994 on Zmaja od Bosne street), e-court pp. 4–5.

¹²⁰⁴⁷ D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 44–46 (Images 21 and 23), 106–107 (Image 72).

¹²⁰⁴⁸ D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 108, Image 73; P935 (Sky Newsreport re Sarajevo, with transcript).

¹²⁰⁴⁹ D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 108, Image 73; P935 (Sky Newsreport re Sarajevo, with transcript). In its Final Brief, the Prosecution argues that this evidence has inefficient factual basis and is contradicted by reliable evidence. Prosecution Final Brief, Appendix C, para. 16. **(#An empty declaration!)**

fire, despite the enemy's provocation, and reported on his decision to continue "to fully and consistently implement the agreement on the cessation of combat activities".¹²⁰⁵⁶ According to Galić, because of this decision, no shooting at the city by the SRK was expected the next day, especially not at public transportation.¹²⁰⁵⁷ He also issued another combat report at around 5 p.m. on the day of the incident, reporting that the enemy operated sniper rifles and a hand-held rocket launcher in the area of the Vrbanja Bridge, and that the provocation was responded to with adequate fire on enemy positions.¹²⁰⁵⁸ He then repeated in the combat report his decision to continue to implement the agreement on the cessation of combat activities.¹²⁰⁵⁹ There was no mention of the incident in the report and Galić stated that had he been informed of it he would have informed the Main Staff.¹²⁰⁶⁰

3681. In addition to the evidence and adjudicated facts outlined above, the Chamber has also taken judicial notice of two adjudicated facts which go to the origin of fire and provide as follows: (i) there was an unobstructed line of sight between the site of the event and the area of the Jewish cemetery under SRK control;¹²⁰⁶¹ and (ii) the shot which struck the tram was fired from the area of the Jewish cemetery held by the SRK.¹²⁰⁶² **(#Deadly combination#! On what basis the Chamber dismissed the Poparić's arguments? What was the descending angle of the projectile, the trajectory? That is how it is with the Adjudicated Facts: it had been "adjudicated" in another process, in which the Defence most probably wasn't interested to rebut it, it it didn't concerned directly with the Defendant! This way there could have been only one comprehensive process, which would "adjudicate" the entire corps of the Prosecutor's allegations, and sentence everyone indicted!)**

3682. The Chamber finds based on the evidence and adjudicated facts outlined above that the tram in question was shot at, most likely by a single bullet, in the area of Marin Dvor in front of the St. Joseph Church. It also finds that this tram was a civilian vehicle and that it was operating due to a cease-fire that was in place at the time. In addition, the three casualties in this incident, namely Damir Kučinar, Mensur Jusić, and Belma Sukić née Likić¹²⁰⁶³ were civilians and were not taking direct part in hostilities at the time of the incident. **(#All irrelevant, because it hadn't been established who fired#! At least two or three sides**

¹²⁰⁵⁰ D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 109; Mile Poparić, T. 38976 (30 May 2013).

¹²⁰⁵¹ Mile Poparić, T. 38976 (30 May 2013); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 111, Image 77.

¹²⁰⁵² Mile Poparić, T. 38976–38977 (30 May 2013); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 110, Image 76; D3637 (Photograph of a tram marked by Mile Poparić).

¹²⁰⁵³ D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 110–113; Mile Poparić, T. 38975 (30 May 2013).

¹²⁰⁵⁴ Mile Poparić, T. 38975–38976 (30 May 2013).

¹²⁰⁵⁵ Mile Poparić, T. 38977–38979 (30 May 2013).

¹²⁰⁵⁶ Stanislav Galić, T. 37530–37531 (22 April 2013); D3454 (SRK combat report, 18 June 1994).

¹²⁰⁵⁷ Stanislav Galić, T. 37531 (22 April 2013).

¹²⁰⁵⁸ Stanislav Galić, T. 37531–37532 (22 April 2013); D2668 (SRK combat report, 19 June 1994), p. 1.

¹²⁰⁵⁹ Stanislav Galić, T. 37531–37532 (22 April 2013); D2668 (SRK combat report, 19 June 1994), p. 1.

¹²⁰⁶⁰ Stanislav Galić, T. 37532 (22 April 2013).

¹²⁰⁶¹ See Adjudicated Fact 219.

¹²⁰⁶² See Adjudicated Facts 220, 221.

¹²⁰⁶³ The Chamber notes that while the Indictment alleges that Jasmina Kučinar was also wounded in this incident, the Chamber has not received any evidence to support that allegation. Accordingly, the Chamber considers that three rather than four persons were injured in this incident. See fn. 12023.

could have fired, and that is enough to dismiss the incident! #Of course, Indians are always at a disposal to be blamed#!)

3683. In terms of the origin of fire, the Chamber does not accept Poparić's conclusion that the bullet came from the Executive Council building as it is based on speculation. For example, Poparić simply assumed that the bullet exited the tram's wall at a particular location, near a particular seat.¹²⁰⁶⁴ He made that assumption on the basis of another photograph made by the CSB Sarajevo, namely a close up of the bullet's exit point on the inside of the tram.¹²⁰⁶⁵ However, other than showing a portion of a red seat, that photograph does not show the actual location of that seat relative to the interior of the tram.¹²⁰⁶⁶ **(So more it #should be dismissed. The Defence was not expected or obliged to prove who fired, it was a OTP obligation#. But simple look of this incident clearly indicated that a Serb bullet would have a significant descending angle, while the trajectory within the tram was almost horizontal, and if ricocheted, then it had to be fired from a immediate vicinity!)** Thus, it is unclear to the Chamber how Poparić came to the conclusion that the bullet exited the tram wall at a particular location, which in turn allowed him to conclude that the bullet hit the tram at an acute angle. Further, Poparić calculated that angle based on a close-up photograph of the bullet's entry point, which the Chamber views as a highly speculative and potentially inaccurate calculation. Indeed, Poparić's analysis is also contradicted by Vidović's testimony, namely, that the bullet entered the tram at a right angle, as opposed to an acute angle which in turn suggests that a different seat from the one identified by Poparić was in the vicinity of the exit point.¹²⁰⁶⁷ Given that Vidović was able to observe the entry point on the tram itself, the Chamber considers his evidence here to be more persuasive than Poparić's speculations as to the acute nature of the angle. **(#Too many "ifs". There are the two angles obligatory to determine, on a two levels, vertical one, and horizontal. If one of it was not determined, this could not be allocated to any side, let alone to the Serb side#. Would this kind of investigation be acceptable in the countries of the members of the Chamber? There are several factors that hadn't been determined, and thus it is not acceptable in a criminal case. In any case, the descending angle in a case the Serbs fired must have been more than 45 degrees, and this hadn't been established. All the Serb positions with the visibility to the spot are on elevations and too far from the spot!)**

3684. Accordingly, based on all the evidence before it, the Chamber finds that the bullet struck the tram at a right angle, from the direction of the Jewish cemetery. In addition, relying on the adjudicated facts and recalling Van der Weijden's evidence as to the lines of sight, the Chamber finds that it was the SRK forces, located on the western side of the Jewish cemetery, that opened fire on the tram. **(#How this expert could have known that? How he**

¹²⁰⁶⁴ Poparić explains under Image 76 that the left circle he marked on that image indicates the point of the projectile entry while the right dotted circle marks the point where the projectile exited the paneling on the inner side "as assumed on the basis of Image 75". See D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 110, Image 76.

¹²⁰⁶⁵ D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 109, Images 75 and 76; P1759 (Photographs re sniping incident of 19 June 1994 on Zmaja od Bosne marked by Bogdan Vidović), e-court p. 2. Indeed, under Image 76 in his report, Poparić explains that the exit point of the bullet was "assumed" on the basis of Image 75.

¹²⁰⁶⁶ P1759 (Photographs re sniping incident of 19 June 1994 on Zmaja od Bosne marked by Bogdan Vidović), e-court p. 2. The Chamber notes that judging by the photograph depicting the exterior of the tram and the entry point of the bullet, there are two potential seats that could have been in the vicinity of the exit point, the one identified by Poparić and another one, just in front of it. See D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 109, Image 75; P1759 (Photographs re sniping incident of 19 June 1994 on Zmaja od Bosne marked by Bogdan Vidović), e-court p. 6.

¹²⁰⁶⁷ Bogdan Vidović, T. 8192–8195 (20 October 2010).

excluded other sides to the conflict, or the other side of the Jewish cemetery#? Would be more precise if there passed more time? #This is a mockery of justice#. The lines had been following each other everywhere, on a distance from several metres to couple of tens of metres, and only a very precise and undoubtable investigations could have indicate some possibility, and to a less degree a probability!) This is also consistent with the preponderance of evidence suggesting that the sniper fire in the area of Zmaja od Bosne street came from the Serb side,¹²⁰⁶⁸ and with the evidence that the SRK had a sniper squad active in the area, as well as a number of other units with semi-automatic rifles. Given the distance involved and the fact that it was struck by one bullet only, the Chamber is also convinced that the tram was deliberately targeted by a single shot and that the SRK shooter would have known that the tram was a civilian vehicle carrying civilians. **(But, this is all irrelevant taking into account several notorious facts: that the 1.**

- 1. #Muslim Army had it's positions closer to the spot than the SRK#;**
- 2. that the #Serb side didn't have any interest in shooting the civilians, not only because they could have killed a Serb, but also because the SRK never intended to advance towards the city, and didn't want any returning fire;**
- 3. the Serb side didn't have a single benefit out of any crisis in Sarajevo, while the Muslim side couldn't afford itself to have Sarajevo calmed, because only the Serb side was under the pressure.**
- 4. The Muslim side never stopped to nourish a hopes that the NATO would enter the war on their side!**
- 5. Even if so, although there are many other inferences, what does it have to do with the President? Not even the Corps Commander was familiar with the event. But, other inferences do not leave this as the only one!**

Zmaja od Bosne street, 8 October 1994 (Scheduled Incident F.11)

3685. The Indictment alleges that Alma Ćutuna, a 43 year old woman, was wounded in the upper right leg while travelling on a tram on Zmaja od Bosne.¹²⁰⁶⁹ In its Final Brief, the Prosecution argues that the shots were fired from sniper positions in Serb-held territory to the

¹²⁰⁶⁸ See paras. 3621, 3656–3662. In addition, the Chamber also recalls that it rejected the Accused's arguments that ABiH forces were the ones sniping at Bosnian Muslims civilians throughout Sarajevo. See Section IV.B.1.d: Bosnian Muslims targeting own civilians. **(On what basis the Chamber rejected these arguments? The Accused's arguments had been corroborated by many data and evidence of the international representatives!)**

¹²⁰⁶⁹ Indictment, Scheduled Incident F.11. In footnote 22 of the Indictment, the Prosecution notes that "the evidence also shows that one person was killed and an additional nine were wounded in the incident." The Prosecution has stated on the record that this killing is not charged as part of this incident. See T. 39012–39014 (30 May 2013). **(If there was more than one, or two, let alone nine casualties, this is a firm proof that there was no a sniper fire. By "not charging" these additional wounded in this very same incident, the Prosecution darkened a very important element, which exclude any sniper firing! Obviously, it had been a round of an automatic fire! Is there any decency here?)**

south of Miljacka River.¹²⁰⁷⁰ The Accused submits, however, that the source of fire in this incident was the Executive Council building.¹²⁰⁷¹

3686. On 8 October 1994, Alma Čutuna and her husband were on a tram travelling eastbound on Zmaja od Bosne street.¹²⁰⁷² The tram was crowded as people had decided to come out due to a cease-fire.¹²⁰⁷³ While on the tram, Čutuna was standing facing the middle doors, looking at Grbavica, wearing jeans and a red and black blouse.¹²⁰⁷⁴ According to KDZ090, sometime between 12 and 12:10 p.m., as the tram was passing the Museum and approaching the Faculty of Philosophy, it slowed down in order to enter the S-curve and, at that point, was shot at, the bullets first hitting the upper and then the lower section of the tram.¹²⁰⁷⁵ As a result, Čutuna was wounded on the inside of her right thigh resulting in two exit wounds on the side of her right hip; she also sustained cuts on her head from the tram's broken window glass.¹²⁰⁷⁶ She was admitted to the hospital, underwent an operation the same day, and discharged on 11 November 1994, having spent some of her recovery in intensive care.¹²⁰⁷⁷ Other persons were also wounded during this incident,¹²⁰⁷⁸ while, according to KDZ090, the driver of the tram travelling in front of Čutuna's tram at the time of the attack was killed.¹²⁰⁷⁹ Čutuna still suffers from pain in her leg and needs help with her day to day activities.¹²⁰⁸⁰

3687. KDZ090 testified that the shots were fired from the Metalka building.¹²⁰⁸¹ There were no military institutions or equipment in the vicinity of the incident's location and the closest military installation was the Maršal Tito Barracks, some two tram stops away.¹²⁰⁸² Furthermore, there was no fighting that day since the cease-fire was in place and no ABiH soldiers in the tram.¹²⁰⁸³ **(#Deadly combination#! The Chamber is using 92bis evidence, a statement of witness without a cross-examination, for such a decisive element!!! Some**

¹²⁰⁷⁰ Prosecution Final Brief, Appendix C, para. 18. The Prosecution also alleges in its Final Brief that the tram was hit on "either side of the S-curve". Prosecution Final Brief, Appendix C, para. 15. *See also* Closing Arguments, T. 47742–47747 (30 September 2014).

¹²⁰⁷¹ Defence Closing Brief, para. 2266.

¹²⁰⁷² P2923 (Witness statement of KDZ090 dated 21 February 1996), p. 1; P1028 (Video re sniping incident of 8 October 1994 on Zmaja od Bosne street) (under seal).

¹²⁰⁷³ KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 824–825 (under seal); P2923 (Witness statement of KDZ090 dated 21 February 1996), p. 1; P2923 (Witness statement of KDZ090 dated 19 April 2006), para. 8. *See also* Adjudicated Fact 2923.

¹²⁰⁷⁴ KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 826 (under seal); P2923 (Witness statement of KDZ090 dated 21 February 1996), p. 1 (under seal); P2923 (Witness statement of KDZ090 dated 19 April 2006), paras. 8, 9.

¹²⁰⁷⁵ According to KDZ090, when the shooting started, the tram was still moving but once it was hit it stopped. *See* P2923 (Witness statement of KDZ090 dated 21 February 1996), p. 1; P2923 (Witness statement of KDZ090 dated 19 April 2006), para. 8; KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 825–826, 829–832, 835–837 (under seal); P432 (Aerial photograph of Sarajevo marked by KDZ090) (under seal); P436 (Aerial photograph of Sarajevo marked by KDZ090); P437 (Aerial photograph of Sarajevo marked by KDZ090); P1028 (Video re sniping incident of 8 October 1994 on Zmaja od Bosne street) (under seal). *See also* Adjudicated Fact 2924.

¹²⁰⁷⁶ P2923 (Witness statement of KDZ090 dated 21 February 1996), pp. 1–2; P2923 (Witness statement of KDZ090 dated 19 April 2006), para. 8; KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 824, 827 (under seal). *See also* Adjudicated Facts 2921, 2925.

¹²⁰⁷⁷ P2923 (Witness statement of KDZ090 dated 21 February 1996), p. 2; P1257 (Medical report for Alma Čutuna) (under seal); P1218 (Medical report for Alma Čutuna) (under seal). *See also* Adjudicated Fact 2926.

¹²⁰⁷⁸ *See* P1254 (Medical report for Zumra Habibović); P1255 (Medical report for Aiša Gačević); P1256 (Medical report for Samir Moro).

¹²⁰⁷⁹ KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 824, 827 (under seal); P2923 (Witness statement of KDZ090 dated 21 February 1996), pp. 1–2; P2923 (Witness statement of KDZ090 dated 19 April 2006), para. 8.

¹²⁰⁸⁰ P2923 (Witness statement of KDZ090 dated 19 April 2006), para. 13. *See also* Adjudicated Fact 2927.

¹²⁰⁸¹ KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 824, 831–832 (under seal); P2923 (Witness statement of KDZ090 dated 19 April 2006), paras. 9–10.

¹²⁰⁸² KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 827 (under seal); P2923 (Witness statement of KDZ090 dated 19 April 2006), para. 9. *See also* Adjudicated Fact 2922.

¹²⁰⁸³ KDZ090, P481 (Transcript from *Prosecutor v. D. Milošević*), T. 827–828 (under seal). *See also* Adjudicated Facts 2922, 2923.

gear riding a tram with a poor view and without any military experience is taken for granted to know from where there was firing! And yet the Defence couldn't cross-examine her!)

3688. CSB Sarajevo was informed about this incident around 12:45 p.m. on 8 October 1994 and then informed an investigative judge who sent out a team, which included KDZ485, to the scene to investigate.¹²⁰⁸⁴ The investigation started at 1 p.m. and lasted for an hour and 15 minutes.¹²⁰⁸⁵ A report, dated 10 October 1994, was compiled, listing one casualty, Nedžad Hadžijbarić, and 11 wounded, including Alma Ćutuna.¹²⁰⁸⁶ According to the report, the driver of the first tram¹²⁰⁸⁷ told the investigators that the first burst of shots was fired at his tram, tram number 206, at 12:19 p.m. by Serbs from the Metalka building, injuring three passengers.¹²⁰⁸⁸ **(#Automatic fire, not sniper#! Look at it! Now, it was a “burst of shots”, but is is not clear how the driver knew that it was from Metalka. So, the driver, a Muslim, said to the investigators, also Muslims, dependent of the Muslim Government, that he found out tha the forst burst of shoths was from Metalka. It is not wonder that the Muslim investigators accepted it, but how this Chamber could have accepted such an unbelievable assertion as a fact? This couldnh have been a sniper whatsoever, and also from Metalka any automatic fire would not have been concentrated, nor precise.)** Some two to three minutes later, the second burst was fired on tram 236 which was following tram 206 and entering the stretch between the Faculty of Philosophy and the Museum, that is the S-curve; again several civilians were wounded.¹²⁰⁸⁹ According to the report, soon thereafter bursts of fire were heard again and four children who were running across the aforementioned location were wounded.¹²⁰⁹⁰ The report also notes that the incident happened in front of UNPROFOR who were “hiding behind their transporters” at the scene.¹²⁰⁹¹

3689. While it does not appear to contain ballistics analysis, the report notes that four entry and exit holes were identified and photographed on tram 236, and that they were probably caused by the “death sower.”¹²⁰⁹² KDZ485 testified that he knew of one incident where that weapon had been used by the Serbs but did not know if the ABiH had it in its arsenal.¹²⁰⁹³ However, as mentioned above, the BiH MUP had reported already in October 1993 that the 2nd Independent Battalion of the ABiH had at least one death sower in its possession.¹²⁰⁹⁴

¹²⁰⁸⁴ KDZ485, T. 8880–8881 (3 November 2010); P1907 (BiH MUP Report re sniping incident of 8 October 1994 on Zmaja od Bosne street), p. 1.

¹²⁰⁸⁵ P1907 (BiH MUP Report re sniping incident of 8 October 1994 on Zmaja od Bosne street), p. 2.

¹²⁰⁸⁶ P1907 (BiH MUP Report re sniping incident of 8 October 1994 on Zmaja od Bosne street), pp. 3–5. *See also* Adjudicated Fact 2930.

¹²⁰⁸⁷ It would therefore appear that the tram driver was not killed in this incident as suggested by KDZ090. However, given that one person did die in the incident and that the situation would have been chaotic at the time, the Chamber does not consider that KDZ090's evidence as to the dead person's identity puts in doubt the remainder of KDZ090's testimony. **(No, of course, the OTP witnesses didn't lie!!! For much les uncertainty the two hundred of the Defence witnesses testimonies had been rejected!, but, why this flagrant discrepancy in the KDZ090 testimony is in the footnote?)**

¹²⁰⁸⁸ P1907 (BiH MUP Report re sniping incident of 8 October 1994 on Zmaja od Bosne street), p. 2.

¹²⁰⁸⁹ P1907 (BiH MUP Report re sniping incident of 8 October 1994 on Zmaja od Bosne street), p. 2. *See also* Adjudicated Fact 2929.

¹²⁰⁹⁰ P1907 (BiH MUP Report re sniping incident of 8 October 1994 on Zmaja od Bosne street), p. 2. *See also* Adjudicated Fact 2929.

¹²⁰⁹¹ P1907 (BiH MUP Report re sniping incident of 8 October 1994 on Zmaja od Bosne street), p. 2.

¹²⁰⁹² P1907 (BiH MUP Report re sniping incident of 8 October 1994 on Zmaja od Bosne street), p. 2.

¹²⁰⁹³ KDZ485, T. 8902–8905 (3 November 2010).

¹²⁰⁹⁴ *See* para. 3626.

3690. The site of the incident was also visited by Rose and Gobilliard at 12:45 p.m., while the UNPROFOR soldiers conducted an investigation of the scene.¹²⁰⁹⁵ The next day, Rose sent a letter to the Accused, informing him of the incident and requesting that he “take all appropriate measures to identify and prosecute the perpetrators of this crime.”¹²⁰⁹⁶ On 10 October 1994, Rose and Gobilliard released a joint statement stating that there was no doubt that the fire had come from Serb positions at the Jewish cemetery.¹²⁰⁹⁷ On the same day, Rose met with Mladić and raised this incident but Mladić said that the shots came from the Holiday Inn and that the incident was staged by the Muslim side.¹²⁰⁹⁸ **(This certainly was #not any sniper fire, but something fired from an automatic weapons#. Further, had it been from the Jewish Cemetery, it was more than 600 meters away from the site of impact. Metalka would also be unsuitable for a “death sower” which is literally sow the bullets to a wide area. How possibly it could be aimed and hit by a rifle and rounds? There couldn’t be a reach, let alone preciseness. Also, if it was a death sower firing from the Serb side, i.e. so distant, there would be many witnesses that would here it and confirme it!)**

3691. UNPROFOR released a report on the incident, dated 13 October 1994, which states that all three instances of sniping occurred at the intersection of Đure Daničića and Zmaja od Bosne streets, that is, between the Faculty of Philosophy and the Executive Council building, as witnessed by the UNPROFOR personnel present near that intersection during the incident.¹²⁰⁹⁹ This location is located one block to the east of the S-curve and thus different from the location of the incident identified by KDZ090 and the CSB Sarajevo report.¹²¹⁰⁰ Between the second and the third burst of fire, UNPROFOR soldiers intensified surveillance of the Invest Banka building, as well as the Red Façade building, the latter being under ABiH control according to the report.¹²¹⁰¹ **(It was always that a half of the building was in the Muslim hands, and that is of some significance.)** The report also notes that it was impossible to carry out an investigation on the first tram, that is tram 206, as it was some 200 metres from the incident site **(Such an #inappropriate investigation# must not be used**

¹²⁰⁹⁵ P2421 (UNPROFOR report re sniping incident of Zmaja od Bosne on 8 October 1994, 13 October 1994), p. 6; P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 156; P1675 (Video clip of Michael Rose and Herve Gobilliard in Sarajevo); P2414 (Witness statement of KDZ182), p. 60 (under seal).

¹²⁰⁹⁶ Rose also protested to Alija Izetbegović for a sniping incident in Vojkovići for which the ABiH was found to be responsible. See P1644 (Letters from Michael Rose to Alija Izetbegović and Radovan Karadžić, 9 October 1994). See also P1762 (Witness statement of David Fraser dated 17 October 2010), p. 43; P1674 (UNPROFOR report re meeting with Ratko Mladić, 11 October 1994).

¹²⁰⁹⁷ P1638 (Witness statement of Michael Rose dated 26 March 2009), p. 156; P1674 (UNPROFOR report re meeting with Ratko Mladić, 11 October 1994).

¹²⁰⁹⁸ P1638 (Witness statement of Michael Rose dated 26 March 2009), p. 155; Micheal Rose, T. 7268–7269 (5 October 2010) P867 (UNPROFOR report on meeting with Ratko Mladić, 10 October 1994), p. 2. See also P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 43–46.

¹²⁰⁹⁹ According to the report, the first burst of fire took place at 12:20 p.m., the second at 12:23 p.m., and the third at 12:35 p.m.. See P2421 (UNPROFOR report re sniping incident on Zmaja od Bosne on 8 October 1994, 13 October 1994), pp. 2, 5–6, Annex 2.

¹²¹⁰⁰ The Prosecution acknowledged during Closing Arguments that the evidence identifies two different locations for the incident but noted that this ultimately did not matter because regardless of where the tram was when hit, the fire came from the “SRK-held positions to the south of the Miljacka river”. See Closing Arguments, T. 47742–47743 (30 September 2014).

¹²¹⁰¹ According to the map in Annex 2 of the report, the UNPROFOR referred to the Invest Banka building as “Prisunic” while the Red Façade building was referred to as “Butane”. Another building, referred to as “Banane” in the report, and located just east of the Red Façade building, was also said to be under the control of the ABiH at the time. In fact, the report specified that Banane and Butane were the only two buildings in the area under the ABiH control. See P2421 (UNPROFOR report re sniping incident of Zmaja od Bosne on 8 October 1994, 13 October 1994), pp. 5–7, Annex 2. **This is enough to dismiss all the conclusions made on account of the Serbs. For inference. This is too serious, and concerns the future relations between the two communities, so shouldn’t be resolved by jumping to a conclusion, while many other inferences are possible and more probable.**

against the Accused!) but that the second tram, tram 236, stopped immediately, some 30 metres from the relevant intersection, in front of the Executive Council building, and showed bullet traces between its front and middle door at the height of about one metre.¹²¹⁰²

(#Inappropriate investigation#! Was there any descending angle? If the incoming traces were on about one metre above the ground, all of the bullets would slip down if fired from any position higher than a few metres! There is no country all over the world which would allow this kind of “investigation” to be used in a court! All that happened along two confrontation lines, no proper investigation, the trams moved away from the spot, there were no measurements of the trajectory on the vertical, nor on the horizontal level. Another word, a mere #mockery of justice#!)

3692. UNPROFOR soldiers also found six fresh bullet impact traces in the ground at the above-mentioned intersection, which they used to identify the origin of fire, namely a “group of houses” situated in the SRK-held territory, west of the Jewish cemetery.¹²¹⁰³ Later on in the day, when tram 236 was in the tram depot, UNPROFOR investigators measured the angle of the bullet entry point, which came to be 1450 mils from the vertical line.¹²¹⁰⁴ The report concluded that the already established origin of fire conformed with that angle of entry.¹²¹⁰⁵ Finally, while the report records that the UNPROFOR soldiers stationed at the intersection of Đure Daničića and Zmaja od Bosne thought that the second burst of fire came from very close by, it concludes that this was most likely because the echo off the facades of the buildings made it seem louder.¹²¹⁰⁶ **(Nothing but #mockery of justice#! Not sufficient to suspend another inference, not at all, because it is a subjective feeling, and a more accurate conclusion would collide with what they thought to be established! Therefore, they first “think” they had established something, and then they adjust all facts to this “established” picture. No way the bursts of an automatic weapons from that distance would be precise, that hits would be grouped, and wouldn’t be heard by many inhabitants!)**

3693. Hogan visited Zmaja od Bosne street and recorded the co-ordinates of the incident’s location as remembered by KDZ090, which placed the incident at a location that was more in line with the location recorded in the UNPROFOR report of 13 October 1994.¹²¹⁰⁷ He noted

¹²¹⁰² P2421 (UNPROFOR report re sniping incident on Zmaja od Bosne on 8 October 1994, 13 October 1994), p. 2.

¹²¹⁰³ Because the six impact points all had a furrow of about 10 centimetres deep and showed a clean “angle of incidence”, the UNPROFOR soldiers were able to place an antenna rod in the furrows and found the same direction and the same origin of fire for all six points of impact. **Obviously, a round from an automatic rifle, which excludes any sniper.** The latter part of the report refers to a single house, indicated by number 14 on the map in Annex 2 of the report, as the source of fire. P2421 (UNPROFOR report re sniping incident of Zmaja od Bosne on 8 October 1994, 13 October 1994), pp. 3, 6–7, Annex 2. The Chamber notes that this location is different to the location identified as the origin of fire in the Adjudicated Fact 2932 and by KDZ090, namely the Metalka building. This was acknowledged by the Prosecution during the Closing Arguments. The Prosecution also submitted that in such a case, namely where an adjudicated fact contradicts evidence brought by the Prosecution, the Chamber should follow the Tribunal jurisprudence and simply assess the relevance and the weight of the adjudicated fact in question in light of the evidence as a whole. Closing Arguments, T. 47442 (30 September 2014). **But, the jurisprudence of this Court is not as same as in their national courts. The Defence calls upon the principle: “#in dubio, pro reo”#. To many dubious matters! No a solitaire inference.**

¹²¹⁰⁴ They were able to do that because the bullet passed through the wall of the tram and then struck the seat support, thus creating a measurable line. See P2421 (UNPROFOR report re sniping incident of Zmaja od Bosne on 8 October 1994, 13 October 1994), p. 3, Annex 1.

¹²¹⁰⁵ P2421 (UNPROFOR report re sniping incident of Zmaja od Bosne on 8 October 1994, 13 October 1994), p. 3.

¹²¹⁰⁶ P2421 (UNPROFOR report re sniping incident of Zmaja od Bosne on 8 October 1994, 13 October 1994), pp. 5–6.

¹²¹⁰⁷ Barry Hogan, T. 11217–11218 (3 February 2011); P2213 (Image re scheduled sniping and shelling incidents in Sarajevo); P1028 (Video re sniping incident of 8 October 1994 on Zmaja od Bosne street) (under seal); P2190 (GPS locations for shelling and sniping incidents in Sarajevo).

that the Metalka building could not be seen from that location.¹²¹⁰⁸ **(So much about reliability of KDZ090!!!)** When cross-examined by the Accused, he explained that he could not remember whether the exact co-ordinates indicated by KDZ090 were on the sidewalk near the incident site or at the actual incident site.¹²¹⁰⁹ He did, however, agree that KDZ090, when pointing out the location of the incident to him, indicated that it happened between the Executive Council building and the Faculty of Philosophy.¹²¹¹⁰ **(Which absolutely excludes Metalka as a source of fire!)**

Van der Weijden visited both the incident site, as indicated to him by the Prosecution, as well as Grbavica.¹²¹¹¹ He expressed the view that the co-ordinates for the site of the incident given to him by the Prosecution must have been wrong as (i) they indicated a location some 50 metres east to the one described in the materials provided to him, and (ii) this location was not visible from Grbavica.¹²¹¹² He found that, if situated in that location when hit, the tram would have been visible from another alleged sniping nest, the Jewish cemetery, but that in that case it would have been exposed to the shooter for a shorter period of time and the distance between the alleged origin of fire and the tram would have been quite far, more than 600 metres.¹²¹¹³ Thus, he believed that the incident probably occurred on or near the stretch of Zmaja od Bosne street between the Museum and the Faculty of Philosophy, i.e. near the S-curve.¹²¹¹⁴ **(Or the course of fire was much closer as the UN soldiers have concluded. This kind of gymnastics is incorrect. It was much more probable that the source of fire was within the ABiH territory, than on the Serb side of the Miljacka River!)** He also conceded during cross-examination that he determined this to be the place of the incident on the basis that, had the tram been a little further from the said location, it could not have been hit from the south as suggested by the BiH MUP reports.¹²¹¹⁵ **(Exactly! But it could have been hit from within the Muslim territory without any limitation! Was it the case that the investigators first established where there were the Serb positions, and then have chosen the position of tram? This wouldn't be accepted in a municipal court, let alone in the UN Court!)**

3694.) He also noted that he was aware that the area between Miljacka River and the tram tracks was under the control of the ABiH.¹²¹¹⁶ Further, he conceded that no one told him to check whether Unioninvest or the Red Façade buildings could have been the origin of fire, but noted that the view from the latter to the S-curve would have been obstructed by the buildings

¹²¹⁰⁸ Barry Hogan, T. 11217–11218 (3 February 2011); P2213 (Image re scheduled sniping and shelling incidents in Sarajevo).

¹²¹⁰⁹ Barry Hogan, T. 11239 (3 February 2011). *See also* P1028 (Video re sniping incident of 8 October 1994 on Zmaja od Bosne street) (under seal).

¹²¹¹⁰ Barry Hogan, T. 11246–11247 (3 February 2011); P1028 (Video re sniping incident of 8 October 1994 on Zmaja od Bosne street) (under seal); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents).

¹²¹¹¹ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 88; Patrick van der Weijden, T. 7032–7034 (28 September 2010); D651 (Aerial photograph of Sarajevo marked by Patrick van der Weijden).

¹²¹¹² P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94’), p. 89; Patrick van der Weijden, T. 7006–7008 (27 September 2010).

¹²¹¹³ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), pp. 88–89.

¹²¹¹⁴ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 89; Patrick van der Weijden, T. 7032–7035 (28 September 2010); D651 (Aerial photograph of Sarajevo marked by Patrick van der Weijden). *See also* Barry Hogan, T. 11218–11219 (3 February 2011); P2208 (Photograph of Sarajevo marked by Barry Hogan)

¹²¹¹⁵ Patrick van der Weijden, T. 7011–7014 (27 September 2010); D647 (Aerial photograph of Sarajevo marked by Patrick van der Weijden).

¹²¹¹⁶ Patrick van der Weijden, T. 7017–7018 (27 September 2010); D648 (Aerial photograph of Sarajevo marked by Patrick van der Weijden).

in front of it.¹²¹¹⁷ He therefore never checked the Red Façade building.¹²¹¹⁸ **(That would be #sufficient to any court of the countries, members of the UN, to dismiss the case#. Der Weijden was not told that a fire could have come from the Muslim (ABiH, or paramilitary) side#. The same was with Srebrenica, the Prosecution experts had never been told about 45 months of fierce fights in the area, and all of them tried to fit the findings to the time of the fall of Srebrenica. Thus, der Waijden tried everything to allocate the responsibility for this case to the Serbs. This is the nature of all the Prosecution evidences. For inferences, it is sufficient that we know that the Muslim side used to fire at their territory, to demand a thorough investigation of every incident and to be established “beyond a reasonable doubt”, with the participation of the Serb side experts! The UN should establish it as a rule, without which there wouldn’t be possible to accuse any side, or indict their officials!)**

3695. When shown the video footage of the third burst of fire at the children on the street, Van der Weijden accepted that the fire appeared to be coming down Đure Daničića street.¹²¹¹⁹ He further accepted that given the distance of the Serb positions to the location of this incident, the angle of descent of the bullet would have been some five degrees whereas the injuries sustained by one of the men indicated a greater angle of descent.¹²¹²⁰ However, he also explained that he could hear machine-gunfire in the footage, which meant that shots would have landed in a cone of fire, making some shots higher than others.¹²¹²¹ **(Enough to conclude that the Serb held territory as a source of fire would be the least possibility!)**

3696. Noting that there were multiple victims in this incident and having described their injuries, Van der Weijden concluded that automatic fire was most likely used to shoot at the tram, and that the weapons used would have been either an M84 machine-gun in 7.62 mm calibre, or an M53 machine-gun in 7.92 mm calibre, mounted on a bipod or tripod.¹²¹²² He noted that machine-guns are more effective against moving targets, such as trams that are only temporarily visible.¹²¹²³ On cross-examination he confirmed that if Ćutuna’s entry wound was on her right thigh and the exit wound was on her right hip, this would imply that the bullet was travelling upwards rather than downwards.¹²¹²⁴ However, he clarified that this would not necessarily be the case if the victim was crouching down when struck by the bullet and also explained that the bullet might change its trajectory once it enters the tram.¹²¹²⁵ **(This is an #example of an inquiry that should be remembered and forbidden forever#.**

¹²¹¹⁷ Patrick van der Weijden, T. 7021–7027 (28 September 2010); D649 (Aerial photograph of Sarajevo marked by Patrick van der Weijden); D650 (Aerial photograph of Sarajevo marked by Patrick van der Weijden).

¹²¹¹⁸ Patrick van der Weijden, T. 7024–7025 (28 September 2010).

¹²¹¹⁹ Patrick van der Weijden, T. 7055 (28 September 2010); D655 (Video footage relating to a sniping incident in Sarajevo).

¹²¹²⁰ Patrick van der Weijden, T. 7059–7060 (28 September 2010).

¹²¹²¹ Patrick van der Weijden, T. 7052–7061 (28 September 2010); D655 (Video footage relating to a sniping incident in Sarajevo); D656 (Video footage relating to a sniping incident in Sarajevo); D657 (Photograph related to a sniping incident in Sarajevo); D658 (Photograph related to a sniping incident in Sarajevo); D659 (Photograph related to a sniping incident in Sarajevo); D660 (Photograph related to a sniping incident in Sarajevo); D661 (Photograph related to a sniping incident in Sarajevo).

¹²¹²² P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 87. *See also* Adjudicated Fact 2928. If mounted on a tripod, an M84 can successfully reach targets which are 1000 metres away, while an M53 mounted on a tripod has the shooting accuracy of up to 1500 metres. *See* P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), Appendix A.

¹²¹²³ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 87.

¹²¹²⁴ Patrick van der Weijden, T. 7034 (28 September 2010).

¹²¹²⁵ Patrick van der Weijden, T. 7050 (28 September 2010), T. 7186–7187 (29 September 2010). The Chamber notes that during this discussion the Prosecution referred to scheduled incident F15 but that the injuries in fact discussed relate to incident F11.

Neither there was any data that ^utuna was “crouching down” nor it could have been that the trajectory is changed after hitting a person, and after “crouching” because of the very same bullet, the bullet changes the trajectory! Looks as if the Prosecution case had to be saved at any cost! No matter,# this would be a rarity to have a bullet travelling upwards, if it was fired from upwards#, i.e. from the Serb positions no matter where it be. What would force a projectile to change the path almost in an unbelievable angle of close to 90 degrees, to hit a thigh and immediately turn very sharp upwards to a hip? On a basis of such an incident there should be a much higher criteria for every incident alleged to be a Serb sniper fire!)

3697. Poparić analysed the material relevant to this incident, including the CSB Sarajevo report as well as the video footage of the scene, filmed by the BiH TV immediately after the incident, recording not only the position of the trams but also the last burst of shots on the four children running across the incident location.¹²¹²⁶ He did not seem to be aware of the UNPROFOR report of 13 October 1994, however.¹²¹²⁷ (#How come the TV crew had been at the spot just when needed#, although their station was several km. away? Like in the Vase Miskina incident! Why the international community is accepting so cheap trickery?)

