

Nevesinje and Brčko in Bosnia and Herzegovina and the subsequent forcible removal of the majority of the non-Serb population from these areas.

- Count 1: Persecutions (paragraphs 15, 17a, 17b, 17e, 17g and 17j)

15. From on or about 1 August 1991 until at least September 1993, Vojislav Šešelj, acting individually or in concert with known and unknown members of the joint criminal enterprise, planned, ordered, instigated, committed or otherwise aided and abetted in the planning, preparation or execution of persecutions of Croat, Muslim and other non-Serb civilian populations in the territories of the SAO Western Slavonia and the SAO SBWS (Slavonia, Baranja and Western Srem), and in the municipalities of Bosanski Šamac, Zvornik, Greater Sarajevo, Bijeljina, Mostar, Nevesinje and Brčko in Bosnia and Herzegovina and parts of Vojvodina in Serbia.

17. These persecutions were committed on political, racial and religious grounds and included:

a. The [REMOVED] murder of many Croat, Muslim and other non-Serb civilians, including women, children and elderly persons, in the municipality of Vukovar, in the municipalities of Zvornik, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina, as described in paragraphs 18 to 27.

b. The prolonged and routine imprisonment and confinement of Croat, Muslim and other non-Serb civilians in the detention facilities within Croatia and Bosnia and Herzegovina, including prison camps in Vukovar, in and near Voćin, and in Bosanski Šamac, Zvornik, Greater Sarajevo, Bijeljina, Mostar, Nevesinje and Brčko, as described in detail in paragraphs 28 to 30.

e. The prolonged and frequent forced labour of Croat, Muslim and other non-Serb civilians detained in the said detention facilities or under house arrest in their respective homes in Vukovar, Voćin, Bosanski Šamac, Zvornik, Greater Sarajevo, Bijeljina, Mostar and Brčko. The forced labour included digging of graves, loading of ammunition for the Serb forces, digging of trenches and other forms of manual labour at the front lines.

g. The imposing of restrictive and discriminatory measures against the Croat, Muslim and other non-Serb civilian populations, including persons in Voćin in Croatia and Bosanski Šamac, Zvornik, Greater Sarajevo, Bijeljina, Mostar and Nevesinje in Bosnia and Herzegovina, and in parts of Vojvodina, Serbia, such as restriction of movement; removal from positions of authority in local government

institutions and the police; dismissal from jobs; denial of medical care, and arbitrary searches of homes.

j. The deliberate destruction of homes, other public and private property, cultural institutions, historic monuments and sacred sites of the Croat, Muslim and other non-Serb civilian populations in the municipality of Vukovar and in Voćin, in Croatia, and in the municipalities of Bosanski Šamac, Zvornik, Greater Sarajevo, Bijeljina, Mostar and Nevesinje in Bosnia and Herzegovina as described in detail in paragraph 34.

- Count 4: Murder (paragraphs 18 and 24)

18. From on or about 1 August 1991 until June 1992 in the territory of the SAO SBWS in Vukovar, from on or about 1 March 1992 until at least September 1993 in the municipalities of Zvornik, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina, Vojislav Šešelj, acting individually or as a participant in a joint criminal enterprise, planned, ordered, instigated, committed or otherwise aided and abetted in the planning, preparation, or execution of the [Removed] murder of Croat, Muslim and other non-Serb civilians as specified in paragraphs 20-22, 24, 26, and 27.

Greater Sarajevo

24. Beginning in April 1992, Serb forces, including volunteers known as “Šešelj’s men”, attacked and took control of towns and villages in **the area of Greater Sarajevo**, including the town of Ilijaš and the village of Lješevo in Ilijaš municipality, the village of Svrake in Vogošća municipality and the neighborhood of Grbavica in Novo Sarajevo municipality. Following the take-over, non-Serbs were routinely detained, beaten, tortured and killed. On or about 5 June 1992, members of a unit of “Šešelj’s men” killed 22 non-Serb civilians in the village of Lješevo. During the summer of 1993, members of a unit of “Šešelj’s men” cut off the head of a civilian and killed four prisoners-of-war in the area of Crna Rijeka in Ilijaš municipality. In the summer of 1993, members of a unit of “Šešelj’s men” killed twenty-five non-Serb men who were being used as human shields, and two non-Serb men who refused to act as human shields, at Žuč in Vogošća municipality. On 17 July 1993, members of a unit of “Šešelj’s men” killed two prisoners-of-war, Živko Krajišnik and Rusmir Hamalukić, on Mount Igman in Ilidža municipality. The names of identified victims

of murder/[REMOVED] at Lješevo and Žuč are set out in Annex VII to this indictment.

- Counts 10 and 11: Deportation and Forcible Transfer (paragraph 31)

31. From on or about 1 August 1991 until May 1992 in the SAOs in Croatia and the RSK, from on or about 1 March 1992 until at least September 1993 in Bosnia and Herzegovina, and between May and August 1992 in parts of Vojvodina, Serbia, Vojislav Šešelj, acting individually or as a participant in a joint criminal enterprise, planned, instigated, committed, or otherwise aided and abetted in the planning, preparation, or execution of the deportation or forcible transfer of the Croat, Muslim and other non-Serb civilian populations from their legal domiciles, in Vukovar (SAO SBWS) in November 1991, in the municipality of Zvornik in Bosnia and Herzegovina between March 1992 and September 1993, in **Greater Sarajevo** in Bosnia and Herzegovina between April 1992 and September 1993, in the municipality of Nevesinje in Bosnia and Herzegovina between June 1992 and September 1993 and in parts of Vojvodina, Serbia, including the village of Hrtkovci, between May and August 1992.

- Counts 12 to 14: Wanton Destruction and Plunder of Public and Private Property (paragraphs 34, 34b)

34. From on or about 1 August 1991 until May 1992 in the territories of the SAOs in Croatia and the RSK, from on or about 1 March 1992 until at least September 1993 in the municipalities of Zvornik, **Greater Sarajevo**, Mostar and Nevesinje in Bosnia and Herzegovina, Vojislav Šešelj, acting individually or as a participant in a joint criminal enterprise, planned, ordered, instigated, committed, or otherwise aided and abetted in the planning, preparation, or execution of the wanton destruction and plunder of public and private property of the Croat, Muslim and other non-Serb populations, acts which were not justified by military necessity. This intentional and wanton destruction and plunder included the plunder and destruction of homes and religious and cultural buildings, and took place in the following towns and villages:

b) Bosnia and Herzegovina: Zvornik (hundreds of homes plundered, and many mosques and other places of worship and a religious archive destroyed); **Greater Sarajevo** (homes plundered and many homes destroyed, and mosques and Catholic churches and other places of worship destroyed in the municipality of Ilijaš; homes

plundered and many homes destroyed, and mosques and Catholic churches and other places of worship destroyed in the municipality of Vogošća); Mostar (many homes plundered and destroyed and several mosques destroyed) and Nevesinje (many homes plundered and destroyed and many mosques destroyed).

According to the Prosecution's Final Pre-Trial Brief

In the Prosecution's Final Pre-Trial Brief Greater Sarajevo is referred to as a crime site in the following paragraphs: GREATER SARAJEVO – 62, 5. GREATER SARAJEVO 95, ILIJAŠ 95, 96, 97, 98, 99, 100, 101, VOGOŠĆA 95, 102, 103, GRBAVICA 95, 104, 106, ILIDŽA 95,108.

**GREATER SARAJEVO
(ILIDŽA, VOGOŠĆA, GRBAVICA, ILIJAŠ)**

Paragraph 62

62. Each sub-section focuses upon one geographic region in which these crimes occurred: Vukovar, Voćin, Bijeljina, Brčko, Zvornik, Bosanski Šamac, Greater Sarajevo, Mostar, Nevesinje and Hrtkovci.

Paragraphs 95-108

5. Greater Sarajevo

95. Greater Sarajevo consists of several municipalities surrounding the city of Sarajevo, located in Southern BiH. In April and May of 1992, Serb forces, including volunteers known as "Šešelj's men," attacked and took control of municipalities or parts of municipalities in the area of Greater Sarajevo, including the town of Ilijaš and the village of Lješevu in Ilijaš municipality, the town of Vogošća and the village of Svrake in Vogošća municipality, the Grbavica neighbourhood in the Novo Sarajevo municipality and the Ilidža municipality. Following the take-over, throughout the period relevant to the Second Amended indictment, non-Serbs were routinely detained or put under house arrest, beaten, tortured, raped and killed. They were subjected to forced labour inter alia at the front line and under unbearable winter conditions. Non-Serb property and cultural monuments were systematically plundered, looted and/or destroyed.

(Ilijaš Municipality)

96. Before the war, the Ilijaš municipality to the Northeast of Sarajevo was comprised of about 45 % ethnic Serbs and 42 % ethnic Muslims. About 7 % were Croats and 6 % belonged to other ethnicities. Beginning in 1992, the SDS party in the

municipality led by Ratko Adžić initiated and succeeded in the separation of the municipality from the district of Sarajevo and annexed it to the so-called Serb Autonomous District of Romanija. At around that same time, Vasilije Vidović (aka Vaske), returned with about twenty other SRS/SČP volunteers from the battlefields in Croatia. Vasilije Vidović originated from Ilijaš. Before the war he ran the restaurant "Oaza" in the Podlugovi neighbourhood of Ilijaš. During the war, he maintained his headquarters above the restaurant. The volunteers who arrived with him in Ilijaš were mostly Serbs from Croatia and Serbia and the local inhabitants called them "Šešelj's Chetniks." Their armed presence, their open display of Chetnik symbols and insignias and their dominant behaviour scared the local non-Serb population.

97. Vasilije Vidović was in close contact and co-operated with Ratko Adžić and the SDS. The SDS granted special privileges to Vasilije Vidović and his men and praised Vasilije Vidović as a "Chetnik hero" on their local radio station. In April 1992, the police in the municipality separated along ethnic lines. Serbs maintained an ethnic homogeneous police station in Ilijaš, while non-Serb policemen unsuccessfully tried to establish a police station in the village of Lješevo.

98. Lješevo is a village in the Ilijaš municipality with a slight Muslim majority. Muslim families, as well as a few Croats, lived in about 120 houses in one part of the village, while the Serb families of Lješevo lived in about 70 houses in Odžak, the other part of the village. After the outbreak of the war in Bosnia and Herzegovina, movement of the non-Serb population was restricted. Fearing an attack, most of the non-Serb population left Lješevo in early June. On 4 and 5 June 1992, Serb forces comprised of Serb TO and VRS soldiers and Vasilije Vidović's men, whom the locals called "Vaske's Chetniks", attacked the part of the village inhabited by Muslim and Croat families. These troops attacked the non-Serb villagers with artillery and infantry although the villagers did not put up any resistance. During and after the take-over of the village, non-Serb houses were looted and afterwards burned down. The villagers were arrested and robbed by the soldiers including SRS/SČP volunteers. They were beaten, humiliated with ethnic slurs and used as human shields. Four of the Muslim villagers were shot dead immediately after their arrest. On 5 June 1992, while 24 Muslim civilians, both men and women, were lined up as human shields, they were shot at "execution style." Twenty-two of them died.

99. Other non-Serb villagers were taken to the *Iskra* warehouse in Ilijaš where they were detained for about three months together with other non-Serb civilians from

the Ilijaš municipality. The conditions in this detention facility were inhumane, with no toilet facilities, no water, no electricity and little food. In August 1992, the detainees were transferred to the detention facility known as "Planja's house" described below. Volunteers under the command of Vasilije Vidović frequented the detention facility. They took detainees out for forced labour, including trench digging and carrying of wounded Serb soldiers on the front lines.

100. The volunteer unit led by Vasilije Vidović, originally comprised of about twenty men, at times included up to seventy SRS/SČP volunteers, depending on the operations in which they participated. At times, volunteers from other SRS/SČP units operated under Vidović's command. Occasionally, White Eagles, volunteers associated with Mirko Jović, fought alongside Vidović. During the fighting in and around Sarajevo during the summer of 1993, members of a unit of SRS/SČP volunteers cut off the head of a civilian and killed four prisoners-of-war ("POW") in the area of Crna Rijeka in Ilijaš municipality. Vasilije Vidović's men also participated in the destruction of the mosques and the Catholic church in the municipality.

101. Vasilije Vidović personally and his men were widely known for their brutality and the murder of civilians and POWs. Vidović frequently drove around in a car with the skull of one of the murdered Muslims affixed on the hood. He was a close associate of the Accused. The Accused would come to Ilijaš and meet with Vasilije Vidović and his men, and he would bring them cigarettes and money. Vasilije Vidović also travelled to Belgrade and met with the Accused. In March 1994, Vasilije Vidović made a visit to the Accused in Belgrade for an interview broadcast on Serb television, during which the Accused praised Vasilije Vidović's actions in Ilijaš. On 20 May 1994, the Accused appointed Vasilije Vidović a *vojvoda* for his achievements in the Greater Sarajevo area.

He remained close to the Accused after the war and acted as his bodyguard.