3698. Poparić began his analysis by expressing doubt about the official character of the CSB Sarajevo report of 10 October 1994 because it had no log number.¹²¹²⁸ Having analysed the video footage of the scene, which records the position of trams 206 and 236, and contains interviews with two people injured in the incident, he came to the conclusion that tram 206 was hit when passing by the Executive Council building, the stretch which at the time was protected by containers, while tram 236 was struck in front of the Executive Council building where it stopped immediately after being struck.¹²¹²⁹ Poparić explained that he reached his conclusion on tram 236’s location based on the statements of the people interviewed by the BiH TV, statement of an eye-witness, and the video footage of the scene which shows the tram at that location together with its broken window and the traces of broken glass on the ground, indicating that the tram stopped immediately, moving only a metre or two after being struck by the bullets.¹²¹³⁰ Based on all this, Poparić concluded that trams 206 and 236 could not have been fired on from the VRS positions in Grbavica or from Metalka as they were protected by the BiH Assembly and Executive Council buildings, as well as by the above mentioned containers.¹²¹³¹

3699. Poparić also analysed the footage of the third burst of shots, which shows the moment when the bullets struck the area near the Faculty of Philosophy and the cloud of dust that rose

¹²¹²⁶ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 127–137.

¹²¹²⁷ Mile Poparić T. 39254 (4 June 2013), T. 39263 (5 June 2013).

¹²¹²⁸ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 128.

¹²¹²⁹ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 128–130, 132, Image 90. See also Mile Poparić, T. 38983–38986 (30 May 2013).

¹²¹³⁰ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 129–131, Images 92 and 93; Mile Poparić, T. 38985–38987 (30 May 2013). In its Final Brief, the Prosecution argues that Poparić’s analysis of footage of the broken glass was speculative and ignored the reasonable explanation that the glass resulted from the evacuation after the incident. See Prosecution Final Brief, Appendix C, para. 11. (Who and why would “evacuate a glass from a broken window? The Prosecution acted as a desperate side, trying to sell a fake staff!)

¹²¹³¹ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 131–132, 135.

from the ground as a result. He speculated that the cloud was about two metres high which in turn meant that the bullet hit the ground with high energy and at a high angle of descent. This, according to Poparić, indicated that it was fired from “a relatively small distance” thus excluding Metalka, Invest Banka, and the Red Façade buildings as the origins of fire.¹²¹³² Poparić concluded that the fire seen in the footage came from the Executive Council building and noted that this was confirmed by the footage of an UNPROFOR soldier talking to Rose and pointing in the direction of the Executive Council.¹²¹³³

3700. During cross-examination, Poparić testified that his theory on the dust clouds was not based on any published studies but on his extensive experience with trajectories of small arms.¹²¹³⁴ He also explained that had the bullet come from the Red Façade building which was divided in half by the warring parties, then the angle of descent would have been no more than ten degrees.¹²¹³⁵ When shown the UNPROFOR report of 13 October and the entry angle that UNPROFOR measured on the tram, namely 81 degrees from the vertical line and 9 degrees from the horizontal line, Poparić explained that having the angle alone was not enough to conclude where the bullet came from and that one needed to look at the firing tables for the weapon used in the incident.¹²¹³⁶ Based on those, he concluded that had the bullet come from the Red Façade building, the angle would have been less than four or five degrees.¹²¹³⁷ When asked whether such a small angle, be it nine or four degrees, meant that the fire could not have come from the Executive Council building, Poparić stated that one could fire from the ground floor or from one of the upper floors of the Executive Council building so the angle of descent could range from two to 80 degrees.¹²¹³⁸ When confronted with the report of the meeting between Mladić and Rose of 10 October 1994, Poparić accepted that Mladić’s position that the fire came from Holiday Inn was wrong but denied that this meeting proved anything as to the actual origin of fire.¹²¹³⁹

3701. The Chamber recalls that it has taken judicial notice of two Adjudicated Facts which provide that the visibility on 8 October 1994 was sufficient to allow a sniper at the Metalka Building to identify and target a tram negotiating the S-curve, that the shots came from the direction of the Metalka Building, which was held by the SRK and that they were fired by a member of the SRK.¹²¹⁴⁰ However, as noted above, these Adjudicated Facts are inconsistent with some of the evidence offered by the Prosecution, including the UNPROFOR report of 13

¹²¹³² D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 132–134, Image 95; Mile Poparić, T. 38987–38989 (30 May 2013); D3638 (Photograph of tram track marked by Mile Poparić).

¹²¹³³ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 134–135, Image 96. During cross-examination Poparić conceded that the footage he viewed had no sound so that he did not know whether the UNPROFOR soldier mentioned the Executive Council building to Rose. He reiterated his position that the soldier was pointing at the Executive Council building but then also said that he was pointing in the direction of the Red Façade building and Grbavica. *See* Mile Poparić, T. 39264–39265 (5 June 2013).

¹²¹³⁴ Mile Poparić, T. 39252–39253 (4 June 2013).

¹²¹³⁵ Mile Poparić, T. 39253–39254 (4 June 2013). While the transcript records that Poparić referred to a “famous silver building which was divided in half by the VRS and the ABiH” the Chamber considers that this was a reference to the Red Façade building as that was the only famous building in the area that was divided in half by the warring parties. The Chamber is of the view that the reference to this building being silver must have been an error in interpretation or a mistake in Poparić’s testimony.

¹²¹³⁶ Mile Poparić, T. 39255–39257 (4 June 2013), T. 39260–39262 (5 June 2013).

¹²¹³⁷ Mile Poparić, T. 39255–39257 (4 June 2013), T. 39260–39262, T.39294–39297 (5 June 2013); D3649 (Photograph of tram tracks marked by Mile Poparić).

¹²¹³⁸ Mile Poparić, T. 39262–39266 (5 June 2013).

¹²¹³⁹ Mile Poparić, T. 39263–39266 (5 June 2013).

¹²¹⁴⁰ *See* Adjudicated Facts 2931, 2932.

October 1994 and the co-ordinates of the incident site obtained and used by Hogan.¹²¹⁴¹ That being the case, the Chamber is unable to rely on these two Adjudicated Facts and will disregard them for the purpose of its analysis of this incident. **(#Deadly combination#! Many more than these two Adjudicated Facts should be disregarded, unless stipulated with the sides (OTP and Defence) otherwise, there will not be any fairness in trials.)**

3702. As far as the exact location of the incident is concerned, the Chamber is persuaded by the report prepared by UNPROFOR following the incident. This report refers to, *inter alia*, interviews with UNPROFOR soldiers who witnessed all three instances of fire being opened that day and who place all three instances at the intersection of Đure Daničića street and Zmaja od Bosne street.¹²¹⁴² In addition, the Chamber recalls that both CSB Sarajevo and UNPROFOR reports provide that the third burst of fire took place at the same location as the two previous bursts of fire. The video footage of that third burst of fire clearly shows that it took place at the intersection of Đure Daničića and Zmaja od Bosne streets. Bearing all that in mind, the Chamber considers that Čutuna's tram was shot at when passing through that intersection rather than the intersection noted in the CSB Sarajevo report. This tram was a civilian vehicle, with civilians onboard, and was operating due to a cease-fire in place at the time. In addition, Alma Čutuna herself was a civilian and was not taking direct part in hostilities when she was wounded in this incident. **(Even if nothing of that is contested, still the most important question is #who fired these rounds from an automatic rifle#! And this is not established even close to "beyond a reasonable doubt"! Also, why would the Serbs fire towards the "main stage" while it was full of witnesses?)**

3703. The Chamber does not accept Poparić's conclusion that the bullets came from the Executive Council building as it is based on a number of plainly unreasonable speculations. For example, on the basis of the footage showing pieces of tram's window on the ground next to the tram itself, Poparić concluded that the tram must have moved only about a metre or two after being struck by the bullets and that it therefore must have been shot at from the Executive Council building. However, this is pure speculation as some or all of the glass could have fallen out of the window frame after the tram had stopped. **(Why would that be so? The tram anyway are very slow there, an impact of bullet causes an immediate crash of the glass, why the smashed window would "delay" dropping down? It is much more probable that the glass had fallen on the site of impact of the bullet. Since everything is based on inferences, this one is the most probable, and none of them are "the only one"!)** In other words, it is simply not possible to draw any conclusions from the video footage of the glass on the ground.¹²¹⁴³ **(What would be more convincing? Are other possibilities the only one?)** In addition, Poparić relied on the analysis of a dust cloud in relation to the third

¹²¹⁴¹ See 3692–3693, fn. 12103.

¹²¹⁴² The Chamber notes here that in determining the location of the incident the CSB Sarajevo investigators appear to have relied on the tram driver's recollection of what happened and did not speak to the UNPROFOR soldiers in the area. However, in contrast to those soldiers, the tram driver would have been engaged in driving the tram and, once the bullets struck the tram, would have been trying to get it to safety in a state of panic and chaos. Thus, the Chamber considers the description of the event by the UNPROFOR soldiers at the scene to be more persuasive than that of the driver. For the same reason, the Chamber has decided to disregard the evidence of KDZ090 as to the location at which the tram was first struck by the bullets, particularly since that evidence was not in line with the location KDZ090 actually showed to Barry Hogan.

¹²¹⁴³ Furthermore, as noted above, the UNPROFOR report clearly states that the tram moved some 30 metres after it was struck by the fire. **(Then, how the broken glass didn't fell earlier? There is no logics in the Chamber's conception, because the glass wouldn't keep within the frame fo so long drive!)**

burst of shots fired on that day, to show that bullets came in at a high angle of descent. At the same time, he was unaware of the UNPROFOR investigation which found that the angle of descent was in fact low in relation to both the traces on the tram and the traces on the ground. Accordingly, the Chamber will disregard—in its entirety—Poparić’s analysis in relation to this incident. **(Accordingly the Chamber will make mistake, because the very same #UNPROFOR admitted that they never made any investigation in terms of a criminal procedure#! Also, the video had shown how the impact caused a pretty high cloud of dust, which usually spreads toward the source of fire, i.e. to the same direction. Also, UNPROFOR didn’t determine of the third burst, but only those that hit the tram. And the dust would have another direction of movement had it been hit at a low angle. Also, there was another measure made by Poparic, namely, incoming and outgoing wound at a boy who was hit while standing up, which showed a significant difference in levels of incoming and outgoing wound. There is no better evidence that the projectile had an angle of descent close to 90 degrees. What is wrong with that count? And why it was not “dismissed”, nor even mentioned by the Chamber?)**

3704. As far as the origin of fire is concerned, the Chamber accepts UNPROFOR’s conclusion that it came from the SRK-held area somewhere west of the Jewish cemetery. First, UNPROFOR conducted its own analysis of the bullet traces on both the tram in which Čutuna was riding and the ground at the intersection of Đure Daničića and Zmaja od Bosne streets, which led them to that location. Indeed, both sites indicated a low angle of descent, which is consistent with the fire coming from the SRK positions south of Miljacka.¹²¹⁴⁴ Second, the Chamber is convinced, relying on Van der Weijden’s evidence outlined above,¹²¹⁴⁵ that the SRK forces in that area had a line of sight to the intersection between Đure Daničića and Zmaja od Bosne streets. Finally, the Chamber recalls the evidence it heard about the prevalence of sniping attacks from the area of the Jewish cemetery and Zmaja od Bosne generally.¹²¹⁴⁶ Accordingly, the Chamber finds that the fire that struck Alma Čutuna’s tram and wounded her came from the SRK-held area to the west of Jewish cemetery. The Chamber is also satisfied that a machine gun, most likely an M84, was used in this incident and that it had the necessary range to accurately target the tram at that distance. Both the 1st Sarajevo Mechanised Brigade and the 1st Romanija Infantry Brigade had such a machine gun in its arsenal.¹²¹⁴⁷ Finally, the Chamber has no doubt that the tram was deliberately targeted by the SRK shooter, as illustrated by the fact that after the two trams were shot and struck in the same location, fire was opened again in that same location at a number of people who

¹²¹⁴⁴ The Chamber notes that Van der Weijden calculated that the angle of descent of a bullet fired from Metalka which is located 321 metres away and at the elevation of 35 metres would have been around five degrees. See Patrick van der Weijden, T. 7015–7017 (27 September 2010), T. 7059 (28 September 2010). Thus, the fire involving a higher elevation while at the same time further away would have been coming at an angle higher than five degrees but still at a relatively low angle of descent. **(Since it hadn’t been fired from Metalka, but “somewhere south” if this building, which building was it? In that case, it would have to be a building higher than Metalka, and more distant. In such a case, both, the angle of descent would be higher, and the preciseness would be much lower. Also, a concentration of hits would be lower, because such a distance would be too big, too far for an automatic!)**

¹²¹⁴⁵ See para. 3694.

¹²¹⁴⁶ See paras. 3657, 3659. In addition, Blagoje Kovačević admitted that sometimes he had problems in achieving control over his troops, which were located in the area of the Jewish cemetery, and that they would open fire without him knowing about it. See para. 3661. **If so, then no superior could be liable for a rogue elements.** The Chamber also recalls that it rejected the Accused’s arguments that ABiH forces were sniping at Bosnian Muslim civilians throughout Sarajevo. See para. 4519. @@@@

¹²¹⁴⁷ See fn. 11948.

were trying to leave the area. The Chamber is also confident that the shooter would have known that tram was a civilian vehicle with civilians travelling onboard. **(#This is shameless reductionism, #deductio ad absurdum#! - not respecting reality. At least it was from the beginning that there was a fifty-fifty chance of both sides to be committing the crime, and in such a case, there must be a very firm evidence. The Chamber takes as an evidence its own decision to reject the Accused's assertion that the Muslim side fired against their own people. How possibly it could have been rejected, while there are many evidence about it? See:D240, an analysis in the Independent on 22 August 92:**

The view has been expressed in confidential reports circulating at UN headquarters in New York, and in classified briefings to US policymakers in Washington. All suggest that Sarajevo's defenders, mainly Muslims but including Croats and a number of Serb residents, staged several attacks on their own people in the hope of dramatising the city's plight in the face of insuperable Serbian odds.

The reports recite a litany of gruesome events, from the bombing of the bread queue on 27 May to the 4 August explosion at a cemetery while two orphans were being buried, and a 'choreographed' mortar salvo 30 seconds after Douglas Hurd entered a building for a meeting with the Bosnian President, Alija Izetbegovic, on 17 July. The mortar attack, which the Foreign Secretary played down by saying 'it wasn't as bad as the No 10 bang,' killed or wounded 10 bystanders. A Bosnian guard of honour for Mr Hurd's security had, however, already taken cover.

UN officials also believe the bullet which killed the American television producer David Kaplan near Sarajevo airport on 13 August was probably not fired by a sniper from distant Serbian positions. 'That would have been impossible,' one UN military officer said. 'That shot came in horizontal to the ground. Somebody was down at ground level.'

UN officials also say a Ukrainian soldier shot in the head and heart at Sarajevo's Marshal Tito barracks on Thursday was killed by 'small arms fire' - by implication the Bosnians. The officials were anxious to point out that they were not trying to exonerate the Serbs, who have been besieging Sarajevo for months, killing unknown numbers of townspeople, as well as carrying out 'ethnic cleansing' around the city and elsewhere in Bosnia.

The televised scenes of civilians cut to pieces by an explosion as they queued for bread on one of Sarajevo's main shopping thoroughfares, Vase Miskina, horrified international public opinion and added to growing pressure for militia intervention against the Serbian side in the war. Vivid footage showed dead bodies littering the street and people with severed limbs sitting on the pavement in pools of blood.

The attack came shortly before a meeting of European Community ambassadors to consider imposing sanctions on Serbia. The world's press concluded that the atrocity was caused by mortar bombs fired from a Serbian-held position and the attack was widely interpreted as a cynical display of defiance by the Serbs.

UN officials said then that they were suspicious about the circumstances but could not go public without jeopardising the UN mission

and possibly endangering UN peace-keepers' lives.

Classified reports to the UN force commander, General Satish Nambiar, concluded, however, that Bosnian forces loyal to President Alija Izetbegovic may have detonated a bomb.

'We believe it was a command-

detonated explosion, probably in a can,' a UN official said then. 'The impact which is there now is not necessarily similar or anywhere near as large as we came to expect with a mortar round landing on a paved surface.'

There is many more evidence about it, but as this document indicates, the internationals didn't dare to go public with the truth!# HOU COME THE CHAMBER DIDN'T PAY

ANY ATTENTION TO THIS DOCUMENT ORIGINATING FROM THE VERY SAME UNITED NATIONS WHICH FOUNDED THE TRIBUNAL#?)

1. Zmaja od Bosne street, 18 November 1994 (Scheduled Incident F.12)

3705. The Indictment alleges that, on 18 November 1994, Dženana Sokolović, a 31 year old woman, and her seven year old son, Nermin Divović, were fired on while walking on Zmaja od Bosne street. According to the Indictment, Sokolović was wounded in her abdomen and the bullet passed through her and hit her son in the head, killing him.¹²¹⁴⁸ In the Final Brief, the Prosecution argues that the bullet came from Metalka.¹²¹⁴⁹ The Accused argues, however, that the bullet came from the side opposite to Grbavica, that is, from the ABiH-held territory.¹²¹⁵⁰

3706. There was a cease-fire in place on 18 November 1994 and the trams were running.¹²¹⁵¹ Dženana Sokolović and her son, Nermin Divović, were shot at the zebra crossing, as they were crossing the Franje Račkog street.¹²¹⁵² There were no soldiers around and no combat going on in the area at the time.¹²¹⁵³ **(Then, it was a #miracle that at the same moment there were the UNPROFOR soldiers, rescuing the two, and the BIH TV crew to record the action??? Only a delicacy of the Nermin's death is limiting the Defence from stating that it was really as another staging, but the Defence should be relaxed, since there is a sufficient additional evidence that this case should be disregarded#!)** Nermin Divović died on the way to the hospital and his body was taken to the mortuary.¹²¹⁵⁴ Sokolović and her daughter were taken to Koševo Hospital by a UN vehicle.¹²¹⁵⁵ **(The #daughter of Ms. Sokolovic had never been mentioned in this process#!#! Nor was presented any of her statements, which is extremely unusual#. This is a real #MOCKERY OF JUSTICE#!)** Sokolović underwent surgery and stayed in hospital for seven or eight days.¹²¹⁵⁶ She was unable to attend her son's funeral.¹²¹⁵⁷ Since the incident, she has not been able to hold a full-time job.¹²¹⁵⁸

3707. According to the CSB Sarajevo report dated 19 November 1994, the incident was witnessed by UNPROFOR, UNHCR, and GOFRS members, who were standing near the Museum.¹²¹⁵⁹ They told the CSB Sarajevo investigators that as Sokolović and her son were crossing over to the other side of Franje Račkog street, the side further from the Museum, a

¹²¹⁴⁸ Indictment, Scheduled Incident F.12.

¹²¹⁴⁹ Prosecution Final Brief, Appendix C, para. 19.

¹²¹⁵⁰ Defence Final Brief, para. 2278.

¹²¹⁵¹ Adjudicated Fact 2938.

¹²¹⁵² See Adjudicated Fact 2940.

¹²¹⁵³ Adjudicated Fact 2939.

¹²¹⁵⁴ Adjudicated Fact 2941.

¹²¹⁵⁵ Adjudicated Fact 2942.

¹²¹⁵⁶ Adjudicated Fact 2942.

¹²¹⁵⁷ Adjudicated Fact 2942.

¹²¹⁵⁸ Adjudicated Fact 2942.

¹²¹⁵⁹ Nermin Divović approached these men, as he was passing by with his mother, and asked them for some sweets. P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court pp. 4-5.

shot was heard from the direction of Grbavica, “more precisely from the aggressor’s positions”.¹²¹⁶⁰ The UNHCR member helped Sokolović and her son, while two UNPROFOR armoured personnel carriers arrived and positioned themselves on the Franje Račkog street.¹²¹⁶¹ Stationed at the corner of Franjo Račkog and Zmaja od Bosne streets, on the side of Franje Račkog closer to the Museum, was an UNPROFOR armoured personnel carrier.¹²¹⁶²

3708. The report also notes that CSB Sarajevo’s investigation team, which included a forensic technician Sead Bešić, came to the incident site around 1:30 p.m., and noticed that the site was not secured by the police.¹²¹⁶³ There was blood at the scene but, before the arrival of the team, the UNPROFOR soldiers washed it off and then covered it with sand.¹²¹⁶⁴

(It was pretty #unusual and unprofessional, to disturb a crime scene so drastically and so soon after the incident! What the UN soldiers said about it?) During cross-examination, Bešić explained that the investigation was difficult due to the team being unable to access the site; further, he stated that it is difficult to determine the direction of fire just on the basis of the entry and exit wounds.¹²¹⁶⁵ **(Isn’t it enough to stop talking about a villain? If a direction and source of the fire couldn’t be determined, how a perpetrator could be found?)**

3709. In terms of the injuries the victims sustained, the description of the incident in the CSB Sarajevo report notes that the bullet first hit the boy in the head and then injured Sokolović.¹²¹⁶⁶ When cross-examined on the accuracy of this, Bešić stated that he was not in charge of interviewing witnesses and/or writing the report but was there only to take photographs and collect physical evidence.¹²¹⁶⁷ **(Why the President has to sustain any damage because of #so many inaccuracies#?)** The report also notes that Sokolović had a wound in the abdominal area, with the entry wound on the right-hand side of her body and the exit wound on the left-hand side.¹²¹⁶⁸

3710. However, contrary to the report above, the medical records for Dženana Sokolović, which were attached to the above report, provide that the bullet that caused her injuries entered the left hand side of her abdomen and exited on the right hand side.¹²¹⁶⁹ **(This is not**

¹²¹⁶⁰ P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court p. 4. *See also* Sead Bešić, T. 9491 (9 December 2010); Mile Poparić, T. 39291–39294 (5 June 2013).

¹²¹⁶¹ P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court pp. 4–5. *See also* Sead Bešić, T. 9490–9493 (9 December 2010); D901 (Photograph re sniping incident on 18 November 1994 on Zmaja od Bosne street marked by Sead Bešić).

¹²¹⁶² P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court pp. 4–5.

¹²¹⁶³ Sead Bešić, T. 9489–9490 (9 December 2010); P1966 (Witness statements of Sead Bešić dated 18 February 2010), p. 35; P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court p. 4.

¹²¹⁶⁴ Sead Bešić, T. 9493 (9 December 2010); P1966 (Witness statements of Sead Bešić dated 18 February 2010), p. 37; P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court p. 5.

¹²¹⁶⁵ Sead Bešić, T. 9491–9492 (9 December 2010). While Bešić also stated during cross-examination that the direction in which the victims were walking was never established, the Chamber notes that the CSB Sarajevo report clearly outlines that the direction in which they were walking was from the Museum to Marin Dvor. *See* Sead Bešić, T. 9494 (9 December 2010). *Compare.* P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court p. 4.

¹²¹⁶⁶ The latter part of the report, however, refers to the entry wound being on the right side of the boy’s head. P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court pp. 1, 5.

¹²¹⁶⁷ P1966 (Witness statements of Sead Bešić dated 18 February 2010), pp. 35–36.

¹²¹⁶⁸ P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court p. 5.

¹²¹⁶⁹ P1023 (Medical records for Dženana Sokolović); P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court p. 8.

just an irrelevant technicality. On the other side, left to Ms. Sokolovic, #were the ABiH forces, as well as to her right side, between her position and the Miljacka River. To her right side there were the Muslim forces on the National Museum, on the Faculty of Philosophy, on the Executive Council, on the Assembly building, and other surrounding houses.# Thus, the view of the incoming and outgoing wound was of the crucial importance in this investigation! We will see how it looked like below!) Bešić was unable to explain this discrepancy but speculated that his colleague at the scene probably failed to describe the wound accurately.¹²¹⁷⁰ He also noted that at the time only one forensic pathologist was working in Sarajevo and the people assisting him were not knowledgeable enough to determine which wound was the entry wound.¹²¹⁷¹ (And this pathologist (Dr. Dobra~a) happened to be a member of [eve, and he used to fix his findings and reports so to fit the needs of this secret criminal unit! A Muslim witness confirmed it in his testimony#!)

3711. Šefik Bešlić, an abdominal surgeon who operated on Sokolović, on 18 November 1994 and later in 2007, testified that he had no doubt that the bullet entered the right side of her body and exited on the left side.¹²¹⁷² While admitting that he could not remember the actual surgery he performed on Sokolović,¹²¹⁷³ Bešlić remained adamant that the bullet entered on the right hand side of her body, because of a contusion on her liver, (What would prevent the bullet to damage her liver if the bullet entered her body from the left hand side? #Mockery of justice#!) the wound on the right hand side being smaller in size than the wound on the left hand side (thus indicating an entry wound), and the size of the scars he saw on Sokolović's abdomen in 2007.¹²¹⁷⁴ He explained that the doctor who prepared the medical report in question must have made a mistake when describing Sokolović's wounds, and noted that this was understandable given the circumstances under which the doctors had to work at that time.¹²¹⁷⁵ Bešlić also testified that the line between Sokolović's entry and exit wounds was almost horizontal.¹²¹⁷⁶ (This is a specialty of this Court, to #accept the investigations that happened sometimes even 12 years afterwards, such as Zecevic's "investigation" of the Hrasnica MAB incident, and Tuzla incident, or this with Sefik Beslic and Dzenana Sokolovic.# The contemporaneous medical report stated that the wound on the left side of the body was significantly smaller than the one on the right side! How possibly an entering wound could be bigger than an exiting one? #Mockery#! In which of the known countries this would be accepted in a criminal court? Beside that, the "almost horizontal" trajectory indicates that it was fired from the level of ground, where there was no the Serb soldiers.)

¹²¹⁷⁰ Sead Bešić, T. 9494–9496, 9526–9530 (9 December 20110).

¹²¹⁷¹ Sead Bešić, T. 9494–9496 (9 December 2010).

¹²¹⁷² P472 (Witness statement of Šefik Bešlić dated 30 January 2007), paras. 1–5.

¹²¹⁷³ D3 (Supplemental statement of Šefik Bešlić dated 9 December 2009), para. 3. See also Šefik Bešlić, P471 (Transcript from *Prosecutor v. D. Milošević*), T. 4419.

¹²¹⁷⁴ P472 (Witness statement of Šefik Bešlić dated 30 January 2007), paras. 3–5. See also Šefik Bešlić, P471 (Transcript from *Prosecutor v. D. Milošević*), T. 4422–4423, 4428–4429, 4435–4439, 4440–4441. However, Bešlić also accepted that it was the passage of bullet, regardless of where it entered and exited, that caused the contusion. See [efik Bešlić, P471 (Transcript from *Prosecutor v. D. Milošević*), T. 4449–4450.

¹²¹⁷⁵ [efik Bešlić, P471 (Transcript from *Prosecutor v. D. Milošević*), T. 4419–4420, 4424–4427; P1023 (Medical records for Dženana Sokolović).

¹²¹⁷⁶ [efik Bešlić, P471 (Transcript from *Prosecutor v. D. Milošević*), T. 4443.

3712. As for the wound on Sokolović's son, the CSB Sarajevo report states that he had an entry-exit wound on his head—the entry wound was at the back of his head, above the right ear, while the exit wound was located below his eye.¹²¹⁷⁷ According to the autopsy report, the entry wound was located on the boy's right cheek while the exit wound was at the back of his head on the left-hand side.¹²¹⁷⁸ **(However, this kind of #difference in levels shows that the firing site was either very high or very low#, depending on where was the entering and where exiting wound. If it was, as described at the first moment, entering wound behind and above the right ear, and exiting below left eye, then the bullet had a trajectory declined on both, vertical and horizontal level. If accepted, this trajectory would indicate that the difference in levels on this length of 15 cm. would be at least 5 cm, which would mean that any further distance would increase this difference and indicate that it was not “almost horizontal” trajectory, as Sefik Bešlić testified, P471 (Transcript from Prosecutor v. D. Milošević), T. 4443, quoted in para 3711 above!)**

3713. UNPROFOR reported this incident in its daily report of 19 November in which it stated that the fire that killed Nermin came from the SRK side, after which UNPROFOR returned fire towards the SRK.¹²¹⁷⁹ **(Was that a detailed and accurate report usable in a criminal court?)**

3714. When visiting Zmaja od Bosne with Sokolović, Hogan recorded the co-ordinates of the location of the incident, placing it near the intersection between Zmaja od Bosne and Franje Račkog rather than on the actual crossing on Franje Račkog street.¹²¹⁸⁰ **(Even #this fact was not established properly at the time of incident#! If accepted, this practice would mean that any prosecution could at any time do another measuring of the physical facts, until fitted the needs of prosecution! #Mockery#!)** He explained that when he conducted this exercise with the victim, he did not provide her with her statements in order to refresh her memory.¹²¹⁸¹ He was also shown the video footage of the aftermath of the incident and confirmed that Sokolović's son could be seen lying on a pedestrian crossing.¹²¹⁸² **(#Why the UN soldiers, who allegedly had been in the closest vicinity of the site of incident, did wait until a TV crew come and then tried to help Nermin? The TC Station was at least 5 km. far away! Either the TV crew was waiting the incident, or the UN personnel were so cruel to wait for them to come! #Mockery#! As for all the incidents, there remains the main question: what all of it has to do with the President#?)**

3715. Van der Weijden's report notes that Sokolović was walking eastbound on Zmaja od Bosne street with her seven year old son and her daughter when the shots were fired and her son fell down.¹²¹⁸³ Sokolović and her daughter were immediately pulled to safety behind a

¹²¹⁷⁷ P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court p. 5.

¹²¹⁷⁸ P1544 (Autopsy report for Nermin Divović); P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court p. 10; Sead Bešlić, T. 9496–9497 (9 December 2010).

¹²¹⁷⁹ P6366 (UNPROFOR daily report, 19 November 1994), p. 8.

¹²¹⁸⁰ Barry Hogan, T. 11204–11206, 11220, 11247–11253 (3 February 2011); P2189 (Aerial photograph of Sarajevo marked by Barry Hogan); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents); P2213 (Image re scheduled sniping and shelling incidents in Sarajevo); D991 (Photograph re sniping incident of 18 November 1994 on Zmaja od Bosne street marked by Barry Hogan); D992 (Photograph re sniping incident of 18 November 1994 on Zmaja od Bosne street marked by Barry Hogan).

¹²¹⁸¹ Barry Hogan, T. 11288 (3 February 2011).

¹²¹⁸² Barry Hogan, T. 11289 (3 February 2011); P2216 (Video footage re sniping incident of 18 November 1994 on Zmaja od Bosne street).

¹²¹⁸³ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–‘94”), p. 91.

car by others, and Sokolović realised she had a stomach wound; the bullet had passed through her abdomen and hit her son, Nermin in the head.¹²¹⁸⁴ Van der Weijden visited the incident site, as well as Grbavica, in November 2006.¹²¹⁸⁵ He visited Metalka noting that its rooms offer direct and clear views of the stretch of the road on which the victims were located.¹²¹⁸⁶

(Do we know where the victims were located? There were at least two different reports on this fact!) While in the building, he determined the shooter would have been some 300 metres away from the site of the incident and would have been able to identify the victims as a woman and two children.¹²¹⁸⁷ Noting the way in which the woman was injured and her child killed, as well as the fact that the witnesses reported hearing multiple shots, Van der Weijden concluded that either a machine-gun or a semi-automatic sniper rifle was used in this incident.¹²¹⁸⁸ He also noted that both weapons use the same calibre bullets, namely 7.62 mm, and that both are capable of hitting targets up to 800 metres.¹²¹⁸⁹ **(But not to be precise on that distance! Well, the #Court is usually “satisfied” with an existence of a mere “possibility”, no more “probability”, not even to dream about “undoubtedly established” facts#.)**

3716. On cross-examination, Van der Weijden reiterated that the Metalka building was the most likely position from which the shots were fired but conceded that there were other possibilities and that, for example, the shooter could have been “in the middle of the street”, presumably referring to Franje Račkog street.¹²¹⁹⁰ He also conceded that at the time of his investigation he was unaware of the contradicting medical records relating to the entry and exit wounds on Dženana Sokolović’s body, but agreed that if the entry wound was on the left-hand side of her body, it meant that the shot would have originated from the north rather than the south.¹²¹⁹¹ **(That meant, from the ABiH positions! Is it enough to shade a reasonable doubt or not? In any court it would be sufficient to decide #“pro reo”#!)**

¹²¹⁸⁴ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 91.

¹²¹⁸⁵ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 92.

¹²¹⁸⁶ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 92. Van der Weijden states in his report that the branches of trees “in the street” will have grown since the war and now obstruct some of the windows that at the time would have also offered an unobstructed view. See P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 92.

¹²¹⁸⁷ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), pp. 91, 93. See also Adjudicated Fact 2944.

¹²¹⁸⁸ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 91.

¹²¹⁸⁹ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 91.

¹²¹⁹⁰ Patrick van der Weijden, T. 7094–7095 (28 September 2010). See also Barry Hogan, T. 11220 (3 February 2011); P2210 (Photograph of Sarajevo marked by Barry Hogan).

¹²¹⁹¹ Patrick van der Weijden, T. 7095–7096, 7099–7101 (28 September 2010).

3717. Poparić, also analysed this incident stating that it was difficult to establish what happened given the lack of forensic information and a “lot of contradictory data”.¹²¹⁹² For example, the precise location where the victims were standing when shot was never determined, according to Poparić.¹²¹⁹³ (#“In dubio pro reo”!#)

3718. While stating that it was impossible on the basis of available evidence to come to any reliable conclusions on the origin of fire,¹²¹⁹⁴ Poparić then proceeded to conclude that Sokolović and her son were hit by two different bullets, and that the bullets came from the north rather than from the south of the incident site, that is, from the direction opposite to Grbavica.¹²¹⁹⁵ Poparić came to this conclusion based in part on the assumptions he made relating to the evidence received in the *Dragomir Milošević* case, such as Sokolović’s witness statements, video footage of Sokolović’s injuries, video footage of her son’s body at the scene,¹²¹⁹⁶ and the footage of Hogan with Sokolović at the scene years later.

3719. For example, based on the video footage of them standing next to each other, Poparić determined the approximate heights of Hogan and Sokolović, which he then used, together with the medical reports and the video footage of the victims’ wounds,¹²¹⁹⁷ to show that two different bullets were involved in this sniping incident.¹²¹⁹⁸ He also concluded, based on the video footage of Nermin’s head wound, that the bullet that killed the boy entered on the left hand side of the head and exited on the right-hand side, thus indicating that it came from the positions opposite to Grbavica.¹²¹⁹⁹ He found further support for that conclusion in the mistaken belief that the CSB Sarajevo report states that, on the boy’s arrival to the hospital, the doctors established that the entry wound was on the left-hand side of his head while the exit wound was on the right.¹²²⁰⁰ Poparić seemed to be under this impression despite stating in two different places in his report, namely on pages 139 and 144, that on the boy’s arrival it was established that the entry wound was on the right hand side and the exit wound on the left hand side of the boy’s head, which is in line with the CSB Sarajevo report.¹²²⁰¹ Indeed, both the CSB Sarajevo report and the boy’s autopsy report clearly state that the entry wound was on the right hand side of the boy’s head and the exit wound was on the left; the only

¹²¹⁹² Mile Poparić, T. 38900–38901 (29 May 2013), T. 39248 (4 June 2013).

¹²¹⁹³ Mile Poparić, T. 38916–38917, 38920–38923 (29 May 2013); D3629 (Photograph of Sarajevo marked by Mile Poparić); D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 137–139, 143–144.

¹²¹⁹⁴ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 143. *See also* Mile Poparić, T. 38900–38901 (29 May 2013).

¹²¹⁹⁵ Mile Poparić, T. 38922–38923 (29 May 2013); D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 137–145.

¹²¹⁹⁶ This video was admitted into evidence in this case as P2216 and D3628. *See* Barry Hogan, T. 11289 (3 February 2011); Mile Poparić, T. 38915–38916, 38924 (29 May 2103).

¹²¹⁹⁷ With respect to Skolović’s wounds, Poparić relied on the footage of Sokolović lying in her hospital bed with bandages on her abdomen to determine the positioning or the height of her wound. *See* D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 141–142, Image 99.

¹²¹⁹⁸ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 142, 144–145.

¹²¹⁹⁹ Mile Poparić, T. 38911–38912 (29 May 2013); D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 140; D3628 (Video footage of Nermin Divović’s body).

¹²²⁰⁰ Mile Poparić, T. 38901–38902, 38912–38913 (29 May 2013); D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 139–141, 144, fn. 301.

¹²²⁰¹ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 139, 144, fn. 301; P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court p. 5. The Chamber notes that, while the English translation of the relevant part of Poparić’s report on page 139 states that the entry wound on the boy’s head was above the left ear and the exit wound below the right eye, the original BCS version of the report provides the opposite, namely that the entry wound was above the right ear and the exit wound below the left eye. It is the latter that is correct as suggested by the fact that it coincides with the CSB Sarajevo report cited to in footnote 301 of the report.

discrepancy being the exact location of the entry and exit wounds.¹²²⁰² This discrepancy becomes significant, however, as the wounds seen in the video footage of the boy's head¹²²⁰³ accurately reflect the autopsy report, namely that the entry wound was on the boy's right cheek while the exit wound was at the back of his head on the left-hand side. **(#Absurdity and mockery#! This is# quite opposite to the several official reports#. If the entering wound was on the boy's right cheek, and the exit wound on the left back of his head, pretty higher than the entry wound, that would mean that somebody from the very ground fired an up-going bullet. This kind of #patchwork# indicates that the Prosecution was desperate in striving for an incident that could be charged against the Acused. If there was so many alleged sniper incidents, why to compromise the entire Court with such a patch-work of evidence, instead of presenting a single one case undoubtedly connected with President Karad`i?)** The trickle of blood that Poparić describes as coming from the entry wound above left ear¹²²⁰⁴ could have easily come from the entry wound on the right hand side of the head or from the exit wound on the back of the head. Thus, the Chamber does not accept Poparić's analysis in relation to the exit and entry wounds on the boy's head and his conclusion that those wounds showed that two bullets from the north wounded the victims. **(Let it be as the Chamber concluded! But, in this case, the shooter was somewhere low, since the trajectory of the bullet was ascending through the boys head, entering below left eye, and exiting behind and above the right ear. As if the shooter was laying down the ground and to the left hand side of the boy while shooting. In any case, the Chamber made a completely unbelievable inference as the only one, while it was not the only one at all, and all others were more probable! #Absurdity and mockery#!)**

3720. With respect to the confusion surrounding Sokolović's wound, Poparić referred to Bešlić's evidence and concluded that it is unlikely that the surgeon who wrote that the entry point of the wound was on the left-hand side of Sokolović's abdomen made a mistake because he recorded the size of the wounds, indicating that he performed the examination in a "detailed and conscientious manner".¹²²⁰⁵ Poparić also referred to the evidence of a medical doctor from another trial who testified that it would be impossible for Bešlić after so many years to see which wound was the entry wound and which was the exit wound.¹²²⁰⁶ The Chamber finds both these conclusions to be outside of Poparić's expertise and tenuous at best. Thus, it will not take them into account when making findings on this incident. **(Why would it be "outside of the Poparić's expertise"? Poparić was supposed to clarify the other expertises and findings for the Court and the Defence. What does #prevent the Chamber to use a common sense and conclude on this issue#? If the boy's entry wound was on the left side below the eye, and the exit wound on the right side above the ear, as the Chamber accepted, there is no other possibility than that the bullet was fired #from the Muslim held territory and from the ground, much lower that the boy's eye was#. In**

¹²²⁰² See para. 3712; P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court pp. 5, 10; P1544 (Autopsy report for Nermin Divović).

¹²²⁰³ This is the image Poparić used to suggest that the bullet entered the boy's head from the left-hand side. D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 141, Image 100.

¹²²⁰⁴ Mile Poparić, T. 38911–38912 (29 May 2013); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 140, Image 100.

¹²²⁰⁵ D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 140.

¹²²⁰⁶ Mile Poparić, T. 38913–38914 (29 May 2013); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 140.

which country it would be acceptable to have such a different findings, to take a late, late finding rather than a contemporaneous?)

3721. Poparić criticised the fact that no one tried to establish the level of entry and exit wounds on Sokolović's body and explained that, had the bullet come from Metalka, it would have a downward trajectory so that the entry wound on Skolović's body would be higher than the exit wound¹²²⁰⁷ and the same would apply to her son's wound.¹²²⁰⁸ He then found it hard to reconcile such downwards trajectory to the boy's wound.¹²²⁰⁹ However, the Chamber first notes that, contrary to Poparić's criticism, Bešlić did note that the line between Sokolović's entry and exit wounds was almost horizontal.¹²²¹⁰ In addition, the said trajectory can easily be reconciled with the boy's wound as established in the autopsy report, which notes that the entry wound was on the boy's right cheek while the exit wound was at the back of his head on the left-hand side.¹²²¹¹ **(Above the ear. But how much was it "almost horizontal? Why we didn't know was in a bit lower, or bit higher than the other wound? And if it was "almost horizontal", that would mean that the bullet couldn't come from Metalka. Anyway, not even children playing a court wouldn't do that and conclude as the Chamber concluded! #This case heavily compromises the Prosecution method and the entire Court!#)**

3722. Poparić also noted that in the video footage of the scene, some people can be seen sheltering behind a vehicle and several bursts of fire are heard which to him indicated that the fire was being exchanged between warring parties.¹²²¹² The Chamber once again does not accept Poparić's conclusion here as it was based on pure assumptions without considering other possibilities, such as for example an exchange of fire between the UNPROFOR soldiers on the scene and the shooter. Indeed, when shown the UNPROFOR report of 19 November 1994 referred to above,¹²²¹³ Poparić did not exclude the possibility that this was an exchange of fire between UNPROFOR and the person who shot Sokolović and her son.¹²²¹⁴ **(But,# for the Defence it is not as important who participated in the exchange of fire as whether there was an exchange of fire#! If there was an exchange of fire, then it is not correct what the Chamber accepted #that there was no military presence in the zone of incident, as accepted in the para 3706 of this Judgment#. There must have been a military presence, because the confrontation lines were very close to the spot. Also, nobody can guaranty that the "exchange of fire" started after the incident, and not just before the incident! Too many obscure elements, so that the entire case against this President should have been dismissed, for confirming a #selective persecution and a general lack of evidence!#)**

3723. Poparić also pointed out that Skolović, when visiting the scene with Hogan, placed the location of the incident near the intersection between Zmaja od Bosne and Franje Račkog

¹²²⁰⁷ Mile Poparić, T. 38905–38906 (29 May 2013).

¹²²⁰⁸ Mile Poparić, T. 38906 (29 May 2013).

¹²²⁰⁹ Mile Poparić, T. 38905–38906 (29 May 2013).

¹²²¹⁰ [efik Bešlić, P471 (Transcript from *Prosecutor v. D. Milošević*), T. 4443.

¹²²¹¹ P1544 (Autopsy report for Nermin Divović); P459 (BiH MUP Report re sniping incident of 18 November 1994 on Zmaja od Bosne street), e-court p. 10; Sead Bešić, T. 9495–9497 (9 December 2010).

¹²²¹² D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 143.

¹²²¹³ See para. 3713.

¹²²¹⁴ Mile Poparić, T. 39248–39251 (4 June 2013), T. 39290–39294 (5 June 2013); P6366 (UNPROFOR daily report, 19 November 1994).

rather than on the actual crossing on Franje Račkog street, noting that it would be difficult for someone in the Metalka building to see a person at that particular location.¹²²¹⁵ Once again, the Chamber recalls that Poparić never entered the Metalka building and thus cannot claim with sufficient certainty that this particular position would not be visible from the building.¹²²¹⁶

(First of all, a visibility is a “two way road”, and if Metalka wasn’t visible from the spot#, the other way around would be the same. But this kind of inference is not the only one, since it was very easy to see the angle and obstacles between the site Dzenana Sokolovic indicated, and Metalka, one do not have to be in Metalka to see that, and as a matter of fact, it was more important that one be on the spot of incident!)

3724. Poparić then estimated the boy’s height based on the video footage of his body lying on the intersection and the estimated height of Sokolović, arguing that had the bullet come from Metalka, the boy would have been hit lower down his body; however, he also explained that if the boy was standing at a short distance from Sokolović, then it was possible for the bullet to hit both of them.¹²²¹⁷ The Chamber is of the view that estimating the boy’s height from the footage of him lying on the pedestrian crossing is questionable at best. In addition, as implied by Poparić’s own testimony, it is not very useful given that there is no information as to how far the boy was from his mother at the moment when they were shot. Thus, the Chamber will not accept Poparić’s analysis relating to the victims’ height and bullet trajectory.

(Why the Chamber got in a such situation, to “negotiate” about the height of victims and the levels of wounds? Why all of this inevitable and unavoidable data hadn’t been in the record of the CSB and UNPROFOR investigations? Because these investigations weren’t accurate, and weren’t a criminal investigations at all! The entire confusion is unacceptable as it would be unacceptable in any country that supports this Court, or any country member of the UN. It would rather be sufficient to deliberate in the favour of the Accused, and not against him. None of those weaknesses in the process of investigations and establishment of the facts can be a basis for convicting the President!)

3725. In addition to the evidence and adjudicated facts outlined above, the Chamber has also taken judicial notice of the following adjudicated facts which go to the origin of fire: (i) Sokolović was shot in the right side of her body and the bullet went through her abdomen and exited on the left side, continuing through her son’s head;¹²²¹⁸ (ii) the shots came from the Metalka building;¹²²¹⁹ (iii) the shot that wounded Sokolović and killed her son, both civilians, originated from Metalka, a known SRK sniper position;¹²²²⁰ and (iv) the shots were fired by a member of the SRK.¹²²²¹

(However, all of those inferences and assertions, deliberations are dubious and unfounded#. How possibly the Chamber could conclude that Dzenana was hit in the right side of her body? Both, the contemporaneous medical finding, and the look of the wounds indicate that the hit came from the left side. And this is

¹²²¹⁵ Mile Poparić, T. 38906–38911 (29 May 2013); D3626 (Photograph of Barry Hogan and Dženana Sokolović marked by Mile Poparić); D3627 (Photograph of Barry Hogan and Dženana Sokolović marked by Mile Poparić).

¹²²¹⁶ See para. 3639.

¹²²¹⁷ Mile Poparić, T. 38908–38911 (29 May 2013).

¹²²¹⁸ See Adjudicated Fact 2945.

¹²²¹⁹ See Adjudicated Fact 2943.

¹²²²⁰ See Adjudicated Fact 2946.

¹²²²¹ See Adjudicated Fact 2946.

something so obvious that the Defence is ready to go to any instance to search for justice. Another question is: how come that the Adjudicated Facts, “adjudicated” in other cases in which defences probably hadn’t any interest in establishing the truth, are so crucial and decisive in this case? If so, why any other cases had been processed, if there is so many Adjudicated Facts that are sufficient to make decisions?#Deadly combination#!)

3726. The Chamber finds, based on the evidence and adjudicated facts outlined above, that Sokolović and her son were civilians and were not taking direct part in hostilities at the moment when they were shot. Indeed, they were walking in the city as a cease-fire was in place at the time. The Chamber is also satisfied that they were shot as they were crossing Franje Račkog street and approaching the museum. **(This is also incorrect! Ms. Sokolovic was walking from the Museum towards the Faculty of Philosophy. This is a very crucial, for determining the origine of fire. If it was as the Chamber concluded above, then the right hand side of both the victims was oriented towards the ABiH territory, and any projectile that could hit them would be from this side! #This kind of mistake and patchwork is not acceptdable in any court#! #Mockery#!)** This is corroborated both by the footage of Nermin Divović lying on the said zebra crossing having just been shot, and by the CSB Sarajevo report compiled at the time of the incident. **(We have already seen how reliable are the CSB contemporaneous reports! This is also #contrary to the evidence, since it was confirmed many times that Dzenana and her son were distancing the Museum and approaching the Faculty of Phylosophy#! Thus this file contains a #unreconciable contradictions and confusions which can not be a basis for any conclusion, except a dismissal of the case!#)**

3727. The Chamber is also satisfied, relying both on Bešlić’s evidence and the medical records of Nermin’s head wounds, as well as the adjudicated facts, that the bullet that wounded Sokolović came from her right hand side and that it entered the right side of her abdomen, exited on the left side of her abdomen, and then struck Nermin in the head, causing devastating head injuries that lead to his death. **(#Absurdity#! In such a case, that Dzenana and her son were approaching the Museum from the direction of Faculty, and were hit in the right side, the bullet came from the north, i.e. from the ABiH positions. Also, there is still no answer to the question of such a different levels of wounds of the killed boy! Either way, i.e. either the bullet entered through the cheek or above the ear, the trajectory is either ascending or descending, not horizontal! Too many contradictions. “Turn it this or that way, you low back is always behind you”, as Mao used to say!)** As indicated above, the Chamber does not accept Poparić’s analysis of the location of entry and exit wounds of the two victims. First and foremost, this is because, unlike Bešlić, Poparić is not a doctor and thus his opinion as to the entry and exit wounds of the victims carry little weight. **(This is not primarily medical, but rather a #ballistic matter#. Anyway, the first doctor taking care of Dzenana at the time of event was a doctor too, and Poparic never pretended to be a doctor, but he relied on the findings of the first doctor. Why the first doctor is not a doctor, and why the doctors that were the first to see the victims are discredited, and a “late” doctors, #examining the victims 12 years later#, are trustful? And how long this court will tolerate the Muslim fake witnesses and experts, such as Zecevic and Beslic? Even young children know that an entering wound is smaller than exiting, and this would be a rarity. The Muslim spin-masters must be laughing to all of us!)** In addition, the analysis he presented was extremely speculative, as he relied heavily on

video footage and his own estimates of the height of the individuals seen in the footage. At times, he was also plainly mistaken as to the content of the evidence before him.¹²²²² Accordingly, the Chamber does not accept Poparić's conclusion that the wounds on the victims show that two different bullets struck them and that those bullets came from the north rather than the south. Indeed, based on the evidence above, the Chamber is convinced that the opposite happened, namely that one bullet came from the south and that it wounded Sokolović and killed her son Nermin. The Chamber is particularly persuaded here by the medical evidence relating to their wounds¹²²²³ and the report of the CSB Sarajevo report, as well as the footage of the aftermath of the incident, all of which point to the conclusion that the bullet arrived from the south. **(#The most mistaken conclusion#, even taking the Chamber's assertion that Dzenana and the son were approaching the Museum, their right hand side was oriented towards the north and the ABiH positions! #AND WHY THE DAUGHTER HAD BEEN SKIPPED IN REPORTS???)**

3728. As for the origin of fire, the Chamber is convinced, relying on adjudicated facts and the evidence of Van der Weijden, as well as the evidence about the presence of well-equipped SRK snipers in Grbavica and particularly in the Metalka building,¹²²²⁴ that the shot that wounded Sokolović and killed her son was fired from Metalka, which at the time was in the SRK's zone of responsibility. **(#Must be Indians#! If the only fact that there was a SRK and that it had a snipers is sufficient, does it mean that the ABiH hadn't been present, and didn't have a snipers in the vicinity? Or, if the ABiH was there, and did have their snipers, would that mean they could do it as well? But, we know that they did have their snipers all around this area. The logics that if the #Serbs could, (had a #possibility) then that mean #they did it (#more than probability, a fact#), this logics is not acceptable anywhere in the world. The Muslims could have fired too, and the first medical finding, and even nowadays look of the wound are against the Chamber's conclusion!)** This is further confirmed by the fact that UNPROFOR soldiers, who were at the scene after the incident, returned fire at the SRK. The Chamber is also convinced that, given the distance between Metalka and the incident site, the SRK soldier who shot Sokolović and her son was able to see that they were both civilians. Despite that, he proceeded to target them deliberately, as there was no ongoing fighting in the area at the time of the incident. Further, the Chamber notes that all these findings are consistent with the evidence suggesting that the sniper fire in the area of Zmaja od Bosne street came from the Serb side.¹²²²⁵ **(#“Suggesting”**

¹²²²² See para. 3719.

¹²²²³ The Chamber notes that the only contradicting medical evidence is the initial report on Sokolović's injuries prepared by the physician who saw her immediately after the incident. The Chamber, however, accepts Bešlić's evidence that this physician made a mistake, which was understandable given the circumstances that doctors were operating under at the time of the incident. The Chamber also finds Bešlić's evidence as to Sokolović's entry and exit wounds convincing given that he was her doctor and that he examined her wounds on more than one occasion and operated on her twice. See para. 3711. **(And how come the entering wound is much bigger than exiting? And why Dr. Beslic didn't write the proper finding in his list discharging Ms. Sokolovic from hospital? Nobody would accept these “post factum” opinions to be more genuine than the contemporaneous doctor's opinion! This “post factum” opinion is a primitive attempt to produce a fake effect in the Court!)**

¹²²²⁴ See paras. 3658–3660, 3668.

¹²²²⁵ See paras. 3621, 3656, 3662. In addition, the Chamber also recalls that it rejected the Accused's arguments that ABiH forces were sniping at Bosnian Muslims civilians throughout Sarajevo. See Section IV.B.1.d: Bosnian Muslim side targeting own civilians. **(The very same Chamber accepted the evidence that the Muslim side fired against their own civilians, that made many stagings, and that played a game of denigration of the Serbs, in order to get an international military intervention, see D240**

is not enough to convict anyone, there must have been “proving beyond a reasonable doubt”#. Where this legal maxima had been lost? Only in Bosnia? It is a unique example of “jumping to a conclusion” so easily, in spite of the fact that there were the lines of confrontation so close to each other, and meandering throughout the city, where a possible shooters were in a two neighboring rooms of the same appartments. This is not serious job. There is needed much more than “believes” to accuse one of the sides, let alone to convict a top of authorities, that had been so distant from any perpetrator, and who issued all the necessary orders for the protection of civilians!)

2. Zmaja od Bosne street, 23 November 1994 (Scheduled Incident F.14)

3729. The Indictment alleges that on 23 November 1994, Afeza Karačić (also referred to as Hafiza Karačić), a 31 year old woman, and Sabina Šabanić, a 26 year old woman, were both wounded in the right shoulder when the tram they were travelling in came under fire on Zmaja od Bosne, between the School of Technology and Maršal Tito Barracks.¹²²²⁶ In its Final Brief, the Prosecution clarifies that the tram was struck “in the area immediately west of the S-curve” and submits that the fire came either from the four white high-rises or from Metalka.¹²²²⁷ The Accused argues that the fire came either from the Executive Council building or from the ABiH positions on Golo Brdo.¹²²²⁸

3730. On 23 November 1994, Afeza Karačić and her sister took a tram to Otoka, where they lived.¹²²²⁹ Having left work at 3:30 p.m., Sabina Šabanić took a tram to go home.¹²²³⁰ Šabanić and Karačić were on the same crowded tram.¹²²³¹ Huso Palo was driving this tram westbound on Zmaja od Bosne street in the direction of School of Technology and the Maršal Tito Barracks.¹²²³² It was not yet dusk; the day was cold but there was no fog and the visibility was good.¹²²³³ There were also no leaves on the trees.¹²²³⁴ Sometime between 3:30 and 4 p.m., when the tram was between the School of Technology and the Maršal Tito Barracks (between the two museums), it was hit by what Huso Palo referred to as a “single bullet”, which injured Šabanić and Karačić.¹²²³⁵

3731. Sabina Šabanić was standing at the rear of the front section of the tram, facing Grbavica, when the bullet entered an inch below the top of her front right shoulder, passed diagonally down the shoulder, and exited her body some two inches below the top of the shoulder.¹²²³⁶ Following the incident she spent four days in the Koševo Hospital and is now

¹²²²⁶ Indictment, Scheduled Incident F.14.

¹²²²⁷ Prosecution Final Brief, Appendix C, para. 20.

¹²²²⁸ Defence Final Brief, para. 2287.

¹²²²⁹ See Adjudicated Fact 2955.

¹²²³⁰ P492 (Witness statement of Sabina Šabanić dated 16 November 1995), p. 2. See also Adjudicated Fact 2955.

¹²²³¹ See Adjudicated Fact 2955.

¹²²³² P119 (Witness statement of Huso Palo dated 24 February 1996), p. 2; P1714 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 1; P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 69; P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 38. See also Adjudicated Fact 2958.

¹²²³³ P492 (Witness statement of Sabina Šabanić dated 22 May 2006), para. 4. See also Adjudicated Fact 2956.

¹²²³⁴ See Adjudicated Fact 2956.

¹²²³⁵ P492 (Witness statement of Sabina Šabanić dated 16 November 1995), p. 2; P492 (Witness statement of Sabina Šabanić dated 22 May 2006), paras. 2, 4; Sabina Šabanić, P491 (Transcript from *Prosecutor v. D. Milošević*), T. 1445, 1447–1451, 1457, 1465–1466; P441 (Aerial photograph of Sarajevo marked by Sabina Šabanić); Huso Palo, P120 (Transcript from *Prosecutor v. Milošević*), T. 1535–1536; P119 (Witness statement of Huso Palo dated 24 February 1996), p. 2; P119 (Statement of Huso Palo to BiH authorities, 24 November 1994), p. 2; P1714 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 1; P1833 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), e-court p. 2; P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 69–70; P1721 (Aerial photograph of Sarajevo marked by Mirza Sabljica); P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 43; P1836 (Aerial photograph of Sarajevo marked by Dragan Mioković). See also Mirza Sabljica, T. 7888–7889 (13 October 2010); D763 (Aerial photograph of Sarajevo marked by Mirza Sabljica); Dragan Mioković, T. 8639–8644 (29 October 2010); D849 (Aerial photograph of Sarajevo marked by Dragan Mioković). See also Adjudicated Fact 2958.

¹²²³⁶ P492 (Witness statement of Sabina Šabanić dated 16 November 1995), p. 2; P492 (Addendum to witness statement of Sabina Šabanić dated 16 November 1995, 24 October 2010); P491 (Transcript from *Prosecutor v. D. Milošević*), T. 1450, 1458; P1219 (Medical certificate for Sabina Šabanić) (under seal). See also Adjudicated Fact 2961. According to the MUP report compiled after the investigation of this incident, both Šabanić and Karačić were standing at the platform connecting the front and the rear part of the tram. See P1833 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), e-court p. 2.

partially disabled.¹²²³⁷ **(#Deadly combination#! All based on the 92bis evidence, and on Adjudicated Facts, so without any cross examination by this defence!!!)**

3732. Karačić was standing in the middle of the tram, at the connecting platform between the front and the rear cars of the tram, facing east, when she was shot.¹²²³⁸ The bullet came from her right, entered her upper right shoulder and exited slightly lower on the right arm, severing a nerve.¹²²³⁹ Karačić was taken to the Koševo Hospital¹²²⁴⁰ and had several operations as a result of which her arm was shortened by six centimetres.¹²²⁴¹ Due to her injuries, she has an 80% disability; she cannot drive a car or write properly and has difficulty eating with her right hand.¹²²⁴²

3733. Huso Palo testified that the shot came from the tram's left-hand side, from one of the four white skyscrapers in Grbavica on Lenjinova street as they were the only location from which the tram could be seen.¹²²⁴³ However, during cross-examination he explained that he did not know from where the shots were fired.¹²²⁴⁴ **(#Deadly combination#! 92bis? Is it a proper practice to tender such an unreliable evidence under the 92bis Rule, without any cross examination by this Defence? Beside that, Palo obviously said that the four white skyscrapers in Grbavica were the only Serb position from which the tram could be seen. But, what with the other side's positions, the HVO had its own positions along the Miljacka River, and the ABiH too? Why it was not worthy to be mentioned and considered?)** Given the location of her injury, as well as the fact that these four skyscrapers were thought by the locals to be sniping nests, Šabanić was also of the view that the shots were fired from there.¹²²⁴⁵ She also rejected the proposition that there was an exchange of fire when she was wounded, or at any other time when she was walking in this area.¹²²⁴⁶ There were no soldiers or military targets in, or in the vicinity of, the tram, and only UNPROFOR soldiers were on the street.¹²²⁴⁷ While admitting that the tram was very crowded and that she could not move within it, Šabanić remained adamant that no soldiers were on it because she

¹²²³⁷ P492 (Witness statement of Sabina Šabanić dated 16 November 1995), p. 2; P492 (Addendum to witness statement of Sabina Šabanić dated 16 November 1995, 24 October 2010). *See also* Adjudicated Fact 2962.

¹²²³⁸ *See* Adjudicated Fact 2959. According to the MUP report compiled after the investigation of this incident, both Šabanić and Karačić were standing at the platform connecting the front and the rear part of the tram. *See* P1833 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), e-court p. 2.

¹²²³⁹ *See* Adjudicated Fact 2960; P1833 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), e-court p. 2; P1714 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 2.

¹²²⁴⁰ *See* Adjudicated Fact 2962; P1833 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), e-court p. 2; P1545 (Medical record for Hafiza Karačić); P1714 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 2.

¹²²⁴¹ *See* Adjudicated Fact 2963.

¹²²⁴² *See* Adjudicated Fact 2963.

¹²²⁴³ P119 (Witness statement of Huso Palo dated 24 February 1996), p. 2; P119 (Statement of Huso Palo to BiH authorities, 24 November 1994), p. 2. *See also* Barry Hogan, T. 11219–11220 (3 February 2011); P2209 (Photograph of Sarajevo marked by Barry Hogan).

¹²²⁴⁴ Huso Palo, P120 (Transcript from *Prosecutor v. Milošević*), T. 1535, 1539, 1543, 1547.

¹²²⁴⁵ Sabina Šabanić, P491 (Transcript from *Prosecutor v. D. Milošević*), T. 1452–1456; P442 (Aerial photograph of Sarajevo marked by Sabina Šabanić); Sabina Šabanić, P491 (Transcript from *Prosecutor v. Perišić*), T. 683–686, 696–697; P467 (Aerial photograph of Sarajevo); P469 (Aerial photograph of Sarajevo marked by Sabina Šabanić); P492 (Witness statement of Sabina Šabanić dated 16 November 1995), p. 2; P492 (Addendum to witness statement of Sabina Šabanić dated 16 November 1995, 24 April 2010); P492 (Witness statement of Sabina Šabanić dated 22 May 2006), para. 6; P492 (Addendum to witness statement of Sabina Šabanić dated 22 May 2006, 24 October 2010).

¹²²⁴⁶ Sabina Šabanić, P491 (Transcript from *Prosecutor v. D. Milošević*), T. 1472–1476; P443 (Aerial photograph of Sarajevo marked by Sabina Šabanić); Sabina Šabanić, P491 (Transcript from *Prosecutor v. Perišić*), T. 692–693.

¹²²⁴⁷ Sabina Šabanić, P491 (Transcript from *Prosecutor v. D. Milošević*), T. 1457–1458; P492 (Witness statement of Sabina Šabanić dated 22 May 2006), para. 5; P119 (Witness statement of Huso Palo dated 24 February 1996), p. 2. *See also* Adjudicated Fact 2957.

saw all the passengers when they got off the tram following the sniping.¹²²⁴⁸ She confirmed, however, that buildings belonging to BiH civilian authorities and the Presidency were nearby.¹²²⁴⁹

3734. The incident was investigated by an investigating team from CSB Sarajevo, with Mioković as the team leader, and Sabljica as the ballistics expert.¹²²⁵⁰ When the team arrived on the scene, the tram had already been moved back to the depot, together with another tram which was shot five minutes earlier, in the same location between the Maršal Tito Barracks and the School of Technology.¹²²⁵¹ According to Sabljica, it was therefore not possible to establish the exact origin of fire but the team was able to determine that it came from the tram's left-hand side, from the direction of Sector South and the area of Grbavica.¹²²⁵² However, a report prepared by Mioković, based on the notes he made at the scene,¹²²⁵³ concluded that the bullet was fired from the south or the southeast and that it came "from the aggressor's position".¹²²⁵⁴ Sabljica could not explain the basis for the reference to the "aggressor's position" given that the tram was in a depot when investigated and that the bullet's entry angle could not be determined.¹²²⁵⁵ **(The #angle could be determined at least on the basis of difference of levels of the wounds#. If it was from the southeast, and descended about an inch on the distance of 7 to 10 cm, it must have been fired from a very high position, a southeast from the tram, and that would be the Executive Comitee building. In a case the victim's shoulder was wide 7 cm, the angle would be 23 degrees, and in a case it was 10 cm wide, the angle would be 17 degrees. If we had a degree of declination on the horizontal level, it would be possible to decide with a pretty high veracity from where the fire came. But, it didn't happen, and this incident should have been dropped immediately, because there was so many possibilities that the fire was opened from so many sources. Between the tram and the Serb positions there was the ABiH front line, and all the surrounding buildings had their sniper nests and the sharp-shooter positions. In such a case, every reasonable chamber would return the case to the prosecution for more evidence, or to give it up!)**

3735. The CSB Sarajevo reports note that only one bullet was fired at the tram but since no entry point was found it was concluded, based on the damage to the right hand side of the interior of the tram, that the bullet entered through an open window from the left hand side of the tram and that it fragmented into pieces.¹²²⁵⁶ **(#Absurdity#! How possibly an open**

¹²²⁴⁸ Sabina Šabanić, P491 (Transcript from *Prosecutor v. Perišić*), T. 698–699.

¹²²⁴⁹ Sabina Šabanić, P491 (Transcript from *Prosecutor v. D. Milošević*), T. 1485–1487; P444 (Aerial photograph of Sarajevo marked by Sabina Šabanić).

¹²²⁵⁰ P1714 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 1; P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 4, 39–40; P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 69. *See also* Dragan Mioković, T. 8638 (29 October 2010).

¹²²⁵¹ P1714 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 1; P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 71; P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 38. *See also* Dragan Mioković, T. 8638–8639 (29 October 2010).

¹²²⁵² P1714 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 1; P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 71. *See also* Mirza Sabljica, T. 7886–7887 (13 October 2010).

¹²²⁵³ P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 39–40.

¹²²⁵⁴ P1714 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 1. *See also* Dragan Mioković, T. 8639 (29 October 2010).

¹²²⁵⁵ Mirza Sabljica, T. 7887 (13 October 2010); P1714 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 1.

¹²²⁵⁶ P1714 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 1; P1834 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 1; P1830 (Witness statement of Dragan Mioković dated 26 October 2010),

window could have fragmented the bullet, since the projectile didn't have any solide obstacle? And how possibly only one bullet could have hit the two ladies, first in the upper part of shoulder, exiting several centimetres lower, and the same bullet changed the trajectory, getting up and hitting another victim again in the upper side of the shoulder? The Serb side didn't have this kind of "flying" and clever bullets!) According to Sabljica, a bullet can fragment only upon impact with a hard surface so in his opinion the two victims were injured after the bullet impacted a metal plate on the tram and fragmented.¹²²⁵⁷ (In such a case, there would be a mark on a presumed "metal plate" but it was not reported!) Mioković, on the other hand, thought that the bullet fragmented before it impacted any surface in the tram, and it was then that the fragments injured the two victims.¹²²⁵⁸ However, he also conceded that there was no material evidence that a fragmentation bullet was used here.¹²²⁵⁹ Sabljica conceded that the team did not take into account the injuries of the victims when coming to its conclusion about the bullet entering through an open window, and also confirmed that the team could not establish the angle at which the bullet entered the tram.¹²²⁶⁰ (#Absurdity#! How possibly this could even be considered? If it was a ricochet and a fragmented bullet, that first hit the right wall of the tram, (which was overcrowded) and returned as a two fragments, then the bullet couldn't be passing through the tissue, and the wounds would look completely different, and the entering wound would be at lower level than the exiting one. How this case would be handled in an US, or any other democrat country courts? It would be dropped immediately! Had it been a ricochet, then it would be a stray bullet, #not aimed at the target that had been hit, and also in such a case would be dismissed!#)

3736. Hogan visited the scene of the incident with one of the victims¹²²⁶¹ and recorded the co-ordinates of the location of the incident, placing it at the intersection between Zmaja od Bosne and Franje Račkog streets instead of further to the west, as recounted by Huso Palo and Sabina Šabanić.¹²²⁶² Van der Weijden then visited this site, as well as Grbavica, on 29 November 2006.¹²²⁶³ Judging by the photographs in his report, and because he used the co-ordinates given to him by the Prosecution, Van der Weijden placed the location of this incident at the intersection of Franje Račkog and Zmaja od Bosne streets, instead of further to

p. 38; P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 71–72. See also Dragan Mioković, T. 8639 (29 October 2010). The Chamber notes that another BiH MUP report notes that the bullet entered through the rear "right" window of the front section of the tram, which does not seem to be recorded in the English translation of that report. However, given the description of the incident in this report, particularly the direction in which the train was travelling and the direction from which the bullet is said to have come, the reference to the "right" window must have been a description of the position of the said window in relation to other windows on the left hand side of the tram. See P1835 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 1; P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 41.

¹²²⁵⁷ According to Sabljica, the metal plate was located "inside the tram on the wall, on the interior tram wall where the bullet hit" and it was "in the upper right-hand side corner of the tram's window frame." See P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 71–72.

¹²²⁵⁸ According to Mioković, fragmentation bullets can fragment even without impacting something first. Dragan Mioković, T. 8571–8573 (29 October 2010); P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 5, 42.

¹²²⁵⁹ P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 42–43. Mirza Sabljica testified that some fragments of the bullet jacket were found in the tram but explained that this was not enough to establish the type of the projectile used in this incident. See P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 71. See also P1714 (BiH MUP Report re sniping incident of 23 November 1994 on Zmaja od Bosne street), p. 1.

¹²²⁶⁰ P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 72.

¹²²⁶¹ The Chamber notes that the identity of this victim is not clear from the evidence before it.

¹²²⁶² Barry Hogan, T. 11204–11206 (3 February 2011); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents); P2213 (Image re scheduled sniping and shelling incidents in Sarajevo).

¹²²⁶³ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 95.

the west, near the Maršal Tito Barracks as recounted by Huso Palo and Sabina Šabanić.¹²²⁶⁴ As a result, he visited Metalka noting that the rooms in the building offer direct and clear views of the stretch of Zmaja od Bosne, between the Museum and the Faculty of Philosophy.¹²²⁶⁵ When in the building, he determined that the tram would be exposed to the shooter located in the building for at least eight seconds.¹²²⁶⁶ **(#Absurdity#! This is unbelievable! How possibly the Prosecution, Mr. Hogan and a victim #after so many years# could have been more accurate than the driver and another victim at the very same moment of event? So, if you are allowed to move the tram so to fit Metalka or other Serb positions, you are done, you can whatever you want, and if the court accepts that, than it is less than a kangaroo court!)**

3737. Noting that there were multiple victims in this incident and having described their injuries, Van der Weijden concluded that most likely automatic fire was used to shoot at the tram, and that the weapons used would have been either a M84 or a M53 machine-gun in 7.62 mm calibre, mounted on a bipod or a tripod.¹²²⁶⁷ He noted that machine-guns are more effective against moving targets, such as trams, that are only temporarily visible.¹²²⁶⁸

3738. Poparić analysed this incident using the relevant CSB Sarajevo reports, as well as the statements of Palo, Šabanić, and Karačić.¹²²⁶⁹ He concluded that the bullet that struck the tram did not originate from the SRK positions in Grbavica but came from east, from a location with a much higher site angle, such as for example the Executive Council building or the ABiH positions on Golo Brdo.¹²²⁷⁰ He based his conclusion on the position at which the two victims were standing in the tram when shot, and their injuries. With respect to Karačić, he pointed out that she was standing facing the back of the tram, at 90 degrees to the axis of the tram—thus, if she had been wounded by a bullet coming from Grbavica, the bullet could not have exited through her upper right arm but would have ended up inside her body or exited on the side of it.¹²²⁷¹ Poparić therefore concluded that her injury could have been caused only by a bullet coming from east, at a high angle of descent.¹²²⁷² He also explained that the differences in length between the entry and exit wounds of both victims were great, also suggesting that the bullet had a great angle of descent.¹²²⁷³ He conceded, however, that he never spoke to Karačić or saw her injuries and that no measurements of her wounds were recorded in the available reports.¹²²⁷⁴ **(#Why would Poparic talk to the victims and convey another investigation? This was not a duty of the Defence or it's experts, but only to analyse and check already done investigations and it's validity#! The Defence got all the material from the Prosecution, and a Defence expert could only analyse these materials. Anyway, if something was inadequate or insufficient, it can not be used against the Accused. How it had been described, it could be analysed, #not otherwise#. But, described as such, it was admitted by the Chamber even in this Judgment. That means either the Chamber invented it, or there was a description in the materials. Why Mr.**

¹²²⁶⁴ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 94.

¹²²⁶⁵ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 95. Van der Weijden states in his report that the branches of the trees “in the street” will have grown since the war and now obstruct some of the windows that at the time would have also offered an unobstructed view. See P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 95. See also Barry Hogan, T. 11219–11220 (3 February 2011); P2208 (Photograph of Sarajevo marked by Barry Hogan); P2209 (Photograph of Sarajevo marked by Barry Hogan).

¹²²⁶⁶ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 95.

¹²²⁶⁷ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 94. See also fn. 12122.

¹²²⁶⁸ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92-’94”), p. 94.

Poparić would have to measure, he was working on the official reports of investigation, which has to be so understanding that anyone can come to the same conclusion. Otherwise, it is not a valuable evidence! He also conceded that he assumed that both her and Šabanić's arms were in straight vertical downwards position by their side when struck and noted that irrespective of the positions of Karačić's arm, had the bullet come from the white high-rises, it would have stayed in her body and not exited on her upper arm.¹²²⁷⁵

3739. Poparić further challenged the report prepared by Mioković, saying that it was impossible for the bullet that entered through an open window to fragment before impacting any obstacle and also to hit the window frame after exiting the body of one of the victims.¹²²⁷⁶ He suggested that the bullet did not pass through an open window but through the tarpaulin of the joint on the tram and fragmented at that point, which was then missed by the investigators.¹²²⁷⁷ However, in that case, given the injuries to the victims, the bullet could not have come from the SRK positions in Grbavica.¹²²⁷⁸ Noting the position of the tram as testified to by Karačić in the *Dragomir Milošević* case, namely the intersection of Franje Račkog and Zmaja od Bosne, the joint of the tram would not have been visible from Metalka.¹²²⁷⁹

3740. In addition to the evidence and adjudicated facts outlined above, the Chamber has also taken judicial notice of the following adjudicated facts which go to contentious issues in this incident. They provide as follows: (i) the tram was shot at the intersection in front of the Holiday Inn, or shortly thereafter in front of the Maršal Tito Barracks between the two museums;¹²²⁸⁰ (ii) Afeza Karačić and Sabina Šabanić were hit by one single bullet which fragmented;¹²²⁸¹ (iii) it was common for the VRS to fire fragmentation bullets at trams that would fragment on impact, even through glass;¹²²⁸² **(#Absurdity#! This is unbelievable! There was no such an ammunition in the SRK, neither in the JNA had it, and it had been forbidden. If not inherited from the JNA, from where the VRS would purchase this? Who challenged this "Adjudicated Facts"? And why this process had been conveyed, if the adjudicated facts from other cases are an evidence?#Deadly combination#!)** (iv) the origin of fire was either the high-rise buildings on Lenjinova street or the Metalka building,

¹²²⁶⁹ D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 145–146. The Chamber notes that Afeza Karačić did not testify in this case and thus the Chamber did not have access to her witness statement.

¹²²⁷⁰ Mile Poparić, T. 38989–38993 (30 May 2013); D3639 (Satellite image of Sarajevo marked by Mile Poparić); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 149–151.

¹²²⁷¹ D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 149.

¹²²⁷² Mile Poparić, T. 38991–38993 (30 May 2013); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 149.

¹²²⁷³ Mile Poparić, T. 38992–38993 (30 May 2013); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 151.

¹²²⁷⁴ Mile Poparić, T. 39277–39278 (5 June 2013).

¹²²⁷⁵ Mile Poparić T. 39278–39279 (5 June 2013).

¹²²⁷⁶ Mile Poparić, T. 38989–38991 (30 May 2013); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 149.

¹²²⁷⁷ Mile Poparić, T. 38993 (30 May 2013); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 149, 151.

¹²²⁷⁸ Mile Poparić, T. 38993 (30 May 2013).

¹²²⁷⁹ Mile Poparić, T. 38993–38994 (30 May 2013).

¹²²⁸⁰ Adjudicated Fact 2967.

¹²²⁸¹ See Adjudicated Fact 2965.

¹²²⁸² See Adjudicated Fact 2966.

both held by the SRK;¹²²⁸³ (Metalka is far east from the site of impact, and the high-rise buildings far west from the same site.) (v) the shots came from SRK-held territory; and were fired by a member of the SRK.¹²²⁸⁴ (#"Either, or" absurdity#! How this can be said? It was not establish that in any terms that it was from the Serb held territory, nor it could be "either Metalka, or the high-rise building on Lenjinova street, #because it exclude each other#. How the Prosecution-Chamber excluded all buildings kept by the Muslim forces between the Serb positions and the spot of event? Not a word about it! Even if it was from Grbavica, which obviously wasn't, who can say it was a member of SRK, since it was the Tito's "armed people"?)

3741. As far as the exact location of the incident is concerned, the Chamber notes that the majority of the evidence before it places the tram somewhere between the School of Technology and the Maršal Tito Barracks at the moment when it was shot.¹²²⁸⁵ The Chamber is therefore convinced that this is the location of the incident. While Hogan's evidence suggests otherwise, the Chamber recalls that it is based on a recollection of a victim of the incident. However, the Chamber does not have any information as to who this victim was. As a result, and given the weight of other evidence, the Chamber does not accept Hogan's GPS co-ordinates as accurate. (All of it #sounds rather as a joke#! This is not a menu to chose this and that, but to establish a facts! At least there was 50% to 50% that it was either side firing. In such a case, the Chamber didn't take into account any possibility of the Muslim 50%, as if there was no so many Muslim troops in the immediate vicinity! Now, even Mr. Hogan as a Prosecutor's expert is disregarded, and the Chamber had to consider a statement of an injured, for whom didn't know even who was it! In which of the contemporary countries this "evidence" would fly?)