(Vogošća Municipality)

102. The composition of the municipality of Vogošća, according to the 1991 census, was comprised of 50,8% Muslims, 35,8% Serbs, 4,3% Croats, 7% Yugoslavs and 2,1% other ethnicities. In April of 1992, Serb forces, among them SRS/SČP volunteers, attacked and took control over neighbourhoods and villages in the Vogošća municipality in the Northeast of Sarajevo, among them Svrače, Vogošća town, Semizova and Kamenica. During and after the take over, non-Serb inhabitants, mostly Muslims, were arbitrarily executed, arrested, detained in detention facilities or

kept under house arrest, beaten, raped and subjected to forced labour. Their homes were looted and/or destroyed. Among those persecuting the non-Serb population were SRS/SČP volunteers commanded by Vasilije Vidović. Vidović and his men killed non-Serbs and looted. They were also involved in the destruction of the mosques throughout the municipality.

103. Between April 1992 and September 1993, dozens of non-Serb detainees were kept in "Sonja's house" in the village of Svrake, up to 200 in "Planja's house" in Svrake, dozens in the military barracks in Semizovac and about 50 in the tire repair garage at the Vogošća crossroad. In these detention facilities, the detainees were subjected to beatings, torture, rape and killings. The detention facilities were operated either directly by Vasilije Vidović and his subordinates, or by his close associates Rajko Janković, and Dragan Damjanović. Both the detainees in these detention facilities and non-Serb inhabitants kept under house-arrest in their homes were subjected to forced labour, including heavy physical labour, throughout the period relevant to the indictment. They had to work on the front lines throughout the Vogošća municipality. They had to dig trenches, recover bodies of Serb soldiers who had fallen at the front lines, and had to bury bodies of murdered non-Serbs. They were also forced to act as human shields. While doing so many non-Serbs were killed or injured. On one occasion in summer 1993, when the Serb forces suffered losses during an offensive at the front line in Žuč, Vogošća municipality, the SRS/SČP volunteers murdered 25 detainees who were used as human shields at that time. They shot the detainees "execution style" as revenge for the Serb losses. On the same day these same perpetrators also killed two non-Serb civilians in Žuč who refused to act as human shields.

(Grbavica)

104. In April 1992, volunteers associated with the Accused and the SRS/SČP from BiH and Serbia, along with JNA and local Serb TO units, took over the neighbourhood of Grbavica in the Novo Sarajevo municipality. Following the take-over, SRS/SČP volunteers led by Slavko Aleksić controlled the area of the Jewish Cemetery, situated above the Sarajevo city centre, from which snipers continuously targeted civilians in Sarajevo.

105. During the time period relevant to the indictment, non-Serbs in the Grbavica area were subjected to a persecution campaign which included arbitrary searches of their homes, looting, rapes, beatings and killings. SRS/SČP volunteers

figured prominently among those abusing the non-Serb population and were feared the most. Several hundred non-Serbs, mostly Muslims, were detained or kept under house-arrest. Both men and women were subjected to forced labour. While the women had to work in the fields or had to clean the places occupied by Serb soldiers, the men had to do hard physical labour over long hours, such as fortifying shelters and digging trenches on the front lines. They had to work under inhumane and dangerous conditions and were used as human shields on the front lines. While doing their work, they were often subjected to abuse by the Serb soldiers, in particular by members of the so-called "Ravna Gora Chetnik Detachment" commanded by Slavko Aleksić. Members of this unit threatened, beat and even killed non-Serbs in the forced labour platoon. They forced members of the forced labour platoon to loot non-Serb property for them. More than 80 civilians were killed while performing forced labour.

106. Slavko Aleksić was very close to the Accused. He communicated directly with him and kept the Accused informed about the events in the region. The Accused visited his volunteer units in Sarajevo, including Grbavica several times and met with Aleksić. On 15 May 1993 the Accused promoted Aleksić to the rank of *vojvoda*. After the war, the Accused publicly praised Aleksić and the SRS volunteers in Grbavica, saying they had performed a great service to the SRS and Serb nationalism.

(Ilidža Municipality)

107. Yet another of the Accused's close associates was active in the Greater Sarajevo area: Branislav Gavrilović aka Brne. Gavrilović became the leader of the Serbian Youth Movement for Bosnia and Herzegovina, an organisation that joined the Accused's SRS/SČP movement after Gavrilović met the Accused in Bijeljina in 1991. The Accused later appointed him SRS/SČP volunteer commander in Slavonia, Baranja, and Western Srem. He was also one of the leaders of the SRS Party in Ilidža, where the Accused visited him in the summer of 1992. Gavrilović previously participated in the war in Croatia. He frequently called the Accused from the front line. Gavrilović also discussed with Aleksić the recruitment of more SRS/SČP volunteers. While in Sarajevo in 1991, Gavrilović received his orders from the main SRS office in Belgrade, and on several occasions he met directly with the Accused in Belgrade. In May 1993 the Accused appointed Gavrilović a *vojvoda*. In the summer of 1994, the Accused and Gavrilović attended a celebration in Pale together.

108. On 17 July 1993, Branislav Gavrilović and his SRS/SČP volunteers participated in the fighting in the Ilidža municipality. Serb forces, comprised of VRS

soldiers and Gavrilović's SRS/SČP volunteers, attacked the Bosnia and Herzegovina army positions in Golo Brdo at Mount Igman facing Ilidža. They captured four members of the Sarajevo TO. The Serb soldiers tied up the captured POWs and shot one of them, a 17 year old boy, on the spot. The other POWs were taken downhill to a field where Branislav Gavrilović and more of his men were waiting. On their way they were mistreated and threatened. Gavrilović and one of his subordinates interrogated the POWs, during which the POWs were hit, beaten and kicked by the interrogators. Two of the POWs were murdered after the interrogation. Their bodies were later exhumed.

Summary Regarding Witnesses for Greater Sarajevo

B. Implementation of the JCE in Bosnia and Herzegovina

Witnesses: VS-043 (Milan Babić, deceased), VS-037 (██████████, testified as if he were a Defence witness), VS-1061 (Miroslav Deronjić, deceased), VS-026 (██████████, did not testify, but wanted to be a Defence witness).

5. Greater Sarajevo:

Witnesses: VS-1111 (██████████), VS-1056 (Mujo Džafić, deceased), VS-1055 (██████████, false witness), VS-1060 (██████████), VS-017 (Zoran Rankić, testified as if he were a Defence witness), VS-034 (██████████, did not testify, but wanted to be a Defence witness), VS-1018 (Perica Koblar, false witness).

Final and Revised Prosecution Witness List and Summaries of Testimonies

Crime base Witnesses for Greater Sarajevo:

VS-1018 (Perica Koblar, false witness), VS-1055 (██████████, false witness), VS-1056 (Mujo Džafić, deceased), VS-1057 (Safet Sejdić, the witness is not to be found in the Prosecution's Final Pre-Trial Brief, testified, false witness), VS-1060 (██████████), VS-1111 (██████████).

Task of the Prosecution

The task of the Prosecution was to establish, through witnesses, the facts submitted in the Prosecution's Pre-Trial Brief, to have the witnesses at least confirm in the courtroom what the Prosecution is referring to in the summaries of witness testimonies for Sarajevo, to prove that the general requirements under Articles 3 and 5 of the Statute have been met, and that Professor Vojislav Šešelj is liable for his

actions under Article 7(1) (complicity, participation in a JCE and direct commission through hate speech).

During the presentation of Prosecution evidence, the following witnesses were heard:

1. [REDACTED], VS-1011, testified *viva voce* on 3 June 2008 under protective measures and a pseudonym and with image and voice distortion.
2. [REDACTED], VS-1055, testified *viva voce* on 4 and 5 June 2008 under protective measures and a pseudonym and with image and voice distortion.
3. Perica Koblar, VS-1018, testified *viva voce* on 10 and 11 June 2008.
4. Safet Sejdić, VS-1057, testified *viva voce* on 12, 17 and 18 June 2008.
5. [REDACTED], VS-1060, testified *viva voce* on 24 and 25 June 2008 under protective measures and a pseudonym and with image distortion.

Witness Mujo Džafić, VS-1056, statement tendered into evidence under Rule 92 *quater* by a decision of the Trial Chamber dated 13 May 2009.

Generally viewed all the charges for the location of Sarajevo refer to participation in the JCE, and the alleged responsibility of Professor Vojislav Šešelj is derived from the fact that individuals who were leaders of some units were members of the Serbian Radical Party and that Professor Vojislav Šešelj inquired by telephone about their position and situation. There were such units throughout Bosnia and Herzegovina and they were always part of the Army of Republika Srpska. There is not a single piece of evidence that these units acted autonomously or that anything that members of these units did depended on the Serbian Radical Party and Professor Vojislav Šešelj. It was therefore necessary to prove in this phase of the proceedings that members of the Serbian Radical Party from Bosnia and Herzegovina, as members of the units of the Army of Republika Srpska, neither committed the crimes referred to in the indictment for Sarajevo nor participated jointly in the operations carried out by the units of the Army of Republika Srpska in the locations and at the times when the crimes from the indictment were committed. It must also be noted that the fact that someone is a member of the Serbian Radical Party, that he responded to mobilisation when called-up by the organs of Republika Srpska and that he was a member of a unit of the Army of Republika Srpska cannot in any way represent grounds or even evidence of Professor Vojislav Šešelj's participation in the JCE. Of course, the time frame before 19 May 1992 and after that date must also be taken into account. Professor Vojislav Šešelj was never in uniform during his visits to Republika Srpska,

in contrast to the territory of Croatia before 13 November 1991, when, for instance, he appeared in Vukovar in a JNA uniform wearing a badge with a two-headed eagle on his lapel.

In the Krajišnik case, facts relating to the events which occurred in these locations, i.e. in the municipalities under the common name of "Greater Sarajevo, were established with reference to the criminal responsibility of Momčilo Krajišnik". Not everything can be cited due to the size of the text, but it is sufficient to refer the judges to the following paragraphs of the Trial Chamber's Judgement:

- for Ilidža municipality, "4.4.2 Ilidža" paragraphs 551 to 556,
- for Ilijaš municipality, "4.4.3 Ilijaš" paragraphs 557 to 565,
- for Vogošća municipality, "4.4.8 Vogošća" paragraphs 594 to 606.

Therefore, in this case, where a final judgement has been rendered, there is again no mention of Professor Vojislav Šešelj or Serbian Radical Party volunteers.

The Prosecution has not presented sufficient evidence to support a conviction. The conclusion is: not guilty.

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-1011, ██████████,
UNDER PROTECTIVE MEASURES**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1111, ██████████, was planned as a Prosecution witness through whom the following was to be proven:

Crimes in BH – Greater Sarajevo:

"Beginning in 1992, the SDS party in the municipality led by Ratko Adžić initiated and succeeded in the separation of the municipality from the district of Sarajevo and annexed it to the so-called SAO Romanija."(footnote 312)

"Serbs maintained an ethnic homogeneous police station in Ilijaš, while non-Serb policemen unsuccessfully tried to establish a police station in the village of Lješevo." (footnote 316)

"Muslim families, as well as a few Croats, lived in about 120 houses in one part of the village, while the Serb families of Lješevo lived in about 70 houses in Odžak, the other part of the village." (footnote 317)

"Fearing an attack, most of the non-Serb population left Lješevo in early June." (footnote 318)

“On 4 and 5 June 1992, Serb forces comprised of Serb TO and VRS soldiers and Vasilije Vidović’s men attacked the part of the village inhabited by Muslim and Croat families.” (footnote 319)

“The villagers were arrested and robbed by the soldiers including SRS/SČP volunteers. They were beaten, humiliated with ethnic slurs and used as human shields.” (footnote 320)

“On 5 June 1992, while 24 Muslim civilians, both men and women, were lined up as human shields, they were shot at ‘execution style’. Twenty-two of them died.” (footnote 321)

2. Summary of testimony for VS-1011, [REDACTED]

Biography: [REDACTED]

Events: This witness will give unique and compelling testimony of [REDACTED].

Relationships between ethnic groups in the town deteriorated after the introduction of the multiparty system. Serbs wanted a unified Serb municipality and wanted the Muslims to move out. Tensions rose. Serbs began to occupy strategic hilltops around Lješevo in April and May 1992, from where they later fired artillery. A JNA convoy passed through Lješevo around this time. When the convoy left the local Serbs were better armed, and would show off their automatic weapons and grenade launchers.

[REDACTED]

[REDACTED]

Paragraphs: 15, 16, 17 (a), 18, 24, 28.

Counts: 1-4.

3. Content of testimony

The witness testified on 3 June 2008 under a pseudonym and with image and voice distortion. He had testified earlier in the Krajišnik case. It is unclear why this witness was called to testify considering that the Prosecution is in a state of confusion, which can be seen by comparing what the Prosecution wanted through this witness, what it was counting on according to the summary for this witness, what the witness said and which counts have been expunged from the indictment. This witness [REDACTED] never said a word about any Serbian Radical Party volunteers, and there were none there. Nor was Professor Vojislav Šešelj there. The judges responded to this remark in such a way that one might conclude that Professor Vojislav Šešelj was responsible for all the crimes with which the Serbian forces, as they are colloquially called, can be charged. During the brief cross examination of this witness the judges did not allow a document from that time signed by Nikola Poplašen to be read out.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1055, [REDACTED], UNDER PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1055, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Crimes in BH – Greater Sarajevo:

“Non-Serb property and cultural monuments were systematically plundered, looted and/or destroyed.” (footnote 310)

“Beginning in 1992, the SDS party in the municipality led by Ratko Adžić initiated and succeeded in the separation of the municipality from the district of Sarajevo and annexed it to the so-called SAO Romanija.” (footnote 312)

“Vasilije Vidović was in close contact and co-operated with Ratko Adžić and the SDS.” (footnote 314)

“The SDS granted special privileges to Vasilije Vidović and his men and praised Vasilije Vidović as a “Chetnik hero” on their local radio station.” (footnote 315)

“Serbs maintained an ethnic homogeneous police station in Ilijaš, while non-Serb policemen unsuccessfully tried to establish a police station in the village of Lješevo.” (footnote 316)

“Fearing an attack, most of the non-Serb population left Lješevo in early June.” (footnote 318)

“On 4 and 5 June 1992, Serb forces comprised of Serb TO and VRS soldiers and Vasilije Vidović’s men attacked the part of the village inhabited by Muslim and Croat families.” (footnote 319)

“On 5 June 1992, while 24 Muslim civilians, both men and women, were lined up as human shields, they were shot at ‘execution style’. Twenty-two of them died.” (footnote 321)

“In August 1992, the detainees were transferred to the detention facility known as ‘Planja’s house’ described below.” (footnote 322)

“Vasilije Vidović’s men also participated in the destruction of the mosques and the Catholic church in the municipality.” (footnote 323)

“Vasilije Vidović also travelled to Belgrade and met with Šešelj.” (footnote 325)

“On 20 May 1994, Šešelj appointed Vasilije Vidović a *vojvoda* for his achievements in the Greater Sarajevo area. He remained close to Šešelj after the war and acted as his bodyguard.” (footnote 328)

“Vidović and his men killed non-Serbs and looted. They were also involved in the destruction of the mosques throughout the municipality.” (footnote 330)

“The detention facilities were operated either directly by Vasilije Vidović and his subordinates, or by his close associates Rajko Janković, and Dragan Damjanović.” (footnote 331)

2. Summary of testimony for VS-1055, [REDACTED]

Biography: [REDACTED]
[REDACTED]

The witness will testify about his detention in Lješevo, the activities of the "Chetnik" troops in that area, and his knowledge of Vasilije Vidović (aka Vaske) who was appointed a *vojvoda* by Šešelj in 1994.

Following the early 1992 decision by the Serb dominated Ilijaš Municipal Assembly to leave the Sarajevo District and join the SAO Han Pijesak-Sokolac-Pale District, the Assembly took over the control of shops. At the end of April, the Serbs from Ilijaš took over the police station. After the takeover, only Serbs could work at these shops and as policemen.

In January 1992, Vaske brought about 20 fully armed men to Ilijaš. Most of them spoke with Serbian accents. They began growing beards and hair and wearing cockades.

On 26 May 1992, the witness' business in Ilijaš was confiscated by the Serb-controlled municipal authorities. He did not go to Ilijaš any more and remained in Lješevo, a small village close to Ilijaš.

In the evening of 4 June, Lješevo was shelled. The next day, the witness and several other village residents were arrested by Vaske and his men. The soldiers wore white ribbons on their sleeves. Vaske also wore a traditional Serbian cap and a cockade. [REDACTED] was beaten. Soon afterwards, the detainees were taken to a bus, beaten by Neven Adžić and others, and taken to Ilijaš. They were kept in a warehouse named *Iskra* for three months, under the control of Slavko Ristić.

The conditions of their detention were terrible: no toilets, no water, no light, no electricity, and half a loaf of bread every day. The detainees were forced to dig trenches and carry wounded soldiers.

The witness will give details of the following events: the killing of 22 inhabitants of Lješevo; a meeting between Šešelj and Vaske in Ilijaš; and the destruction of all religious buildings in Ilijaš by Vaske's men.

Paragraphs: 15, 16, 17 (a-e, g, h), 18, 24, 28, 29g, 30, 34.

Counts: 1-11, 13.

3. Content of testimony

The witness testified on 4 and 5 June 2008 under protective measures and with image and voice distortion. It must be noted that there is a big difference between what is alleged in the Pre-Trial Brief where the Prosecution refers to this witness and his evidence summary, and particularly in relation to what he said in the courtroom. This witness went so far that he even altered what he had heard as hearsay and claimed to be an eyewitness. As a result he could not withstand a few tests during the cross examination. He said that General Josipović was the commander of the barracks in Visoko, but he was in Subotica at the time. He invented the events from early 1992 in connection with Vasilije Vidović. The culmination is certainly the identification of his torturer as Nova Rašević, who was killed on that day. His false testimony was so striking that during the trial even the judges realised what was at hand.

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Allegations that Vasilije Vidović blew up a mosque are extremely arbitrary, as indicated by the evidence used during the cross examination by Professor Vojislav Šešelj that Vasilije was not even in that location at the time when the mosque was destroyed, and especially rigged was the situation when ██████████
██

Indeed, in the Trial Chamber Judgement in the Krajišnik case for the events in Ilijaš and Vogošća there is no mention anywhere of Vasilije Vidović.

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-1018,
PERICA KOBLAR**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1018, Perica Koblar, was planned as a Prosecution witness through whom the following was to be proven:

Crimes in BH – Greater Sarajevo:

“In May 1993 Šešelj appointed Gavrilović a *vojvoda*.” (footnote 344)

“In the summer of 1994, Šešelj and Gavrilović attended a celebration in Pale together.” (footnote 345)

“Gavrilović and one of his subordinates interrogated the POWs, during which the POWs were hit, beaten and kicked by the interrogators. Two of the POWs were murdered after the interrogation. Their bodies were later exhumed.” (footnote 346)

2. Summary of testimony for VS-1018, Perica Koblar

Biography: Slovenian male, member of the BH Territorial Defence unit, in his early thirties at the time of the events in question.

Events: The witness will testify about his capture and maltreatment by the Serb forces in Sarajevo in 1993.

On 17 July, the witness was captured by three Serb soldiers while on guard duty at Golo Brdo. These soldiers were well-armed and one of them wore a cockade; later, the witness discovered that they were members of Brnec's unit. One of the soldiers, Boro Pajković, repeatedly beat the witness with his rifle and put a knife to his throat.

The witness was taken to a bunker, where he was detained and beaten with three other members of his unit. While being beaten, he observed one of the Serb soldiers shoot Robert Kahrmanović in the back, killing him. The witness also observed a Serb named "Ćopco" shoot and kill Živko Krajišnik, another detainee. Throughout his detention, the witness was severely beaten, at one point with a bat. Boro Pajković later told the witness that he had killed Rusmir Hamalukić, a third detainee.

While imprisoned in the Kula prison for seven months, the witness was forced to work for the Serbs. The witness escaped from prison on 17 February 1994. In August 1994, he saw Šešelj and Gavrilović sitting together on television.

Paragraphs: 15, 16, 17 (a-e), 18, 24, 28, 30.

Counts: 1-9.

3. Content of testimony

The witness testified *viva voce* on 10 and 11 June 2008. The witness was shamelessly and openly biased and tried to lie about what had happened at Golo Brdo. He went so far as to praise Brnec, solely to conceal that Živko Krajišnik and others had been killed in battle at Golo Brdo, and presented this as a crime committed by persons for whom Brnec is responsible as their superior. The witness showed impudence in order to provoke Professor Vojislav Šešelj. The witness could not find his way out of the contradiction with the statements he had given earlier. It is enough to keep in mind that everyone, i.e. all the sides to the conflict, found him suspicious, and he was probably planted as a provocation because he lives in Sarajevo at the same address where Professor Vojislav Šešelj used to live.

The witness was vague, inconsistent, occasionally contradictory and very suspicious to all who participated in the armed clashes. His testimony came close to incident, and it must be said that such is his character: a Bosnian from Berane of Slovenian origin?

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-1057,
SAFET SEJDIĆ**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1057, Safet Sejdić, was planned as a Prosecution witness through whom the following was to be proven:

Crimes in BH – Greater Sarajevo:

“Vidović and his men killed non-Serbs and looted. They were also involved in the destruction of the mosques throughout the municipality.”[330]

“The detention facilities were operated either directly by Vasilije Vidović and his subordinates, or by his close associates Rajko Janković, and Dragan Damjanović.” (footnote 331)

“On one occasion in summer 1993, when the Serb forces suffered losses during an offensive at the front line in Žuč, Vogošća municipality, the SRS/SČP volunteers murdered 25 detainees who were used as human shields at that time. They shot the detainees 'execution style' as revenge for the Serb losses. On the same day these same perpetrators also killed two non-Serb civilians in Žuč who refused to act as human shields.” (footnote 332)

2. Summary of testimony for VS-1057, Safet Sejdić

Biography: Muslim male from Svrake. The witness will testify that, in April 1992, Chetnik troops comprised of Šešelj's men, local Serbs, and others attacked the Svrake village. JNA troops were also in the hills around the village and participated in the attack. The troops killed Muslims going from door to door, arrested the villagers and held many of them in detention facilities in the Semizovac barracks, at places called Sonja's camp, Planjo's house at Svrake, in the basement of the prison near the Park Hotel in Vogošća, in the Vogošća Pensioner's Home and in a tire repair garage at the Vogošća crossroad. Many of the detainees were beaten and killed. The witness was taken on a bus to Semizovac, where the men were separated from the women and children. After the fall of Svrake, Serbs took many Muslim girls and women to the camp in Semizovac where they were sexually assaulted.

The witness was placed in a forced labour group and made to chop wood and dig graves in 1992 and 1993. He was also forced to carry ammunition for the troops as they went into battle.

One of Šešelj's men, Vasilije Vidović (aka Vaske), controlled one of the Chetnik units in the area at that time. Vaske had his own unit in Ilijaš, known as the *Vasketova skalamerija*, which was known for killing large numbers of Muslims. The witness' work site was supervised by Rajko Janković, who frequently acted in cooperation with Vaske on military operations.

In the summer of 1992, the witness observed three Chetniks bringing a Muslim from Svrače named Čalton and killing him with automatic rifles. By the end of 1992, all the Muslims in Svrače had been killed or had fled. The witness and other non-Serbs were used several times as a human shield by Dragan Damjanović, particularly in the summer and autumn of 1993. On one of these occasions, the witness was wounded in the back, and several of the other detainees were killed. During this time, he was eyewitness to the following: the killing of 25 detainees by Damjanović and two other Chetniks in Žuč; the killing of two detainees by Damjanović and one other Chetnik; the killing of a Muslim couple by Kosta Nešić in 1992 in Semizovac; the killing of four Bosnian prisoners of war by Janković in Semizovac; the beheading of a Muslim detainee by Vaske in Crna Rijeka; and the bombing of the Muslim population in Srednje by Vaske in late 1993.

In the summer of 1993, the witness heard of the rape of a young Muslim girl by members of Vaske's unit on the Nišićka Plateau. At around the same time, he heard Officer Milenko Lalović order Serbian soldiers to kill every Muslim in the area, and to bring every Muslim woman to him.

In 1994, the witness was made to unearth bodies of Muslims from mass graves, ostensibly needed for exchanges. When the Serbs left the territory of the Vogošća municipality, they looted houses, buildings and factories and then torched them. The witness will testify to the long term physical results of the frequent beatings and other deprivations he endured while in captivity for three years.

Paragraphs: 15, 16, 17 (a-j), 18, 24, 28, 29g, 30, 34.

Counts: all counts.

3. Content of testimony

The witness testified *viva voce* on 12, 17 and 18 June 2008.

This is by far the best Prosecution witness for the location of Sarajevo, who has lost all credibility and shown what means the Prosecution has been using. In addition to many statements which have been used thanks to this witness, the judges were also able to hear some incredible combinations which it was almost unnecessary to deny.

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-1060,
[REDACTED], UNDER PROTECTIVE MEASURES**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1060, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Crimes in BH – Greater Sarajevo:

“Non-Serb property and cultural monuments were systematically plundered, looted and/or destroyed.” (footnote 310)

“Following the take-over, SRS/SČP volunteers led by Slavko Aleksić controlled the area of the Jewish Cemetery, situated above the Sarajevo city centre, from which snipers continuously targeted civilians in Sarajevo.” (footnote 333)

“While doing their work, they were often subjected to abuse by the Serb soldiers, in particular by members of the so-called Ravna Gora Chetnik Detachment commanded by Slavko Aleksić. Members of this unit threatened, beat and even killed non-Serbs in the forced labour platoon. They forced members of the forced labour platoon to loot non-Serb property for them. More than 80 civilians were killed while performing forced labour.” (footnote 334)

“Slavko Aleksić was very close to Šešelj. He communicated directly with him and kept Šešelj informed about the events in the region.” (footnote 335)

“After the war, Šešelj publicly praised Aleksić and the SRS volunteers in Grbavica, saying they had performed a great service to the SRS and Serb nationalism.” (footnote 338)

2. Summary of testimony for VS-1060, [REDACTED]

Biography: [REDACTED], from Grbavica, Greater Sarajevo.

Events: The witness will testify about the take-over of Grbavica by Serb troops in 1992-93; in particular, he will relate to his experiences as a detainee and the forced labour he was made to perform.