3742. The Chamber further considers that this tram was a civilian vehicle, with civilians travelling onboard. In addition, Šabanić and Karačić were civilians and were not taking direct part in hostilities when they were shot and wounded. (#The victims, as all other victims in the tram, hadn't been visible to a shooter whoever he was#!)

3743. In terms of the origin of fire, the Chamber recalls that Poparić reached his conclusion that the bullet came from the Executive Council building or from Golo Brdo, based on a number of assumptions as to the location and the nature of Šabanić's and Karačić's injuries. However, he never checked if his assumptions were correct by talking to the two victims. (The Chamber is defending it's own deliberation with the same arguments as those in para 3738! For heaven's sake, #why a Defense expert should talk to the victims, while he had the investigating materials#!? Hogan and others spoke to the victims, but it had been disregarded in the paragraphs above! The Defence expert's job was not to repeate an investigation after fifteen years, but to value the existing investigative materials!) Furthermore, he is not a doctor and thus his analysis as to whether and where bullets or bullet fragments should have exited the victims' bodies, carries little weight. (As a matter of facts, it was a pre-eminently# question for a ballistic expert, not for any medical doctor#. To analyse and count the trajectory of a

¹²²⁸³ Adjudicated Fact 2968.

¹²²⁸⁴ Adjudicated Fact 2969.

¹²²⁸⁵ See para. 3730, fn. 12235.

projectile has nothing to do with medicine and doctors, nor is it for a doctor to say that, but quite contrary, it is for a ballistic expert to establish a trajectory of projectile!) His analysis in this respect also does not account for the possibility suggested by Sabljica, namely that the bullet fragmented upon impact before hitting the victims, which in turn would have affected the trajectory of the fragments that injured the victims.¹²²⁸⁶ **(#Clever bullets#! In such a case, the bullet and its fragments would ricochet either further down, or, to hit the shoulders of a standing victims, the entering wounds would have to be at a lower level than the exiting. Nor the fragments would have a velocity needed to get through the tissues! The Defence doesn't accept different #“suggestions” of Sabljica and others that were interested in accusing the Serb side, but would accept only a clear evidence “beyond reasonable doubt”# – but nothing like that appeared in this and many other incidents. The UN is responsible for this trials, and nobody will be proud of this job!)** Finally, aside from the general direction Šabanić and Karačić were facing when shot, there is no evidence as to the specifics of their body positions, such as whether they were standing with their arms down next to their bodies or whether they were holding onto the handrails, which would have been necessary to know in order to draw definitive conclusions about the bullet's trajectory. **(#None of these missing elements must be used against the President#. If an #investigation was not proper, or clumsy, such an investigation is responsibility of the Prosecutor and it shouldn't be in the Indictment, or the Chamber should dismiss it even before the trial#!)** Thus, the Chamber does not accept that the approximate angle at which the bullet struck the tram can be determined from the description of the victims' injuries, particularly since the investigators found no traces of the bullet's entry point on the tram and since there is a possibility that the bullet fragmented before striking the victims. For all those reasons, the Chamber does not accept Poparić's conclusion that the fire came from east and from the Executive Council building or Golo Brdo. **(#Absurdity#! #With so many absent evidence “which would have been necessary to know in order to draw definitive conclusions about the bullet's trajectory” there couldn't be any decision damaging the President interests. Such an invalid investigation opens another question: if we do not know the positions of bodies of victims, and do not have the traces of bullet, how the investigators excluded the entire north and belonging parts of east and north, i.e the entire 180 degrees of the Muslim territory as a source of fire#?)**

3744. The Chamber, relying on the adjudicated facts and the evidence of Šabanić and Palo, is convinced that the bullet that wounded Šabanić and Karačić came from the south, from the SRK positions in Grbavica, most likely from one of the four white high-rises. **(In such a case, the #trajectory would be oblique and would have a direction southwest to northeast, and it wasn't the case. The Chamber erred in “relying on the adjudicated facts and the evidence of [abanic and Palo”, all out of the Defence possibility to cross examine, and to decide in such an obscure case against the President!#Deadly combination#!)** Given that the SRK snipers in Grbavica, and particularly the snipers located in the four white high-rises, had an excellent view of the area in front of and around Maršal Tito Barracks,¹²²⁸⁷ and given

¹²²⁸⁶ The Chamber also notes that Poparić appears to have assumed when assessing victims' injuries that the bullet struck the tram at a right angle. However, the angle was never established and the victims' injuries in fact appear to be consistent with fire coming at an acute angle.

¹²²⁸⁷ See paras. 3666–3667.

that there was no ongoing fighting at the time of the incident, the Chamber is also convinced that the SRK shooter deliberately targeted the tram, while fully aware that it was a civilian vehicle. This is in line with the general evidence the Chamber heard about the prevalence of the SRK sniping in the area of Zmaja od Bosne street and about SRK sniper nests in the white high-rises.¹²²⁸⁸

(Not enough, because a #mere existence of the sniper nests doesn't mean necessarily that the actions of the sniper shooter did aim civilians, and moreover, that a Serb sniper was responsible for this specific case#. What "the Chamber heard about the prevalence of the SRK sniping in the area..." is a pitifull evidence that the Muslim propaganda influenced the Court to an unacceptable degree. In the area there was more Muslim snipers, than the Serb, and the interest in these events was completely on the Muslim side. The Serbs must have been idiots if they served the Muslim propaganda purpose just in this area, in front of Holiday Inn and all these media. Therefore, any liability of the commanders at all levels is excluded, and even a rogue elements are not probable!)

7. Zmaja od Bosne street, 27 February 1995 (Scheduled Incident F.15)

3745. According to the Indictment, on 27 February 1995, Senad Kesmer (also referred to as Senad Kešmer), a 31 year old man, Alma Čehajić, a 19 year old woman, Alija Holjan, a 55 year old man, and others were shot and wounded while travelling in a westbound tram on Zmaja od Bosne street, when the tram was near the Maršal Tito Barracks.¹²²⁸⁹ In its Final Brief, the Prosecution claims that five persons were wounded in this incident and that the fire on the tram was opened from the white high-rises in Grbavica.¹²²⁹⁰ The Accused claims, however, that the fire came from nearby buildings such as the Museum for example, which were under the ABiH control.¹²²⁹¹

3746. On 27 February 1995, KDZ289 was on a tram on Zmaja od Bosne, travelling westbound from the centre of Sarajevo in the direction of Ilidža.¹²²⁹² Also on the tram was Alma Mulaosmanović-Čehajić, who testified that the tram was fairly crowded.¹²²⁹³ Alija Holjan, a foreman of a street cleaning crew, was sitting on the right-side of the tram, next to an exit.¹²²⁹⁴ While the day was cloudy and cold, the weather conditions allowed for good visibility.¹²²⁹⁵ The day was also relatively quiet as cease-fire was in place.¹²²⁹⁶ **(However,**

¹²²⁸⁸ See paras. 3621, 3656, 3662. In addition, the Chamber also recalls that it rejected the Accused's arguments that ABiH forces were sniping at Bosnian Muslim civilians throughout Sarajevo. See Section IV.B.1.d: Bosnian Muslim side targeting own civilians.

¹²²⁸⁹ Indictment, Scheduled Incident F.15.

¹²²⁹⁰ Prosecution Final Brief, Appendix C, para. 21.

¹²²⁹¹ Defence Final Brief, paras. 2289–2291.

¹²²⁹² P2413 (Witness statement of KDZ289 dated 16 November 1995), p. 2; P2413 (Witness statement of KDZ289 dated 2 March 1996), p. 2; P2413 (KDZ289's statement to BiH authorities, 1 March 1995), p. 1; KDZ289, P485 (Transcript from *Prosecutor v. D. Milošević*), T. 1616; Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1652; P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 73. See also Adjudicated Fact 2976.

¹²²⁹³ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1657; Alma Mulaosmanović-Čehajić, T. 6759 (14 September 2010); D626 (Alma Mulaosmanović-Čehajić's statement to BiH authorities, 14 April 1995), p. 1. See also Adjudicated Fact 2979.

¹²²⁹⁴ Adjudicated Fact 2979.

¹²²⁹⁵ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1657; Alma Mulaosmanović-Čehajić, T. 6759 (14 September 2010); D626 (Alma Mulaosmanović-Čehajić's statement to BiH authorities, 14 April 1995), p. 1; P2413 (Witness statement of KDZ289 dated 19 April 2006), p. 2. See also Adjudicated Fact 2978.

¹²²⁹⁶ P2413 (Witness statement of KDZ289 dated 16 November 1995), p. 2. See also Adjudicated Fact 2977.

#here were reports from the SRK, UNMOs and UNPROFOR confirming the exchange of fire around the Vrbanja Bridge, a Red Façade Building, which, as known was a half in the Serb, and another half in the Muslim hands, see the reports of the UN and SRK#. P435:

CASUALTIES. 8 X SA ROUNDS WERE FIRED AT A TRAM NEAR THE HOLIDAY INN (BP910593) INJURING 4 (NOT CONFIRMED) PEOPLE. THE ORIGIN IS ASSESSED AS BEING IN THE VRBANJA BRIDGE/RED BUILDING AREA (BP912589) WHERE A FIREFIGHT BETWEEN BOTH FACTIONS OCCURRED AT THE SAME TIME. THE TRAM SERVICE WAS

Why this #contemporaneous report of the UNPROFOR hadn't been acceptable, at least in terms of fightings in the vicinity of the incident#? Let us see what the UN reported summarily pertaining to the origin of fire in Sarajevo, D2291, p.13:

FIRING INCIDENTS AND CFVs WITHIN SECTOR SARAJEVO										
Date	From BSA			From BiH			From UNKNOWN			TOTAL
	Hy Wpn	Blast	Sa	Hy Wpn	Blast	SA	Hy Wpn	Blast	Sa	
01-FEB			15		2	12		1	15	44
02-FEB			29			32		3	5	69
03-FEB		6	62		3	24		1	18	114
04-FEB		8	18		4	57			10	97
05-FEB		2	29		19	16			6	74
06-FEB		6	29		1	13			29	77
07-FEB		0	22			48			6	81
08-FEB			86			72		3	8	178
09-FEB			18		8	36		1	11	74
10-FEB		27	44		8	36		1	12	131
11-FEB	11	0	70		0	79		0	49	220
12-FEB		19	64	11	38	137		1	14	273
13-FEB		1	42		8	93		11	57	210
14-FEB		26	82		66	83		20	107	384
15-FEB		20	55		8	85			78	244
16-FEB		5	48		1	26		2	24	105
17-FEB	1	0	58	3	1	78		7	0	199
18-FEB	2	13	20	0	29	34		0	3	118
19-FEB	0	1	16	0	0	43		0	3	127
20-FEB		2	63		30	75		18	37	225
21-FEB			32		1	60		21	34	148
22-FEB		2	73		11	58		12	18	174
23-FEB	1	0	89		1	97		0	42	218
24-FEB			57	8	13	234		43	42	389
25-FEB		1	68		28	42		37	61	267
26-FEB										
27-FEB										
28-FEB										
Total:										

As it can be seen, almost 50% of the firings was with the #undetermined origin#! Let us see what the VRS-SRK reported for 27 February 1995, sent as a "strictly confidential" to the President of the Republic and to all Corpses of the VRS, D625, p. 2:

MAIN STAFF OF THE ARMY OF REPUBLIKA SRPSKA
Strictly confidential number: 03/3-58
27 February 1995

3. In the z/o of the SRK

a) Enemy

In the z/o of the 1st Smbr /Sarajevo Mechanised Brigade/, the enemy used sniper fire in the Vrbanje sector and in the zone of the Igman pbr – the Ormanj and Crvena Stijena sectors – the enemy intensified engineering work in order to get closer to our lines. In the z/o of the 3rd Spbr /Sarajevo Infantry Brigade/, the enemy set the grass on fire in Ugorsko sector. The fire spread towards our positions, but without consequences. In the z/o of the Ilidža pbr, the enemy fired from a sniper from the direction of Butmir and fired at aircraft as they were landing or taking off.

Here we see that the ABiH was very active, particularly in the zone of Vrbanja Bridge, and also in firing at the UN airplanes. And the fact that there was fighting in the area of Vrbanja Bridge #had been accepted in the D. Milosevic's Judgment#!)

3747. Around noon, while in the area of the Maršal Tito Barracks stop, the tram was shot at.¹²²⁹⁷ KDZ289 did not realise at first that the noise she was hearing were shots but then heard passengers scream and felt bullets hit the left hand side of the tram, starting at her seat and moving down towards the back of the tram.¹²²⁹⁸ **(That would mean that the bullets had a trajectory with a direction from the southwest towards the northeast. Was this trajectory established beyond reasonable doubt? In this case almost nothing, except a wheather condition, was undoubtedly established!)** As the shooting continued, the tram kept on driving for a while and then stopped to let the passengers off.¹²²⁹⁹ KDZ289 observed a woman who was injured in the leg, as well as an eight or nine year old girl with a wound on her face.¹²³⁰⁰
3748. Mulaosmanović-Čehajić stated that when fired upon, the tram was located somewhere between the two Museums.¹²³⁰¹ She was 18 years old at the time and was wearing a green blouse, a light purple jacket, and blue jeans.¹²³⁰² **(#Absurdity#! A pretty light wearings, for the February in Sarajevo!?)** She was standing in the last section of the tram facing the Maršal Tito Barracks,¹²³⁰³ and was wounded by the bullet which entered her left elbow, “passed through the muscle, slid down the bone and then exited” through her lower arm.¹²³⁰⁴ **(#Absurdity#! Again, a bullet with a descending trajectory!?! Does it mean anything?)** Once she got off the tram, she was taken to the “first aid station” where she saw an elderly woman and an elderly man being brought in too.¹²³⁰⁵ Like Mulaosmanović-Čehajić, Holjan

¹²²⁹⁷ Alma Mulaosmanović-Čehajić thought that the tram was just before the Maršal Tito Barracks, when she first heard the shots, although she admitted that she was unable to give the precise location. See Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1652–1655, 1661–1664; P1553 (Map of Sarajevo marked by Alma Mulaosmanović-Čehajić); P1554 (Photograph of Sarajevo marked by Alma Mulaosmanović-Čehajić); P1555 (Photograph of Sarajevo marked by Alma Mulaosmanović-Čehajić); D626 (Alma Mulaosmanović-Čehajić’s statement to BiH authorities, 14 April 1995), p. 1. KDZ289 thought that the tram had just left the Maršal Tito Barracks stop when shot, thus placing it further west than Mulaosmanović-Čehajić did. P2413 (Witness statement of KDZ289 dated 16 November 1995), p. 2; P2413 (Witness statement of KDZ289 dated 2 March 1996), p. 2; P2413 (KDZ289’s statement to BiH authorities, 1 March 1995), p. 1; KDZ289, P485 (Transcript from *Prosecutor v. D. Milošević*), T. 1620–1622, 1633; P445 (Map of Sarajevo marked by KDZ289); P446 (Aerial photograph of Sarajevo marked by KDZ289); P447 (Aerial photograph of Sarajevo marked by KDZ289). Mirza Sabljica, while stating that the tram was shot at as it left the Maršal Tito Barracks stop, placed it further to the west than KDZ289. See P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 73; P1718 (Photograph of Sarajevo marked by Mirza Sabljica).

¹²²⁹⁸ P2413 (KDZ289’s statement to BiH authorities, 1 March 1995), p. 1; P2413 (Witness statement of KDZ289 dated 16 November 1995), p. 2; P2413 (Witness statement of KDZ289 dated 2 March 1996), p. 2; P2413 (Witness statement of KDZ289 dated 19 April 2006), p. 2; KDZ289, P485 (Transcript from *Prosecutor v. D. Milošević*), T. 1625–1626, 1629–1630.

¹²²⁹⁹ P2413 (Witness statement of KDZ289 dated 16 November 1995), p. 2; P2413 (KDZ289’s statement to BiH authorities, 1 March 1995), p. 1; KDZ289, P485 (Transcript from *Prosecutor v. D. Milošević*), T. 1620–1621, T.1629–1634; P445 (Map of Sarajevo marked by KDZ289); P446 (Aerial photograph of Sarajevo marked by KDZ289); P447 (Aerial photograph of Sarajevo marked by KDZ289); KDZ289, P485 (Transcript from *Prosecutor v. Perišić*), T. 619–622; P468 (Map of Sarajevo marked by KDZ289). Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1662; D626 (Alma Mulaosmanović-Čehajić’s statement to BiH authorities, 14 April 1995), p. 1.

¹²³⁰⁰ P2413 (Witness statement of KDZ289 dated 16 November 1995), p. 2; P2413 (KDZ289’s statement to BiH authorities, 1 March 1995), p. 1.

¹²³⁰¹ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1652–1655, 1661–1664; P1555 (Photograph of Sarajevo marked by Alma Mulaosmanović-Čehajić); Alma Mulaosmanović-Čehajić, T. 6754–6755, 6764–6766 (14 September 2010); P1553 (Map of Sarajevo marked by Alma Mulaosmanović-Čehajić); D623 (Map of Sarajevo marked by Alma Mulaosmanović-Čehajić); D626 (Alma Mulaosmanović-Čehajić’s statement to BiH authorities, 14 April 1995), p. 1.

¹²³⁰² Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1657–1658.

¹²³⁰³ Alma Mulaosmanović-Čehajić, T. 6759–6760 (14 September 2010), T. 6789–6790 (15 September 2010); Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1652, 1661–1662.

¹²³⁰⁴ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1654, 1656, 1658; P1247 (Medical report for Alma Čehajić). See also D626 (Alma Mulaosmanović-Čehajić’s statement to BiH authorities, 14 April 1995), p. 1.

¹²³⁰⁵ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1658; D626 (Alma Mulaosmanović-Čehajić’s statement to BiH authorities, 14 April 1995), p. 1. The Prosecution tendered for admission a number of medical records, through Bakir Nakaš, submitting that they were related to this incident, namely, P1546 (Medical record for Rabija Jerlagić); P1549 (Medical report for Senad Kešmer); P1248 (Medical report for Sead Bečić).

was also seriously injured in the incident and taken to the first-aid station of the State Hospital.¹²³⁰⁶

3749. UNPROFOR and the local police arrived at the scene soon after the incident and conducted an investigation¹²³⁰⁷ at which point KDZ289 noticed that the left hand side of the tram was riddled with some 30 bullet holes and marks.¹²³⁰⁸ KDZ289 testified that because the shots came from her left, they must have come from the “Serbian Army” positions in Grbavica, but she could not say where exactly the sniper was located.¹²³⁰⁹ **(Although between the tram and the Serb positions on Grbavica #there were many ABiH positions, on all the surrounding buildings, the Executive Council and the Assembly building, the Faculty of Philosophy, the two Museums, and the confrontation line along the river bank#. Also, south of the Miljacka River there were some Muslim positions, first on the Red Façade building, visible from the spot of incident! How these locations had been excluded? And, obviously, it was not a sniper fire, but an automatic fire, obviously during the exchange of fire!)** During cross-examination in the *Dragomir Milošević* case, she accepted that the territory immediately to her left and up to Miljacka River was in the area of responsibility of the ABiH but also noted that UNPROFOR was stationed in the area around Marin Dvor.¹²³¹⁰ **(#This “but” has no value for the Prosecution case, because Marindvor was close enough to the Vrbanja Bridge as well as to the spot of incident#. That was why the UNPROFOR was able to report the fierce fighting in the zone of Vrbanja Bridge, see P435! , which comprises both Marindvor and place of incident. Therefore, this “but” only corroborates the Defence case!)** KDZ289 denied that ABiH units were present in the centre of the city.¹²³¹¹ **(So much about reliability of the witness! The Chamber already knew, as anyone else, that in the very centre of Sarajevo there was the entire 12th Division of ABiH with about 40,000 troops!)** When faced with an UNPROFOR report¹²³¹² stating that there was an exchange of fire between the ABiH and VRS at the time of this incident, KDZ289 first noted that the report may not be describing the incident she was involved in, and also added that as far as she knew there was no exchange of fire between the two warring factions at the time, although she admitted that she could not be sure.¹²³¹³ This was confirmed by Fraser, who having been shown the report, also interpreted it as involving two different incidents, namely a deliberate sniping on a tram and an exchange of fire that took place some 300 metres away at Vrbanja Bridge.¹²³¹⁴ **(#A two different incidents at the**

¹²³⁰⁶ See Adjudicated Facts 2979, 2980; P1249 (Medical report for Alija Holjan). According to his medical report, Alija Holjan was born in 1939 and thus was around 56 years old at the time of the incident.

¹²³⁰⁷ P2413 (Witness statement of KDZ289 dated 16 November 1995), p. 2; P2413 (KDZ289’s statement to BiH authorities, 1 March 1995), p. 1; P2413 (Witness statement of KDZ289 dated 19 April 2006), p. 2.

¹²³⁰⁸ P2413 (Witness statement of KDZ289 dated 16 November 1995), p. 2; P2413 (KDZ289’s statement to BiH authorities, 1 March 1995), p. 1; P2413 (Witness statement of KDZ289 dated 19 April 2006), p. 2; KDZ289, P485 (Transcript from *Prosecutor v. Perišić*), T. 625. See also Adjudicated Fact 2983.

¹²³⁰⁹ P2413 (Witness statement of KDZ289 dated 2 March 1996), p. 2; P2413 (Witness statement of KDZ289 dated 19 April 2006), p. 2; KDZ289, P485 (Transcript from *Prosecutor v. D. Milošević*), T. 1620, 1622; P445 (Map of Sarajevo marked by KDZ289); P446 (Aerial photograph of Sarajevo marked by KDZ289); KDZ289, P485 (Transcript from *Prosecutor v. Perišić*), T. 617–618.

¹²³¹⁰ KDZ289, P485 (Transcript from *Prosecutor v. D. Milošević*), T. 1635–1637, 1640–1641; P448 (Map of Sarajevo marked by KDZ289). See also Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1664–1665; Alma Mulaosmanović-Čehajić, T. 6766–6767 (14 September 2010); D624 (Photograph of Sarajevo marked by Alma Mulaosmanović-Čehajić).

¹²³¹¹ KDZ289, P485 (Transcript from *Prosecutor v. D. Milošević*), T. 1637.

¹²³¹² See P435 (UNPROFOR daily report, 27 February 1995), p. 2.

¹²³¹³ KDZ289, P485 (Transcript from *Prosecutor v. D. Milošević*), T. 1641–1645.

¹²³¹⁴ P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 46–50; David Fraser, T. 8129–8131, 8164–8168 (19 October 2010).

same time. How possibly could it be two different incidents, while it is said in the UN report that fire was at the same time? And #what “sniper” could fire some 30 bullets round#? And even if it was a two incidents, this one that implied the tram certainly wasn’t a sniper incident, but rather the other one, an exchange of the automatic fire. Let us see what Alma Cehajic stated in her first statement to the CSB Sarajevo, D626, of 14 April 1995:

heard any shooting at all during the morning. At about 1215 hours, the tram was near the *Maršal Tito* Barracks in Zmaja od Bosne Street, opposite the *Alemko* department store. It was crowded as usual in the tram, but I could not say how many passengers there were. I was standing next to the third door of the tram and was facing the KMT */Maršal Tito Barracks/*. I heard a burst of automatic weapon fire in the distance, the thud of bullets in the tram and glass breaking. Like all the passengers, I crouched, and felt a blow to my left forearm. The driver did not stop the tram until she had gone round the bend where we were sheltered. She opened the door there, all the

(#Too many obvious lies#! The most significant is the fact that all of it happened in front of the Marsal Tito Barracks, which was, as well known, a JNA facility, taken over by the ABiH and used for the military purpose. Then, how anyone could have said that “there was no the ABiH units present in the centre of the City? Second, Alma had heard an automatic fire at a distance, and then heard the sounds of bullets hitting the tram. There is an absolute impossibility that she could have heard an outgoing fire of the automatic weapon had it be so distant from the tram, which had been closed because of the winter time! What else the Chamber needs to decide on this incident properly, on the basis of these indications, and not on the basis of a wrongfully adjudicated facts and the evidence under the 92bis Rule?)

3750. Mulaosmanović-Čehajić testified that the shots came from behind her, that is, from the direction of Miljacka River, and the neighbourhoods of Grbavica and Vraca, stating that “the firing was not that close, because the sound of it would have been louder.”¹²³¹⁵ She identified the origin of fire as being under control of the “Serbian army” on the basis that “everybody knew that”.¹²³¹⁶ **(Exactly as the Defence assumed: #no need for an accurate evidence if the Serbs are suspected#!)** When asked during cross-examination, if she heard other shots being fired before she heard bullets hitting the tram, Mulaosmanović-Čehajić responded that she thought she may have, but said that she could not be absolutely certain and could not confirm where those initial shots were fired from.¹²³¹⁷ She testified that she heard two bursts of fire, the second one being the one that struck the tram, but denied that this meant that the shots were fired from an automatic rifle with a shorter range and thus could have come from the tall buildings on the northern side of Miljacka River.¹²³¹⁸ **(How the Chamber could have reconciled this #“non-expert” assertions of the witness and the facts that it had been a burst of automatic fire which left “some 30 bullet holes and marks”, see para 3749?# Did these assistants of the Chamber analysed the evidence? And how come the “expert” opinion of Ms. Alma, being closed in an overcrowded tram, about the source and nature of fire was worthy of the Chamber’s attention, while the same Chamber had disregarded hundreds of a consistent testimonies of the Defence witnesses?)** Like KDZ289, she too was presented with the UNPROFOR report, which referred to the exchange of fire on that day, but denied any

¹²³¹⁵ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D Milošević*), T. 1652–1655; Alma Mulaosmanović-Čehajić, T. 6754–6755, 6761–6763 (14 September 2010); P1552 (Photograph of Sarajevo marked by Alma Mulaosmanović-Čehajić); P1553 (Map of Sarajevo marked by Alma Mulaosmanović-Čehajić).

¹²³¹⁶ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D Milošević*), T. 1657.

¹²³¹⁷ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D Milošević*), T. 1662, 1666–1667.

¹²³¹⁸ Alma Mulaosmanović-Čehajić, T. 6762–6763, 6768 (14 September 2010), T. 6786 (15 September 2010).

knowledge of such an exchange.¹²³¹⁹ **(Why would she have to have a knowledge, while she was in a tram, passing the area within several seconds?)** In addition, when told that the exchange of fire took place near Vrbanja Bridge, at first she testified that this location was not far away.¹²³²⁰ She later noted that Vrbanja Bridge was far enough from the buildings so that she did not hear any cross-fire “as the tram was passing” the buildings adjacent to it.¹²³²¹ She then confirmed that there was generally a lot of fighting throughout Sarajevo.¹²³²² **(Therefore, there was no a ceasefire, or not respected one. The SRK strictly confidential report, D625 reported about different fires, but didn’t qualify it as a cease fire violation, which would be noted if there was an agreement on ceasefire!)**

3. In the z/o of the SRK

a) Enemy

In the z/o of the 1st Smbr /Sarajevo Mechanised Brigade/, the enemy used sniper fire in the Vrbanje sector and in the zone of the Igman pbr – the Ormanj and Crvena Stijena sectors – the enemy intensified engineering work in order to get closer to our lines. In the z/o of the 3rd Spbr /Sarajevo Infantry Brigade/, the enemy set the grass on fire in Ugorsko sector. The fire spread towards our positions, but without consequences. In the z/o of the Ilidža pbr, the enemy fired from a sniper from the direction of Butmir and fired at aircraft as they were landing or taking off.

3751. KDZ289 testified that there was one ABiH soldier on the tram, who was standing next to her at the time the shots were fired but could not remember any others in the tram or in its vicinity before the incident happened.¹²³²³ **(#Except the Marsal Tito Barracks, a basis of the ABiH, in the immediate vicinity!)** During her testimony in the *Dragomir Milošević* case, Mulaosmanović-Čehajić testified that she did not remember seeing any soldiers on the tram nor could she remember any combat activity surrounding it,¹²³²⁴ and explained this fact by noting that she was standing in the last section of the tram, while the soldier in question appears to have been standing next to KDZ289.¹²³²⁵

3752. This incident had a major psychological impact on KDZ289. After a medical assessment, she was moved to another job within the company.¹²³²⁶ Mulaosmanović-Čehajić still suffers from anxiety due to the fear experienced during the conflict although her fears have subsided due to her faith.¹²³²⁷ After his injury, Alija Holjan was unable to use his right hand for extended periods of time and experienced pain when the weather changed.¹²³²⁸ He was declared 20% disabled.¹²³²⁹

3753. The Chamber received a CSB Sarajevo’s case file relating to this incident, containing a number of reports prepared by the CSB Sarajevo investigating team, including those prepared by witnesses Kučanin and Sabljica.¹²³³⁰ Kučanin, a criminal inspector within CSB

¹²³¹⁹ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1668–1672. See P435 (UNPROFOR daily report, 27 February 1995).

¹²³²⁰ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1675–1677; P1552 (Photograph of Sarajevo marked by Alma Mulaosmanović-Čehajić).

¹²³²¹ Alma Mulaosmanović-Čehajić, T. 6785–6786 (15 September 2010).

¹²³²² Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1674.

¹²³²³ P2413 (KDZ289’s statement to BiH authorities, 1 March 1995), p. 1; P2413 (Witness statement of KDZ289 dated 19 April 2006), p. 2; KDZ289, P485 (Transcript from *Prosecutor v. D. Milošević*), T. 1623–1624; KDZ289, P485 (Transcript from *Prosecutor v. Perišić*), T. 624–625.

¹²³²⁴ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1656.

¹²³²⁵ Alma Mulaosmanović-Čehajić, T. 6759–6760 (14 September 2010), T. 6789–6790 (15 September 2010).

¹²³²⁶ KDZ289, P485 (Transcript from *Prosecutor v. D. Milošević*), T. 1626–1627. See also Adjudicated Fact 2982.

¹²³²⁷ Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1659–1660.

¹²³²⁸ See Adjudicated Fact 2981.

¹²³²⁹ See Adjudicated Fact 2981.

¹²³³⁰ See P1729 (BiH MUP Reports re sniping incident of 27 February 1995 on Zmaja od Bosne street).

Sarajevo, prepared his report on 28 February 1995.¹²³³¹ He testified that the tram was hit by eight bullets, four of which passed through the tram causing entry and exit holes.¹²³³² Because of the damage caused, the investigators were unable to move it back to the position it was in when hit.¹²³³³ Nevertheless, by interviewing the driver of the tram and determining the angle and direction of fire, the investigators concluded that the fire had come from the “fourth skyscraper in Grbavica” on the Lenjinova street, that is, from the westernmost building.¹²³³⁴ The report also notes that the tram was found some 100 metres away from where it was shot.¹²³³⁵ It also reports that five people were injured in this incident,¹²³³⁶ and that a “deformed 7.62 mm calibre bullet jacket” was found, as well as other bullet fragments, which were then sent for analysis.¹²³³⁷

(#Absurdity#! How these “investigators” explained at least two circumstances: first, #how Alma and KDZ289 could have heard the outbursts of an automatic fire from within the four high-rise buildings, because the Chamber accepted that the nests were deep in the rooms; the tram was moving and therefore making a quite amount of noise? And second: how an automatic fire could have been so concentrated from this distance?)

3754. As stated above, Sabljica also participated in the investigation of this incident.¹²³³⁸ In his earlier testimony in the *Perišić* case he testified, like Kučanin, that the team was able to determine the origin of fire as being one of the four skyscrapers in Grbavica.¹²³³⁹ However, the ballistics report signed by him on behalf of Međedović, provides that the exact origin of fire could not be determined as the tram could not be moved back to the exact location where it was hit; it also notes that the bullets came from the left hand side of the tram, from the front backwards, from the left to the right, and from above downwards.¹²³⁴⁰ When asked in the present case to explain the discrepancy between Kučanin’s report and his own ballistics report, Sabljica stated that he stood by the latter and that the most that could be established, given that the tram could not be returned to the location where it was when hit, is that the

¹²³³¹ Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*, T. 4712–4714; P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court p. 2; P21 (Witness statement of Mirsad Kučanin dated 21 February 1996), e-court pp. 2, 4–6.

¹²³³² P21 (Witness statement of Mirsad Kučanin dated 21 February 1996), e-court pp. 2, 4–5. Mirza Sabljica testified, however, that only two bullets were found inside the tram and had entry and exit holes. See P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 73.

¹²³³³ P21 (Witness statement of Mirsad Kučanin dated 21 February 1996), e-court p. 2.

¹²³³⁴ P21 (Witness statement of Mirsad Kučanin dated 21 February 1996), e-court pp. 2, 5. See also Barry Hogan, T. 11219–11220 (3 February 2011); P2209 (Photograph of Sarajevo marked by Barry Hogan).

¹²³³⁵ P21 (Witness statement of Mirsad Kučanin dated 21 February 1996), e-court p. 4.

¹²³³⁶ In addition to Alma Mulaosmanović-Čehajić, the other victims listed are Rabija Jerlagić, Alija Holjan, Senad Kešmer, and Sead Bečić. See P21 (Witness statement of Mirsad Kučanin dated 21 February 1996), e-court p. 6. This is confirmed by their medical records, namely, P1546 (Medical record for Rabija Jerlagić); P1549 (Medical report for Senad Kešmer); P1248 (Medical report for Sead Bečić).

¹²³³⁷ P21 (Witness statement of Mirsad Kučanin dated 21 February 1996), e-court pp. 4–6.

¹²³³⁸ P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 72–74.

¹²³³⁹ P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 73; P1719 (Aerial photograph of Sarajevo marked by Mirza Sabljica).

¹²³⁴⁰ The report also states that the bullets came in at the angles of 16, six, and seven degrees in relation to the ground. P1729 (BiH MUP Reports re sniping incident of 27 February 1995 on Zmaja od Bosne street), e-court p. 23. According to Sabljica, sometimes reports prepared following an incident would not be consistent with the ballistics report, mostly because the investigators would not wait for the final ballistics report and would instead draw conclusions on the basis of their own findings and observations. Sabljica denied, however, that he and his team were under pressure of any kind to identify particular buildings as the origin of fire. See Mirza Sabljica, T. 7693 (11 October 2010), T. 7735 (12 October 2010). **(Anyway, there is already #too many contradictions# that it can not be used on the account of the President. Between the tram in the case and the Serb positions there were a several objects and lines possessed by the ABiH units, and such an inaccuracy in findings qualify this case at least for a principle “In dubio pro reo”!)**

bullets came from the south, from the direction of Grbavica.¹²³⁴¹ He could not explain how Kučanin reached the conclusion about the fourth skyscraper.¹²³⁴² He also testified that it would be impossible for bullets fired from Vrbanja Bridge to reach the location of the tram incident at the moment at which it was shot due to a number of obstacles and the lack of visibility.¹²³⁴³ **(But the investigators didn't even consider the two Museums as a possible source of the fire! These locations were close enough so to have a concentrated fire, and the bursts to be heard even in a closed and running tram.)**

3755. Hogan visited Zmaja od Bosne with one of the victims of this incident¹²³⁴⁴ who, while standing at the intersection between Franje Račkog and Zmaja od Bosne streets, indicated that the location of the incident was between the School of Technology and the Holiday Inn, which is further east from the incident site as recounted by the witnesses above.¹²³⁴⁵ **(A more of confusion!)**

3756. Van der Weijden then visited the incident site, using the co-ordinates given to him by the Prosecution, as well as Grbavica.¹²³⁴⁶ In his report, he placed the location of this incident at the intersection of Franje Račkog and Zmaja od Bosne streets, that is the stretch of Zmaja od Bosne between the Museum and the Faculty of Philosophy, instead of further to the west, near the Maršal Tito Barracks, as recounted by the witnesses on the tram.¹²³⁴⁷ During cross-examination, however, Van der Weijden recognised this discrepancy and marked the location of the incident so that it coincided with the witnesses' accounts, conceding that for the purposes of his investigation it would have been important for him to know the exact location of the tram when it was hit.¹²³⁴⁸ **(But, he either didn't know, or adjusted the site as to fit in the Prosecution's expectations. What country in the civilized world would accept that kind of evidence as a basis for conviction!?)**

3757. Noting that there were multiple victims in this incident and having regard to their injuries, Van der Weijden concluded that most likely automatic fire was used to shoot at the tram, and that the weapons used would have been either M84 or M53 machine-guns in 7.62 mm calibre, mounted on a bipod or a tripod.¹²³⁴⁹ He noted that machine-guns are more

¹²³⁴¹ Mirza Sabljica, T. 7689–7693 (11 October 2010).

¹²³⁴² Mirza Sabljica, T. 7694 (11 October 2010). The Chamber notes that Kučanin's report is dated 28 February 1995 while the other reports in the dossier related to this incident were prepared on the day of the incident, namely 27 February. Thus, it appears that Kučanin had at his disposal all of the information prepared by the investigation team, including witness statements and Sabljica's ballistics report. See P1729 (BiH MUP Reports re sniping incident of 27 February 1995 on Zmaja od Bosne street).

¹²³⁴³ P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 74.

¹²³⁴⁴ The Chamber notes that the identity of the victim in question is not clear from the evidence. In the video footage recorded by Hogan he is referred to only as "Witness 61".

¹²³⁴⁵ In addition, while standing at the intersection between Franje Račkog and Zmaja od Bosne streets, and before the victim indicated the location of the incident, Hogan recorded the co-ordinates of what he referred to as "this location" implying that the co-ordinates taken were those of the location at which he and the victim were standing. Barry Hogan, T. 11204–11206, 11217–11218, 11255–11256 (3 February 2011); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents); P2213 (Image re scheduled sniping and shelling incidents in Sarajevo); D1007 (Video footage re sniping incident of 27 February 1995 on Zmaja od Bosne street); D1008 (Video footage re sniping incident of 27 February 1995 on Zmaja od Bosne street).

¹²³⁴⁶ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 98.

¹²³⁴⁷ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 98. Because of this, Van der Weijden visited the Metalka building and noted that the rooms in the building offer direct and clear views of the stretch of Zmaja od Bosne, between the Museum and the Faculty of Philosophy. P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 98.

¹²³⁴⁸ Patrick van der Weijden, T. 7032–7034 (28 September 2010); D651 (Aerial photograph of Sarajevo marked by Patrick van der Weijden).