The war in Grbavica started at the beginning of 1992 when the JNA came to Grbavica with tanks and military equipment. In April 1992, four different armies were stationed in Grbavica: JNA, Šešelj's men (wearing cockades, traditional Serbian caps and long beards), TO members and local Serb troops.

The witness observed Šešelj's men looting apartments in the town. The commander of the JNA tank unit was Fnu Derikonja. Mirko Šarović, the president of the executive board of the Municipality issued documents to the soldiers certifying that the looted goods were theirs.

In the beginning of August 1992, a VRS soldier forced the witness to join a forced labour group called the "work platoon". He had to work every day of the week, digging trenches, cutting wood, building bunkers, cleaning trash and repairing cars. He and his co-workers were beaten nearly every day by the guarding soldiers. He witnessed the killing of one of his fellow detainees. According to the witness, a total of 83 men were killed performing forced labour during the war.

While working in the Jewish Cemetery, the witness observed several of Šešelj's men at the *Četnik café*, although he never dealt directly with any of them during the war. He knew that the leader of Šešelj's men in Grbavica was named *Vojvoda Slavko Aleksić*, who directly reported to Šešelj.

In November 1994, the witness was exchanged and released.

Paragraphs: 15, 16, 17(a, c-e, g-i), 18, 24, 28, 31, 32, 34.

Counts: 1-9.

3. Content of testimony

The witness testified on 24 and 25 June 2008 under protective measures [REDACTED].

Although the witness showed total confusion with regard to Šešelj's men or the Chetniks, the testimony of this witness is important because the Defence documentation regarding Grbavica and Slavko Aleksić was tendered through him, because he was a member of the police and transferred to a unit of the Army of Republika Srpska only in July 1992, and because he was a member of the Serbian Democratic Party in Sarajevo at the time. Of course, Slavko Aleksić became a member of the Serbian Radical Party in 1992, probably in the summer of 1992, but what is important is that he is from Sarajevo and that no one from the Serbian Radical Party in Belgrade sent him to a unit of the Army of Republika Srpska in Sarajevo.

THE VUKOVAR LOCATION

This location is analysed through the positions which the Prosecution advocates, starting with additional historical and political facts for Croatia, as annexes to the indictment, through the Third Amended Indictment, the Prosecution's Final Pre-Trial Brief, the list of witnesses, testimonies, the Prosecution's task and what the judges were able to establish in the courtroom.

Remarks Concerning Vukovar from the Indictment

Vukovar is referred to in the indictment as a place where crimes were committed under:

- Individual Criminal Responsibility (paragraph 5)

5. Vojislav Šešelj is individually criminally responsible for the crimes referred to in Articles 3 and 5 of the Statute of the Tribunal and described in this indictment, which he planned, ordered, instigated, committed or in whose planning, preparation, or execution he otherwise aided and abetted. By using the word "committed" in this indictment, the Prosecutor does not intend to suggest that the accused physically committed all of the crimes charged personally. Physical commitment is pleaded only in relation to the charges of persecutions (Count 1) by direct and public ethnic denigration (paragraphs 15 and 17(k)) with respect to the Accused's speeches in **Vukovar**, Mali Zvornik and Hrtkovci, and by deportation and forcible transfer (paragraphs 15 and 17(i)) with respect to the Accused's speech in Hrtkovci, and in relation to the charges of deportation and inhumane acts (forcible transfer) (Counts 10 – 11, paragraphs 31 - 33), with respect to the Accused's speech in Hrtkovci. "Committed" in this indictment includes the participation of Vojislav Šešelj in a joint criminal enterprise as a co-perpetrator. By using the word "instigated", the Prosecution charges that the accused Vojislav Šešelj's speeches, communications, acts and/or omissions contributed to the perpetrators' decision to commit the crimes alleged.

- Count 1: Persecutions (paragraphs 17a, 17b, 17e, 17j, 17k)

17. These persecutions were committed on political, racial and religious grounds and included:

a. The [removed] murder of many Croat, Muslim and other non-Serb civilians, including women, children and elderly persons, in the municipality of **Vukovar**, in

the municipalities of Zvornik, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina, as described in paragraphs 18 to 27.

b. The prolonged and routine imprisonment and confinement of Croat, Muslim and other non-Serb civilians in detention facilities within Croatia and Bosnia and Herzegovina, including prison camps in **Vukovar**, and in Zvornik, Greater Sarajevo, Mostar, and Nevesinje as described in paragraphs 28 to 30.

e. Prolonged and frequent forced labour of Croat, Muslim and other non-Serb civilians detained in the said detention facilities or under house arrest in their respective homes in Vukovar, Zvornik, Greater Sarajevo and Mostar. The forced labour included digging graves, loading ammunition for the Serb forces, digging trenches and other forms of manual labour at the front lines.

j. Deliberate destruction of homes, other public and private property, cultural institutions, historic monuments and sacred sites of the Croat, Muslim and other non-Serb civilian populations in the municipality of **Vukovar** in Croatia, and in the municipalities of Zvornik, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina as described in paragraph 34.

k. Direct and public denigration through “hate speech” of the Croat, Muslim and other non-Serb populations in **Vukovar**, Zvornik and Hrtkovci on the basis of their ethnicities as described in paragraphs 20, 22, and 33.

- Count 4: Murder (paragraphs 18, 20 21)

18. From on or about 1 August 1991 until June 1992 in the territory of the SAO SBWS in **Vukovar**, from on or about 1 March 1992 until at least September 1993 in the municipalities of Zvornik, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina, Vojislav Šešelj, acting individually or as a participant in a joint criminal enterprise, planned, ordered, instigated, committed or otherwise aided and abetted in the planning, preparation, or execution of the [removed] murder of Croat, Muslim and other non-Serb civilians as specified in paragraphs 20-22, 24, 26, and 27.

SAO SBWS – VUKOVAR

20. In November 1991 while Serb forces fought to take over **Vukovar**, Vojislav Šešelj visited the town. On or about 8 November 1991, Vojislav Šešelj publicly pronounced, “This entire area will soon be cleared of Ustashas.” On or about 13 November 1991, Vojislav Šešelj, both publicly and privately, pronounced, “Not

one Ustasha must leave Vukovar alive.” These speeches persecuted Croats and instigated the killing of Croats. On or about 20 November 1991, as part of the overall persecution campaign, Serb forces, including volunteers recruited and/or incited by Vojislav Šešelj, removed approximately four hundred Croats and other non-Serbs from Vukovar Hospital in the aftermath of the Serb take-over of the city. Approximately three hundred of these non-Serbs were transported to the JNA barracks and then to the Ovčara farm located about 5 kilometres south of Vukovar. There, members of the Serb forces beat and tortured the victims for hours. During the evening of 20 November 1991, the soldiers transported the victims in groups of 10-20 to a remote execution site between the Ovčara farm and Grabovo, where they shot and killed approximately two hundred and sixty-four non-Serbs from Vukovar Hospital. Their bodies were buried in a mass grave. The names of the murder victims are set out in Annex III attached to this indictment.

21. After Serb forces took control of **Vukovar** on 18 November 1991, over one thousand civilians gathered at the *Velepromet* facility. Some were compelled to go there by Serb forces and others went voluntarily seeking protection. By 19 November 1991, approximately two thousand people had gathered inside the *Velepromet* facility. The JNA considered about eight hundred of these persons to be prisoners of war. By the evening of 19 November 1991, shortly after the JNA began to transfer the alleged prisoners of war to their Sremska Mitrovica detention facility in Serbia, Serb forces, including volunteers recruited and/or incited by Vojislav Šešelj, separated a number of individuals from the alleged group of prisoners of war. They took these selected individuals out of the *Velepromet* facility and killed them. The bodies of some of those killed were transported to the Ovčara farm and buried there in the mass grave. The bodies of six other victims were left lying on the ground behind the *Velepromet* facility. The names of these six murder victims are set out in Annex IV attached to this indictment.

- Counts 8 and 9: Torture and Cruel Treatment (paragraphs 29a, 29b)

29. Serb forces, including those volunteer units recruited and/or incited by Vojislav Šešelj, captured and detained hundreds of Croat, Muslim and other non-Serb civilians. They were detained in the following short- and long-term detention facilities:

a) The *Velepromet* warehouse, **Vukovar**, SAO SBWS, November 1991, run by JNA, approximately twelve hundred detainees.

b) The Ovčara farm, near **Vukovar**, SAO SBWS, November 1991, run by JNA, approximately three hundred detainees.

- Counts 10 and 11: Deportation and Forcible Transfer (paragraph 31)

31. From on or about 1 August 1991 until May 1992 in the SAOs in Croatia and the RSK, from on or about 1 March 1992 until at least September 1993 in Bosnia and Herzegovina, and between May and August 1992 in parts of Vojvodina, Serbia, Vojislav Šešelj, acting individually or as a participant in a joint criminal enterprise, planned, instigated, committed, or otherwise aided and abetted in the planning, preparation, or execution of the deportation or forcible transfer of the Croat, Muslim and other non-Serb civilian populations from their legal domiciles, in **Vukovar** (SAO SBWS) in November 1991, in the municipality of Zvornik in Bosnia and Herzegovina between March 1992 and September 1993, in Greater Sarajevo in Bosnia and Herzegovina between April 1992 and September 1993, in the municipality of Nevesinje in Bosnia and Herzegovina between June 1992 and September 1993 and in parts of Vojvodina, Serbia, including the village of Hrtkovci, between May and August 1992.

- Counts 12 to 14: Wanton Destruction and Plunder of Public and Private Property (paragraph 34a)

34. From on or about 1 August 1991 until May 1992 in the territories of the SAOs in Croatia and the RSK, from on or about 1 March 1992 until at least September 1993 in the municipalities of Zvornik, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina, Vojislav Šešelj, acting individually or as a participant in a joint criminal enterprise, planned, ordered, instigated, committed, or otherwise aided and abetted in the planning, preparation, or execution of the wanton destruction and plunder of public and private property of the Croat, Muslim and other non-Serb populations, acts which were not justified by military necessity. This intentional and wanton destruction and plunder included the plunder and destruction of homes and religious and cultural buildings, and took place in the following towns and villages:

a) SAO SBWS: **Vukovar** (hundreds of homes destroyed and many homes plundered).

Victims Annexes III and IV.

According to the Prosecution's Final Pre-Trial Brief

In the Prosecution's Final Pre-Trial Brief Vukovar is referred to as a crime site in the following paragraphs: 1, 3i, 4, 11, 20, 21, 22, 26, 33, 37, 39, 40, 62, 1. VUKOVAR, 64, 65, 66, 67, 68, 69, 70, 131, 141, 143, 145, 148.

VUKOVAR

Paragraph 1

1. Before August 1991 and up to September 1993, the time period relevant to the indictment, the Accused was the President of the SRS and the leader of the SČP. In these capacities, the Accused was one of the most prominent politicians in the former Yugoslavia and exercised substantial political power and influence. Along with Croatian Serb and Bosnian Serb political leaders, Croatian Serb and Bosnian Serb government, military and police officials, high-ranking members of both the JNA/JA and the MUP of Serbia, and with other leading Serbian and Montenegrin political figures and officials, the Accused was one of the chief participants in the formulation, preparation and execution of a JCE to forcibly remove non-Serbs from targeted regions of Croatia, BiH and SFRY/FRY. This objective was achieved through the expulsion of hundreds of thousands of non-Serb civilians from their homes, their extended detention in brutally inhumane conditions, massacres, and a range of other persecutory conduct designed to drive them out of the territories considered to be Serb. The indictment sets forth the Accused's responsibility for inciting, instigating, creating, supporting, directing, coordinating and encouraging the forces that committed the crimes charged in the indictment. The Prosecution also alleges that the Accused physically committed persecution, as a crime against humanity, (through "hate speech") in Vukovar, Croatia, Zvornik, BiH, and Hrtkovci, Serbia. Moreover, the Accused personally committed crimes against humanity, i.e. deportation and inhumane acts, (forcible transfers) in Hrtkovci.

Paragraph 3 (i)

3. Although the process varied from place to place, the take-overs achieved the common goal of establishing Serb control in the targeted territories. The Accused participated in this process by:

a) publicly and systematically promoting the establishment by force of a unified Serb-dominated state known as "Greater Serbia" with its western borders

along the “Karlobag-Karlovac-Ogulin-Virovitica line”, thereby including wide parts of Croatia and BiH;

b) publicly and systematically inspiring fear and hatred in Serbs that non-Serbs, in particular Croats and Muslims, were their enemies and intended to cause them harm, thereby creating and/or exacerbating an atmosphere conducive to violent acts against targeted non-Serb populations and inciting, participating in and contributing to the crimes alleged in the indictment;

c) recruiting, organising, financing, supporting, encouraging and instigating Serb volunteers affiliated with the SRS/SČP, who committed crimes alleged in the indictment;

d) encouraging and instigating other Serbian forces, namely JNA/VJ members, units of the local Serbian TOs and TOs from Serbia, VRS, SVK and police forces, to commit crimes alleged in the indictment;

e) coordinating the activities of SRS/SČP volunteers with members of other Serb institutions who committed crimes alleged in the indictment;

f) participating and assisting in the planning and preparation of the take-over of villages in Western Slavonia and Eastern Slavonia, Baranja and Western Srem (“SBWS”) in Croatia and in the municipalities of Bosanski Šamac and Zvornik in BiH, and in the subsequent persecution campaigns;

g) publicly calling for the expulsion of inhabitants of Croat ethnicity from parts of the Vojvodina region in Serbia, thereby instigating his followers and local authorities to engage in a persecution campaign against the local Croat population;

h) personally and directly causing the expulsion of Croat residents from villages in Vojvodina, in particular the village of Hrtkovci, by intimidating and insulting Croats in public speeches; and

i) denigrating the non-Serb populations in Vukovar, Zvornik and Hrtkovci through public “hate speech”.

Paragraph 4

4. The Accused’s participation in the JCE can be divided into three essential segments.

First, the Accused used his power and popularity as a politician to constantly promote the goal of the creation of a Serb dominated “Greater Serbia” by force, both in the media and directly to the public, and to create a climate of ethnic fear and hatred that prepared the ground for the crimes alleged.

Second, as the President of the SRS and the leader of the SČP, the Accused oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of "volunteers" who often participated in crimes that resulted in the permanent forcible removal of non-Serbs from the targeted territories.

Third, as discussed below, in some areas, namely Vukovar, Zvornik, Bosanski Šamac and Hrtkovci, the Accused personally planned, instigated, ordered and/or committed these crimes, thereby additionally participating in the JCE and contributing to it.

Paragraph 11

11. The Accused's use of hate speech became particularly vitriolic with respect to the presence of Croats in Serbia, where a substantial Croatian and Hungarian minority had lived for centuries. During the first year of the armed conflict in Croatia, thousands of Serbs fled from Croatia to Serbia. Many could not find housing. The Accused publicly proposed to resolve this problem by expelling hundreds of thousands of Croats from Serbia:

- But once we have got rid of the federal organs of power, once we have expelled tens of thousands of federal officials, Slovenians, Croats and Shiptars, we shall have tens of thousands of available flats in Belgrade.

- Another issue: if the Croats are chasing the Serbs away from their homes like this, on a large scale, what are the Croats here in Belgrade waiting for, what are the Croats all over Serbia waiting for? An exchange of population: we chase away as many Croats from Belgrade as there are Serbs whom Tudjman has chased away from Zagreb. When a Serbian family arrives from Zagreb, well, they should simply go to the address of a Croat in Belgrade and give him their keys, go away to Zagreb, an exchange. The Croats in Slankamen, Zemun and in other locations will not sleep in peace until they move out. We will not kill you, that goes without saying, but what we will do is simply pack you up in trucks and trains and you just go off and get along in Zagreb.

- I would expel the Croats for several reasons. First and foremost, because the Croats are extremely disloyal as inhabitants of Serbia, because the vast majority of them are members of the HDZ or act as their foreign collaborators, and that they are doing everything they can to destabilise the internal situation in Serbia. In addition to that, the Croats have proved to be direct collaborators of the Usthas, they made possible the transfer thereof from Vukovar to Hungary via Bačka. Furthermore, we

must apply the measures of retaliation against the Croats because Tudjman has expelled 160,000 Serbs.

- Question: You have been fiercely attacked over your statement that all Croats should be expelled from Serbia, and it is not in the Radical Party's tradition to say such words.

Answer: Never in history has the Serbian Radical Party faced such problems as we are facing now. Being radical means cutting deep at the root of the problem. The Serbian Radical Party has been doing that: tackling matters at their root, hence its popularity among the Serbian people.

Question: Wouldn't you ever withdraw your statement about the Croats?

Answer: Never.

Paragraphs 20, 21, 22

20. The Accused contributed to the JCE by providing this institutional coordination in furtherance of the forcible removal of non-Serbs from territories to create "Greater Serbia". For example, after the SRS and SČP recruited the volunteers, they received training and uniforms at JNA/VJ facilities, and facilities operated by the Serbian DB. Volunteers received weapons at the front lines from the JNA/VJ. While at the front lines, volunteers received the same benefits as regular soldiers. When SRS/SČP volunteers died, the Government of Serbia compensated their families. These arrangements resulted from agreements between the Accused and members of the General Staff of the SFRY Armed Forces (which comprised the JNA and TO, and later the VJ), the leadership of the Serbian MUP, and the head of the Ministry for Relations with Serbs Outside of Serbia. Once at the front lines, the SRS/SČP volunteers were normally subordinated to the local command structure, i.e., the local Serb TO and/or JNA/VJ forces and the VRS/SVK forces. The volunteers, however, considered the Accused to be their supreme commander. The Accused acknowledged that he was "the commander of the volunteer forces over there."

21. The Accused also used his special position of political and "moral" authority and hate speech to indoctrinate those who responded to his call to fight for "Greater Serbia." More than once the Accused told his volunteers that their task was to kill "Ustashas" or "Turks". SRS/SČP volunteers operating in Vukovar, a town in Eastern Slavonia in Croatia, during 1991 understood that their primary goal was to "cleanse the area of Ustashas". The prevailing atmosphere, not surprisingly, was that

every Croat was an “Ustasha” and any “Ustasha” who tried to surrender was immediately shot. Volunteers in Voćin, a village in Western Slavonia in Croatia, told a nurse treating a wounded Croat soldier that they “heard that one Ustasha is here. We would like to chop him in pieces.” When he dispatched his volunteers to the battlefields, the Accused used his rhetorical skills to cast these efforts in heroic terms:

- God’s help, heroes! Serbian brothers, heroic Serbian Chetniks, today you are going to war. Today you are going to free Serbian Vukovar and to defend Serbian Slavonija. You are going to join hundreds, thousands of our Volunteers. You are going from all parts of today’s shrunken Serbia to return glory to the Serbian weapons. You will act with units of the JNA, because that is our army. It is foremost a Serbian army, because of its senior staff and its struggle for the salvation of Serbian lands, of Serbian territories.

22. SRS/SČP volunteers agreed with the goal of creating “Greater Serbia” by using all necessary means, including violence, because they fervently believed in the Accused. Thus, when the Accused visited his volunteers near the battlefields, the volunteers reacted as if “God came to earth”. The Accused’s visits to the front lines provided great motivation to the volunteers, and strengthened their will to kill “Ustashas”. As the armed conflict progressed, the lack of discipline and violent nature of some SRS/SČP volunteers became well-known, both on the battlefield and among the SRS leadership, including the Accused. When the Accused was informed of the atrocities committed in Vukovar by one of the SRS/SČP volunteers, a man called Topola, the Accused responded: “What can I do now? Disarm the man and send him home. He is tired.” Instead, the SRS redeployed Topola to participate in the take-over and ethnic cleansing of Zvornik in eastern BiH. The Accused’s failure to publicly condemn the atrocities committed by SRS/SČP volunteers was yet another sign that violence against non-Serbs was necessary and appropriate.

Paragraph 26

26. Even though he knew about the lack of discipline and violent behaviour amongst SRS/SČP volunteers, the Accused never directed the members of the SRS or the SČP to respect the Geneva Conventions or other rules of international humanitarian law, and never distanced himself from the ongoing persecution of non-Serbs in any way. Instead, SRS/SČP volunteers were told that “the less prisoners, the better.” Indeed, the Accused’s directions to SRS/SČP volunteers demonstrate that he intended non-Serbs to be forcibly expelled from their homes and/or killed. As

discussed below, while visiting Vukovar in November 1991, shortly before the city fell to Serb forces, the Accused told an assembled group of SRS/SČP volunteers, members of the Serb TO, and the JNA: "Not a single Ustasha must leave Vukovar alive." Similarly, while meeting with Serb forces in Subotica in late 1991, the Accused told a group of SRS members and police officers about measures that had to be taken to expel Croats from parts of Vojvodina. The Accused told VS-008's group of volunteers that they had "to kill Ustashas". And before dispatching a large group of volunteers to BiH in early 1993, the Accused told VS-026 that he "should kill all the (Muslim) women and children in their cradles so their Turkish seeds would be exterminated."

Paragraph 33

33. In May 1990 the SDS of Slavonia was established and covered the whole of the region from Vukovar to Kutina. On 7 January 1991 the SNC for SAO SBWS was formed in Šidski Banovci. On 26 February, the SNC of SBWS adopted a Declaration on Sovereign Autonomy of the Serbs, proclaiming the Serbs in Croatia to be a sovereign people, with a right to autonomy. In relation to Yugoslavia, the Declaration stipulates that in the event that such a state organisation ceased to exist, the Serbian autonomous region would "exist as a part of its mother state Serbia". In its subsequent statements, the SNC expressed strong anti-Croat resentments and portrayed the Croatian Serbs as persecuted and threatened with genocide.

Paragraph 37

37. As already mentioned in relation to the SAO Krajina, parallel to the creation of separate regional structures, the Serbs in the SAO SBWS built up a separate police and military structure. In March 1991, the Accused personally went to Eastern Slavonia in order to encourage the local Serb residents "to make an uprising". In late April 1991, armed local Serbs together with SRS/SČP volunteers and other Serbian volunteers erected barricades in the village of Borovo Selo near Vukovar. On 1 May 1991, these armed Serbs took hostage a number of Croatian policemen who had been sent to restore law and order in Borovo Selo. On 2 May, the Croatian police authorities in Osijek sent a larger group of heavily armed policemen to Borovo Selo to free the hostages. Local armed Serbs assisted by SRS/SČP volunteers and members of the Serbian MUP ambushed this group of policemen. Twelve Croatian policemen were killed and twenty injured in the fighting.

Paragraphs 39 and 40

39. In August 1991, Serb forces, led by the JNA, attacked and occupied towns in Eastern Slavonia. The Croat and other non-Serb populations of these areas were forcibly expelled. In late August, Serb forces, including SRS/SČP volunteers, laid siege to the city of Vukovar. By mid-October 1991, Serb forces had taken control of all other predominately Croat towns in Eastern Slavonia, except Vukovar. Non-Serbs were subjected to a brutal occupation regime consisting of persecution, murder, torture and other acts of violence.

A large portion of the non-Serb population was eventually killed or forced from the occupied areas.

40. The siege of Vukovar continued until the city fell to JNA-led Serb forces on 18 November 1991. During the three-month siege, JNA shelling largely destroyed the city. Hundreds of persons were killed. When the Serb forces occupied the city, they (including SRS/SČP volunteers) killed hundreds of Croats. Within days of the city falling under Serb control, most of the non-Serb population of the city had been expelled.

Paragraph 62

62. Each sub-section focuses upon one geographic region in which these crimes took place: Vukovar, Voćin, Bijeljina, Brčko, Zvornik, Bosanski Šamac, Greater Sarajevo, Mostar, Nevesinje and Hrtkovci.

Paragraphs 64-70

A. Crimes in Croatia

1. Vukovar, November 1991

64. The city of Vukovar is located in Eastern Slavonia on the banks of the Danube River, which there marks the border between Croatia and Serbia. In late August 1991, the JNA laid siege to the city of Vukovar. By mid-October 1991, all predominantly Croat towns in Eastern Slavonia had been taken by Serb forces except Vukovar. During the siege JNA shelling largely destroyed large parts of Vukovar and hundreds of persons were killed.

65. In 1991, the Accused decided that the SRS should send as many volunteers as possible to Vukovar. The SRS/SČP volunteers sent to Vukovar were placed under the command of Milan Lančuzanin aka Kameni, commander of the "Leva Supoderica" SČP detachment. Kameni and other members of the detachment often visited the headquarters of the JNA's First Guards Brigade in Vukovar to obtain

orders, and First Guards Brigade Captains Radić and Zirović often attended the Leva Supoderica detachment headquarters to convey orders and tasks from the command.

66. On or about 12 November 1991, the Accused came to Vukovar in order to visit the volunteers and boost their morale. A meeting took place that evening in a house at Ulica Nova 81, which was used as a command post by members of the JNA army and the local Serb TO. Present were the Accused and other leaders of the SRS, JNA officers such as Major Veselin Šljivančanin, Captain Miroslav Radić and Captain Bojkovski, Stanko Vujanović, the commander of the First TO Detachment, Miroljub Vujović, a member of the Vukovar TO Staff, and a number of SRS/SČP volunteers, including Kameni. The Accused told the gathering:

"We are all one army. This war is a great test for Serbs. Those who pass the test will become winners. Deserters cannot go unpunished. Not one Ustasha must leave Vukovar alive. We have accepted the concept of a federal army so that there is no legal basis for interference of foreign powers in our conflict. The army is fighting rebel Croats. The army has shown that it was able to cleanse its ranks. We have a unified command consisting of military experts who know what they're doing."

67. The city of Vukovar fell to Serb forces six days later, on 18 November 1991. When the Serb forces occupied the city, hundreds of Croats were killed and an overwhelming majority of the non-Serb population of the city was expelled within days of the fall of Vukovar. The JNA organised buses and trucks to deport thousands of Croat and other non-Serb inhabitants of Vukovar to Serbia, where they were either detained or transferred to territories controlled by Croatian authorities.