¹²³⁴⁹ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 97. See fn. 12122.

effective against moving targets, such as trams, that are only temporarily visible.¹²³⁵⁰ **(Was der Weijden #familiarized with the feature that the Muslim side used to fire at its own territory#? As all the Prosecution experts in the Srebrenica case, der Weijden also worked without a hint that the Muslim side was firing to its territory, and thus he had to obtain any possible opinion that fits to the idea that only the Serbs could have fired. But, his job was only to find out from which position, with the most probability, if not certainty, regardless of which army controlet the spot!)**

3758. | Poparić analysed this incident and concluded that the bullets came from a small distance, from a nearby building, such as the Museum of Revolution, for example, and not from Grbavica.¹²³⁵¹ He came to this conclusion on the basis of the photographs taken by the CSB Sarajevo investigation team, in particular the photographs showing the entry and exit point of one of the bullets that hit the tram.¹²³⁵² According to him, the photographs indicate that what was marked by the investigation team as the exit point of the bullet¹²³⁵³ was not an exit point but a dot drawn by a felt-tip pen,¹²³⁵⁴ whereas in fact the real exit point could be seen below the drawn dot.¹²³⁵⁵ The real exit point, according to Poparić, was between 20 and 25 centimetres lower than the bullet's entry point meaning that the bullet entered at a high angle of descent, which would not have been possible from the white high-rises in Grbavica.¹²³⁵⁶

¹²³⁵⁰ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 97.

¹²³⁵¹ D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 155, 156. *See also* Mile Poparić, T. 39281–39282 (5 June 2013). When put to him that a gunman shooting from the top of the Museum of Revolution would have been visible from SRK positions in the white high-rises, Poparić stated that the gunman could have opened fire and then hid immediately. *See* Mile Poparić, T. 39281–39282 (5 June 2013); P1738 (Photographs of sniper nests), e-court p. 109.

¹²³⁵² D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 153–155, Images 107, 108, and 109.

¹²³⁵³ The CSB Sarajevo report described that exit point as being "in the same place" as the entry point only on the inside of the tram, thus making the trajectory relatively horizontal. *See* P1729 (BiH MUP Reports re sniping incident of 27 February 1995 on Zmaja od Bosne street), e-court p. 10, Mark 3. *See also* Mile Poparić, T. 38998 (30 May 2013).

¹²³⁵⁴ Poparić explained that he came to that conclusion because the dot was of the same thickness and colour as the arrow drawn by the investigation team. He did not, however, want to speculate whether that meant that the team on the scene manipulated the evidence on purpose. Mile Poparić, T. 38998–38999 (30 May 2013), T. 39279–39281 (5 June 2013).

¹²³⁵⁵ D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 154, Image 108.

¹²³⁵⁶ Mile Poparić, T. 38998–39000 (30 May 2013); D3641 (Photograph of a tram marked by Mile Poparić); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 155. Poparić explained that had the bullets come from the white high-rises, they would have had a trajectory of 90 degrees in relation to the axis of the tram. *See* Mile Poparić, T. 38996 (30 May 2013), T. 39184 (4 June 2103).

3759. Poparić also recalled that four out of the eight bullets seem to have remained in the panelling of the tram, which indicated to him that they had not come from the white high-rises but rather at a great angle.¹²³⁵⁷ Furthermore, the differences in heights between the bullet entry points on the panelling of the tram were “very small” according to Poparić, and would have been “far greater” if they had been fired from the white high-rises.¹²³⁵⁸ He further stated that these holes were a result of a burst of fire and not due to sniper fire.¹²³⁵⁹

3760. In addition to the evidence outlined above, the Chamber has also taken judicial notice of the following adjudicated facts which go to the origin of fire and which provide as follows: (i) the shots came from the high-rise buildings in Grbavica, to the south of the tram, from SRK-held territory;¹²³⁶⁰ (ii) the shots were fired by a member of the SRK;¹²³⁶¹ and (iii) there was a clear view from the high-rise buildings on Lenjinova street in Grbavica onto the intersection at the Maršal Tito Barracks.¹²³⁶² **(#Deadly combination#! That is exactly why the Adjudicated Facts are not fair and not acceptable. Who opposed to it, who challenged it in these processes in which it was adjudicated? Maybe it was adjudicated in a case where the Defence wasn't interested in rebutting it, and not interested in dealing with this incident at all. How many 92bis and AFs are the basis for the deliberation in this case?)**

3761. As far as the exact location of the incident is concerned, the Chamber notes that the majority of the evidence before it places the tram somewhere near the Maršal Tito Barracks at the moment it was shot.¹²³⁶³ **(For heaven's sake, #it is not a matter of democracy, to vote about a site of firing#. Once there are more than one possibility, the principle #“in dubio pro reo” #should be applied. For inference!)** The Chamber has no reason to doubt that this is where the incident happened. While Hogan's evidence suggests otherwise, the Chamber recalls that it is based on a recollection of a victim some 11 years after the incident took place. **(#Contradiction#! In a similar situation, the Chamber dismissed the Poparić's report, because he didn't speak with a victim!)** In addition, the Chamber does not have any information as to who this victim was. As a result, and given the weight of the other evidence, the Chamber does not accept Hogan's evidence on this point as accurate. **(Finally, a sort of criterion, although without an expected consequence – a minimal caution towards this kind of #late-late investigations and testimonies#. It is not the main issue as to where the incident happened, the main issue is who fired and how was it established! To that point, it is unacceptable to have so many confused findings and a long menu, left to the Chamber's discretion. There is no basis for the Chamber to choose either one. So**

¹²³⁵⁷ D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 152; Mile Poparić, T. 38997 (30 May 2013), T. 39284–39285 (5 June 2013). Poparić argued that the angle would be even higher if the trace marked with a number 9 on Image 108 in his report was from a bullet. However, the Chamber notes that, according to the CSB Sarajevo report, number 9 marks traces of blood of one of the victims. Mile Poparić, T. 39285–39287 (5 June 2013); D3647 (Photograph showing part of a tram marked by Mile Poparić); P1729 (BiH MUP Reports re sniping incident of 27 February 1995 on Zmaja od Bosne street), e-court p. 11.

¹²³⁵⁸ Mile Poparić, T. 38997–38998 (30 May 2013).

¹²³⁵⁹ Mile Poparić, T. 39000 (30 May 2013).

¹²³⁶⁰ Adjudicated Fact 2984.

¹²³⁶¹ Adjudicated Fact 2984.

¹²³⁶² Adjudicated Fact 2985.

¹²³⁶³ See para. 3747, fn. 12297.

more, since it happened in the middle of the permanent battlefield, and even more because the Accused didn't have anything to do with the incident. The SRK reports didn't even mentioned it!)

3762. The Chamber further considers that this tram was a civilian vehicle, with mainly civilians travelling onboard who were not taking direct part in hostilities at the time of the incident. **(Irrelevant, because #it was a civil war too, and civilians fired against eac#h other, as Gen. Abdel Razek testified, T5532: As General Nambiar put it, it was a civil war. The neighbours fought about the neighbours, the civilians fought against the military. We cannot really pin-point any particular party. I know that everybody had strong feelings about that, and that was the nature of war. The nature of the vehicle would be of a relevance if it was undoubtedly found that the SRK deliberately targeted it, but it wasn't a case!)** While one ABiH soldier was riding in the front section of the tram, this does not change the fact that on the day of the incident the tram was a civilian vehicle used to transport civilians and as such provided no military advantage to the ABiH, all of which would have been obvious to the shooter.¹²³⁶⁴ In addition, the evidence indicates that the tram was fairly crowded at the time, which would have made it difficult— from the SRK positions in Grbavica—to gauge the status of just one of its many passengers. The Chamber is also satisfied, relying on the CSB Sarajevo reports and the medical records, that five people were wounded in this incident, including civilians Alma Mulaosmanović-Čehajić and Alija Holjan. **(With such a #broad menu, the Chamber was able to take “here and there” different elements from different reporst, to patchwork a finding# at the President’s account!)**

3763. In terms of the origin of fire, the Chamber recalls that Poparić reached his conclusion that the bullet came from the Museum or any other nearby building, on the basis of a number of speculations, some of which were highly questionable. For example, using a photograph of one of the bullets' exit holes, he posited a theory that somebody drew that hole, thus implicating CSB Sarajevo members in a large-scale conspiracy. In doing so, he relied purely on the visual observation of the thickness and the colour of the dot in relation to the thickness and the colour of the arrow drawn next to it. The Chamber notes, however, that it is simply impossible to make such a definitive conclusion from the photograph in question, and there is nothing on the photograph that suggests that the CSB Sarajevo team drew an exit hole on the tram wall. Further, if Poparić's speculation were true, presumably the investigators would not have at the same time photographed the actual exit point of the bullet according to Poparić. Thus, the Chamber considers it more likely, that the mark on the inside of the tram located below the mark indicated by the arrow as the exit point could have been related to an earlier incident or even completely unrelated to sniping incidents in Sarajevo. The Chamber will therefore not accept Poparić's conclusions as to the origin of fire in this incident.¹²³⁶⁵

¹²³⁶⁴ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 99.

¹²³⁶⁵ The Chamber notes that Poparić does not explain why the fact that four bullets lodged in the tram wall suggested a high angle of descent. The Chamber considers that it is also likely that some of the bullets became lodged in the tram's wall due to the strength of the wall and/or the distance between the shooter and the tram. Indeed, of the eight bullets that hit the tram, only four pierced the tram, three of which did so by passing through the windows. This means that only one of the five bullets that hit the tram wall managed to pierce that wall and reach the inside of the tram. In addition, as noted earlier in fn. 12340, Sabljica determined the angles of descent for three of the bullet marks and they were low rather than high, namely, 16, six, and seven degrees. However, Poparić does not appear to have considered any of this when he made his conclusion as to the high angle of descent. Accordingly, the Chamber finds his evidence entirely unreliable in relation to this incident. **In that case it couldn't be fired from the same weapons and the same level.**

3764. While there is a question mark as to whether the fourth white high-rise was the origin of fire in this incident, the Chamber is convinced that the burst of fire that struck the tram came from the south, namely from Grbavica.¹²³⁶⁶ In this respect the Chamber notes that the majority of the evidence, including the witness testimony and the ballistics report, clearly indicates that Grbavica was the origin of fire, as do the adjudicated facts. **(Again, a majority!!! While in any country a #possibility of another source of fire would be sufficient for a doubt, in this case any possibility to decide against the President is welcome#! But, sothern from the site of incident first come the area under a formidable control of the muslim ABIH and the HVO!)** While the Accused also attempted to suggest during cross-examination of KDZ289 **(It was a witness under the Rule 92bis??? This witness, KDZ289 hadn't been cross examined in this case!)** and Mulaosmanović-Čehajić that the tram was struck by the bullets due to the exchange of fire on Vrbanja Bridge, the Chamber does not consider this to have been the case in light of Sabljica's evidence that the number of obstacles between the incident site and Vrbanja Bridge makes the Accused's position impossible to maintain. **(Since #there undoubtedly was an exchange of fire#, the President didn't mean that the tram was aimed exactly from the Vrbanja Bridge, but from a vicinity of it, i.e. from any spot in the area called "the area of Vrbanja Bridge", which is more probable than anything else. If the exchange of fire was in the zone of the Bridge, it doesn't mean that the combatants were on the very Bridge itself. Contrary, they were deployed all around this zone, but nobody was on the very Bridge. Probably none of them were at the same level as the Bridge itself, because nobody could survive such an unfavourable position. It was unimaginable that the forces deployed in the Executive council building and the Assembly building didn't participate in the exchange of fire in the zone of the Vrbanja Bridge, as well as all other forces in the zone of range!)**

3765. In terms of the origin of fire, the Chamber is convinced, relying on the evidence outlined above and the adjudicated facts, that the fire came from one of the four white high-rises. This is consistent both with the approximate location of the tram when shot, the trajectory of the bullets and their angle of descent as described in the CSB Sarajevo report, and the witnesses' testimonies. **(There was a great variety of the witness testimonies and statements. But simple #fact that the victims heard the burst of the automatic fire excluded the four white high-rise buildings, as well as the grouping (concentration of the hits) in a small area which couldn't be achieved had the distance been such as the high-rise buildings.# Anyway, any reasonable chamber would not consider such a clamsy investigation with so many diverse results and opinions!)** In addition, it is also consistent with the evidence the Chamber heard throughout this case about the prevalence of SRK sniping on Zmaja od Bosne and the presence of SRK snipers in the four white high-rises.¹²³⁶⁷ **(This mean nothing! There was also many Muslim snipers quite closer to the spot of incident and to the so called "Sniper Alley" that a mere presence of the Serb snipers at a distance longer that the Muslim one is a poor and desperate evidence! The UN shouldn't do this that way!)** The Chamber is also satisfied that a machine gun, most likely an M84, was used in this incident and that it had the necessary range to accurately target the tram at

¹²³⁶⁶ The Chamber is also satisfied, relying on Van der Weijden's evidence, that a machine gun, most likely an M84, was used in this incident and that it had the necessary range to accurately target the tram at that distance. The Chamber is further convinced that both the 1st Sarajevo Mechanised Brigade and the 1st Romanija Infantry Brigade had such a machine gun in its arsenal. See fn. 11948.

¹²³⁶⁷ See paras. 3621, 3656, 3662. In addition, the Chamber also recalls that it rejected the Accused's arguments that ABiH forces were sniping at Bosnian Muslim civilians throughout Sarajevo. See Section IV.B.1.d: Bosnian Muslim side targeting own civilians.

that distance. Both the 1st Sarajevo Mechanised Brigade and the 1st Romanija Infantry Brigade had such a machine gun in its arsenal.¹²³⁶⁸ **(Did the Muslim units have the same? Naturally, yes!)** Finally, given the visibility between the white high-rises and the location of the incident, the Chamber is also satisfied that the tram was deliberately targeted by the shooter, who would have been fully aware that it was carrying a large number of civilians.

i. Zmaja od Bosne street, 3 March 1995 (Scheduled Incident F.16)

3766. The Indictment alleges that on 3 March 1995 Azem Agović, a 46 year old man, and Alen Gičević, a 33 year old man, were shot and wounded while travelling in the eastbound tram on Zmaja od Bosne street. According to the Indictment, the tram was near the Holiday Inn when shot.¹²³⁶⁹ In its Final Brief, the Prosecution argues that the bullets were fired from the SRK-controlled area of Grbavica.¹²³⁷⁰ The Accused claims, however, that the fire came from locations in the ABiH-held territory.¹²³⁷¹

3767. On 3 March 1995, Slavica Livnjak, a tram driver by profession, was driving her tram on the Zmaja od Bosne street, travelling eastbound in the direction of Baščaršija, with Miljacka River to the right of the tram.¹²³⁷² There was another tram in front of her.¹²³⁷³ The day was bright and sunny.¹²³⁷⁴ It was the first day of the Bajram holiday.¹²³⁷⁵ Livnjak's tram was full, as it was a period of cease-fire,¹²³⁷⁶ and there were approximately 100 passengers on board, all of whom, according to Livnjak, were civilians.¹²³⁷⁷ Alen Gičević and his girlfriend were passengers on this tram.¹²³⁷⁸ Also on the tram was Azem Agović.¹²³⁷⁹ Gičević, who was an ambulance driver for the ABiH until July 1994,¹²³⁸⁰ was standing on the tram's right-

¹²³⁶⁸ See fn. 11948.

¹²³⁶⁹ Indictment, Scheduled Incident F.16.

¹²³⁷⁰ Prosecution Final Brief, Appendix C, para. 22.

¹²³⁷¹ Defence Final Brief, paras. 2292–2296.

¹²³⁷² Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 855–856; Slavica Livnjak, P493 (Transcript from *Prosecutor v. Perišić*), T. 643–644; P495 (Witness statement of Slavica Livnjak dated 20 November 1995), p. 2; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 8; P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 4. See also Adjudicated Fact 2987.

¹²³⁷³ Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 855–856, 859–860; Slavica Livnjak, P493 (Transcript from *Prosecutor v. Perišić*), T. 644; P495 (Witness statement of Slavica Livnjak dated 20 November 1995), p. 2; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 8.

¹²³⁷⁴ P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 8.

¹²³⁷⁵ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 4. See also Adjudicated Fact 2986.

¹²³⁷⁶ In fact, according to Slavica Livnjak, the trams were not in operation from the start of the war to March 1994, when they began operating again, but only in a limited circle line around the centre of Sarajevo, Skenderija, and Baščaršija. Nevertheless, in March of 1995, they would pass the Holiday Inn every four minutes or so. See P493 (Transcript from *Prosecutor v. Perišić*), T. 641–643; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 9; Alen Gičević, T. 7650 (11 October 2010). The Accused confronted Alen Gičević with a combat report from the VRS Main Staff which stated that on 3 March 1995 the enemy opened fire in the area of Vrbanja bridge but that the VRS forces were unaffected. When asked if he could see this in the report, Gičević answered in the affirmative and made no other comment about it. See Alen Gičević, T. 7650–7653 (11 October 2010); D730 (VRS Main Staff combat report to RS President, 3 March 1995), p. 2. **(Does it mean anything? How much is needed for a shade of reasonable doubt? Or the facts do not matter? And what all of it has to do with this Accused, particularly since he was informed as in D730?)**

¹²³⁷⁷ Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 859–860; P495 (Witness statement of Slavica Livnjak dated 20 November 1995), p. 2; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 8; P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 4.

¹²³⁷⁸ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 4. See also Adjudicated Fact 2988.

¹²³⁷⁹ See Adjudicated Fact 2988.

¹²³⁸⁰ Alen Gičević, T. 7616–7617, 7621–7623 (11 October 2010). See also Adjudicated Fact 2989.

hand side, near the third door, facing Vraca, Grbavica, and the Jewish cemetery.¹²³⁸¹ He was wearing black trousers.¹²³⁸² Around noon, as the first tram slowed down to take the S-curve in front of the Holiday Inn, its right-hand side came under sniper fire.¹²³⁸³ Immediately thereafter, the right hand-side of Livnjak's tram also came under sniper fire.¹²³⁸⁴ Gičević confirmed that, as the tram was passing the area of the Holiday Inn and the S-curve, he heard two to three shots and was wounded above his right knee.¹²³⁸⁵ There was panic on the tram, everybody fell on the floor, and, according to Livnjak, an older man was badly injured in his neck.¹²³⁸⁶ Livnjak wanted to get cover for the tram so she continued driving and brought it to a stop near the Executive Council building.¹²³⁸⁷

3768. Gičević, helped by his girlfriend, went to the nearby State Hospital.¹²³⁸⁸ He was operated on seven days after the incident and a fragment of the bullet was removed from his knee.¹²³⁸⁹ He continues to feel pain when walking, and also has Hepatitis C, which he believes he contracted through a blood transfusion he received after either this incident or after the sniping incident he was the victim of in 1995.¹²³⁹⁰ Furthermore, he is “struggling somehow with the psychological effects” stemming from the “1.000 days of such uncertainty”.¹²³⁹¹ Agović was brought by a car to Koševo Hospital where he stayed for a month, 16 days of which were in intensive care.¹²³⁹² He required treatment for another three years and initially could not walk far, drive a car, or carry heavy things.¹²³⁹³

3769. Gičević was cross-examined by the Accused on the exact location of the tram when it was struck by fire. Despite his first statement to the Prosecution, in which he appeared to be saying that the tram had already passed the Executive Council building when hit,¹²³⁹⁴ Gičević remained adamant that the tram was hit before it entered the S-curve (and thus before it passed the Executive Council building).¹²³⁹⁵ He explained that he must have made a mistake

¹²³⁸¹ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 4.

¹²³⁸² See Adjudicated Fact 2989.

¹²³⁸³ Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 857–858; P438 (Aerial photograph of Sarajevo marked by Slavica Livnjak); P495 (Witness statement of Slavica Livnjak dated 20 November 1995), p. 2; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), paras. 7–9.

¹²³⁸⁴ Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 857–862; Slavica Livnjak, P493 (Transcript from *Prosecutor v. Perišić*), T. 645; P495 (Witness statement of Slavica Livnjak dated 20 November 1995), p. 2; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), paras. 7–9; P438 (Aerial photograph of Sarajevo marked by Slavica Livnjak); P439 (Aerial photograph of Sarajevo marked by Slavica Livnjak); P2413 (Witness statement of KDZ289 dated 16 November 1995), p. 2; P2413 (KDZ289's statement to BiH authorities, 6 March 1995), p. 1; KDZ289, P485 (Transcript from *Prosecutor v. Perišić*), T. 625–626. See also Adjudicated Fact 2990.

¹²³⁸⁵ Alen Gičević, T. 7610–7612 (11 October 2010), 7640–7641; P1690 (Witness statement of Alen Gičević dated 16 February 2010), pp. 4–7; P1691 (Photograph of Sarajevo marked by Alen Gičević); P1693 (Map of Sarajevo marked by Alen Gičević); P1694 (Photograph of Sarajevo marked by Alen Gičević); P1532 (Medical record for Alen Gičević); P1547 (Medical records for Azem Agović and Alen Gičević).

¹²³⁸⁶ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 7; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 9; P1547 (Medical records for Azem Agović and Alen Gičević). See Adjudicated Fact 2992.

¹²³⁸⁷ P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 9.

¹²³⁸⁸ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 7; Alen Gičević, T. 7641, 7666–7667 (11 October 2010); P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 9. See also Adjudicated Fact 2993.

¹²³⁸⁹ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 8. See also Adjudicated Facts 2992, 2993.

¹²³⁹⁰ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 10. See also Adjudicated Fact 2993.

¹²³⁹¹ Alen Gičević, T. 7614 (11 October 2010).

¹²³⁹² See Adjudicated Fact 2994.

¹²³⁹³ Adjudicated Fact 2994.

¹²³⁹⁴ D727 (Witness statement of Alen Gičević dated 15 November 1995), p. 2.

¹²³⁹⁵ Alen Gičević, T. 7630–7633, 7642–7648, 7667 (11 October 2010); D728 (Photograph of Sarajevo marked by Alen Gičević); D729 (Map of Sarajevo marked by Alen Gičević).

and that he had always maintained that, once hit, the tram passed the Executive Council building and stopped at Marin Dvor.¹²³⁹⁶ Gičević was also asked about another discrepancy in relation to his position in the tram. While in his original statement he had stated that he was standing on the left hand side of the tram when the tram was struck,¹²³⁹⁷ in his later statement and testimony in these proceedings, he maintained that he was standing on the right hand side of the tram.¹²³⁹⁸ On cross-examination, Gičević remained adamant that he was standing on the right-hand side of the tram when wounded and that, from that position, he could see the Jewish cemetery and Vraca.¹²³⁹⁹ **(Nobody could see Vraca even from the ground, let alone from a tram with a limited view through windows! But let us ask: how come that the original, contemporaneous statements, given to the official investigators who had other sources about the spot of impact, are less reliable than the later statements-testimonies, given after several decades? In the earlier statements the investigators would certainly notice this discrepancy and clarify it with the witness, but it didn't happen. It looks like an adjusting the real spot to a fake, visible from the SRK positions!)**

3770. Immediately following the incident, the trams travelling behind Livnjak's tram were signalled by the local police and UNPROFOR soldiers at the scene to continue and stop at a safer spot.¹²⁴⁰⁰ As one UNPROFOR soldier was taking a statement from Livnjak,¹²⁴⁰¹ shots were fired at the incident site again and UNPROFOR returned fire. The exchange lasted for about 15 minutes, resulting in the wounding of an UNPROFOR soldier.¹²⁴⁰²

3771. Livnjak testified that the sniper fire came from her right-hand side, and more specifically from the Metalka building.¹²⁴⁰³ KDZ289 (who was present during this incident) and Livnjak both testified that the second round of fire also came from VRS-held positions in Grbavica.¹²⁴⁰⁴ Livnjak also confirmed that the confrontation line was some 50 to 100 metres away from the scene of the incident, across Miljacka River, and that there were no military facilities in the vicinity of the location at which her tram was attacked, nor was there any fighting at the time of the incident.¹²⁴⁰⁵ **(However, #this is in contradiction with the Regular combat report of SRK, which said that the ABiH violated the CF#, see fn. 12383)** On cross-examination, she reiterated that there were no uniformed soldiers (other than UNPROFOR soldiers) or any tanks or mortar/artillery pieces where her tram was

¹²³⁹⁶ Alen Gičević, T. 7630–7633, 7642–7648, 7663–7666 (11 October 2010); D726 (Photograph of Sarajevo marked by Alen Gičević); D728 (Photograph of Sarajevo marked by Alen Gičević); D729 (Map of Sarajevo marked by Alen Gičević); D736 (Photograph of Sarajevo marked by Alen Gičević).

¹²³⁹⁷ D727 (Witness statement of Alen Gičević dated 15 November 1995), p. 2.

¹²³⁹⁸ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 4. See also Alen Gičević, T. 7666–7667 (11 October 2010).

¹²³⁹⁹ Alen Gičević, T. 7633–7634, 7636–7637 (11 October 2011).

¹²⁴⁰⁰ P2413 (KDZ289's statement to BiH authorities, 6 March 1995), p. 1.

¹²⁴⁰¹ P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 10.

¹²⁴⁰² P2413 (Witness statement of KDZ289 dated 16 November 1995), p. 2; P2413 (KDZ289's statement to BiH authorities, 6 March 1995); p. 1; P495 (Witness statement of Slavica Livnjak dated 20 November 1995), p. 2; P1727 (BiH MUP Reports re sniping incident of 3 March 1995 on Zmaja od Bosne street), e-court pp. 2, 4, 5.

¹²⁴⁰³ P495 (Witness statement of Slavica Livnjak dated 20 November 1995), p. 2; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 9. See also Barry Hogan, T. 11219–11220 (3 February 2011); P2208 (Photograph of Sarajevo marked by Barry Hogan); P2209 (Photograph of Sarajevo marked by Barry Hogan).

¹²⁴⁰⁴ P495 (Witness statement of Slavica Livnjak dated 20 November 1995), p. 2; P2413 (Witness statement of KDZ289 dated 16 November 1995), p. 2; P2413 (KDZ289's statement to BiH authorities, 6 March 1995), p. 1.

¹²⁴⁰⁵ Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 862–863; Slavica Livnjak, P493 (Transcript from *Prosecutor v. Perišić*), T. 649–650; P495 (Witness statement of Slavica Livnjak dated 20 November 1995), p. 2; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), paras. 9, 12–13. See also Adjudicated Facts 2986, 2991.

shot.¹²⁴⁰⁶ **(#Deadly combination#! Of course, a cross examination, as well as an adjudicated fact from another case. This Defence didn't have an opportunity to cross examine this witness!)** Also during cross-examination, she confirmed that her tram consisted of two cars, with two doors each, connected by an “accordion” and that, as it entered the S-curve, it adopted the shape of a crescent and the second car of the tram was then hit, between the accordion and the third door from the front.¹²⁴⁰⁷

3772. Gičević testified that he was sure that shots came from the south, either from Grbavica or the Jewish cemetery. He also identified two buildings in that area, namely the Metalka building and the tall white high-rise from where he thought the shots could have come from.¹²⁴⁰⁸ He believed that the bullets were fired from one of these two buildings because these buildings were fired from before.¹²⁴⁰⁹ He also stated that there were no military installations near the incident site except for the Maršal Tito Barracks, some 400 to 500 metres away, where UNPROFOR was based.¹²⁴¹⁰ **(There may have been a crew of the UN, but the Marsal Tito Barracks were primarily a basis of the ABiH, which was protected by the UN presence, although there was a permanent firing by a high calibres from the Barracks. So, this kind of a “disguise” – with a half of sentence about the UN presence to disguise the real nature of the Barracks, which is a part of usual unfair practice in this case.** Further to the west of the Maršal Tito Barracks was the building of the traffic police.¹²⁴¹¹ He conceded that the Executive Council building, the Museum complex, the Assembly building, and the Faculty of Philosophy were all in the area of responsibility of the ABiH but said they were “merely observation posts manned by few soldiers”.¹²⁴¹² **(#This is senseless to accept this assertion, since we have seen the evidence that these buildings had been possessed by a huge forces, which fired at the Serb parts of Sarajevo by snipers, mortars and even recoilless cannons from deep within the rooms.# It was also well known that the ABiH soldiers frequently appeared on Vilsonovo Setaliste, a street along the right bank of Miljacka. If this witness's statement was correct, how come many Serbs on Grbavica died from a fire from those buildings. We also have an evidence that the Museum had mortars on it's roof! See D197**

¹²⁴⁰⁶ Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 874, 877–878. See also Adjudicated Fact 2991.

¹²⁴⁰⁷ Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 865–869.

¹²⁴⁰⁸ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 5; P1693 (Map of Sarajevo marked by Alen Gičević); Alen Gičević, T. 7634–7638 (11 October 2010). See also Barry Hogan, T. 11219–11220 (3 February 2011); P2208 (Photograph of Sarajevo marked by Barry Hogan); P2209 (Photograph of Sarajevo marked by Barry Hogan).

¹²⁴⁰⁹ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 6.

¹²⁴¹⁰ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 6; P1694 (Photograph of Sarajevo marked by Alen Gičević).

¹²⁴¹¹ P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 6; P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 30–31; P1831 (Photograph of Sarajevo marked by Dragan Mioković).

¹²⁴¹² Alen Gičević, T. 7628–7631, 7638–7639 (11 October 2010); D725 (Photograph of Sarajevo marked by Alen Gičević).

1. Enemy:

During the day 11.06.1992, in the region of Vrbanja bridge, PAM activities were spotted from the left side of the Parilament and right from the Vrbanja bridge in the corner where the streets Gundulica and Eranimira Cosica connect also PAM and sniper activity was spotted.

In the region where the streets Alekse Bojevica and Milorada Pejdalica connect, a bigger concentration of green berets was spotted and it is assumed that their headquarters is there as well. At 13.30 hours I got the information that from the region of the "Zemaljski muzej" there was action from mortars on our units, and from the region of the Executive Counsel there was action with "zolja's" and "osa's" on the positions of the units 1bb. Across the Loris a machinegun nest was spotted, and behind the blue skyscrapers number one, two and three, snipers were spotted between the streets Ivana Krnedlja and Milutina Turaskovica. Also during the day with reconnaissance was spotted that in the region of the Kosuta Object there is a huge concentration of green berets. In the region of the Strojorad factory bigger concentrations of green berets were spotted and information exists that they also possess mortars. Under the Hrasno Hill in the region Pet Lipa also the action of mortars was spotted.

The file of the case is full of such a documents that contest many findings based on a circumstantial evidence and inferred without any support in a real evidence, while rebutted by the real evidence for which the Chamber didn't show any interest!

3773. The incident was investigated by a CSB Sarajevo team, including, *inter alia*, an investigating judge, two ballistics experts, Mededović¹²⁴¹³ and Sabljica,¹²⁴¹⁴ and an investigator, Mioković.¹²⁴¹⁵ Mioković was the team leader for the on-site investigation,¹²⁴¹⁶ and the site was also visited by the investigating judge.¹²⁴¹⁷ According to the reports prepared by this team, the incident happened at the cross-roads of Franje Račkog and Zmaja od Bosne streets, **(How come these investigators didn't notice Gicevic's omission in determining the spot of impact?)** and resulted in injuries to three persons, namely Alen Gičević, Azem Agović, and another man.¹²⁴¹⁸ The investigation was conducted at the Marin Dvor stop, some 200 to 300 metres from the site of the incident.¹²⁴¹⁹ **(Even children would have known that in such a dense deployment of the confronted forces there would be no any value in an investigation that was moved 200 to 300 metres away from the original spot!)** The team found a hole with an entry and exit points in the right hand side of the tram's body.¹²⁴²⁰ Mededović concluded that this damage was caused by a bullet which was fired from the right side of the

¹²⁴¹³ P129 (Witness statement of Zlatko Mededović dated 20 November 1995), p. 3; P1727 (BiH MUP Reports re sniping incident of 3 March 1995 on Zmaja od Bosne street), e-court p. 5. For Zlatko Mededović's qualifications, see P129 (Witness statement of Zlatko Mededović dated 20 November 1995), pp. 2–3; P130 (Witness statement of Zlatko Mededović dated 5 September 2000), pp. 3–5.

¹²⁴¹⁴ P1727 (BiH MUP Reports re sniping incident of 3 March 1995 on Zmaja od Bosne street), e-court p. 7.

¹²⁴¹⁵ P1727 (BiH MUP Reports re sniping incident of 3 March 1995 on Zmaja od Bosne street), e-court pp. 5, 7. This team did not investigate the wounding of the French UNPROFOR soldier as that soldier's command wanted to conduct its own investigation. See Mirza Sabljica, T. 7683 (11 October 2011); P1727 (BiH MUP Reports re sniping incident of 3 March 1995 on Zmaja od Bosne street), e-court p. 5.

¹²⁴¹⁶ Dragan Mioković, T. 8610–8612 (29 October 2010); P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 25, 29. For Dragan Mioković's qualifications, see Dragan Mioković, T. 8544–8545, 8548–8551 (28 October 2010); P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 2, 28–29.

¹²⁴¹⁷ Dragan Mioković, T. 8612 (29 October 2010); P1727 (BiH MUP Reports re sniping incident of 3 March 1995 on Zmaja od Bosne street), e-court p. 4.

¹²⁴¹⁸ P1727 (BiH MUP Reports re sniping incident of 3 March 1995 on Zmaja od Bosne street). See also P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 32; P1832 (Photograph of Sarajevo marked by Dragan Mioković); Dragan Mioković, T. 8613–8615, 8624 (29 October 2010); D846 (Photograph of Sarajevo marked by Dragan Mioković).

¹²⁴¹⁹ Dragan Mioković, T. 8613–8615, 8624, 8632–8633 (29 October 2010); D846 (Photograph of Sarajevo marked by Dragan Mioković); D847 (Photograph of Sarajevo marked by Dragan Mioković); D848 (Photograph of Sarajevo marked by Dragan Mioković). See also P1727 (BiH MUP Reports re sniping incident of 3 March 1995 on Zmaja od Bosne street), e-court p. 3.

¹²⁴²⁰ P157 (BiH MUP Report re sniping incident of 3 March 1995 on Zmaja od Bosne street); P1727 (BiH MUP Reports re sniping incident of 3 March 1995 on Zmaja od Bosne street), e-court p. 13. See also Dragan Mioković, T. 8634, 8638–8637 (29 October 2010).

tram, “from back to front, from right to left, and from above downwards”.¹²⁴²¹ The trajectory of this bullet, in relation to the right side of the tram, was 80 degrees, while, in relation to the ground, it was 4 degrees.¹²⁴²² **(In such a case, there was a high declination of the trajectory. If it was from back to front, making 80 degrees with the tram’s body, it couldn’t be from Grbavica at all, nor from any place behind the first row of the ABiH held buildings, because there was no a space for such an oblique shot, particularly for such a low trajectory. It must have been from one of the Museums.** Međedović testified that, since the tram was moving when fired upon, the team could not identify the precise location at which it was hit, and, as a result, could not determine the precise origin of fire.¹²⁴²³ **(For the Defence, it was a quite sufficient argument for a reasonable doubt!)** However, it was able to determine that the fire came from the south, from “enemy positions in Grbavica”.¹²⁴²⁴ **(How could they determine this? Between the site of impact and the Serb held territories there are the ABiH positions and a territory of some 300 to 400 metres, with the fortified buildings and a permanent military presence, active against the Serb parts of the city?)** Mioković, like Međedović, testified that the team was unable to pinpoint the exact location of the sniper in this incident, and he could not say from which side of Miljacka River the bullet came.¹²⁴²⁵ **(Isn’t it enough?)** Mioković also conceded that the area in and around Franje Račkog street, south of Zmaja od Bosne and north of Miljacka River, was in the area of responsibility of the ABiH,¹²⁴²⁶ but testified that the team never investigated the possibility that the bullet may have come from one of the buildings in the ABiH controlled territory.¹²⁴²⁷ **(As well as other witnesses of the Prosecution. Had they had a single clue that it was possible, they wouldn’t do too many “stretching” to fit their findings in a Prosecution expectations and needs to confirm that the Serbs fired, and it was only to determine from where. There was no question as whether the Serbs did it, or not. For not to take into consideration this possibility, it is a proof of their inadequacy, a biase and non-professionalism!)** When asked if the fact that three people were injured by what appeared to be one bullet meant that a fragmentation bullet was used in this attack, Mioković responded that he could not say this with certainty on the basis of BiH MUP reports, as the three victims could have been injured by regular bullet ricocheting.¹²⁴²⁸

3774. When visiting Zmaja od Bosne street with one of the victims, Hogan recorded the coordinates of the location of the incident, placing it at the intersection between Zmaja od Bosne and Franje Račkog streets.¹²⁴²⁹ He also testified that both Metalka and the four white high-rises in Grbavica had a view of this site.¹²⁴³⁰ **(Did the two Museums have the same views?)**

¹²⁴²¹ P157 (BiH MUP Report re sniping incident of 3 March 1995 on Zmaja od Bosne street).

¹²⁴²² P157 (BiH MUP Report re sniping incident of 3 March 1995 on Zmaja od Bosne street).

¹²⁴²³ P129 (Witness statement of Zlatko Međedović dated 20 November 1995), p. 3.

¹²⁴²⁴ P1727 (BiH MUP Reports re sniping incident of 3 March 1995 on Zmaja od Bosne street), e-court p. 2. *See also* P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 32; Dragan Mioković, T. 8625–8627 (29 October 2010); D846 (Photograph of Sarajevo marked by Dragan Mioković).

¹²⁴²⁵ P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 28.

¹²⁴²⁶ Dragan Mioković, T. 8635–8636 (29 October 2010); P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 27.

¹²⁴²⁷ Dragan Mioković, T. 8636 (29 October 2010).

¹²⁴²⁸ P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 26.

¹²⁴²⁹ Barry Hogan, T. 11204–11206, 11217–11218 (3 February 2011); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents); P2213 (Image re scheduled sniping and shelling incidents in Sarajevo).

¹²⁴³⁰ Barry Hogan, T. 11218–11220 (3 February 2011); P2208 (Photograph of Sarajevo marked by Barry Hogan); P2209 (Photograph of Sarajevo marked by Barry Hogan).

Did the ground between the site and the Miljacka River had the same view? As if the Prosecution witnesses didn't have any obligation to establish who fired, but only whether the Serbs could have fired, and when seen some of the Serb positions, they are "satisfied" as the Chamber was in many doubtful occasions!) Van der Weijden also visited the incident site, the Jewish cemetery, and Grbavica.¹²⁴³¹ Having done so he did not consider the Jewish cemetery to have been the source of fire in this incident because of the "lack of warning" for approaching trams coming from the west, which is the direction from which the two trams were travelling on 3 March 1995.¹²⁴³² Van der Weijden visited the Metalka building noting that the rooms in the building offer direct and clear views of the stretch of Zmaja od Bosne, between the Museum and the Faculty of Philosophy.¹²⁴³³ **(#Must be Indians#! As this case shows, it was sufficient to establish that the Serbs were somewhere around, and to conclude that they did it. But, taking the angle of the trajectory, there couldn't be fired from Metalka, because it would only be 90 degrees angle, or if it was while the tram was on the S-curve, the angle would be rather sharp, and the trajectory would be from front to back of the tram!)** He also determined that the tram would be exposed to the shooter located in the Metalka building for at least eight seconds.¹²⁴³⁴ Noting that there were multiple victims in this incident and having seen the medical reports relating to their injuries, Van der Weijden concluded that most likely automatic fire was used to shoot at the tram, and that the weapons used would have been either an M84 or an M53 machine-gun in 7.62 mm calibre, mounted on a bipod or a tripod.¹²⁴³⁵ He noted that machine-guns are more effective against moving targets, such as trams, that are only temporarily visible.¹²⁴³⁶ **(None of the investigators and experts did indicate for how long time the tram had been visible from the ABiH positions on the Executive Council and the Assembly buildings, the Faculty of Philosophy building, the two museums buildings!?! It was an unhindered view, and taking into account the multiple store buildings, any flore level was possible! And the arbitrary assertion about a "machine-gun" additionally comnfirms how invaluable this investigation was. What if it was fired from the territory north from the Miljacka River, from the Muslim army positions? In such a case a "machine-gun" wouldn't be inevitable, but any automatic weapons!)**

3775. Poparić testified that the tram was not hit from the Metalka building but from locations in ABiH-held territory.¹²⁴³⁷ According to him, the wound sustained by Agović, while sitting in a specific seat in the tram, did not correspond with the incoming trajectories of a projectile fired from the Metalka building.¹²⁴³⁸ He based this finding on the specific seat which was photographed by the CSB Sarajevo investigation team and was at an angle of 45 degrees vis-à-vis the tram wall, as well as on the injuries Agović described in his evidence in another case before this, namely that the bullet entered above his left hip, passed through his body, and

¹²⁴³¹ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 101.

¹²⁴³² P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 101.

¹²⁴³³ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 101. Van der Weijden states in his report that the branches of trees "in the street" will have grown since the war and now obstruct some of the windows that at the time would have also offered an unobstructed view. See P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 101.

¹²⁴³⁴ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 102.

¹²⁴³⁵ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 100. See fn. 12122.

¹²⁴³⁶ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 100.

¹²⁴³⁷ D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992-1995", 15 August 2012), pp. 159-160.

¹²⁴³⁸ D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992-1995", 15 August 2012), p. 159.

exited on his right side.¹²⁴³⁹ Poparić did concede, however, that he did not know the specific position Agović was seated in and simply assumed that Agović's sitting position was "normal", that is, that he was facing directly forward while in his seat.¹²⁴⁴⁰ Poparić also pointed out that the witnesses all gave contradictory statements as to the location of the tram when hit and stated that even if Gičević's first statement was correct and the tram was hit after it passed the Executive Council building, the fire would have still come from the ABiH-held positions.¹²⁴⁴¹

3776. In addition to the evidence outlined above, the Chamber has also taken judicial notice of the following adjudicated facts which go to the origin of fire: (i) more than one bullet hit the tram and injured Azem Agović and Alen Gičević;¹²⁴⁴² (ii) the shots came from Grbavica, which was SRK-held territory;¹²⁴⁴³ (iii) the shots were fired by a member of the SRK;¹²⁴⁴⁴ **(#Deadly combination#! How this Judgment would look like if there was no these "Adjudicated Facts" which were completely out of the Defence possibility to check and cross examine? Even if the bullet came from Grbavica, it doesn't mean that the Chamber had any basis to conclude that a shooter was a member of the SRK, let alone when neglected the most possible and very probable ABiH positions as a source of fire!)** and (iv) the visibility on the day of the incident was sufficient for a shooter to identify the victims as civilians.¹²⁴⁴⁵ **(This is senseless, #since from outside, particularly from such a diostance that is suggested, nobody could identify anyone within the tram, but it is irrelevant if not established who was firing!#)**

3777. As far as the exact location of the incident is concerned, the Chamber notes that the evidence before it places the tram at the intersection of Franje Račkog and Zmaja od Bosne streets at the moment it was shot.¹²⁴⁴⁶ Contrary to Poparić's testimony that the witnesses were inconsistent as to the tram's location, Gičević and Livnjak were in fact consistent on that issue. While at first he seemed to indicate a different location, the Chamber is satisfied with Gičević's explanation as to why that happened and notes that he was adamant that the tram was hit when passing the Holiday Inn and entering the S-curve. **(Gi-evi} got a chance to correct himself for the benefit of the Prosecution, but he wasn't the only one who said about another spot!)** The Chamber also notes that Livnjak's evidence was given from the vantage point of a tram driver with another tram targeted in front of her. She first saw the sniping of that tram, as it slowed down to enter the S-curve, and then anticipated that the same would happen to her as she entered the S-curve. The Chamber finds her evidence on the location particularly credible and corroborative of Gičević's evidence. Accordingly, the Chamber is not convinced by Poparić's evidence that all witnesses testified to a different location. **(It is only more contradictions and confusion! Ms. Livnjak was driving the**

¹²⁴³⁹ D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 157, Image 110; Mile Poparić, T. 38930–38931 (29 May 2013). *See also* Mile Poparić, T. 38933–38936 (29 May 2013); D3633 (Diagram re sniping incident of 3 March 1995 on Zmaja od Bosne marked by Mile Poparić).

¹²⁴⁴⁰ Mile Poparić, T. 39240–39241 (4 June 2013).

¹²⁴⁴¹ Mile Poparić, T. 38928–38930, 38931–38933 (29 May 2013); D3631 (Satellite image of Sarajevo marked by Mile Poparić); D3632 (Satellite image of Sarajevo marked by Mile Poparić); D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 156.

¹²⁴⁴² Adjudicated Fact 2996.

¹²⁴⁴³ Adjudicated Fact 2995.

¹²⁴⁴⁴ Adjudicated Fact 2995.

¹²⁴⁴⁵ Adjudicated Fact 2997.

¹²⁴⁴⁶ *See paras. 3768–3769.*

first, not the second tram, see para 3770 of the Judgment, and her testimony to that aspect was wrong. Anyway, with so many contradictions, this case shouldn't even be offered to the Chamber!)

3778. The Chamber further considers that this tram was a civilian vehicle, with around 100 civilians travelling onboard and that both Gičević and Agović were civilians, not taking direct part in hostilities at the time of the incident. **(No matter it was a double car tram, a hundred passangers would be too crowded that it would have another consequence of the impact!)**

3779. The Chamber does not accept Poparić's evidence that the fire in this incident came from the locations in the ABiH territory. Poparić based this conclusion on the location and nature of Agović's injuries in relation to the location of his seat in the tram and his seating position. He also conceded that he simply assumed Agović's seating position was "normal". **(If it wasn't "normal" it was the investigating team's obligation to describe what the position was. Since it wasn't underlined, a "normal" position is the most "normal" to meditate of!)** However, as noted above, the Chamber heard that the tram was full, with approximately 100 passengers onboard. Thus, it is also possible that Agović was sitting in his chair squeezed into the wall of the tram and thus with his left hip parallel to the wall. However, Poparić does not seem to have even considered that possibility. **(On the contrary: if the tram was overcrowded, then Agovic couldn't sit else than "normal. No "squising was possible, since no two persons could sit on one chair, and "squeezing" would have been only in the middle of the tram, where the people were standing! But anyway, why Mr. Popari} would `uestion and reconsider the way of sitting since the investigators didn't give even the smallest hint about any unusual sitting?)** Further, Poparić never spoke to Agović to determine his actual seating position and the exact nature of his injuries. Accordingly, the Chamber does not accept the conclusions Poparić drew about the origin of fire as they were, at best, highly speculative. **(#Did Van der Weijden speak to Agovic? Why the Defence experts would have to speak to the victims, since they are estimating the official materials, from the official investigations?# The Defence didn't have any obligation to prove who and how did wound the victims, but only to estimate what can and can not be concluded on the basis of these materials!)**

3780. The Chamber is satisfied that the fire originated from Grbavica and more specifically from the Metalka building, which was held by the SRK at the time. In this respect, the Chamber relies on the adjudicated facts as well as the ballistics report which found an angle of descent to have been four degrees, which is in turn consistent with fire coming from Metalka.¹²⁴⁴⁷ **(And only from Metalka?? #From how many other places it could have come?#)** Furthermore, the witnesses were all consistent that the source of fire was Metalka. **(This is not true at all. There is several of them, particularly the investigators, who couldn't decide about Metalka or any other source! Pertaining to the passangers, how could they say anything about the source of fire? They had been in the tram, didn't see a blaze from a barrel, or anything, not even a sound before the bullet hit the tram. As one of the witnesses in an earlier incident (in this Judgment) said "everyone knew that" i.e.**

¹²⁴⁴⁷

The Chamber recalls that Van der Weijden calculated that the angle of descent of a bullet fired from Metalka would have been around four or five degrees. See Patrick van der Weijden, T. 7015–7017 (27 September 2010), T. 7059 (28 September 2010).

that the fire came from Grbavica, from the “agressors positions”! but this can not and must not be a basis for deliberation of a responsible and reasonable chamber!) While Gičević thought that the fire could have also come from the Jewish cemetery, Van der Weijden excluded that possibility due to lack of visibility. The Chamber also recalls that following the shooting on the tram, some of the witnesses were able to observe the exchange of fire between UNPROFOR and the SRK in Grbavica thus confirming that the fire on the tram came from SRK-held positions in Grbavica. (Where is a reference for this assertion?) Given the visibility on the day and relatively small distances involved, the Chamber is also convinced that the SRK shooter deliberately targeted the tram in question while fully aware of its civilian status. The Chamber notes that all these findings are consistent with the evidence it heard about the preponderance of SRK sniper fire in the area of Zmaja od Bosne.¹²⁴⁴⁸ (Aside with all those doubtful situations and the same conclusions, another #several questions must be answered#:

- 1. What this Accused has to do with all of this.**
- 2. We had seen so many convincing evidence that even the SRK Commanders didn't know, let alone ordered any action of that kind.**
- 3. If anything like that happened, it would be against all the Accused's orders, convictions, believes and efforts.**
- 4. And why the SRK soldiers would be so fool to fire in front of the entire journalist corps, while on the rest of 64 km of the front line didn't take any advantage to kill, although they did have many opportunities, with the people cutting woods, sheparding goats and cows, collecting fruits and mushrooms.**
- 5. Even on the same area, a two hundred metres from the Holiday In, along Vilsonovo Setaliste, as we had seen in a report of the Muslim side, the Serb soldiers waited till the civilians vacated the area, and only then they engaged the HVO soldiers, present all the time. How this could be in accord with those assertions.**
- 6. Why it was not of any importance that the Accused at the beginning of the war issued an order to the VRS to refrain from any shooting during the holiday of Bajram, see: D4610 of 13 March 1994**

1. During Bairam (13 and 14 March) the Army of Republika Srpska shall exercise maximum restraint and not respond to the provocations of the Muslim army, maintaining only the level of activity necessary for defence in case of serious attacks.

2. The Army of Republika Srpska shall do everything to ensure that convoys that have reached its lines, including the convoy going to Maglaj, safely arrive at their destinations.

3. The units of the Army of Republika Srpska shall inform the escort of the convoys of all the risks of attacks or provocations which the enemy may attempt to blame on the Serbian side.

¹²⁴⁴⁸

See paras. 3621, 3656, 3662. In addition, the Chamber also recalls that it rejected the Accused's arguments that ABiH forces were sniping at Bosnian Muslim civilians throughout Sarajevo. See Section IV.B.1.d: Bosnian Muslim side targeting own civilians.

It is clear that the Accused and the Serb side were aware of the set-ups by the Muslim side!)

ii. Southwestern suburbs: Dobrinja, Nedžarići, Alipašino Polje

3781. Dobrinja is a suburb of Sarajevo that lies to the western end of Sarajevo, close to the Butmir airport, and was constructed for the Winter Olympics in 1984.¹²⁴⁴⁹ It is divided into several apartment blocks, namely Dobrinja 1, 2, 3, 4, 5, C4, and the Airport Settlement.¹²⁴⁵⁰ It is a predominantly residential area with a number of high-rises, most of which are six storeys high and some of which have seven or eight storeys.¹²⁴⁵¹ The Lukavica Barracks are located to the east of Dobrinja, Butmir airport is to the south of Dobrinja, the suburb of Nedžarići is to the west and northwest of Dobrinja, and Mojmiilo Hill and Alipašino Polje are located to the north of Dobrinja.¹²⁴⁵² Like Dobrinja, Alipašino Polje is a residential neighbourhood.¹²⁴⁵³ Nedžarići consisted mostly of low buildings, one or two storeys high.¹²⁴⁵⁴

3782. Until mid-June 1992, the Serb Forces held the Butmir airport and Mojmiilo Hill, and were also positioned in Nedžarići and the Lukavica Barracks, thus cutting off communications between Dobrinja and the Sarajevo centre.¹²⁴⁵⁵ In mid-June 1992, the ABiH took control of Mojmiilo Hill thus establishing contact with the city, while the airport was handed over to UNPROFOR in late June 1992.¹²⁴⁵⁶ In addition, after July 1993, Dobrinja was connected to Butmir via a tunnel built by the ABiH under the airport runway; many people would pass through the tunnel, including ABiH units, even though the entrance and the exit were frequently shelled by the Bosnian Serbs.¹²⁴⁵⁷ **(The tunnel was a legitimate target, and it was not destroyed, although could have been!)** The purpose of the tunnel was to make it easier to get in and out of Dobrinja and Sarajevo proper, for both soldiers and civilians, and to get

¹²⁴⁴⁹ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 8. See Adjudicated Fact 89.

¹²⁴⁵⁰ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 8.

¹²⁴⁵¹ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 8.

¹²⁴⁵² P1739 (Map of Dobrinja); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents); P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 10; Youssef Hajir, T. 8787 (1 November 2010).

¹²⁴⁵³ See Adjudicated Fact 82.

¹²⁴⁵⁴ See Adjudicated Fact 84.

¹²⁴⁵⁵ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 10–11; Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3515; P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 62; Aernout van Lynden, T. 2413–2414 (19 May 2010); P2019 (BBC news report Dobrinja, with transcript). See Adjudicated Fact 90.

¹²⁴⁵⁶ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 10, 12, 30; Youssef Hajir, T. 8804–8805 (1 November 2010); D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 5; Milenko Indić, T. 32418–32419 (22 January 2013); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 62; Aernout van Lynden, T. 2413–2414 (19 May 2010). See Adjudicated Facts 11, 2834. See also para. 339.

¹²⁴⁵⁷ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 36; D856 (Excerpts from Nedžad Ajnadžić's book entitled "Odbrana Sarajevo"), p. 2; ; **According to this book, as of 30 June 1993 Sarajevo wasn't in any blockade, except for a bif military formations.** Mirsad Kučanin, P17 (Transcript from *Prosecutor v. S. Milošević*), T. 28974; P27 (Witness statement of Mirsad Kučanin dated 4 September 2000), p. 4 (testifying that the tunnel opened shortly before October 1993); P2414 (Witness statement of KDZ182), pp. 84–86 (under seal); Dragomir Milošević, T. 32799–32800 (29 January 2013); Stanislav Galić, T. 37380 (18 April 2013), T. 37565 (23 April 2013); P1056 (UNPROFOR letter to Ratko Mladić, 31 May 1993); KDZ185, T. 4276–4277 (29 June 2010) (private session); P2407 (Witness statement of KDZ304), pp. 34–35. Asim Džambasović testified that ABiH units would pass through the tunnel after it was opened. See Asim Džambasović, T. 15261–15262 (23 June 2011). The total length of the tunnel was 672 metres whereas its height ranged between 150 and 170 centimetres. D856 (Excerpts from Nedžad Ajnadžić's book entitled "Odbrana Sarajevo"), p. 3.

humanitarian aid into the city.¹²⁴⁵⁸ **(This is not correct, and the Chamber knew that! The tunnel served only for the illegal activities, and the entire military units used to come and go through it, together with all the military materials that couldn't be smuggled in the humanitarian convoys. If the tunnel served for humanitarian aid, then why the Serb side was under the pressure about the humanitarian aid?)** People who were not using the tunnel would run across the airstrip to come to Butmir and would get targeted.¹²⁴⁵⁹

3783. The conflict in Dobrinja began on the night between 2 and 3 May 1992 after which the shelling and sniping did not cease until the end of the war.¹²⁴⁶⁰ Dobrinja residents, some 25,000 to 30,000 of them during the conflict,¹²⁴⁶¹ would spend nights in cellars of their apartments but would get out during the day, when it was peaceful, to get some food.¹²⁴⁶² According to Youssef Hajir, a doctor who established and worked in Dobrinja Hospital during the conflict,¹²⁴⁶³ there were no organised military units in the area in May 1992, only about 100 “unorganised people who were armed”.¹²⁴⁶⁴ **(The said doctor couldn't have known this. If we see the Halilovic's evidence about forming the PL, it would look quite opposite, there was a Patriotic League unit in all and every Muslim settled place!)**

3784. Around the end of 1992, after the confrontation line became established, residents of the ABiH-controlled part of Dobrinja became aware of sniping incidents at certain intersections.¹²⁴⁶⁵ Sniping would come mainly from Mojmiro, Lukavica, and Dobrinja 4.¹²⁴⁶⁶ As a result, barricades, usually bags filled with sand, containers, metal sheeting, or blankets, were erected as protection against sniper fire at those locations.¹²⁴⁶⁷ Even with those

¹²⁴⁵⁸ Youssef Hajir, T. 8838–8842 (2 November 2010); D856 (Excerpts from Nedžad Ajnadžić's book entitled “Odbrana Sarajevo”); Adrianus van Baal, T. 8516 (28 October 2010); Michael Rose, T. 7573 (8 October 2010); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 127; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4204; John Wilson, T. 4117–4118, 4119 (23 June 2010); David Harland, T. 2113 (7 May 2010); Dušan Zurovac, T. 30295 (14 November 2012); Colm Doyle, T. 2867 (27 May 2010).

¹²⁴⁵⁹ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 36; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6176–6177; P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 19; Hussein Abdel-Razek, T. 5658–5660 (21 July 2010) (testifying that Galić told him that UN should stop the crossings otherwise the SRK would continue to fire); D523 (UNPROFOR daily report, 10 January 1993); P6060 (Record of interview with KDZ185), e-court p.17; P1054 (UNPROFOR protest letter to Stanislav Galić, 10 February 1993); D2870 (Official note of Ilidža SNB, 25 November 1992); D2871 (Official note of Ilidža SNB, 3 December 1992) (noting that both civilians and military personnel were crossing across the airport runway). In order to prevent the killings at the airport, UNPROFOR managed to negotiate an agreement with the Bosnian Serbs and Bosnian Croats to allow UNPROFOR to transport people out of Sarajevo through the airport. However, the agreement was never implemented as the Bosnian Muslim side opposed it, in particular when it came to Bosnian Serbs living in Sarajevo. **(Why such a significant data are in the foot note, and not in the main text?)** See P6060 (Record of interview with KDZ185), e-court pp. 17–18; P5908 (Record of interview with KDZ185), para. 4; P1064 (SRK combat report, 10 February 1993), p. 2; KDZ185, T. 4231–4234 (28 June 2010) (private session). See also Hussein Abdel-Razek, T. 5662–5665 (21 July 2010) (testifying that UN was not allowed to cater to requests for people to leave the city as that was considered a type of ethnic cleansing); Pyers Tucker, T. 23233 (18 January 2012).

¹²⁴⁶⁰ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 12, 17; Youssef Hajir, T. 8805 (1 November 2010). For example, Slavica Livnjak who lived in Dobrinja testified that some time in July of 1992, her husband was wounded when a bullet hit a wall of their apartment and then hit her husband on his right cheek. See Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 872–873; P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 5.

¹²⁴⁶¹ Hajir testified that before the war Dobrinja had around 40,000 residents but this number reduced to between 25,000 and 30,000 people during the war. See P1866 (Witness statement of Youssef Hajir dated 25 February 2010), fn. 91; Youssef Hajir, T. 8836–8837 (2 November 2010).

¹²⁴⁶² P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 12, fn. 91.

¹²⁴⁶³ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 1–2, 25–33; Youssef Hajir, T. 8786–8787, 8808 (1 November 2010); P1870 (Excerpts from Youssef Hajir's book entitled “Dobrinja Hospital”).

¹²⁴⁶⁴ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 14; Youssef Hajir, T. 8845–8846 (2 November 2010). See also John Wilson, T. 3993–3994 (21 June 2010); D330 (Ilidža Police Station note re Green Berets in Dobrinja, 23 May 1992).

¹²⁴⁶⁵ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3516–3517.

¹²⁴⁶⁶ According to Hajir, a large number of snipers were located in Dobrinja 4 as they had a good view from there. P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 19–20.

¹²⁴⁶⁷ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3517, 3533.

barricades, however, walking around the neighbourhood and between the buildings was very dangerous.¹²⁴⁶⁸ In addition, the people who went down to the Dobrinja river to fetch water for cooking and washing would get fired at.¹²⁴⁶⁹ **(The Mojmiilo hill was in the Muslim hands while still the JNA was there, and this fact is known to everybody! If there was no a water in Dobrinja, it meant that either the Muslims closed it, or the water didnt reach Mojmiilo! The Serbs never deprived civilians of water!)**

3785. There was no water in Dobrinja during the conflict, but there were five wells where people would line up to get water.¹²⁴⁷⁰ **(However, the Mojmiilo water installations were in the Muslim hands, and the Serb side was depending on it. Had there been a power supplies at the main springs at Vrelo Bosne, the Mojmiilo facilities would have the water!)** These water lines were shelled about 15 or 20 times.¹²⁴⁷¹ There were also fuel and food shortages, especially at the beginning of the conflict, but UNPROFOR eventually provided aid—the French Battalion at the airport and the UN at the PTT building regularly provided food, fuel, and medical supplies to the hospital, which allowed it to survive throughout the war.¹²⁴⁷²

3786. People killed in Dobrinja were buried close to where they were killed, often in parks and people's yards, as the one cemetery in the area was full and it was too dangerous to give them a proper burial.¹²⁴⁷³

1. Confrontation lines and snipers in the area

3787. Dobrinja was divided between ABiH and VRS units and the confrontation line ran along the road between the apartment blocks referred to as Dobrinja 3 and Dobrinja 4.¹²⁴⁷⁴ Dobrinja 1, Dobrinja 4, and the Airport Settlement were under Serb control.¹²⁴⁷⁵ The SRK's Ilidža Brigade was positioned in the area and its zone of responsibility ran from Dobrinja, across the Airport Settlement, Nedžarići, along the Dobrinja river, Pijačna street, and the railroad to Miljacka River.¹²⁴⁷⁶ The other side of Dobrinja, namely the area between Dobrinja and Lukavica, was first in the zone of responsibility of the 2nd Sarajevo Light Infantry Brigade

¹²⁴⁶⁸ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3534. See Adjudicated Facts 114, 128.

¹²⁴⁶⁹ Sanija Dževlan, T. 11744–11745 (14 February 2011).

¹²⁴⁷⁰ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 48.

¹²⁴⁷¹ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 48.

¹²⁴⁷² Hajir explained that the aid depended on the airport being open so during the periods when the Serbs closed the airport the situation was more difficult for the population in Dobrinja. See P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 51.

¹²⁴⁷³ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 55; Youssef Hajir, T. 8796–8797 (1 November 2010), T. 8854–8855 (2 November 2010); P803 (Sky Newsreport, with transcript).

¹²⁴⁷⁴ Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 873; Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), 3515–3516, 3528–3529; P2294 (Map of Sarajevo marked by Sanija Dževlan); D1254 (Decision on the Formation of the Serbian Municipality of Ilidža, 8 May 1992).

¹²⁴⁷⁵ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 20; Youssef Hajir, T. 8806 (1 November 2010); D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), paras. 11, 15; D2648 (Map of Sarajevo marked by Milorad Šehovac); D2649 (Map of Sarajevo marked by Milorad Šehovac); Nedeljko Prstojević, T. 13561–13562 (17 March 2011); Adjudicated Facts 91, 2832.

¹²⁴⁷⁶ D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 14; D2589 (Map of Sarajevo marked by Vladimir Radojčić); Stanislav Galić, T. 37162–37168 (15 April 2013); D3381 (Map of Sarajevo marked by Stanislav Galić); D3382 (Map of Sarajevo).

and then was transferred, after August 1993, to the responsibility of the 1st Sarajevo Mechanised Brigade of the SRK.¹²⁴⁷⁷

3788. Alipašino Polje was on the ABiH side of the confrontation line which separated it from Nedžarići,¹²⁴⁷⁸ which was under Serb control.¹²⁴⁷⁹ The line at this point extended from west to east and curved into ABiH controlled territory.¹²⁴⁸⁰ The result was that Nedžarići was bordered on three sides by territory controlled by the ABiH; a west-running corridor connected this neighbourhood with the more expansive SRK-controlled territory to the west.¹²⁴⁸¹ The portion of Nedžarići east of Ante Babića street and south of Đure Jakšića street (now renamed Adija Mulaobegovića), where there are higher buildings, was controlled by the ABiH, together with Alipašino Polje.¹²⁴⁸²

3789. Mile Sladoje, who was with the 1st Battalion of the Ilidža Brigade in Nedžarići throughout the war,¹²⁴⁸³ and Svetozar Guzina, who commanded that Battalion from 1993 onwards,¹²⁴⁸⁴ both testified that the 1st Battalion's zone of responsibility included buildings such as the Faculty of Theology and the School for the Blind, as well as the Nedžarići Barracks and a check-point on Kasindolska street.¹²⁴⁸⁵ Guzina explained that both the School for the Blind and the Faculty of Theology were very important facilities in the area—the former was a dominant building and faced the Oslobođenje building and the student dormitories, while the latter was not very tall but dominated that part of the area and had a view of Mojmiilo Hill and Dobrinja.¹²⁴⁸⁶ In the area of the School for the Blind, the ABiH and SRK forces were only a few metres apart.¹²⁴⁸⁷ On the other side of Dobrinja, towards Lukavica, was an Orthodox Church, which could be seen from the three bridges that linked

¹²⁴⁷⁷ D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), paras. 11–12; D2648 (Map of Sarajevo marked by Milorad Šehovac); D2789 (Map of Sarajevo marked by Dragomir Milošević); D2790 (Map of Sarajevo marked by Dragomir Milošević).

¹²⁴⁷⁸ See Adjudicated Fact 83; Richard Mole, T. 5842–5845 (17 August 2010); P1430 (Map of Sarajevo marked by Richard Mole); D537 (Map of Sarajevo marked by Richard Mole).

¹²⁴⁷⁹ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 7; D2480 (Map of Sarajevo marked by Mile Sladoje); Mile Sladoje, T. 30563–30564 (28 November 2012); P6009 (Map of Sarajevo marked by Mile Sladoje); D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), paras. 34–35; D2555 (Map of Sarajevo marked by Svetozar Guzina); D2556 (Map of Sarajevo marked by Svetozar Guzina). See Adjudicated Fact 2833.

¹²⁴⁸⁰ See Adjudicated Fact 83.

¹²⁴⁸¹ See Adjudicated Facts 83, 84.

¹²⁴⁸² See Adjudicated Fact 85.

¹²⁴⁸³ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), paras. 2, 5; Mile Sladoje, T. 30562 (28 November 2012).

¹²⁴⁸⁴ Guzina was the Commander of the 5th Battalion until 1993 when the Ilidža Brigade was re-organised thus turning the 5th Battalion into the 1st Battalion. See D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), paras. 34–35.

¹²⁴⁸⁵ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 7; D2480 (Map of Sarajevo marked by Mile Sladoje); Mile Sladoje, T. 30563–30564 (28 November 2012); P6009 (Map of Sarajevo marked by Mile Sladoje); D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), paras. 34–35; D2555 (Map of Sarajevo marked by Svetozar Guzina); D2556 (Map of Sarajevo marked by Svetozar Guzina). Nedžarići Barracks was located some 300 to 350 metres away from the School for the Blind and some 150 to 200 metres from the Faculty of Theology. See Mile Sladoje, T. 30563 (28 November 2012). Guzina testified that the area around Kasindolska street was surrounded by Muslims on all three sides which meant that the battalion suffered more casualties than any other battalion in the brigade. See D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 35.

¹²⁴⁸⁶ According to Guzina, the tallest building in Nedžarići, namely the Old People's Home, was occupied by an UNPROFOR observation post. It was located some 100 metres in front of the Faculty of Theology. See D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 36; D2557 (Map of Sarajevo marked by Svetozar Guzina), Svetozar Guzina, T. 31153–31155 (6 December 2012), T. 31173, 31190 (11 December 2012); P6037 (Map of Sarajevo marked by Svetozar Guzina).

¹²⁴⁸⁷ See Adjudicated Fact 86.

Dobrinja 2 to Dobrinja 3.¹²⁴⁸⁸ The church was in the zone of responsibility of the 1st Sarajevo Mechanised Brigade of the SRK.¹²⁴⁸⁹

3790. The 1st Battalion numbered about 300 men¹²⁴⁹⁰ and had infantry weapons, 82 and 120 mm mortars, a tank, and two APCs.¹²⁴⁹¹ In terms of infantry weapons, the 1st Battalion had M48 and M76 rifles with scopes.¹²⁴⁹² Vladimir Radojčić, the Commander of the Ilidža Brigade from January 1993,¹²⁴⁹³ testified that the whole Ilidža Brigade had about 30 snipers, half of whom used M76 rifles, while the other half used M48 rifles with improvised sights.¹²⁴⁹⁴ As for the mortars, those were located around the Faculty of Theology, while the tank was at the Nedžarići Barracks.¹²⁴⁹⁵ The Battalion also had machine guns, as well as a recoilless gun, which were positioned at the Faculty of Theology and were used to open fire on Dobrinja 2 and 3 and Alipašino Polje.¹²⁴⁹⁶ Radojčić testified that the Faculty was not used as a sniper nest but rather as an observation post.¹²⁴⁹⁷

3791. While the Ilidža Brigade had snipers in the section of Dobrinja it held, according to Stanislav Galić, the Commander of the SRK between September 1992 and August 1994,¹²⁴⁹⁸ the ABiH controlled the high-rise in Mojnilo and thus had better control and over-view of the area.¹²⁴⁹⁹ Galić also testified that ABiH was most active in the direction of Dobrinja and Nedžarići¹²⁵⁰⁰ and confirmed that parts of ABiH-held Dobrinja were under constant fire.¹²⁵⁰¹

3792. The units opposing the 1st Battalion belonged to the 101st Brigade of the 1st Corps of the ABiH, positioned in Alipašino Polje and Vojničko Polje, and the 102nd Brigade of the 1st Corps of the ABiH located in Stup.¹²⁵⁰² The 155th Brigade of the 1st Corps, formerly known as the Dobrinja Brigade and then as the 5th Brigade, was located in Mojnilo and Dobrinja 5 where there were mainly high-rises from which the ABiH snipers would target 1st Battalion's

¹²⁴⁸⁸ See Adjudicated Fact 93.

¹²⁴⁸⁹ Blagoje Kovačević, T. 29041 (18 October 2012).

¹²⁴⁹⁰ Sladoje testified that there was not a single professional officer in his battalion. See D2479 (Witness statement of Mile Sladoje dated 25 November 2012), paras. 6, 20.

¹²⁴⁹¹ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 6; Vladimir Radojčić, T. 31236 (11 December 2012).

¹²⁴⁹² D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 21; P6014 (Reply of Ilidža Brigade to SRK order, 31 October 1993). Guzina at first denied having sniper rifles or trained sniper shooters in the battalion, stating that there was no need for them given the proximity of warring parties on the confrontation line. He later explained that the 4th Company of his battalion had three snipers with M76 rifles, which were positioned towards Butmir airport. See Svetozar Guzina, T. 31156–31158 (6 December 2012), T. 31161–31162, 31165–31166 (11 December 2012).

¹²⁴⁹³ D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 1–2.

¹²⁴⁹⁴ Radojčić confirmed that these snipers were deployed mostly in the area of responsibility of the 2nd and 3rd Battalions, that is, outside the built-up areas, because they were more efficient there. See Vladimir Radojčić, T. 31224 (11 December 2012).

¹²⁴⁹⁵ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 6; D2481 (Map of Sarajevo marked by Mile Sladoje).

¹²⁴⁹⁶ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 6; D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 36; D2557 (Map of Sarajevo marked by Svetozar Guzina); Svetozar Guzina, T. 31192 (11 December 2012); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 65.

¹²⁴⁹⁷ D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 116.

¹²⁴⁹⁸ Stanislav Galić, T. 37154–37155 (15 April 2013), T. 37528 (22 April 2013). See Adjudicated Fact 27.

¹²⁴⁹⁹ Stanislav Galić, T. 37162–37168 (15 April 2013); T. 37466 (22 April 2013); D3381 (Map of Sarajevo marked by Stanislav Galić); Svetozar Guzina, T. 31193 (11 December 2012); Youssef Hajir, T. 8844 (2 November 2010).

¹²⁵⁰⁰ Stanislav Galić, T. 37189–37190 (15 April 2013).

¹²⁵⁰¹ Stanislav Galić, T. 37522–37533 (22 April 2013), T. 37831–37834 (7 May 2013).

¹²⁵⁰² D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 7; D2480 (Map of Sarajevo marked by Mile Sladoje); Mile Sladoje, T. 30569 (28 November 2012); P6011 (Photograph of Sarajevo marked by Mile Sladoje); P6012 (Photograph of Sarajevo). See also Adjudicated Fact 83. According to Sladoje, these ABiH forces had infantry weapons, 82 and 120 mm mortars, a tank in depth of the Alipašino Polje, APCs mounted with 14.7 mm anti-aircraft guns, hand-held launchers, and rifle grenades. They were also supported by artillery from Mt. Igman. D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 10.

positions.¹²⁵⁰³ Indeed, Hajir testified that the “local BiH command building” was located some 150 to 200 metres to the west from the Dobrinja Hospital but clarified that the ABiH was never in the hospital itself.¹²⁵⁰⁴ He also explained that at the beginning of the war there was no real army on the Bosnian Muslim side and that the army “in the true sense of the word” was formed later, around August or September 1992.¹²⁵⁰⁵ Galić testified that a larger part of Dobrinja was in the zone of responsibility of the 5th Brigade, later 155th, of the ABiH 1st Corps, which had been estimated to have had some 3,000 troops in the area.¹²⁵⁰⁶ According to him this brigade had a sniper unit since ABiH used specialised sniper units at the brigade level.¹²⁵⁰⁷

3793. According to Sladoje, all ABiH positions were in civilian areas where people lived in apartment buildings and there was not a single “entirely civilian settlement” that did not have a military target in it.¹²⁵⁰⁸ Nevertheless, according to Sladoje and Guzina, the battalion never received or issued any orders to target civilians and the soldiers were explicitly told that civilians should not be targeted.¹²⁵⁰⁹ **(EXCULPATORY!)** Instead, soldiers were allowed to open fire only in response to enemy fire and only at observed firing positions, which, Sladoje conceded, meant that given the environment there was a high risk of “civilian collateral casualties”.¹²⁵¹⁰ When cross-examined, Guzina conceded that he had said, back in 2003

¹²⁵⁰³ Emir Turkušić, T. 9040–9041 (4 November 2010); D2479 (Witness statement of Mile Sladoje dated 25 November 2012), paras. 6, 9, 25; Mile Sladoje, T. 30566–30569 (28 November 2012); P6008 (Photograph of Sarajevo marked by Mile Sladoje); P6010 (Photograph of Sarajevo marked by Mile Sladoje); P6012 (Photograph of Sarajevo); D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 46. This is confirmed by D4586 (SRK Report, 10 May 1994) in which SRK Command informed the VRS Main Staff that the Ilidža Brigade was receiving fire from Dobrinja 5. Radojčić testified that the 155th Brigade of the ABiH’s 1st Corps was deployed in high-rises in Dobrinja and Mojmiilo. See D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 16–17; D2591 (Map of Sarajevo marked by Vladimir Radojčić). See also Youssef Hajir, T. 8850 (2 November 2010); D2649 (Map of Sarajevo marked by Milorad Šehovac); D633 (Order of ABiH 1st Corps, 25 October 1993), para. 5.4.

¹²⁵⁰⁴ P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 24, 33; Youssef Hajir, T. 8779, 8783–8786 (1 November 2010), T. 8847–8848, 8850 (2 November 2010); P1866 (Map of Sarajevo marked by Youssef Hajir).

¹²⁵⁰⁵ Youssef Hajir, T. 8814–8817 (1 November 2010); P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 34.

¹²⁵⁰⁶ Stanislav Galić, T. 37496–37498 (22 April 2013); D3445 (SRK combat report, 7 June 1993), pp. 1–2.

¹²⁵⁰⁷ Stanislav Galić, T. 37497–37498 (22 April 2013). He relied on the SRK combat report of 7 June 1993, which refers to sniper fire being opened from Dobrinja 1, 2, and 3 on the positions of the 1st Sarajevo Mechanised Brigade. See D3445 (SRK combat report, 7 June 1993), pp. 1–3.

¹²⁵⁰⁸ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 11; Mile Sladoje, T. 30570–30571 (28 November 2012). According to Sladoje and Guzina, the following were military targets located in the territory controlled by the ABiH: Standard, Zora, Bitumenka, Oslobođenje, student dormitories, the Geodesic Institute, the Vodovod building in Majdan street, Prvomajska street, Geteova street, Radio Television building, and Fatima Gunić School. See D2479 (Witness statement of Mile Sladoje dated 25 November 2012), paras. 18, 25; D2482 (Map of Sarajevo marked by Mile Sladoje); Mile Sladoje, T. 30571–30573 (28 November 2012); D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 46. See also D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 23.

¹²⁵⁰⁹ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), paras. 12–13, 15, 17; Mile Sladoje, T. 30571 (28 November 2012); D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 25, 28–30; D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 39; Svetozar Guzina, T. 31192 (11 December 2012). During cross-examination, Guzina was confronted with his 2003 interview with the Prosecution in which he said that the battalion was never told not to shoot at civilians. He could not recall saying this and accused the Prosecution of playing word games. **(Sic! A game with a double negation, which is frequent in Serbian, but impossible in English!)** See Svetozar Guzina, T. 31181–31183 (11 December 2012); P6039 (OTP information report, 5–6 October 2003). On re-examination, however, he confirmed that the Accused issued orders to protect civilians. See Svetozar Guzina, T. 31195–31197 (11 December 2012); D2561 (SRK Order, 15 May 1993); D314 (Radovan Karadžić’s letter to SRK, undated). Radojčić, Guzina’s commander, testified that Ilidža Brigade received brochures from superior commands which contained explanations of the provisions of international humanitarian law and stated that he personally issued orders to the Ilidža Brigade soldiers that civilians were not to be attacked. See D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 15, 31–32.