68. On 20 November, members of the JNA, including Major Šljivančanin, as well as Stanko Vujanović, Miroljub Vujović, Kameni, and thirty to forty heavily armed SRS/SČP volunteers gathered at the Vukovar hospital. At that time, the hospital was full of patients, civilians who had taken shelter there and persons who had participated in defence and laid down their arms. It was clear to both the Croats and the Serbs forces present that the volunteers wanted revenge. Major Šljivančanin ordered that the male non-Serbs from the Vukovar hospital, except for hospital staff and their relatives, be loaded onto buses. About two hundred and sixty-four Croats and other non-Serbs, including wounded persons on stretchers, were removed from the hospital and placed onto buses.

69. When the buses containing the victims arrived at the JNA barracks near the *Velepromet* facility, heavily armed members of the local Serb TO, including the

Leva Supoderica SRS/SČP detachment, ran around the buses and cursed the detainees inside. Kameni approached an officer of the JNA military police, who were guarding the buses, and demanded that the JNA "release these Ustashas". The officer refused, but shortly thereafter, the buses left for the Ovčara farm. Major Šljivančanin, who was in charge, was present at the barracks, and reportedly made this transfer possible. The non-Serb detainees taken to the Ovčara farm were brutally beaten and tortured by members of the local Serb TO and SRS/SČP volunteers. Some detainees died as a result this mistreatment. Shortly after dusk, groups of non-Serb detainees were taken out in groups of ten to twenty, transported to a ravine approximately one kilometre from the Ovčara farm, and shot. The killings of at least two hundred and fifty-five Croats and other non-Serbs from the Vukovar hospital continued until 0100 on 21 November. Members of the local Serb TO, including the SRS/SČP volunteers (including members of Kameni's detachment) participated in the killings. On 21 November, Goran Hadžić declared that Vukovar was the capitol of the SAO SBWS.

70. Serb forces used the *Velepromet* facility in Vukovar as a detention facility for Croats and other non-Serbs. Some were taken there by force; others sought shelter there. Croat and other non-Serb detainees were kept inside rooms at *Velepromet*, one of which had a bullet-proof door. Armed SRS/SČP volunteers, including Topola, guarded this room and on the night of 19 November, Topola told members of the JNA military police that the volunteers would not permit the detainees to leave the room. Instead, the detainees would be kept there in order to be punished; that is, "deal with them the way they dealt with the Serbs." Shortly thereafter, Topola and other Serbs began taking detainees out of the room and killed them. Bursts of gunfire were heard.

Paragraph 131

131. "Committing" covers physically perpetrating a crime or engendering a culpable omission in violation of criminal law, whether alone or jointly with co-perpetrators. Several perpetrators may "commit" the same crime if each individual fulfils the requisite elements of the crime. The requisite *mens rea* is that the Accused acted in the awareness of the substantial likelihood that a criminal act or omission would occur as a consequence of his conduct.

Paragraph 141

141. In addition to the "commission" of all the crimes charged in the indictment as a participant in the JCE, the Accused physically committed the crime of

persecution in Vukovar (Count 1, paragraphs 15 – 17 and 20), Zvornik (Count 1, paragraphs 15 – 17 and 22 of the indictment) and Hrtkovci (Count 1, paragraphs 15 – 17 and 33 of the indictment), through his use of “hate speech” targeted at the non-Serb populations of those localities. The intent of the Accused to commit persecution in these locales is evidenced by: (1) the derogatory, violent and ethnic content of his speeches, (2) the environment of violent ethnic conflict in which the Accused made his speeches and (3) the fact that (as described above) such crimes occurred shortly after the Accused made his speeches.

Paragraph 143

143. In addition to the “commission” of all the crimes charged in the indictment as a participant in the JCE, the Accused physically committed the crime of persecution in Vukovar (Count 1, paragraphs 15 – 17 and 20), Zvornik (Count 1, paragraphs 15 – 17 and 22 of the indictment) and Hrtkovci (Count 1, paragraphs 15 – 17 and 33 of the indictment), through his use of “hate speech” targeted at the non-Serb populations of those localities.

The intent of the Accused to commit persecution in these localities is evidenced by: (1) the derogatory, violent and ethnic content of his speeches, (2) the environment of violent ethnic conflict in which the Accused made his speeches and (3) the fact that (as described above) such crimes occurred shortly after the Accused made his speeches.

Paragraph 145

145. In addition to the other modes of criminal liability contained in Article 7(1), the Accused ordered the crimes of persecution, murder, torture and other inhumane acts, cruel treatment and forcible transfer from Vukovar (Counts 1-9 and 11, paragraphs 15-18, 20 and 28-32 of the indictment) by his instruction that “Not one Ustasha must leave Vukovar alive!” In addition, the Accused ordered the crimes of persecution, deportation and forcible transfer in Hrtkovci (Counts 1, 10 and 11, paragraphs 15-17, 27 and 31-33 of the indictment) during his meetings with associates and supporters in Vojvodina in 1991 and 1992, and, implicitly, in his speech in Hrtkovci on 6 May 1992. The intent of the Accused to order the crimes in Vukovar and Hrtkovci can be inferred from the content of his speeches and discussions, and from the fact that the crimes subsequently occurred.

Paragraph 148

148. In addition to the other modes of criminal liability contained in Article 7(1), the Accused instigated the crimes of persecution, murder, torture, cruel treatment, and forcible transfer in Vukovar (Counts 1, 4, 8-9 and 11, paragraphs 15 – 18, 20 and 28-32 of the indictment), the crimes of persecution, murder, torture, other inhumane acts, cruel treatment, deportation, forcible transfer, wanton destruction and plunder of public or private property in Zvornik (Counts 1, 4, 8-9, 10-14, paragraphs 15 – 18, 22, 28-34 of the indictment) and the crimes of persecution, deportation and forcible transfer in Hrtkovci (Counts 1, 10 and 11, paragraphs 15 – 17, 31-33 of the indictment) by his inflammatory speeches given when he visited those locales or places close to them, such as Mali Zvornik. The Accused's intent to instigate these crimes can be inferred from the same evidence with respect to the Accused's intent to commit persecution and from the Accused's acknowledgements of his ability to incite persons.

Summary Regarding Witnesses for Vukovar

A. Implementation of the JCE in Croatia

1. Republic of Serbian Krajina:

Witnesses: VS-043 (Milan Babić, deceased), VS-037 (██████████), testified as if he were a Defence witness).

2. Parallel structures of Croatian Serbs in the SAO Krajina:

VS-043 (Milan Babić, deceased).

3. SAO Slavonia, Baranja and Western Srem:

No witnesses.

4. SAO Western Slavonia:

Witnesses: VS-050 (██████████), did not testify, but wanted to be a Defence witness), VS-004 (██████████), testified as if he were a Defence witness).

5. Croatian Serb Police and Military Structures:

Witnesses: VS-043 (Milan Babić, deceased), VS-027 (██████████), testified, false witness), VS-004 (██████████), testified as if he were a Defence witness), VS-002 (██████████), testified as if he were a Defence witness), VS-034 (██████████), did not testify, but wanted to be a Defence witness), VS-1126 (Dragutin Berghofer, testified), VS-022 (██████████), did not testify), VS-020

(Vilim Karlović, testified, and he was also supposed to testify about counts which are not in the indictment), VS-021 (██████████, testified).

V. Summary of the facts on the alleged crimes

A. Crimes in Croatia

1. Vukovar, November 1991:

Witnesses: VS-011 (Ljubiša Petković, did not testify, but wants to be a Defence witness), VS-1126 (Dragutin Berghofer, testified), VS-015 (Goran Stoparić, testified, false witness), VS-021 (██████████, testified), VS-008 (██████████, testified, false witness), VS-1127 (Emil Čakalić, testified), VS-017 (Zoran Rankić, testified as if he were a Defence witness), VS-020 (Vilim Karlović, testified, but he was also supposed to testify about counts which are not in the indictment), VS-027 (██████████, testified, false witness), VS-002 (██████████, testified as if he were a Defence witness), VS-1139 (Ljubiša Vukašinić, testified and wanted to be a Defence witness), VS-022 (██████████, did not testify), VS-1129 (Ljubica Došen, did not testify), VS-051 (██████████, testified).

Final and Revised Prosecution Witness List and Summaries of Testimonies

Crime base Witnesses for Vukovar: VS-002 (██████████, testified as if he were a Defence witness), VS-008 (██████████, testified, false witness), VS-016 (██████████, testified, but this witness was not listed in the Prosecution's Final Pre-Trial Brief), VS-020 (Vilim Karlović, testified, but he was also supposed to testify about counts which are not in the indictment), VS-021 (██████████, testified), VS-022 (██████████, did not testify), VS-045 (██████████, did not testify, but this witness is not listed in the Prosecution's Final Pre-Trial Brief), VS-051 (██████████, testified, but he was also supposed to testify about Count 2, which is no longer in the indictment), VS-1126 (Dragutin Berghofer, testified), VS-1127 (Emil Čakalić, testified), VS-1128 (Josip Čakalić, did not testify and this witness is not listed in the Prosecution's Final Pre-Trial Brief), VS-1129 (Ljubica Došen, did not testify), VS-1130 (Miodrag Panić, did not testify, but wanted to be a Defence witness, and this witness is not listed in the Prosecution's Final Pre-Trial Brief), VS-1131 (Milorad Vojnović, testified, but this witness is not listed in the Prosecution's Final

Pre-Trial Brief), VS-1139 (Ljubiša Vukašinić, testified and wanted to be a Defence witness).

Task of the Prosecution

The task of the Prosecution was to establish, through witnesses, the facts submitted in the Prosecution's Pre-Trial Brief, to have the witnesses at least confirm in the courtroom what the Prosecution is referring to in the summaries of witness testimonies for Vukovar, to prove that the general requirements under Articles 3 and 5 of the Statute have been met, and that Professor Vojislav Šešelj is liable for his actions under Article 7(1) (complicity, participation in a JCE and direct commission through hate speech).

During the presentation of Prosecution evidence, the following witnesses were heard:

1. [REDACTED], VS-021, testified *viva voce* on 6 March 2008 under Rule 92 *ter* and with image and voice distortion.
2. Vilim Karlović, VS-020, testified *viva voce* on 11 and 12 March 2008.
3. Dragutin Berghofer, VS-1126, testified on 12 March 2008 under Rule 92 *ter*.
4. Emil Čakalić, VS-1127, testified *viva voce* on 18 and 19 March 2008.
5. [REDACTED], VS-002, testified *viva voce* on 6, 7 and 8 May 2008 under protective measures and with image and voice distortion.
6. [REDACTED], VS-051, testified in closed session on 28 and 29 May 2008.
7. [REDACTED] aka Štuka, VS-016, testified in closed session and under protective measures on 28 and 29 October 2008.
8. Vesna Bosanac (without a pseudonym), testified *viva voce* on 4 and 5 November 2008 under Rule 92 *ter*, without protective measures.
9. Milorad Vojnović, VS-1131, testified *viva voce* on 5 and 6 November 2008 under Rule 92 *ter*, without protective measures.
10. Ljubiša Vukašinić, VS-1139, testified *viva voce* on 27 November 2008, without protective measures.
11. [REDACTED], VS-065, testified in closed session and under protective measures on 8 and 9 January 2009.

12. ██████████, VS-008, testified in closed session and under protective measures on 13 and 14 January 2009.

The analyses of the testimony contain arguments showing that the Prosecution's position is untenable, both in relation to what is colloquially referred to as hate speech and what is presented as participation in a JCE. In this phase of the proceedings it was important for Professor Vojislav Šešelj to prove that:

1. Professor Vojislav Šešelj and volunteers of the Serbian Radical Party were not personally involved in any way in the commission of the crimes in Vukovar;

2. Professor Vojislav Šešelj and volunteers of the Serbian Radical Party did not have any influence on or any geographical, local, temporal or other connection with the perpetrators of the crimes at Ovčara.

3. Professor Vojislav Šešelj did not personally order, instigate or have any influence as an accessory or co-perpetrator of the crime at Ovčara.

Important in that respect is the judgement in the Mrkšić case, where there was no conviction for the destruction and looting in Vukovar. If Mrkšić was not convicted, then it is unclear how Professor Vojislav Šešelj could be suspected. Therefore, the crime of violations of the laws or customs of war will certainly be dismissed, and it is questionable whether crime against humanity is possible at all on both grounds, particularly as crime against humanity was not established in the Mrkšić case. The Belgrade judgements for the Ovčara case are also valuable in that respect.

The Prosecution has not presented sufficient evidence to support a conviction. The conclusion is: not guilty. Thus the evidence adduced, its relevance, reliability and credibility, do not lead to a conviction. In that respect, it is important whether the evidence meets the requirements for drawing a conclusion beyond a reasonable doubt. Since it is the witnesses who are, in fact, the evidence, it is important whether a witness is an eyewitness, a participant in an event or an armed conflict, somebody who heard and from whom he heard it, whether the information and details are from the time of the event or were obtained subsequently, whether it is a matter of an opinion or a personal view without direct knowledge, but rather the result of a system of indirect reasoning.

CONCLUSION

The case of the Vukovar three is also important for all charges relating to Vukovar. The final judgement in this case is binding and the following must therefore be brought to the attention of the Trial Chamber judges:

Conclusion: The Chamber concludes that in the present case the jurisdictional prerequisites of Article 5 of the Statute have not been established. Mrkšić and Šljivančanin were convicted for aiding and abetting in the crime of violations of the laws or customs of war.

If Mrkšić, Radić and Šljivančanin did not participate in a JCE, it is then impossible for Professor Vojislav Šešelj to have participated in a JCE with any of them. If the location of Vukovar was not part of a JCE for Mrkšić, Radić and Šljivančanin, or for Professor Vojislav Šešelj, as established in the final judgement, it is then unclear how Vukovar and other locations could be part of a JCE in the indictment against Professor Vojislav Šešelj. Moreover, the location of Vukovar was also examined to establish if crimes against humanity had been committed and it was established in the final judgement that these crimes had not been committed. It is therefore simply impossible the indictment against Professor Vojislav Šešelj to allege crimes against humanity with respect to Vukovar.

The situation in relation to the charges of destruction, looting, devastation and other crimes is interesting. If the Prosecution did not accuse Mrkšić *et al* of these crimes, it is then unclear how it could accuse Professor Vojislav Šešelj.

Miroslav Radić was acquitted on all counts of the indictment and it is interesting to note that he was acquitted under Article 7(1) of the Statute of responsibility for aiding and abetting killings, torture and cruel treatment under Article 3 of the Statute – violations of the laws or customs of war.

In addition to the fact that a crime against humanity is not possible, the question is raised as to whether Professor Vojislav Šešelj could have instigated, aided and abetted and directly physically carried out persecution, deportation and forcible transfer with his speeches.

The Prosecution refers to a speech in Vukovar which never took place, but it must be analysed whether any speech by Professor Vojislav Šešelj could have led to these crimes.

If the destruction of a town or deportation and forcible transfer could not be subsumed under persecution as a crime against humanity in the case of the Vukovar three, then this is not possible in the case against Professor Vojislav Šešelj either.

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-021, [REDACTED],
UNDER RULE 92 TER AND WITH PROTECTIVE MEASURES**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-021, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Croatian Serb Police and Military Structures:

"By mid-October 1991, Serb forces had taken control of all other predominately Croat towns in Eastern Slavonia, except Vukovar." [138]

Crimes in Croatia – Vukovar, November 1991:

"The non-Serb detainees taken to the Ovčara farm were brutally beaten and tortured by members of the local Serb TO and SRS/SČP volunteers. Some detainees died as a result of this mistreatment." [207]

2. Summary of testimony for VS-021, [REDACTED]

Biography: [REDACTED]

Events in Vukovar: the witness will testify that he participated in the defence of Vukovar. He will testify about his role in the defence.

On 18 November, the witness went with his parents to the Vukovar hospital because he heard there was going to be an evacuation convoy. The JNA soldiers that had arrived there were a mix of JNA regulars and Territorial Defence.

Between 0730 and 0800 hours the morning after the soldiers arrived, the witness heard a lot of shouting telling everyone to leave the building. The witness was ordered to get on a bus. There were 3-5 buses waiting. The buses were guarded by young JNA soldiers. After the buses were loaded, the buses went to the JNA military base.

At the base were many men from the Territorial Defence. One was singing a song "Prepare yourselves" or "Get ready, Chetniks!" This man was threatening to slaughter the people on the bus.

Ovčara: After about two hours, the buses left the base and went to Ovčara. There the witness saw many soldiers and volunteers all standing around the area where they stopped. These men formed a double line and carried weapons such as rifles, iron bars and large pieces of wood. They used these weapons to beat the bus passengers as they made their way towards the building. When the men left the busses

they were kicked and punched and their possessions were stolen from them. Watches, coats, jewellery were taken and thrown into a pile nearby.

Inside the building were about 300 detainees. A soldier took down names. He looked like a regular JNA soldier. Inside of the building was a man the witness thought was a JNA officer. He had a whistle.

After taking the names, a group of men partly dressed in uniforms came into the building and started beating people up. One person beaten severely was [REDACTED]. The witness concluded that [REDACTED] died from his injuries, because his beating was so bad. The witness saw the group of partially uniformed men kicking him, beating him with weapons and stamping on his head and body. They made him sing Chetnik songs. Another man severely beaten was victim Dado Dukić, who was on crutches. He was beaten with his own crutches. The witness will testify about a JNA officer who had a whistle and who was present all the time the beating lasted. The witness will describe other detainees whom he recognised in Ovčara. The witness will testify that later people were being put into groups of 20 men and led outside. The witness was in the third or fourth group of men selected to go outside. In the witness' group were [REDACTED]. The men were put on a military truck with a canvas covered rear. The witness managed to jump from the rear of the truck and escape.

The witness was eventually captured again. He will testify about what happened to him after he was captured and the beatings he suffered. He was eventually taken to Šid then Mitrovica, and finally ended up in Belgrade.

Paragraphs: 14-16, 17 a-d, 18, 24-26, 27.

Counts: 1-11.

3. Content of testimony

VS-021 testified on 6 March 2008 under Rule 92 *ter* and with image and voice distortion.

VS-021 was the first witness to appear in the courtroom as a victim to testify about the crime base in Vukovar. His victim status was established by the Revised Final Witness List with Confidential Annex A of 29 March 2007 – summaries of Prosecution testimony. Therefore, it was testimony under Rule 92 *ter* that opened the crime base for Vukovar at the trial, not *viva voce* witness testimony. This is in contrast with the prescribed structure of presentation of evidence defined by the Trial

Chamber, requiring that the *viva voce* witnesses (several witnesses), victims and eyewitnesses be heard first, and after them witnesses testifying under Rule 92 *ter*, who would thus essentially verify the statements made by the *viva voce* witnesses, and Rule 92 *ter* is applied because they are repeating what the judges have heard from the previously examined witnesses. This was violated and the judges received the first information on the crime base from this witness, who was represented as a victim, through a statement under Rule 92 *ter*, before the judges had received any information from a witness who is a victim from that location and who testified *viva voce*. This means that, regarding the Vukovar location, the judges received biased information in the beginning.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] had been blowing up Serbs' houses in Vukovar for months and were it not for the prisoner exchange in 1992, he would still be serving a prison sentence. [REDACTED] is a war criminal, not a victim.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed:

The witness was asked to confirm paragraphs 14, 15, 16, 17a, 17b, 17c, 17d, 18, 20, 24, 25, 26 and 27, but the charges concerning Vukovar are contained in paragraphs 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

The witness was planned for counts 1 and 11 of the indictment, but Vukovar is referred to in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14 of the indictment.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes against the witness.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-020, VILIM KARLOVIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-020, Vilim Karlović, was planned as a Prosecution witness through whom the following was to be proven:

Croatian Serb Police and Military Structures:

“When the Serb forces occupied the city, they (including SRS/SČP volunteers) killed hundreds of Croats.” (footnote 142)

Crimes in Croatia – Vukovar, November 1991:

“The non-Serb detainees taken to the Ovčara farm were brutally beaten and tortured by members of the local Serb TO and SRS/SČP volunteers. Some detainees died as a result of this mistreatment.” (footnote 207)

“The killings of at least two hundred and fifty-five Croats and other non-Serbs from the Vukovar hospital continued until 0100 on 21 November. Members of the local Serb TO, including the SRS/SČP volunteers (including members of Kamenit's detachment) participated in the killings.” (footnote 208)

2. Summary of testimony for VS-020, Vilim Karlović

Biography: Croatian male, in his twenties at the time of the events in question.

Events in Vukovar: The witness will testify that the time he was in Vukovar, from the end of September until around the middle of November 1991, there was constant shelling, every minute of the day and night. Around the middle of November 1991, the Croatian defenders agreed that those who wanted to surrender should go to the hospital and hand in their weapons and uniforms. Others decided to try to break out of the city. The witness decided to go to the hospital around 15 or 16 November. While there, he took off his uniform and put on civilian clothing.

Events at the Vukovar hospital: On the morning of 19 November 1991, the JNA surrounded the hospital. The next morning, 20 November 1991, at about 0900, the JNA took over the hospital and separated the heavily wounded from the lightly wounded. Those who could walk, even with crutches, were put with those who were not injured. The JNA soldiers took them out through the back doors of the hospital. They were lined up and physically searched. Some of the detainees were abused and mistreated during this procedure. After that they were loaded on buses. The witness was on the fourth of five buses. Later a sixth bus arrived. Eventually the witness was taken to the JNA barracks.

Events at the JNA barracks: When they arrived at the JNA barracks, JNA guards got onto the buses with a list of names of people, and put these people on the sixth bus. Local Serbs were shouting abuse at people on the buses, and the witness saw some people being taken off the buses by these Serbs and beaten.

Ovčara: The witness will testify that at about 1500 hours, the buses left for a place which he later heard was called Ovčara. When he left the bus at Ovčara, the witness had to walk between two lines of Chetniks who were beating people with wooden poles, chains and gun-butts.

Before it was his turn to go through the line of Chetniks, a JNA soldier approached the witness and asked where he was from. The witness answered and asked the soldier to try to save him. As the witness got nearer to the hangar, he saw on the floor a "press" identification card. When he got in the hangar, he saw guards walking along and beating detainees.

In the hangar the witness was beaten by three soldiers who used their rifle butts. All of a sudden the witness' beating stopped and he saw the soldier whom he had spoken to outside talking to a captain wearing a camouflage uniform and a blue beret. The soldier said to the captain, "Let's try and save this man, I know him." Following that, the witness was taken out of the hangar and put with a group of six other people. The soldier told him his name and nickname.

Outside the hangar the witness heard the noise of heavy machinery and asked the soldier the reason for that. The soldier answered that it was a bulldozer and that they were going to kill all the people inside the hangar.

The witness will testify that while he was outside for about two hours, he could hear the beating of people inside who were screaming and crying. The beatings started just after 1500 and stopped at about 1800 as it was starting to get dark.

After the beating stopped, the witness was told to go into the barracks and to give his name. There was a small table where they were writing down the names of people and calling groups of ten at a time. It was the JNA who were taking the names.

After he gave his name, the witness was taken to the *Velepromet* facility in Vukovar.

Paragraphs: 15, 16, 17 a-d, g-j, 20, 24-26, 27, 28, 31.

Counts: 1, 5-9, 12-14.

3. Content of testimony

Witness VS-020, Vilim Karlović, was planned as a Rule 92 *ter* witness, but he testified *viva voce* on 11 and 12 March 2008. The witness had earlier testified as a Prosecution witness in the Dokmanović and Mrkšić cases, and he also appeared as a witness in the Ovčara trial in Belgrade.

Apart from uniforms, cockades and other details, which show that each witness had interpreted this in his own way, resulting in confusion, this witness confirmed that there were no Chetnik units in Vukovar. As a military serviceman he is certainly more competent than the other witnesses who were guessing and assuming that there was a Chetnik unit. This witness is also important because he confirmed that he had not seen any *šubara* fur hats or *šajkača* caps, only helmets, but the *šubaras* and *šajkačas* appeared when Vukovar was liberated.

The witness confirmed that the men who beat people at Ovčara knew the prisoners, which proves that they were predominantly Serbs from Vukovar. The witness gave his wedding ring as a gift to Spasoje Petković aka Štuka, who had saved him, and Štuka was a soldier on military service. It was also explained that Roman Catholics wear the ring on their left hand and members of the Orthodox faith on the right. The witness also confirmed the presence of HOS members.

The weapons which Spasoje Petković aka Štuka had were not standard JNA weapons.

The witness confirmed that the men who took him outside said they were Chetniks, but they did not say that they were Serbian Radical Party volunteers. He confirmed that Mare and Kinez were not from the same unit as the men who tortured him. Mare and Kinez made sacrifices to save and protect the witness from bullies who were trampling on the tradition of old Serbian warriors. The witness heard of the Leva Supoderica Detachment later. The witness said that the Chetniks who tortured him were Serbs from Vinkovci.

The witness confirmed that the voice he heard over the loudspeaker seemed like Vojislav Šešelj's voice to him. The witness confirmed that he did not consider all volunteer detachments to be Chetnik detachments. Through this witness the judges also learned of the Croatian Government's collective document on the investigation into the events in Vukovar with emphasis on various volunteer Chetnik detachments, and heard about claims that there were some who boasted, but in reality "in the slaughter numerous members of the 1st Guards Brigade of the JNA took part and the Territorial Defence who were subordinated to it". A document also appeared indicating that the witness had been prepared by the SIS to testify in the case of the Vukovar three.

The witness confirmed that he had never asked for protective measures as a witness in the case against Vojislav Šešelj.

The judges did not allow the use of a list of criminals on the Croatian side which had been published in a newspaper and the cross-examination was therefore discontinued.

During the trial, on 11 March 2008 the Prosecution submitted reports based on the checks which had been conducted establishing that VS-015, Goran Stoparić, had given false testimony regarding events in the village of Gibarac and the exchange of property between Ivica Kopic and Petar Vujaklija, and that there had been no violence. A repeated request was then made that a letter which Stoparić had sent to a friend be examined by a handwriting expert.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed:

The witness was asked to confirm paragraphs 15, 16, 17a-d, g-j, 20, 24-26, 27, 28 and 31, but the charges concerning Vukovar are contained in paragraphs 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

The witness was planned for counts 1, 5, 6, 7, 8, 9, 12, 13 and 14 of the indictment, but Vukovar is referred to in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes committed against the witness.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1126, DRAGUTIN BERGHOFER, UNDER RULE 92 TER

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1126, Dragutin Berghofer, was planned as a Prosecution witness through whom the following was to be proven:

Croatian Serb Police and Military Structures:

"When the Serb forces occupied the city, they (including SRS/SČP volunteers) killed hundreds of Croats." (footnote 142)

Crimes in Croatia – Vukovar, November 1991:

"When the buses containing the victims arrived at the JNA barracks near the *Velepromet* facility, heavily armed members of the local Serb TO, including the Leva Supoderica SRS/SČP detachment, ran around the buses and cursed the detainees

inside. Kameni approached an officer of the JNA military police, who were guarding the buses, and demanded that the JNA 'release these Ustashas'. The officer refused, but shortly thereafter, the buses left for the Ovčara farm. Major Šljivančanin, who was in charge, was present at the barracks (footnote 205) and reportedly made this transfer possible."