¹²⁵¹⁰ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), paras. 12, 15, 17; Mile Sladoje, T. 30571–30574 (28 November 2012); D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 30. Guzina explained that sometimes civilians in his zone of responsibility would turn up on the frontlines in order to visit their houses and speculated that the same happened on the ABiH side of the confrontation line thus resulting in civilian casualties. See D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 39; Svetozar Guzina, T. 31151–31152 (6 December 2012).

during his interview with the Prosecution, that any man or woman close to the confrontation lines was considered a threat.¹²⁵¹¹ He also conceded that the targeting by his troops improved as the war went on.¹²⁵¹²

3794. The goal of the 1st Battalion was to prevent the ABiH from reaching Ilidža and connecting with the ABiH forces outside of the Sarajevo ring.¹²⁵¹³ Guzina testified that the lines of disengagement in the 1st Battalion's zone of responsibility were often only street-width apart, which meant that observation was difficult.¹²⁵¹⁴ He also stated that his soldiers had the right to use a firearm independently, without command, if they or their location were under attack and there was no other way to repel the attack.¹²⁵¹⁵ **(#That is a sovereign right of any soldier, and there is no commander or president who could ban it!#)**

3795. The UNPROFOR was based in the PTT building in Alipašino Polje, while the Radio Television building was nearby.¹²⁵¹⁶

ii. Dobrinja, 11 July 1993 (Scheduled Incident F.3)

3796. The Indictment alleges that on 11 July 1993 Munira Zametica, a 48 year old woman, was shot dead while collecting water from the Dobrinja river in the area of Dobrinja.¹²⁵¹⁷ According to the Prosecution, the fire originated from the SRK-held territory in the area of the Orthodox Church, the tower of which was a "notorious sniping location".¹²⁵¹⁸ **(This is an #uncorroborated lie, since the priest would never allow any soldier to abuse the church assets! #There is evidence on this circumstance! Also, "notorious" is the Prosecution's hot-spice, since there is the only one ABiH report about the Church tower used as an observation post, "with a rare shooting"!)** The Prosecution also argues that Zametica was deliberately targeted.¹²⁵¹⁹ The Accused argues that Zametica could not have been deliberately targeted from the Orthodox Church as it was too far from the incident site.¹²⁵²⁰ He also argues that the SRK forces in the area were at the time deployed for operation Lukavac 93, taking place on the other side of the Butmir airport.¹²⁵²¹

3797. On 11 July 1993, Munira Zametica was filling her bucket with water from the Dobrinja river when she was shot.¹²⁵²² It was too dangerous for Sadija Šahinović and for Vahida Zametica, the 16 year old daughter of the victim, to leave the protection of the bridge over the Dobrinja River in order to assist the victim¹²⁵²³ as the perpetrator repeatedly shot toward Munira Zametica, preventing rescuers from approaching her.¹²⁵²⁴ **(#A pure**

¹²⁵¹¹ Svetozar Guzina, T. 31170–31172 (11 December 2012); P6039 (OTP information report, 5–6 October 2003).

¹²⁵¹² Svetozar Guzina, T. 31184–31185 (11 December 2012); P6039 (OTP information report, 5–6 October 2003).

¹²⁵¹³ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 8.

¹²⁵¹⁴ D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 37.

¹²⁵¹⁵ D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 38.

¹²⁵¹⁶ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 18; D2482 (Map of Sarajevo marked by Mile Sladoje). *See also* Adjudicated Fact 14.

¹²⁵¹⁷ Indictment, Scheduled Incident F.3.

¹²⁵¹⁸ Prosecution Final Brief, Appendix C, paras. 26–27.

¹²⁵¹⁹ Prosecution Final Brief, Appendix C, para. 4.

¹²⁵²⁰ Defence Final Brief, paras. 2194–2198.

¹²⁵²¹ Defence Final Brief, para. 2198.

¹²⁵²² Adjudicated Fact 165.

¹²⁵²³ *See* Adjudicated Fact 165.

¹²⁵²⁴ *See* Adjudicated Fact 171.

speculation#! Nobody could have known intentions of an assumed perpetrator! A multiple shooting rather indicated an exchange of fire!) Vahida Zametica heard the shooting continue and saw the bullets hitting the water near her mother.¹²⁵²⁵ Munira Zametica was lying face down in the river, blood coming out of her mouth.¹²⁵²⁶ ABiH soldiers passing by the bridge saw what had happened, positioned themselves on the bridge behind sandbags and shot in the direction of the Orthodox Church.¹²⁵²⁷ The victim, Munira Zametica, was pulled out of the water and taken to hospital; she died later that afternoon.¹²⁵²⁸

3798. Hogan visited the site of the incident and recorded the exact position of the victim when shot, as recounted to him by an eyewitness to the incident.¹²⁵²⁹ Hogan testified that he was told by witnesses that, when shot, Munira Zametica was kneeling on the concrete embankment of the river, facing the river and trying to reach towards it with a bucket.¹²⁵³⁰ She was located some five metres away downstream from the bridge.¹²⁵³¹ **(It had been said that the victim was on the left bank of the river, the same as the Orthodox Church, which makes a possibility of a visibility very low, maybe impossible! Also, there was never recorded what side of the victim's body was entering wound, nor wounds had been described, nor a calibre of bullet determined. Also, by kneeling, the victim appeared to be a smaller target, which wasn't even mentioned, let alone considered! Simply, #inadequate investigation#!)**

3799. Van der Weijden also visited the incident site, and described it as a canal forming a “natural trench”, thus preventing the victim from being seen from all the buildings lining the canal.¹²⁵³² He explained that he was given the exact location of the victim, who was standing on the river bed on the north bank of the canal, by the Prosecution, but had no information as to which direction she was facing.¹²⁵³³ According to Van der Weijden, the only buildings with a line of sight on the incident site are the apartment block, which is 636 metres away, and the Orthodox Church, which is 1104 metres away.¹²⁵³⁴ Van der Weijden was told by the Prosecution that the apartment block was occupied by the ABiH at the time of the incident while the SRK troops occupied the red roofed apartment buildings across the street, the latter offering no view on the incident site.¹²⁵³⁵ He thus concluded that the shooter was most likely located in the Orthodox Church tower since (i) ABiH troops were unlikely to have their focus

¹²⁵²⁵ Adjudicated Fact 165.

¹²⁵²⁶ Adjudicated Fact 165.

¹²⁵²⁷ Adjudicated Fact 166.

¹²⁵²⁸ Adjudicated Fact 167.

¹²⁵²⁹ Barry Hogan, T. 11209, 11257 (3 February 2011); P2196 (Photograph re sniping incident of 11 July 1993 in Dobrinja marked by Barry Hogan); P2207 (Images re scheduled sniping incidents in Sarajevo); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents).

¹²⁵³⁰ Barry Hogan, T. 11258 (3 February 2011).

¹²⁵³¹ Barry Hogan, T. 11258–11259 (3 February 2011); D993 (Video footage re sniping incident of 11 July 1993 in Dobrinja).

¹²⁵³² P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 42.

¹²⁵³³ Patrick van der Weijden, T. 7156–7157 (29 September 2010).

¹²⁵³⁴ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 42. *See also* Barry Hogan, T. 11209 (3 February 2011); P2196 (Photograph re sniping incident of 11 July 1993 in Dobrinja marked by Barry Hogan). Van der Weijden also observed that there was some scrub lining the canal in places when he visited but noted that it would have not been there at the time of the incident to block the view. *See* P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 43.

¹²⁵³⁵ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 43. This is confirmed by the evidence before the Chamber, namely that the confrontation line at Dobrinja ran along the road separating Dobrinja 3 and Dobrinja 4. *See* para. 3787.

on the canal with their enemy so near by in the red roofed apartment buildings; (ii) the tower of the church was under construction at the time, thus providing a good location for a sniper nest or even a machine gun emplacement; and (iii) the church offered a clear unobstructed view of the incident site.¹²⁵³⁶ Van der Weijden never visited the Orthodox Church tower, however.¹²⁵³⁷

(Why there was no a single report of the Sarajevo Police investigators, except an invalide and unprofessional note admitted as D672:

No.: 17-1/09-7-370/93

Date: 11 July 1993

OFFICIAL NOTE

On 11 July 1993, the following note was drawn up in the premises of the Criminal Police Division with regard to the following:

On 11 July 1993, Munira ZAMETICA, born in 1941 in Sarajevo, permanently residing in Oktobarske revolucije Street no.17 in Dobrinja II, was killed.

The murder was carried out by an unknown perpetrator shooting several rounds of sniper fire from Dobrinja IV near the church. Two rounds of this sniper fire fatally wounded Munira who was at the river bank at the time.

The murder took place on 11 July 1993 between 1900 and 1930 hrs. under the bridge over the Dobrinja river connecting the districts Dobrinja II and Dobrinja III. The fatal rounds were fired from a distance of 1,000 to 1,500 metres.

Munira ZAMETICA's body was pulled out of the river only after half an hour and then taken to Dobrinja Hospital.

The "two rounds" that fatally wounded the victim #had never again been mentioned#, although this fact lessens the probability that it was as described by the Prosecution. The time of the incident was in accord with the testimony of Sadija Sahinovic! Also, during the process it was mentioned that the victim (M.Z.) was on the left bank of the river, which means, on the south bank! There is no a serious and reasonable court that would accept to decide in such a case without the elementary data!

3800. During cross-examination, Van der Weijden accepted that his conclusion gave only the "most likely" position of the shooter.¹²⁵³⁸ **(Insufficient for a criminal case! As if "less likely" positions had been reasonably excluded! Why he didnt quote them, and why he didnt prove for what reason he excluded them? In any case, der Weijden gave a proof that his conclusion wasnt "the only one"!)** However, he rejected the Accused's contention that Zametica was killed as a result of the exchange of fire,¹²⁵³⁹ noting that the civilians collecting water were located under ground level so the ABiH forces would have had to have been in the water for there to have been an exchange of fire and, if so, would have been exposed to the SRK fire.¹²⁵⁴⁰ **(This is really an unusual inference. What would happen with the bullets which missed those that had been aimed on a ground level? Would these bullets fell down somewhere? Could it be that it had fallen in the water? Is it a case that everything is allowed in a cases against the Serbs?)**

¹²⁵³⁶ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 43.

¹²⁵³⁷ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 43.

¹²⁵³⁸ Patrick van der Weijden, T. 7165 (29 September 2010).

¹²⁵³⁹ The Accused based this claim on the statement of Sadija Šahinović in which she said that on her way to the river she heard "sniper fire" and was told by the people hiding under the bridge that the bullets were hitting the water. She also stated that two people managed to get water without being hit before Munira Zametica was shot. See Patrick van der Weijden, T. 7162-7163 (29 September 2010). **(Why there would be any fire while the witness and others had been hiding under the bridge, it it wasn't an exchange of fire? Had it been aimed at the civilians, there wouldn't be any bullet straying around!)**

¹²⁵⁴⁰ Patrick van der Weijden, T. 7162-7165 (29 September 2010).

3801. Van der Weijden further opined that the calibre of the bullet used in this incident was either 7.62 mm or 7.92mm and would not have been greater than 7.92mm as that would have caused far more serious damage.¹²⁵⁴¹ Thus, the most likely weapon used was a semi-automatic rifle, probably an M76 or M91, although the distance of 1,100 metres would be an extreme range for those rifles.¹²⁵⁴² **(Again, #uncertainties, insufficiencies, controversions#... how come there was no a precise data about the spot of impact, the nature of wound and the calibre?)** This is why, according to Van der Weijden, the people saw bullets hitting the river before the incident as the shooter probably tried to target them but failed because of the great distance involved; in other words, according to Van der Weijden, the shooter was simply bracketing the distance.¹²⁵⁴³ **(This is an unacceptable speculation!)** Van der Weijden concluded, based on all of the above, that the shooter would have been able to identify the victim as an adult woman fetching water from the canal.¹²⁵⁴⁴ **(Why the victim was kneeling over the river???)**

3802. Poparić accepted that there was a line of sight between the top of the Orthodox Church and the incident site.¹²⁵⁴⁵ However, he testified that Zametica most likely died as a result of an exchange of fire between the two forces positioned in the area, although not from the Orthodox Church.¹²⁵⁴⁶ He based his conclusion on several grounds. First, even though the time of the incident was uncertain,¹²⁵⁴⁷ Poparić argued that regardless of whether the incident took place in the afternoon or in the evening, the shooter would not have been able to identify the victim as a civilian nor hit her twice from a distance of 1,100 metres¹²⁵⁴⁸ because she

¹²⁵⁴¹ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 41. On cross-examination, Van der Weijden conceded that his conclusion on the calibre of the bullet was only a possibility as he had no access to the victim’s medical records or any data on whether the bullet was retrieved from the victim. See Patrick van der Weijden, T. 7156, 7159 (29 September 2010).

¹²⁵⁴² P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 41. According to Van der Weijden’s report, the “maximum effective range” for these two rifles is 800 metres. See P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), Appendix A, p. 1.

¹²⁵⁴³ Patrick van der Weijden, T. 7163–7164 (29 September 2010).

¹²⁵⁴⁴ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 43.

¹²⁵⁴⁵ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 66; Mile Poparić, T. 38947 (29 May 2013).

¹²⁵⁴⁶ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 65, 67. Poparić also thought that the bullets that hit her most probably ricocheted off of the concrete river bed. See Mile Poparić, T. 38948–38949 (29 May 2013).

¹²⁵⁴⁷ With respect to the uncertainty of the time of the incident, Poparić refers to Šahinović’s testimony in the *Galić* case where she first said that she and Zametica went to fetch water as the night was about to fall but then corrected herself when prompted by the Prosecution, saying that they went to the river between 2 and 3 p.m.. **(Then, why the Prosecution didn’t testify???) (Onda zašto Tužilaštvo nije svjedočilo???) It didn’t have to, since the OTP witnesses were kind enough to please the Prosecutor needs and adjust their contemporaneous statements, no matter a 15 years later. However, the Sadija [ahinovi]’s statement is in accord with the “official note” of the Muslim police, D672:**

The murder took place on 11 July 1993 between 1900 and 1930 hrs. under the bridge over the Dobrinja river connecting the districts Dobrinja II and Dobrinja III. The fatal rounds were fired from a distance of 1,000 to 1,500 metres.

Poparić also refers to the official BiH MUP report, which has not been tendered into evidence by the parties in this case, and which records the time of the incident as being between 7 and 7:30 p.m.. **(Incorrect! It had been tendered and admitted as D672, quoted above!)** Poparić further refers to Zametica’s death certificate which records the time of death as 4 p.m. and the evidence of her daughter in the *Galić* cases who was at the scene and who testified that the incident took place between 2 and 2:30 p.m.. Having outlined all of the above evidence, Poparić concluded that the BiH MUP’s official report was the most reliable source and thus is of the view that the incident happened between 7 and 7:30 p.m.. See D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 63–64, 67; Mile Poparić, T. 38947–38948 (29 May 2013), T. 39199–39201 (4 June 2013). **(Sufficient to drop the case!)**

¹²⁵⁴⁸ According to Poparić, this distance alone meant that the probability of targeting Zametica was low as the sniper rifle’s best results are at 800 metres whereas anything above that would yield poorer results. See Mile Poparić, T. 38951–38952 (29 May 2013); D3635 (Map of Sarajevo marked by Mile Poparić). This was confirmed by Van der Weijden. See fn. 12542. **(Sufficient to drop the case!)**

would have been in the shadow in the afternoon or because, at twilight, the visibility would have been bad.¹²⁵⁴⁹ Second, Poparić points out that, according to eyewitness's evidence, there was sniper fire throughout that day but two people nevertheless summoned the courage and collected water, one by one, before Zametica went to collect the water herself; to Poparić this meant that people knew that the bullets hitting the river were not intended for them but were the result of exchanges of fire.¹²⁵⁵⁰ **(Absolutely! If it was aimed at the civilians, why then there was shooting why the civilians were in shelter? To presume that a sniper was sowing his bullets around, while having a good visibility and view – is not real, as well as such a frequent hits!)** Third, Poparić argues that the two ABiH soldiers who returned fire were not simply passing by, as testified to by Šahinović in the *Galić* case, but were on duty, positioned on the bridge.¹²⁵⁵¹ This, he argues, is confirmed by the fact that the bridge was protected by sandbags which were up to two metres high, according to the witnesses, leading him to conclude that there were holes in the sandbags through which soldiers could shoot; in other words, the sandbags were not there to protect the civilians but to protect the ABiH forces.¹²⁵⁵² Finally, Poparić testified that he went to the Orthodox Church tower and that he would never place a sniper there as the space was too small to be secured by sandbags and was exposed so that it could easily be destroyed by a rocket-launcher.¹²⁵⁵³ He did concede, however, that he did not know what the church tower looked like at the time of the incident.¹²⁵⁵⁴ **(Certainly, could be only less built up, and less finalised, and wouldn't be more comfortable at the time of incident!)** He was also not privy to the report from the ABiH intelligence organ, dated 2 October 1993, which provides as follows:

From Dobrinja IV towards the [Orthodox Church], the enemy has made a connection trench, and in the area behind the garage, a bunker was built from which they open fire only at night. The area around the church towards our positions is mined with anti-personnel mines. The enemy uses the church at Veljine exclusively as an observation post. According to our information till now in the church there are 6 observers per shift. The observers are armed with snipers and pam /anti-aircraft machine-gun/ which is in a well fortified nest in the church. From the

¹²⁵⁴⁹ Poparić argues that if the incident happened in the afternoon, the place where Zametica was collecting water would have been under a shadow, created by the sandbags, which in turn would have “greatly interfered” with the shooter’s ability to identify her as a civilian and strike her from that distance. Similarly, if the incident happened during twilight, conditions would have been such that the shooter would not be able to deliberately target a person who was bending over. See D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 66–67; Mile Poparić, T. 38951–38952 (29 May 2013). When cross-examined on this conclusion, Poparić conceded that he did not take any photographs of this shadow when he visited the incident site but explained that that would have been pointless as the sandbags were not there. See Mile Poparić, T. 39210–39213 (4 June 2013).

¹²⁵⁵⁰ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 64–65.

¹²⁵⁵¹ Poparić reached this conclusion by arguing that the ABiH was organised “under the same principles as the JNA” and thus the transfer of duty would normally take place in the mornings, meaning that these two men could not have been reporting for or returning from duty. See D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 65, 67. When cross-examined on this conclusion, he conceded that he never participated in combat and never served in the ABiH. When asked if ever identified the two ABiH soldiers in question or tried to interview them, he responded in the negative but explained that he thought they were probably on duty because they were armed. See Mile Poparić, T. 39206–39209 (4 June 2013). **(Poparić wasn’t obliged to make any additional investigation, nor to serve in the ABiH, but if it was organized as same as the JNA, it was sufficient to mention that. Poparić as a Defence expert worked on the existing evidence, collected by the Prosecution, and found it not sufficient to establish any fact beyond a reasonable doubt!)**

¹²⁵⁵² D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 65–67.

¹²⁵⁵³ Mile Poparić, T. 38953 (29 May 2013).

¹²⁵⁵⁴ Mile Poparić, T. 39201–39202 (4 June 2013).

church fire is rarely being opened, and when it is opened, a sniper with a silencer is used.¹²⁵⁵⁵

(How come, all of a sudden, the Chamber is paying credit to the intelligence report of one of the sides, while the file is crowded by the genuine reports of the Serb side, a secret reports that were accurate, the Chamber didn't even notice o comment!)

3803. When asked if this report contradicted his opinion that a sniper should not be placed in the church tower, Poparić insisted that the report classified the post as an observer's post from which fire was seldom opened.¹²⁵⁵⁶

3804. Dragomir Milošević testified that according to his information there was no "activity" from the Orthodox Church and denied that the origin of fire that killed Zametica was the Orthodox Church as soldiers were not allowed to climb the church tower.¹²⁵⁵⁷ He also excluded the possibility that Zametica was deliberately targeted and noted that if this were the case then it did not come about as a result of an order or permission from the SRK.^{12558 (12558)}

(Let alone from the Main Staff, or the Supreme Commander, i.e. the Accused!) Galić

testified that he never received reports about sniping incidents such as the one involving Zametica and noted that he did not remember his soldiers ever going to the Orthodox Church because it was a new building at the time and was damaged by recoilless gun-fire from Mojmiilo Hill.¹²⁵⁵⁹ Galić also stated that he never ordered or received a report that one of his subordinates ordered this attack.¹²⁵⁶⁰ When asked why a combat report sent by the SRK Command to the VRS Main Staff, on 11 July 1993 at 5 p.m. provides that "provocative enemy fire" was opened "along most of the corps' defence line" but makes no mention of the incident involving Zametica, Galić explained that this was

a time of the Lukavac 93 operation, which meant that all forces on both sides were engaged on the other side of the airport, near Dobrinja.^{12561 (12561)}

3805. The Chamber also took judicial notice of a number of adjudicated facts which provide as follows: (i) there was a line of sight between the tower of the Orthodox Church and the incident site;¹²⁵⁶² (ii) the area of the Orthodox Church from where the fire came was within SRK-controlled territory;¹²⁵⁶³ (iii) at a distance of 1,100 metres, a well-equipped perpetrator would have been able to observe the civilian appearance of Zametica;¹²⁵⁶⁴ and (iv) on 11 July

¹²⁵⁵⁵ P6360 (ABiH 1st Motorised Battalion report, 2 October 1993), p. 2. The information in this report was confirmed by Thomas, who visited an ABiH sniping location in a school in Dobrinja, which was located opposite to the Orthodox Church from which, according to Thomas, the Serbs were firing into Dobrinja. See P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 1, 64. See Adjudicated Fact 92.

¹²⁵⁵⁶ Mile Poparić, T. 39201–39205 (4 June 2013). Poparić was also referred to his conclusion that Šahinović's claim in the Galić case that she did not hear the bullets meant either that her hearing was impaired or that a silencer was used. When asked if the ABiH report of 3 October 1993 confirmed his theory that a silencer was used and responded that this was a possibility. See Mile Poparić, T. 39205–39206 (4 June 2013).

¹²⁵⁵⁷ Dragomir Milošević, T. 33117–33118 (4 February 2013).

¹²⁵⁵⁸ Dragomir Milošević, T. 33118 (4 February 2013).

¹²⁵⁵⁹ Stanislav Galić, T. 37495–37496 (22 April 2013). Another report of the SRK Command indicates that the ABiH had a recoilless gun in Dobrinja 2. See T. 37408 (18 April 2013); D3424 (SRK combat report, 13 August 1993).

¹²⁵⁶⁰ Stanislav Galić, T. 37496 (22 April 2013).

¹²⁵⁶¹ Stanislav Galić, T. 37498–37500 (22 April 2013); D3418 (SRK combat report, 11 July 1993). The next day, on 12 July 1993, Galić ordered the continuation of operation Lukavica 93 but never ordered any activity against Dobrinja. See T. 37391–37393 (18 April 2013); D3419 (SRK Order, 12 July 1993).

¹²⁵⁶² See Adjudicated Fact 168.

¹²⁵⁶³ See Adjudicated Fact 169.

¹²⁵⁶⁴ See Adjudicated Fact 170.

1993, Zametica, a civilian, was deliberately shot from SRK-held territory.¹²⁵⁶⁵ (#With how many “ifs” is made this deliberation# And how come, the Chamber always takes that if the Serbs could have fired, it must be they really fired? What is with other possibilities, such as the Muslim fire, or an exchange of fire? And why the Serb side would keep a “well-equipped perpetrator” in this place, while the main events were within the Lukavac 93 operation?)

3806. The Chamber notes that, in addition to the unpersuasive evidence of Galić and Milošević,¹²⁵⁶⁶ (What evidence the two Generals could have submitted except their knowledge and contemporaneous documents? Why it was unpersuasive? They couldn't prove their innocence, neither they should! Why would to professional high officers and excellent persons lie about this issue? What benefit would they have from these sniper incidents? Is there any evidence, any clue about their duplicity pertaining to this issue? How come that in so many “strictly confidential” documents, or intercepted conversations, or anywhere, there was no a slightest sign of their criminal intent in ordering or tolerating the illegal shooting against civilians? Somebody is very sinful in front of these gentlemen.) the only substantive evidence the Accused brought to rebut the above adjudicated facts was that of Poparić. However, the Chamber finds his analysis unconvincing as it is based on numerous tenuous speculations, often on issues that are completely outside of his area of expertise. (It was not possible to the Defence experts to be “convincing” if the Chamber had already been convinced about the Accused's guilt, on the basis of so many adjudicated facts. Thus, the Defence was supposed to prove the innocence, as in an appeal phase, instead to point out the truth and unveil the wrongness of allegations! Even if it was in accord with this judicial system, the Accused is then submitted to a judicial system that was strange to him! And there was no any “presumption of innocence” whatsoever!) For example, the Chamber is not convinced by Poparić's claim that because people ventured to the riverbank after having seen bullets hitting the river, they knew this was not sniper fire but thought it was an exchange of fire. The Chamber considers this to be pure speculation as it is equally plausible that the people in question, including Zametica, saw sniper fire but decided to wait until they felt it was safe to approach the river. (In a case of an “equal plausibility” the Chamber should decide in favour of the Accused, if the principle “In dubio pro reo” still exist! Also, why would bullets hit water so many times while the victim and witnesses were hiding? The hidden people had every reason to presume that they hadn't been a target!) The Chamber also cannot accept Poparić's claim that the two ABiH soldiers who returned fire were on duty at the time of the incident as he bases it on the fact that they were armed and that in the JNA, on which ABiH was supposedly based, the soldiers would transfer duty in the mornings. (But this was a well known fact that the Muslim soldiers used to leave their weapons at the lines, since they didn't have surplus weapons to bring it with them to home. If they were at the vicinity, as the bunkers of the sand bags show, they may have been attracting the

¹²⁵⁶⁵ See Adjudicated Fact 172.

¹²⁵⁶⁶ The Chamber acknowledges that both Galić and Milošević testified that the Orthodox Church could not have been the source of fire in this incident because it was not used by the SRK soldiers. However, the Chamber is more persuaded by the report of the ABiH intelligence organ, dated 2 October 1993, in which the church is mentioned as an observation post and an occasional source of sniper fire, particularly as this seems to be corroborated by the evidence of Thomas. See para. 3802. (How the ABiH intelligence organ could have known it better that the Commanders? It could only to guess, or to suspect, but not to have known!)

fire too! Having not served in the ABiH or even the SRK, Poparić's musings on when ABiH soldiers would transfer their duty and/or carry their weapons is baseless and outside of his expertise. Indeed, his opinions on military strategy in general were proven wrong when he was shown a document clearly indicating—contrary to his opinion—that the SRK had a post in the Orthodox Church tower from which it opened sniper fire, albeit seldomly. **(A Muslim Army document, not one of the SRK. Why Poparić would be trusting this speculative document more than the original data of the SRK? Beside that, it should already be known to the Chamber that the Serbs didn't abuse their sacred places for a military purposes!)** The Chamber also does not accept Poparić's analysis that the incident must have happened in the evening as opposed to the afternoon, given that he relies on the BiH MUP official note which was, as shown during his cross-examination, corrected by Sadija Šahinović during her testimony in the *Galić* case. **(How it was possible that an official note of the only organ supposed to register and investigate the incident, is worth less than a witness re-statement, corrected under the influence of the Prosecution? So, it was not corrected by Sadija Sahinovic, but by the Prosecutor! To remind us: the very first statement of Sadija [ahinovi], given at the time of incident, was identical to the official note of the BH MUP!)** Furthermore, his claim that if the incident happened in the afternoon Zametica would have been hidden by a shadow of the sandbags is pure speculation as the sandbags were not there when he visited the incident site. For all those reasons, the Chamber has decided to discount most of Poparić's analysis on this incident.

3807. The Chamber notes, however, that both Poparić and Van der Weijden agree that there was a line of sight between the Orthodox Church tower and the incident site, and is therefore satisfied that such line of sight did exist.¹²⁵⁶⁷ **(This can only support a possibility, not probability, or any other certainty-close element! Or the criteria for the Serbs are different? A "line of site" existed from the Moon too, but it was a poorer possibility that up there were some Serbs who would fire down there!)** The Chamber also acknowledges that Poparić and Van der Weijden are united in their view that the distance of 1,100 metres was somewhat extreme for the sniper rifle most likely used in this attack. The Chamber recalls, however, that neither Poparić nor Van der Weijden testified that it would have been impossible to hit Zametica from that distance, only that the probability of hitting her deliberately was lower than it would have been if she were 800 metres away from the origin of fire.¹²⁵⁶⁸ **(So, it seems that a #possibility is much more important than probability. #How many other possibilities of a source of the fire existed, with a much more probability, such as all the ABiH positions between the spot of incident and the Orthodox Church? Why none of it was even mentioned#?)** Further, Van der Weijden thought that the shots fired by the sniper prior to the killing of Zametica were indicative of the sniper "bracketing" or judging the distance immediately prior to the incident, thus preparing

¹²⁵⁶⁷ In addition, the Chamber has been to the incident site during the site visit and confirmed that the line of sight does exist. The Chamber recalls that in its Order on Submissions for a Site Visit, dated 15 November 2010, at paragraph 6, it stated that the purpose of its site visit to Sarajevo was not to gather evidence or receive any submissions from the parties but to permit the Chamber to become more familiar with the topography of certain key locations and thus assist it in its determination of the charges in the Indictment related to Sarajevo.

¹²⁵⁶⁸ As noted above, Poparić's conclusion that it was impossible for Zametica to be deliberately targeted by a sniper located in the Orthodox Church tower was based on the combination of two factors, namely great distance and lack of visibility due to either a shadow or twilight conditions. See para. 3802. However, as noted by the Chamber above, in paragraph 3806, the Chamber considers that the incident happened in the afternoon and it also does not accept Poparić's analysis as to the shadow. **(Yes, but after the Prosecution corrected the witness, which was in accord with the MUP official note!!!)**

to hit his target when it appeared. **(That is yet another possibility, not probability, but it could have been considered provided all the other, more probable variants had been considered and rejected.)**

3806. Bearing all of the above in mind, and particularly recalling Van der Weijden's evidence that only one other building had a line of sight onto the location of the incident, which he discounted as the origin of fire in this case, **(Why was it discounted? Because it was in the ABiH possession? So what? Would it be the first time the ABiH fire against its territory?)** the Chamber is persuaded that the origin of fire was the Orthodox Church, which was in the SRK's zone of responsibility at the time. The Chamber is further reinforced in this view by the fact that the two ABiH soldiers who were at the scene promptly returned fire and were also seen to be shooting in the direction of the Orthodox Church. **(Why was it important? Did they see the bullet flying? How they could have determined from where the fire came? What could they have done with their ordinary rifles, with the range of few hundred metres, against a presupposed enemy that was more than 1,100 metres far away? And all between these two spots was "in the direction of the Orthodox Church"! Is there any limitation to such a speculations? Well, is there any sense in conveying such a processes about pure military matters, without any military judge either in the Chamber, or in the Prosecutor's office? The exhaustion of the Defence has many forms, but this one is the most drastic – to prove something that can not be proven, and would not be needed to prove to a nyone knowledgeable of the Law of war and technology of wars!)**

3810. The Chamber also finds, based on the evidence above, that Munira Zametica was a civilian who was simply attempting to collect water from the river and thus was not taking direct part in the hostilities at the time of the incident. In addition, given Van der Weijden's evidence, which the Chamber accepts, that the shooter was bracketing the distance immediately prior to the incident, the Chamber is convinced that an SRK sniper located in the Orthodox Church deliberately targeted Zametica, fully aware that she was a civilian collecting water at the river. **(Van der Weijden didn't submit an evidence that it was so, but brought a #possibility, which is not as same as evidence#. Or it is, if the Serbs are in question. For inference. Also, the contemporaneous and official reports pertaining to a crucial elements, such as time of incident, are not accepted by the Chamber, if the Prosecution "reminded" witnesses of another possibility?!?)**

(3) Nikole Demonje street, 6 January 1994 (Scheduled Incident F.6)

3810. The Indictment alleges that, on 6 January 1994, Sanija Dževlan, a 32 year old woman, was shot and wounded in her buttocks while riding a bicycle across a bridge on Nikole Demonje street in Dobrinja.¹²⁵⁶⁹ According to the Prosecution, Dževlan was hit while on the northwest side of the bridge by fire that originated from the SRK positions in the direction of

¹²⁵⁶⁹ Indictment, Scheduled Incident F.6.

the Orthodox Church some 800 metres away.¹²⁵⁷⁰ The Accused argues that Dževlan was not hit by fire that originated at the Orthodox Church as she would have been difficult to detect from that distance.¹²⁵⁷¹

3811. On 6 January 1994, Sanija Dževlan was cycling home from the Dobrinja Hospital where she had gone to pick up medication for her mother.¹²⁵⁷² When crossing the bridge over the Dobrinja river, connecting Dobrinja 2 with Dobrinja 3, on Nikole Demonje street,¹²⁵⁷³ she was shot at and wounded in the buttocks.¹²⁵⁷⁴ Dževlan felt a blow but only realised she had been wounded once she saw three or four more bullets ricocheting from the concrete on the street.¹²⁵⁷⁵ She did not know how many bullets had struck her,¹²⁵⁷⁶ but the medical report relating to her injuries noted “an entry-exit wound through both gluteal areas”.¹²⁵⁷⁷ She managed to cycle home where she was helped by her neighbours and taken to the hospital, from which she was discharged ten days later.¹²⁵⁷⁸ The day after Dževlan was shot, another person was brought to the hospital, having been shot in the same location.¹²⁵⁷⁹

3812. Dževlan was the only person in the area at the time of the shooting and was wearing brown pants and a yellow jacket; she had very long hair which was not tied up, carried no weapon, and there was no military equipment nearby.¹²⁵⁸⁰ Dževlan testified that the day was “exceptionally quiet” as there was no sniping or shelling,¹²⁵⁸¹ and that it was still daylight and the visibility was good.¹²⁵⁸² During her testimony in the *Galić* case, Dževlan testified that the shooting happened sometime between 3 and 4 p.m..¹²⁵⁸³ However, in her earlier statement to the BiH police, dated 30 September 1994, she stated that the incident occurred at 4:30 p.m..¹²⁵⁸⁴ When asked about this discrepancy, she explained that she did not know the exact

¹²⁵⁷⁰ Prosecution Final Brief, Appendix C, paras. 26, 28–29.

¹²⁵⁷¹ Defence Final Brief, paras. 2213–2219.

¹²⁵⁷² Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3517. See also Sanija Dževlan, T. 11748–11749 (14 February 2011). See also Adjudicated Fact 189.

¹²⁵⁷³ While the witness did not know the name of the street on which the bridge was located, the maps provided to the Chamber indicate that Nikole Demonje is the name of the street. See Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3535.

¹²⁵⁷⁴ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T3517–3519; P2295 (Video footage re sniping incident of 6 January 1994 on Nikole Demonje street); Sanija Dževlan, T. 11751–11752, 11758–11760 (14 February 2011); D1048 (Aerial photograph of Dobrinja marked by Sanija Dževlan); D1049 (Photograph of Dobrinja marked by Sanija Dževlan); D1050 (Video footage re sniping of Nikole Demonje street of 6 January 1994). See also Adjudicated Fact 189.

¹²⁵⁷⁵ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3519. See also Sanija Dževlan, T. 11754 (14 February 2011).

¹²⁵⁷⁶ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3519.

¹²⁵⁷⁷ P1893 (Discharge form for Sanija Dževlan). During cross-examination Sanija Dževlan indicated that she thought that she was hit with two bullets, even though originally she said she did not know how many bullets had hit her. However, on the basis of the medical report the Chamber is of the view that there was only one entry-exit wound rather than two and that therefore only one bullet hit and injured Sanija Dževlan. See Sanija Dževlan, T. 11761–11763 (14 February 2011).

¹²⁵⁷⁸ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3519–3520. See also Sanija Dževlan, T. 11748 (14 February 2011). See also Adjudicated Fact 190.

¹²⁵⁷⁹ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3529.

¹²⁵⁸⁰ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3518, 3530; Sanija Dževlan, T. 11747, 11769 (14 February 2011).

¹²⁵⁸¹ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3518–3519, 3536; Sanija Dževlan, T. 11764 (14 February 2011). See also Adjudicated Fact 194. When confronted with an UNMO report suggesting that throughout the week of 31 December 1993 to 6 January 1994, the ABiH fired some 10 to 50 rounds in the areas of Lukavica, Grbavica, and Vogošća, she remained adamant that she could not hear any sniping or shelling on the day in question and that if she had, she would not have left the house. **(It only meant that she didn't hear it, not that it didn't happen as described in the UN MO report!)** See Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3536–3545; P2293 (UNMO weekly report, 7 January 1994). See also Sanija Dževlan, T. 11764–11766 (14 February 2011).

¹²⁵⁸² Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3517–3518. See also Sanija Dževlan, T. 11743–11744, 11757 (14 February 2011).

¹²⁵⁸³ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3518.

¹²⁵⁸⁴ D670 (Statement of Sanija Dževlan to BiH MUP, 30 September 1994).

time of the incident as she was not wearing a watch when she was wounded.¹²⁵⁸⁵ However, she noted that it must have been daylight, as it would have been impossible to move at night time due to the lack of electricity in the neighbourhood, and also explained that she had left her house around 3 p.m. to go to the nearby hospital and pick up the medication.¹²⁵⁸⁶

(#Another ambiguity?#!? It is well known that on 6 January the day-lite time is very short, and visibility very bad. However, it is a pattern, that the contemporaneous official documents are corrected afterwards, as to fit to the Prosecutor needs!)

3813. As for the direction from which the bullets came, Dževlan testified that they came from her right as she was cycling, that is, from the direction of Dobrinja 4, either from the high-rise buildings or the Orthodox Church in that area.¹²⁵⁸⁷ According to her, this area was under the control of the VRS,¹²⁵⁸⁸ while the ABiH controlled Dobrinja 3, as well as the summit and the left side of the Mojmiilo Hill, which was in front of her as she was cycling home.¹²⁵⁸⁹ Dževlan explained that there were barricades on both sides of the bridge, and noted that she was shot as soon as she emerged from behind them, while getting off the bridge on its northern side.¹²⁵⁹⁰

3814. Hogan visited the site of the incident and recorded Dževlan's exact location when she was shot.¹²⁵⁹¹ Van der Weijden visited the same location and noted, bearing in mind that the shots came from the victim's right, that is east-southeast,¹²⁵⁹² that while the bridge was largely screened off from view to the east and southeast, there were "uncovered stretches at both sides of the bridge".¹²⁵⁹³ He thought that the shooter must have seen Dževlan when she was getting on the bridge on the south side, as there was also a non-screened part on that side, and then waited for her to get off the bridge on the north side.¹²⁵⁹⁴ The only buildings located east of the bridge that had a line of sight on the bridge were the apartment block, which is 355 metres away, and the Orthodox Church, which is 820 metres away.¹²⁵⁹⁵ Van der Weijden was

¹²⁵⁸⁵ Sanija Dževlan, T. 11745–11746, 11755 (14 February 2011).

¹²⁵⁸⁶ Sanija Dževlan, T. 11743, 11745–11746, 11755, 11757 (14 February 2011).

¹²⁵⁸⁷ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3523–3529; P2292 (Photograph of Dobrinja marked by Sanija Dževlan); P2294 (Map of Sarajevo marked by Sanija Dževlan); P2295 (Video footage re sniping incident of 6 January 1994 on Nikole Demonje street). *See also* Sanija Dževlan, T. 11742 (14 February 2011). When asked on cross-examination why she identified Dobrinja 4 as the area from which the fire came, Dževlan explained that it was because Serb forces were there and there was, therefore, no other place the fire could have come from. *See* Sanija Dževlan, T. 11763–11764 (14 February 2011).

¹²⁵⁸⁸ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3527. This is confirmed by Adjudicated Fact 192.

¹²⁵⁸⁹ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3515–3516, 3546–3547. *See also* Sanija Dževlan, T. 11751–11752 (14 February 2011); D1048 (Aerial photograph of Sarajevo marked by Sanija Dževlan).

¹²⁵⁹⁰ Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3525, 3527; P2292 (Photograph of Sarajevo marked by Sanija Dževlan); P2295 (Video footage re sniping incident of 6 January 1994 on Nikole Demonje street). *See also* Sanija Dževlan, T. 11742–11743, 11745, 11753, 11754–11755 (14 February 2011). Following the two incidents at this location, more barricades made of sandbags were placed on the bridge to make the location safer. *See* Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), T. 3529.

¹²⁵⁹¹ Barry Hogan, T. 11211–11212 (3 February 2011); P2200 (Photograph re sniping incident of 6 January 1994 on Nikole Demonje street marked by Barry Hogan); P2201 (Map of Sarajevo marked by Barry Hogan); P2207 (Images re scheduled sniping incidents in Sarajevo); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents).

¹²⁵⁹² Patrick van der Weijden, T. 7133 (29 September 2010).

¹²⁵⁹³ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 48.

¹²⁵⁹⁴ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 49; Patrick van der Weijden, T. 7138 (29 September 2010).

¹²⁵⁹⁵ P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 49. *See also* Patrick van der Weijden, T. 7133 (29 September 2010). This is confirmed by the evidence before the Chamber, namely that the confrontation line at Dobrinja ran along the road separating Dobrinja 3 and Dobrinja 4. *See* para. 3787. *See also* Barry Hogan, T. 11211–11212 (3 February 2011); P2200 (Photograph re sniping incident of 6 January 1994 on Nikole Demonje street marked by Barry Hogan); P2201 (Map of Sarajevo marked by Barry Hogan).

told that the apartment block was occupied by the ABiH at the time of the incident while the SRK troops occupied the red roofed apartment buildings across the street, the latter offering no view of the incident site.¹²⁵⁹⁶ Van der Weijden concluded that the shooter was most likely located in the Orthodox Church tower since (i) ABiH troops were unlikely to have their focus on the bridge with their enemy so near by in the red roofed apartment buildings; **(How this kind of speculation is called? What does it mean? The “enemies” were looking the eastern apartments of the ABiH occupied building, while a possible Muslim shooter was on the west oriented side of the building!)** (ii) the tower of the church was under construction at the time, thus providing a good location for a sniper nest or even a machine gun emplacement; and (iii) the church offered a clear unobstructed view of the incident site.¹²⁵⁹⁷ As noted earlier,¹²⁵⁹⁸ Van der Weijden never visited the Orthodox Church tower.¹²⁵⁹⁹ Noting all of the information above, he concluded that the shooter would be able to identify the victim as an adult woman on a bike.¹²⁶⁰⁰ **(No matter how short period she was visible to him?)**

3815. Van der Weijden also noted that the calibre of the bullet used in this incident would not have been greater than 7.92 mm as bullets of such calibre would have caused far more serious damage.¹²⁶⁰¹ He recalled Dževlan’s evidence that she heard multiple bullets and assumed that this was a reference to automatic fire, which led him to conclude that the weapon used was a medium machine-gun, either an M84 or an M53 which can fire with 7.62 mm or 7.92 mm bullets.¹²⁶⁰² He also explained that these machine-guns can be mounted on a tripod and fitted with a telescopic sight which makes them suitable for long-range engagements.¹²⁶⁰³ **(No matter it could have been so, was it so??? #How many other possibilities existed#? If so able and concentrated weapon was used, why there was so many stray bullets, ricocheting from the asphalt?)** Van der Weijden conceded that his conclusions in relation to the calibre of the bullet used were speculative, but denied the Accused’s suggestion that the VRS did not possess 7.92 mm calibre bullets, noting that he personally saw “Serbian troops” with machine guns in that calibre.¹²⁶⁰⁴ The Chamber recalls that Galić confirmed that SRK had various M48 rifles of 7.92 millimetre calibre, which had optical sights and which were referred to as sniping rifles.¹²⁶⁰⁵

3816. On cross-examination, Van der Weijden was asked why he excluded the possibility that the shooter was located between the apartment block and the victim, and responded that that area was an open field, which meant that the shooter would be exposed to fire from all sides, and thus would be risking his own life.¹²⁶⁰⁶ Van der Weijden also confirmed that the

¹²⁵⁹⁶ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 49. *See also* Barry Hogan, T. 11211–11212 (3 February 2011); P2200 (Photograph re sniping incident of 6 January 1994 on Nikole Demonje street marked by Barry Hogan); P2201 (Map of Sarajevo marked by Barry Hogan).

¹²⁵⁹⁷ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 49.

¹²⁵⁹⁸ *See para.* 3799.

¹²⁵⁹⁹ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 49.

¹²⁶⁰⁰ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 49.

¹²⁶⁰¹ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 47.

¹²⁶⁰² P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 47.

¹²⁶⁰³ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 47.

¹²⁶⁰⁴ Patrick van der Weijden, T. 7138–7139 (29 September 2010).

¹²⁶⁰⁵ Stanislav Galić, T. 37463–37464 (22 April 2013).

¹²⁶⁰⁶ Patrick van der Weijden, T. 7133–7134 (29 September 2010).

confrontation line was around 400 metres to the east from the location of the incident and that the view of the bridge from that confrontation line was obstructed by the apartment block mentioned above.¹²⁶⁰⁷ When asked if he would conclude that the victim simply cycled into the line of fire given that she was shot as soon as she left the confines of the metal screen on the bridge, Van der Weijden, conceding that this was a possibility, said that he would not necessarily conclude so since the victim was visible before she cycled onto the bridge and thus the shooter could have been waiting for her to come out on the other side.¹²⁶⁰⁸ **(How many conditionals and “ifs”?)** The Accused cross-examined Van der Weijden on visibility in the Sarajevo valley at 4:30 p.m. but the latter was only able to agree that the surroundings would impact on visibility and that the time of day would be relevant to a shooter but that the shooter’s efficacy would also depend on the equipment used.¹²⁶⁰⁹ **(Another uncertainty, depending of speculations and “ifs”)**

3817. Poparić testified that in his view Dževlan was shot from a much shorter distance than the Orthodox Church and by a bullet that was directed at the asphalt but then ricocheted, which to him implied that this was an accident and that the shooter was trying to scare her.¹²⁶¹⁰ He based his conclusion on several grounds. First, in his view the incident took place around 4:30 p.m. as first stated by Dževlan in her statement to the BiH MUP,¹²⁶¹¹ which meant that visibility was low, such that a sniper located at a distance of over 800 metres away would not have been able to see her.¹²⁶¹² Second, even if visibility was good at the time of the incident, Poparić concluded that she could not have been shot from the church because the sniper would have had to start shooting some 0.99 seconds before Dževlan came into his view.¹²⁶¹³ Third, Poparić noted that Dževlan testified that she was hit by two bullets which would not have been possible given the time needed for each of those bullets to reach the incident site and the time she would have been visible and exposed to the sniper.¹²⁶¹⁴ Finally, Poparić observed that the incident site was not a location known for being exposed to sniping from VRS positions and that, therefore, this incident did not involve a sniper but an automatic weapon.¹²⁶¹⁵

¹²⁶⁰⁷ Patrick van der Weijden, T. 7135–7136 (29 September 2010); D668 (Aerial photograph of Sarajevo marked by Patrick van der Weijden).

¹²⁶⁰⁸ Patrick van der Weijden, T. 7136–7138 (29 September 2010); D669 (Witness statement of Sanija Dževlan dated 24 September 2001).

¹²⁶⁰⁹ Patrick van der Weijden, T. 7139–7142 (29 September 2010).

¹²⁶¹⁰ D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 95.

¹²⁶¹¹ Poparić bases this conclusion on the fact that Dževlan went to visit her mother in the Dobrinja Hospital after 3 p.m. and that, since the visiting hours officially finished at 4 p.m. (but would often be “prolonged by an extra 15 minutes or so”), it was more likely that she was cycling back home around 4:30 p.m.. See D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 88–89. However, Dževlan never went to visit her mother in the hospital – instead she went to buy medication for her mother. **(But she stated in her first statement that the incident took place at 4:30, no matter where she was heading to!)** See para. 3811. See also Mile Poparić, T. 39164–39168 (4 June 2013); T. 39259–39260 (5 June 2013).

¹²⁶¹² To establish poor visibility, Poparić compiled a number of photos of the area taken on 6 January 2012 around 4:30 p.m.. See D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 88–91; Mile Poparić, T. 38963–38964 (29 May 2013).

¹²⁶¹³ Poparić bases this analysis on (i) the distance between the church and the incident site (which he says is 855 metres according to Google Maps), (ii) Dževlan’s position when shot (which he obtained from the video footage of Barry Hogan with Dževlan) and the estimated distance between her and the protective fence on the bridge, (iii) the estimated distance she must have covered to go from one exposed side of the bridge to another, (iv) the estimated time Dževlan would have taken to cycle through that distance (based on average cycling speed of a female cyclist aged 35), and (v) the estimated time a bullet fired by an M84 rifle and travelling at its highest velocity would take to reach the incident site. D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 92–93; Mile Poparić, T. 38961–38963 (29 May 2013).

¹²⁶¹⁴ D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 93.

¹²⁶¹⁵ D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 93.

3818. Galić, in addition to his testimony about the Orthodox Church referred to above,¹²⁶¹⁶ testified that he did not receive a report about this incident or issued orders to fire on that area.¹²⁶¹⁷ When shown a regular combat report sent by the SRK Command to the VRS Main Staff on 6 January 1994 at 5 p.m. which makes no mention of the incident, Galić stated, noting that this was the eve of the Orthodox Christmas, that the SRK respected all religious holidays and would refrain from activities on such days.¹²⁶¹⁸ **(As frequently ordered by the President, see D4610, pertaining to the Bajram, a Muslim holiday celebration, quoted in para 3780 above!)** On cross-examination, when confronted with an UNMO summary of events for the week ending on 6 January 1994, showing that the VRS was shelling northern and western areas of the city, together with the centre, all week long, Galić explained that all of the shelling happened outside of Dobrinja and that he could not see any link to the incident in which Dževlan was wounded.¹²⁶¹⁹ In any event, according to him, the SRK was engaged in defensive action at the time as it had been attacked by the ABiH on 5 January.¹²⁶²⁰ **(Which was true, as it can be seen from D3523:**

In the course of the reporting period the enemy opened fire on Grbavica, Dobrinja, and Lukavica. At 1045 hours a shell fell on the SPS *Stobodan Princip Seljol* barracks between the canteen and the kitchen.

At 2030 hours a strong infantry attack was launched on Pijačna Street and Azići from the direction of Stup with the assistance of artillery and 82 mm and 120 mm mortars. The attack was repelled without any consequences.

During the entire day the enemy opened sniper fire on all lines of defence, and the barracks in Lukavica, Grbavica, Nedarići and Dobrinja.

Consistent with this one is another report on 5 January 1994 from the neighbouring battalion, D2595:

1. The Enemy:

Based on daily reports from the duty officers of the battalions, we inform you that last night and today the enemy did not observe the signed truce, since they engaged in organised action against territory in the zone of responsibility of our brigade, as follows:

- Last night, between 2030 and 2130 hours, the enemy carried out a heavy infantry attack on Pijačna Street and Azići from the direction of Stup, using large-calibre /weapons/. Our forces responded vigorously, repulsed the attack, and held the lines without any casualties.
- In other sectors there was occasional enemy fire last night and today from small arms and sniper rifles. Our forces did not respond.
- UNPROFOR convoys are passing through without any problems.
- Items 2, 3, 4, 5, 6, 7 and 8 are unchanged.

How possibly this fierce firing of the Muslim side (ABiH) exactly at the same location, sowing so many bullets, could have been neglected as a source of the fire causing this incident? Let us see what the UN document of 6 January 1994 said about the situation. D178:

¹²⁶¹⁶ See para. 3804.

¹²⁶¹⁷ Stanislav Galić, T. 37517–37518 (22 April 2013).

¹²⁶¹⁸ Stanislav Galić, T. 37519–37522 (22 April 2013); D3452 (SRK combat report, 6 January 1994).

¹²⁶¹⁹ Stanislav Galić, T. 37827–37831 (7 May 2013); P2293 (UNMO weekly report 31 December 1993 - 6 January 1994).

¹²⁶²⁰ Stanislav Galić, T. 38045 (9 May 2013); D3523 (SRK combat report, 5 January 1994), p. 1.

3058. Negotiator Lord Owen, stated that cease-fires alone would not solve the problems in the former Yugoslavia. Negotiator Stoltenberg, added that there had already been 69 cease-fires and still no sign of an end to the war. Owen said that the BiH warring generals had not taken "a blind bit of notice" of their Christmas cease-fire. On a positive note, he added: "What is important is that they're starting to grapple with the real issues underlying the problem". 4125/

This corroborates the Galic's statement about the SRK defensive action! Further, the same document D178:

Combat and Shelling Activity: UNPROFOR monitors counted 732 shells landing in the city during the morning, most of them in the Jewish cemetery area of the Grbavica district. 4126/ Reporters who witnessed the combat from the Holiday Inn Hotel said that it was the heaviest fighting in weeks so close to the city centre. 4127/ Source(s): Reuters; Agence France Presse.

Targets Hit: The area of the old Jewish cemetery; the Grbavica district; the airport; the Holiday Inn; the Central Bank; the area near the Presidency building. Source(s): Reuters; Associated Press; Agence France Presse.

So, #the Serbs sustained the majority of it#! It is undoubted fact that the Serbs wouldn't shell their positions on the Jewish Cemetery, or Grbavica district, but the ABiH was trying to move the confrontation line and conquer Grbavica and the Jewish Cemetery, see further, report for 7 January 1994. D178:

Combat and Shelling Activity: UNPROFOR observers counted more than 900 Bosn Serb-fired shells earlier in the day. The BiH army reportedly fired 6 shell against Serb positions. 4138/ Intense fighting between BiH and Bosnian Serb forces in Grbavica eased during the day, with BiH forces saying that the fr line several hundred metres from the city centre, had remained unchanged. 4139/ However, the fighting was reported to be at a lower intens level than on the previous day. 4140/ Source(s): Agence France Presse.

Obviously, the ABiH wanted to change the front line, on the Orthodox Christmas! That is what Lord Owen meant, how "highly" the Muslim side respected the Serb Christmas!

3819. The Chamber has also taken judicial notice of the following adjudicated facts: (i) Dževlan's clothing, the activity she was engaged in (riding a bicycle), and the fact that she was unarmed were indicia of her civilian status and would have put a perpetrator on notice of her civilian status;¹²⁶²¹ (ii) the bullet, coming from Dževlan's right-hand side, came from the direction of the Orthodox Church located approximately 800 metres from the site of the incident,¹²⁶²² and (iii) Dževlan was a civilian who was deliberately targeted from SRK-controlled territory.¹²⁶²³ **(#Deadly combination#! If the adjudicated facts were so important, then this process was unnecessary. But, if it was an automatic fire, as Dzevlan suggested describing the ricochet fire, the Orthodox Church would be to far, and should be excluded as a possible source!)**

3820. The Chamber notes that, in addition to the unpersuasive evidence by Galić and Milošević relating to the Orthodox Church,¹²⁶²⁴ the only substantive evidence the Accused

¹²⁶²¹ See Adjudicated Fact 191.

¹²⁶²² See Adjudicated Fact 195.

¹²⁶²³ See Adjudicated Facts 196, 197.

¹²⁶²⁴ As noted earlier (see fn. 12566), the Chamber acknowledges that both Galić and Milošević testified that the Orthodox Church was not used by the SRK soldiers for sniping. However, the Chamber is more persuaded by the report of the ABiH intelligence organ, dated 2 October 1993, in which the church is mentioned as an observation post and an occasional source of sniper fire, particularly as this seems to be confirmed by the evidence of Francis Roy Thomas.

brought to rebut the above adjudicated facts and the evidence tendered by the Prosecution was that of Poparić. However, the Chamber finds his analysis problematic. **(Nothing else in this incident is problematic, but the Defence expert's report???)** First, he mistakenly concluded that Dževlan was on the bridge at around 4:30 p.m. whereas Dževlan testified that she was on the bridge somewhere between 3 and 4 p.m. which was in line with her activities on that day. **(But contradicted to her first statement!)** More importantly, she confirmed that it was still daylight at the time, with good visibility. Second, Poparić's calculations as to the time Dževlan would have taken to cross the bridge are based on the average cycling speed of a woman aged 35. However, there is nothing to suggest that this is the speed at which Dževlan cycled on that day and he never spoke to her to confirm that fact. **(Big deal! It certainly was not a slow walking! Riding a bicycle was much faster than any walking, even running, and a visible piece of the bridge was too short to enable registering Ms. D'evlan and aim at her!)** Accordingly, Poparić's analysis that a sniper located on the Orthodox Church tower would not have been able to deliberately target Dževlan is misguided. For the same reason, his argument that it was even less likely for her to be hit by two bullets is equally flawed, particularly given that the gun most likely used in this incident was a semi-automatic gun. **(A semi-automatic gun would not be as precise on this distance, nor would fire automatic fire that Dzevlan had seen ricocheting!)** Accordingly, the Chamber does not accept Poparić's evidence in relation to this incident.

3821. Bearing in mind her clothing and the fact that she was cycling, the Chamber is satisfied that Dževlan was a civilian and was not taking direct part in hostilities at the time of the incident. The Chamber is also satisfied that there was a line of sight between her location on the bridge—when she cycled outside of the protective barrier—and the Orthodox Church. In addition, the distance between the two locations was such that a sniper positioned in the Orthodox Church would have been able to observe Dževlan's civilian status. The Chamber also accepts Dževlan's evidence that it was daylight at the time of the incident and that the visibility was good and finds that, contrary to Poparić's claim, she would have been an easy target for a sniper located in the Orthodox Church, particularly given the range of the gun most likely used in this incident. The Chamber recalls Dževlan's evidence that the day was quiet and that she did not hear fire prior to getting shot. Accordingly, the Chamber is not convinced by the Accused's claim that she cycled into the line of fire, nor is it convinced by Poparić's conclusion that the incident happened by accident while the shooter was trying to scare her, as there appears to be no basis for that conclusion other than that Dževlan heard a bullet ricochet. **(Not #“a bullet” but “bullets!”#, the first statement of Ms. Dzevlan, given 03 September 1994, eight months after the incident, see D670:**

On 6 January 1994 at around 1630 hours I was returning home on my bicycle. At that moment I was on the bridge in Nikole Demonja Street when bullets started to fly that were fired from Dobrinja 4 which is under the control of the aggressor. At that point I

Ms. Dzevlan's statement given to Mr. Hogan on 24 Sept.2001, D669:

Immediately after I felt the impact of what I learned was a bullet upon my body, I saw and heard three or four other shots hitting the pavement around me. It appeared to be a burst of fire from an automatic weapon.

Why this detail about the “bullets” and “an automatic weapon had evaporated from the case? This detail was very important in assessing the distance, and the Church would be excluded!) Bearing in mind Van der Weijden's analysis as to why the Orthodox Church

tower was the most likely origin of fire, and coupling that with Dževlan's testimony as to the direction the fire came from, the Chamber is of the view that she was hit by a bullet that originated from the Orthodox Church. **(The #Church was not the only possible source#, and certainly not for an automatic firearm. Thus, a possibility meant "probability" but still not the only one! What is with this kind of deliberation? A new practice, a new principles?)** Further, given that the church was located in the SRK-held territory, the Chamber finds that Dževlan was shot by an SRK sniper. **(That is why the detail of the multiple bullets fire, about the outburst, an "automatic weapon" had to vanish, in order to recover the insignificant idea about the Orthodox Church. And this is something that should hopefully be banned forever!)** Finally, since that sniper needed to carefully plan his shot from the moment Dževlan cycled onto the bridge until the moment she left the safety of the protective barrier, the Chamber has no doubt that the SRK sniper deliberately targeted her, fully aware that she was a civilian.

1. Nikole Demonje street and Bulevar AVNOJ, 25 May 1994 (Scheduled Incident F.7)

3822. The Indictment alleges that, on 25 May 1994, Sehadeta Plivac, a 53 year old woman, and Hajra Hafizović, a 62 year old woman, were both shot and wounded in their legs while travelling in a crowded bus near the junction of Nikole Demonje and Bulevar AVNOJ (currently Bulevar Branioca Dobrinje) in Dobrinja.¹²⁶²⁵ According to the Prosecution, the fire came from Nedžarići which was an SRK-held area and from which there was a direct sight to the incident location.¹²⁶²⁶ The Accused denies that the fire came from the VRS positions and argues that the bullet must have come from a "relatively short distance".¹²⁶²⁷

3823. In 1994, Ramiz Grabovica, an ABiH conscript in logistics, was employed by the public transport company to drive civilians on a regularly scheduled bus route between the Alipašino bridge and Dobrinja during cease-fires.¹²⁶²⁸ On 25 May 1994, a sunny day, at approximately 11:40 a.m., Grabovica reached his last stop at the intersection of Nikole Demonje street and Omladinskih Brigada street in the centre of Dobrinja, stopped the red and white bus, opened the three doors of the bus and turned off the engine to save fuel.¹²⁶²⁹ The bus was visibly a civilian vehicle, which only functioned during cease-fires along a regularly scheduled bus route.¹²⁶³⁰ As he waited for passengers to board, Grabovica heard a single shot coming from the direction of Neđarići, which was controlled by the SRK, precipitating panic on the bus.¹²⁶³¹ Ramiz Grabovica saw that two middle-aged women had been injured.¹²⁶³² The one sitting on the right side of the bus was holding her knee and the other sitting in the opposite side of the aisle was bleeding profusely.¹²⁶³³ The victims, Sehadeta Plivac and Hajra Hafizović, were taken off the bus and remained at the hospital where they received medical

¹²⁶²⁵ Indictment, Scheduled Incident F.7.

¹²⁶²⁶ Prosecution Final Brief, Appendix C, para. 34.

¹²⁶²⁷ Defence Final Brief, paras. 2224–2225.

¹²⁶²⁸ Adjudicated Fact 198.

¹²⁶²⁹ Adjudicated Fact 199.

¹²⁶³⁰ Adjudicated Fact 203.

¹²⁶³¹ Adjudicated Fact 200.

¹²⁶³² Adjudicated Fact 201.

¹²⁶³³ Adjudicated Fact 201.

assistance.¹²⁶³⁴ Medical documentation in evidence records that Hafizović was wounded in “both lower legs (through-and-through wounds)”, while Plivac was wounded by a sniper bullet in the “upper part of the right lower leg” and had to have surgery so that a “foreign object retained in popliteal area” could be removed.¹²⁶³⁵

3824. Hogan visited the site of the incident with Ramiz Grabovica and filmed the visit while Grabovica indicated the exact location of the bus when shot at, as well as the location of the two victims when wounded.¹²⁶³⁶ Grabovica can be seen in the video footage indicating that the front of the bus was facing southwest, that the shots hit the right hand-side of the bus and came from the northwest, that is, from the direction of Nedžarići.¹²⁶³⁷

3825. Van der Weijden also went to the site of the incident where he was told by the Prosecution that the bus was parked with its nose orientated south/southwest and its right side exposed down the Branioca Dobrinje street to the northwest.¹²⁶³⁸ According to his report, the bullet that wounded the victims penetrated the wall of the bus on its right hand side, struck the knee of one of the victims, and then hit the other victim on the other side of the bus.¹²⁶³⁹ **(This is already a #miracle#! Such a smart and vivid bullets are a miracle! Another word, a Serb bullets!)** Van der Weijden noted that there were no possible shooting positions for some 550 metres away from the incident in the direction of the northwest, including between the protective barricades that were located at the end of the Branioca Dobrinje street and the incident site, as the shooter would have had to lean outside one of the buildings lining the street in order to shoot.¹²⁶⁴⁰ Therefore, the shooter must have been beyond that distance and above ground level to be able to see the bus.¹²⁶⁴¹ While his report notes that the alleged shooting position was the Faculty of Theology in Nedžarići, Van der Weijden testified that he never visited that location and was in fact unable to determine the precise location of the shooter because the area had been heavily rebuilt since the time of the incident.¹²⁶⁴²

¹²⁶³⁴ Adjudicated Fact 202.

¹²⁶³⁵ P1892 (Medical records for Šehadeta Plivac and Hajra Hafizović).

¹²⁶³⁶ Barry Hogan, T. 11213–11214, 11274–11276 (3 February 2011); P2202 (Photograph re sniping incident of 25 May 1994 in Dobrinja marked by Barry Hogan); P2207 (Images re scheduled sniping incidents in Sarajevo); D1004 (Video footage re sniping incident of 25 May 1994 in Dobrinja); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents).

¹²⁶³⁷ Barry Hogan, T. 11724–11726 (3 February 2011); D1004 (Video footage re sniping incident of 25 May 1994 in Dobrinja).

¹²⁶³⁸ Patrick van der Weijden, T. 7961–7062 (28 September 2010).

¹²⁶³⁹ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 52.

¹²⁶⁴⁰ In response to a question by the Chamber, Van der Weijden conceded that if located on the top of one of the high-rise buildings lining the Branioca Dobrinje street on the ABiH side of the confrontation line, the shooter could have had a view of the incident site. **But he didn’t “believe” that it could have been the Muslim bullet?** See Patrick van der Weijden, T. 7066–7069 (28 September 2010); P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), pp. 53–54. The Chamber notes that in its Final Brief the Prosecution argues that the building mentioned by the Chamber during this questioning did not exist at the time. See Prosecution Final Brief, Appendix C, para. 35. While that may be so, the Chamber also notes that Van der Weijden’s answer to the question seemed to be broader, referring to “a high-rise” and that it therefore covered any of the high-rise buildings lining the street in existence at the time of the incident.

¹²⁶⁴¹ Patrick van der Weijden, T. 7066–7069 (28 September 2010); P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), pp. 53–54. On cross-examination, Van der Weijden conceded that he did not know which part of the right hand side of the bus was penetrated by the bullet and did not have access to any forensic or criminal investigation reports in relation to the incident, but claimed that this information was not necessary as he never established the exact location of the origin of fire, only a general direction and the general area from which it came. **(Why it wasn’t enough to dismiss the incident?)** He also denied that he was told to place the origin of fire on the Serb side of the confrontation line. Patrick van der Weijden, T. 7062, 7066–7068 (28 September 2010); P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 53.

¹²⁶⁴² P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), pp. 52, 54; Patrick van der Weijden, T. 7071–7073 (28 September 2010); D662 (Photograph of Faculty of Theology in Sarajevo).

3826. Since there was a lack of possible shooting positions closer than 550 metres away, the bullet that was used was most probably of a 7.62 mm or 7.92 mm calibre. Furthermore, given the distance and the fact that only one shot was heard, it is most likely that a sniper rifle, either an M76 or an M91, was used.¹²⁶⁴³ According to Van der Weijden, it would have been impossible to identify the passengers inside the bus from that distance but given that the bus was coloured in red and was stationary it would have been easily identifiable as a civilian vehicle.¹²⁶⁴⁴ On cross-examination, Van der Weijden conceded that the only conclusion he was able to reach about this incident, based on the information provided to him by the Prosecution, was that the bullet could have come down the Branioca Dobrinje street and that it was “probably of a certain calibre”.¹²⁶⁴⁵

3827. In his report Poparić focused on the Faculty of Theology arguing that the bullet could not have come from there, as alleged by Grabovica in the *Galić* case, because the faculty was 1,527 metres away (and thus too far for either a sniper rifle or machine-gun to reach) and there was also no line of sight between the two locations.¹²⁶⁴⁶ However, the Chamber notes that the evidence tendered by the Prosecution in relation to this incident does not suggest that the fire came from the Faculty of Theology.¹²⁶⁴⁷ Instead, as noted above, the Prosecution argues that the fire came from Nedžarići generally.¹²⁶⁴⁸ Accordingly, the Chamber will not focus solely on the Faculty of Theology as the origin of fire.

3828. Poparić then argued that the fire could not have come from the VRS side of the confrontation line in the area because, according to a map marked by Ismet Hadžić in the *Galić* case, the confrontation line was some 250 metres behind the protective screens and the VRS soldiers did not have a line of sight from those positions.¹²⁶⁴⁹ Furthermore, the protective screens were placed on Nikole Demonje street in order to protect the command of the ABiH Brigade which was located in the street, which meant that armed ABiH soldiers must have been in the area securing the facility.¹²⁶⁵⁰

¹²⁶⁴³ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 52. See also Patrick van der Weijden, T. 7065–7066 (28 September 2010). Van der Weijden reiterated that he saw weapons that use those bullets at Serb check-points in Sarajevo throughout the war. Patrick van der Weijden, T. 7070–7071 (28 September 2010). In addition, Guzina testified that his battalion, which was located in the Nedžarići area, had three M76 sniper rifles. See fn. 12492.

¹²⁶⁴⁴ P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 54.

¹²⁶⁴⁵ Patrick van der Weijden, T. 7072 (28 September 2010).

¹²⁶⁴⁶ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 95–104; Mile Poparić, T. 38969, 38971–38974 (30 May 2013), T. 39241–39246 (4 June 2013); P6365 (Photograph of a building marked by Mile Poparić). Sladoje also testified that there was no line of sight between the Faculty of Theology and the incident site, and that the distance between the two was around 1,500 metres. He further noted that his battalion did not have a sniper with such a range and denied that there was a sniper in the Faculty of Theology. According to him, his battalion placed a recoilless gun at the Faculty in order to be able to neutralise enemy positions and sniper nests in high-rises in Vojničko Polje and Mojnilo. See D2479 (Witness statement of Mile Sladoje dated 25 November 2012), paras. 6, 29; Mile Sladoje, T. 30577 (28 November 2012). On the other hand, Guzina testified that the 1st Battalion had machine guns in the Faculty of Theology. He did confirm, however, that the Faculty was some 1,500 metres away from the location of the incident site and that the latter was not visible from the former. D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 44. See also D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 116.

¹²⁶⁴⁷ Indeed, Poparić was aware of that but testified that he nevertheless chose to examine that location as it was often mentioned as the source of fire for this incident. Mile Poparić, T. 38970, 38974–38975 (30 May 2013); D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 103.

¹²⁶⁴⁸ See para. 3822. Indeed, the adjudicated facts related to this incident, namely Adjudicated Facts 204, 206, and 207, do not suggest that the Faculty of Theology was the origin of fire. **What an “Adjudicated facts”! Certainly, the Faculty of Theology was not a “notorious sniper place”**

¹²⁶⁴⁹ D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 101–102, 104; Mile Poparić, T. 38970–38971, 38975 (30 May 2013).

¹²⁶⁵⁰ Mile Poparić, T. 38971 (30 May 2013).

3829. Sladoje, an assistant commander of the 1st Battalion of the Ilidža Brigade positioned in the area of Nedžarići at the time of the incident,¹²⁶⁵¹ testified that no one from his battalion's command issued orders to fire at the street where the incident happened.¹²⁶⁵² While conceding during cross-examination that the very front of his battalion's defence position was approximately 550 metres from the incident site, Sladoje denied that the fire on the bus could have come from that position because the ABiH forces in Dobrinja 5 were only 100 to 150 metres away and, in addition, Dobrinja 5 was "sheltering" Dobrinja 2 and 3.¹²⁶⁵³ Guzina, however, conceded that it was possible that the fire came from the VRS side of the confrontation line but not from the Faculty of Theology.¹²⁶⁵⁴ Radojčić testified that he never received any information about this incident.¹²⁶⁵⁵ Similarly, Stanislav Galić testified that he received no reports about this incident and noted that there was a general ban on opening fire on public transport as it was well known that passengers were civilians.¹²⁶⁵⁶

3830. The Chamber has also taken judicial notice of a number of adjudicated facts which state that: (i) the passengers of the bus were targeted from the area of Nedžarići,¹²⁶⁵⁷ (ii) there was one line of sight between the site of the incident and Nedžarići,¹²⁶⁵⁸ and (iii) the area of Nedžarići was controlled by the SRK at the time of the incident.¹²⁶⁵⁹ The final adjudicated fact concludes that on 25 May 1994 civilian passengers of a civilian vehicle were deliberately targeted from SRK-controlled territory and such targeting resulted in the wounding of Sehadeta Plivac and Hajra Hafizović.¹²⁶⁶⁰ **(#Deadly combination#! When there is no any evidence, then try with adjudicated facts, from other processes, in which this Defence hadn't any chance to test the accuracy!)**

3831. Having weighed the above listed adjudicated facts against the evidence related to this incident, the Chamber is unable to come to the same conclusion beyond reasonable doubt. As noted above, the Prosecution does not allege a specific location for the origin of fire in this incident and instead argues that the fire came down the Branioca Dobrinje street, from Nedžarići and from the SRK side of the confrontation line, which was 550 metres away from the incident site and thus within the range of a number of sniper rifles at the SRK's disposal.¹²⁶⁶¹

3832. It appears that the Prosecution's main argument as to the distance to the confrontation line is Van der Weijden's report in which he marked a location just behind the protective

¹²⁶⁵¹ D2479 (Witness statement of Mile Sladoje dated 25 November 2012), paras. 2, 5; Mile Sladoje, T. 30562 (28 November 2012).

¹²⁶⁵² D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 29. This was confirmed by Vladimir Radojčić, the Ilidža Brigade commander. See D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 116.

¹²⁶⁵³ Mile Sladoje, T. 30578–30580 (28 November 2012). Guzina also testified as to the distance between the incident site and the confrontation line. When asked during cross-examination if that distance 550 metres, Guzina responded "If you say it's that way, then it's probably that way." Svetozar Guzina, T. 31162 (11 December 2012).

¹²⁶⁵⁴ Svetozar Guzina, T. 31164–31165 (11 December 2012).

¹²⁶⁵⁵ D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 116.

¹²⁶⁵⁶ Stanislav Galić, T. 37522–37523 (22 April 2013). On the date of the incident the Accused received a report from the VRS Main Staff, but it made no mention of the incident. Galić testified that had he had information on the incident he would have sent it to the VRS Main Staff and the Main Staff would have probably sent it on to the Accused. See Stanislav Galić, T. 37524–37525 (22 April 2013); D3453 (VRS Main Staff report, 25 May 1994).

¹²⁶⁵⁷ Adjudicated Fact 204.

¹²⁶⁵⁸ Adjudicated Fact 206.

¹²⁶⁵⁹ Adjudicated Fact 207.

¹²⁶⁶⁰ Adjudicated Fact 208.

¹²⁶⁶¹ See para. 3822.

barriers which was 550 metres away from the incident site.¹²⁶⁶² However, Van der Weijden never claimed that this particular location was the confrontation line and instead testified that it signified a distance within which it would have been physically challenging or impossible for a shooter to have a position from which to take an accurate shot at the bus.¹²⁶⁶³ While Guzina and Sladoje both appeared to concede during cross-examination that the confrontation line was approximately 550 metres away, their concessions did not appear to have been based on precise knowledge of the distances involved.¹²⁶⁶⁴

3833. Further throwing doubt on the Prosecution's suggestion that the distance between the incident site and the confrontation line was 550 metres is the evidence led by the Accused. For example, Guzina marked the relevant confrontation lines on a map,¹²⁶⁶⁵ which in turn correspond to the confrontation lines marked on a map Poparić used to suggest that the distance was bigger than 550 metres.¹²⁶⁶⁶ Thus, both maps suggest that the distance to the confrontation lines was more than 550 metres. In addition, in the Chamber's own assessment of the maps in evidence, it would indeed appear that the confrontation lines in the area were more than 550 metres away from the incident site. Accordingly, the Chamber has serious doubt as to the approximate distance between the incident site and the confrontation line. Not knowing how far or where the SRK soldiers were located from the incident site, the Chamber is also unable to conclude that they had a line of sight to the bus from their positions particularly given that the evidence the Chamber received indicates that Nedžarići consisted of low-rise buildings, one or two storeys high.¹²⁶⁶⁷

3834. Accordingly, the Chamber considers that the Accused has successfully rebutted the adjudicated facts listed above, through both his cross-examination of Van der Weijden and the evidence he brought during his case.

3835. Additionally, the Chamber recalls that Van der Weijden conceded that the only conclusion he could come to from the information available to him was that the bullet could have come down the Branioca Dobrinje street and that it was "probably of a certain calibre".¹²⁶⁶⁸ The Chamber also acknowledges that the Prosecution managed to extract an admission from Guzina that it was possible that the fire came from the VRS side of the confrontation line.¹²⁶⁶⁹ However, those two pieces of evidence are insufficient for the Chamber to be satisfied, beyond reasonable doubt, that the bullet fired on the bus came from the SRK's side of the confrontation lines and that it was fired in order to deliberately target civilians.

¹²⁶⁶² See T. 30579 (28 November 2012) where Prosecution referred to Van der Weijden's report during Sladoje's cross-examination to prove to Sladoje that the confrontation line was 550 metres away. See also T. 31163 (11 December 2012) where it did the same with Guzina.

¹²⁶⁶³ Indeed, Van der Weijden specifically said that he did not know where the confrontation line was in that area. Patrick van der Weijden, T. 7066 (28 September 2010).

¹²⁶⁶⁴ For example, when asked if the distance was 550 metres, Sladoje said that "perhaps" he could agree with that but only in relation to one part of the confrontation line. See Mile Sladoje, T. 30578–30580 (28 November 2012). Similarly, Guzina simply accepted the Prosecution's suggestion as to the distance, assuming it was correct. See Svetozar Guzina, T. 31162 (11 December 2012).

¹²⁶⁶⁵ D2556 (Map of Sarajevo marked by Svetozar Guzina).

¹²⁶⁶⁶ The Chamber notes that the map Poparić relied on was created by Ismet Hadžić, one of the ABiH commanders in the area at the time. See D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 102, Image 70.

¹²⁶⁶⁷ See para. 3781.

¹²⁶⁶⁸ Patrick van der Weijden, T. 7072 (28 September 2010).

¹²⁶⁶⁹ Svetozar Guzina, T. 31164–31165 (11 December 2012).

3836. For the foregoing reasons, the Chamber is not satisfied beyond reasonable doubt that the bullet that hit the bus came from SRK positions in the area of Nedžarići. **(This is #another miracle#! But, almost all of the incidents considered so far could have been concluded this way, because in all of them there were a huge amount of discrepancies, contradictions, confusions, unprofessional investigations, which all together shaded a remarkable doubts on the incidents and the Prosecution's case against President Karadžić!)**