"The non-Serb detainees taken to the Ovčara farm were brutally beaten and tortured by members of the local Serb TO and SRS/SČP volunteers. Some detainees died as a result of this mistreatment." (footnote 207)

2. Summary of testimony for VS-1126, Dragutin Berghofer

Biography: Croat male, shop owner from Vukovar, 51 years old at the time of the events.

Events during the war in Vukovar: The witness will testify that the war in Vukovar started on 24 August 1991. From that day onwards the witness' and his neighbours' houses were shelled by Serb forces. To protect themselves, the inhabitants were forced to move into whatever basement they could find. About 40 people lived in the witness' basement. Because the city was in a state of war, movement was restricted. On 15 September 1991, the witness' daughter was taken away by Chetniks and never seen again. At the beginning of November 1991 the witness' partner was killed by shrapnel. The witness remained in Vukovar until the take over by Serb forces.

Chetniks in Vukovar: The witness will testify to the volunteers participating in the attack on Vukovar, their behaviour and cooperation with the JNA.

Events in Vukovar hospital: On 17 November 1991, the witness and about 350 inhabitants tried to force their way out of Vukovar. Because of the heavy shelling, they had to retreat and the witness together with seven others took shelter in the Vukovar hospital. The following day all the people who were still in Vukovar and capable to walk went to the hospital, as the Serb forces had told them on loudspeakers that they could wait there for the convoy to be brought to Zagreb. There was no more food in the hospital. The witness and the others survived on "Laktovit" which is powdered baby milk. On 19 November 1991, Serb forces arrived at the hospital. The witness, a Croatian doctor and three or four nurses hid in a doctor's office for their own safety. Through the door the witness observed three people from Vukovar dressed as Chetniks. They wore JNA uniforms, carried automatic rifles, pistols and

knives. Later the doctor's son arrived, dressed as a Chetnik and scolded his father for not leaving Vukovar. He said: "I told you that we would burn it down with napalm." During the following night, the witness heard the burst of 18 gunshots.

Evacuation from the hospital: The next morning the witness saw Major Šljivančanin while he was shouting at a doctor. "What are you waiting for? This is a war situation!" Then Šljivančanin ordered the hospital to be evacuated. The patients had to line up in the yard in front of the hospital. The medical staff was separated from the rest. The witness will testify that six buses were parked close to the hospital. Šljivančanin ordered that the patients had to take everything out of their pockets and then were physically searched. The witness did not know the people who did the searches. He understood them to be from outside the region. After the search, the patients had to enter the busses and were driven to the JNA barracks where they waited in the buses about four hours. The witness saw some people taken out of the buses who were kicked and beaten by the Chetniks. Later they were loaded into a military bus and driven in the direction of Negoslavci. The witness will testify to the behaviour of the soldiers outside the buses who were walking around the buses, celebrating their victory, threatening and insulting the people in the bus.

Ovčara: At about 1300 the buses left for Ovčara. Upon their arrival they parked in front of a hangar. Outside the buses, the detainees had to run a gauntlet through a number of Chetniks in order to reach the hangar. They were severely beaten with all kind of tools and most of the detainees were seriously injured. Inside the hangar they were searched and all their belongings were taken and piled up on the ground. Then they were beaten again. The witness managed to protect himself by holding his hands over his head while he ran into the hangar, but he was covered in blood. As a result of these beatings the witness' hearing has been permanently affected. He witnessed how a local Chetnik beat one of the detainees with a baseball bat. Afterwards the witness couldn't see any sign of life and he assumed that the victim was beaten to death. Subsequently, four Chetniks with iron bars came into the hangar and gave the detainees the most severe beating. An older reservist with a whistle entered the room and when he, after about 20 minutes, blew a whistle, the first group of Chetniks was substituted by another group that continued the beating. The witness will give the names of the local Serb soldiers whom he recognised participating in the beating. After some time on the same day, the doctor's son — whom the witness knew from the hospital and who was a member of the Chetnik

movement — arrived and separated the witness and three other detainees. Together with some other selected detainees they were put on a little van and brought to the *Velepromet* facility in Vukovar. As there was no room for them in *Velepromet*, they were then brought to another location in Vukovar, where the witness was kept until March 1992 when he was exchanged.

Paragraphs: 15, 16, 17 a-d, g-j, 18, 20, 21, 24-26, 27, 28, 30 and 31.

Counts: all counts.

3. Content of testimony

Witness VS-1126, Dragutin Berghofer, testified on 12 March 2008 under Rule 92 *ter*. He was the third witness examined for the location of Vukovar (the two previous witnesses were [REDACTED] on 6 March 2008 under Rule 92 *ter*, Vilim Karlović *viva voce* on 11 and 12 March 2008). Apart from the usual confusion regarding the affiliation of persons in different uniforms, it is clear that the testimony primarily refers to the crime at Ovčara committed by Serbs from Vukovar. He was a prisoner of war.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed:

The witness was asked to confirm paragraphs 15, 16, 17a, 17b, 17c, 17d, 17g, 17h, 17i, 17j, 18, 20, 21, 24, 25, 26, 27, 28, 30 and 31, but the charges concerning Vukovar are contained in paragraphs 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

The witness was planned for all counts of the indictment, but Vukovar is referred to in Counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes committed against the witness.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1127, EMIL ČAKALIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1127, Emil Čakalić, was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Croatia – Vukovar, November 1991:

“When the buses containing the victims arrived at the JNA barracks near the *Velepromet* facility, heavily armed members of the local Serb TO, including the Leva Supoderica SRS/SČP detachment, ran around the buses and cursed the detainees inside. Kameni approached an officer of the JNA military police, who were guarding the buses, and demanded that the JNA ‘release these Ustashas’. The officer refused, but shortly thereafter, the buses left for the Ovčara farm. Major Šljivančanin, who was in charge, was present at the barracks,[205] and reportedly made this transfer possible.”

“The non-Serb detainees taken to the Ovčara farm were brutally beaten and tortured by members of the local Serb TO and SRS/SČP volunteers. Some detainees died as a result of this mistreatment.” (footnote 207)

“Present at the *Velepromet* facility were JNA military policemen and SRS/SČP volunteers, including Topola.” (footnotes 213 and 214)

2. Summary of testimony for VS-1127, Emil Čakalić

Biography: Croatian man, age 56 at the time of the events. The witness was a sanitary inspector for the Vukovar Regional Government.

Events in Vukovar and the Vukovar hospital: On 17 November 1991, the witness learned that the JNA had entered Kidričeva street and started to capture civilians and transport them in military armoured vehicles from their houses to unknown destinations. The witness and his wife decided to leave their building and go to the hospital. At the hospital the witness saw several people he knew.

During the night of 19-20 November 1991, an officer of the JNA came. The witness learned his name was Šljivančanin. He wore a military (JNA) uniform with a rank of major and a military cap called a *Titovka*. Šljivančanin was accompanied by a JNA junior lieutenant named Bogdan Kuzmić. They entered the hospital and went to the office of Marin Vidić. The witness recognised immediately that Šljivančanin was in charge of the operation in the hospital.

On 20 November 1991 at about 0700 hours, all employees of the hospital were gathered in one place. They were told that only personnel of the hospital with official ID cards, with photos, would be allowed to stay at the hospital and later transported to Zagreb in a convoy.

At about 0730 hours, officer Bogdan KUZMIĆ came to the hospital and ordered all men to leave the building of the hospital and gather in the backyard. The

witness saw two soldiers in JNA uniforms with Kalashnikovs guarding the area. They said to the detainees that they would kill them but they could not do that because they had their own soldiers in Croatian hands as POWs and intended to exchange them for these POWs. There were about 250 people at that location.

At 0930 or 1000 hours, they were told by the two soldiers to get on the buses that were parked at the side entrance of the hospital. The witness was sitting on the third of five buses. The buses arrived at the military barracks in Vukovar: The buses were held there until about 1430 hours. Chetniks were coming and going and threatening them.

Ovčara: From the barracks, they were transported to Ovčara. They had to leave the buses by walking between two lines of Chetniks and JNA soldiers, who beat them. When they got to the warehouse, there was another group of soldiers and Chetniks who did the same thing. While leaving the buses, everybody was searched by a captain. The witness was beaten like everybody else. Among those who beat them the witness recognised Slavko Dokmanović who was President of the Vukovar Community and a member of the Serbian Council. The witness also recognised some of the soldiers who were beating them.

The witness saw a group of Chetniks beat Damjan Samardžić and another man called Kemo. They were kicking Samardžić with boots, jumping over his stomach and back and causing bleeding from his nose and mouth. The witness saw a major there named Milan Lukić. He saw Major Lukić threaten to use an electric stick on one of the detainees. Another Chetnik wanted to cut the throat of Stjepan Gunčević.

At that point, a Colonel arrived. The witness later saw a photo of the Colonel in a magazine in Sremska Mitrovica, and he learned the Colonel's name was Mrkšić. He was accompanied by two Lt. Colonels and Major Lukić and the captain who searched the detainees at the buses. It was obvious that Colonel Mrkšić was in charge of everything.

One of the local Chetniks recognised the witness and remembered that he had done him a favour before the war. This Chetnik took the witness away from the group and brought him over by the door of the warehouse. The witness saw a bus of Chetniks arrive. They entered the warehouse, closed the door, and started to beat the detainees inside. The witness could see what happened and could hear the victims screaming. One group did the beatings and another group just stood there. Colonel Mrkšić was inside and he had a whistle, and when he saw that one group was tired he

blew the whistle to indicate that the other group should start the beating. They were there for about half an hour starting about 05.00 p.m. on 20 November 1991.

As soon as the Chetniks left, Colonel Mrkšić started interrogating the witness and six other men. When he finished, the witness and the others were put on a van and transferred to *Velepromet*. In *Velepromet* they were locked in the so-called "Room of Death" together with 38 others for two days. Then the witness was transferred to Sremska Mitrovica.

Paragraphs: 15, 16, 17a-d, g-j, 18, 20, 21, 24-26, 27, 28, 31.

All counts.

3. Content of testimony

Witness VS-1127, Emil Čakalić, testified *viva voce* on 18 and 19 March 2008. He is a victim and testified for the Vukovar crime base. He was the fourth witness for the location of Vukovar (the three previous witnesses were [REDACTED] on 6 March 2008 under Rule 92 *ter*, Vilim Karlović *viva voce* on 11 and 12 March 2008 and Dragutin Berghofer on 12 March 2008 under Rule 92 *ter*) and the second one to testify *viva voce*. He testified publicly and without protective measures, and during the cross-examination he admitted that he had never asked for protective measures. The Prosecution had Emil Čakalić registered as a protected witness against his will. The Prosecution announced him as a witness who could not remember all the details and his memory needed to be refreshed.

He had testified earlier in The Hague (Dokmanović, Milošević, Mrkšić) and in Belgrade for Ovčara. This witness is totally confused about the term Chetnik (Montenegrin Chetniks judging by their caps, Vukovar Chetniks, JNA, volunteers and so on). This witness confirmed that he was threatened by the local Serbs who knew him from before ("Give me Čakalić.").

Emil Čakalić admitted that he had been a Croatian volunteer. In his earlier statements he said that members of the Vukovar TO beat up prisoners at Ovčara, but he and others were taken out of the group according to various criteria (in his case because he had helped someone earlier). In his statement he mentioned the names of officers of the JNA and the local TO. A typical sentence is the one about a Macedonian JNA sergeant who threatened to call Topola, but he gave an incorrect description of Topola. He also mentioned a Serb from Negoslavci who was a JNA

captain and who was addressed as *Vojvoda* Vojin Mišić from Negoslavci. The *vojvoda* regularly dressed in a Tito uniform.

During the cross-examination, the judges were able through this witness to hear information about the demographic and ethnic composition, the political situation and crimes against Serbs, although it was obvious that the witness was trying to avoid answering these questions, and that he was capable of pronouncing everyone a Chetnik.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed:

The witness was asked to confirm paragraphs 15, 16, 17a, 17b, 17c, 17d, 17g, 17h, 17i, 17j, 18, 20, 21, 24, 25, 26, 27, 28 and 31, but the charges concerning Vukovar are contained in paragraphs 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

The witness was planned for all counts of the indictment, but Vukovar is referred to in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes committed against the witness.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-002,

[REDACTED], UNDER PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-002, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's role in recruiting and coordinating SRS/SČP volunteers:

"More than once Šešelj told his volunteers that their task was to kill 'Ustashes' or 'Turks'." (footnote 78)

Šešelj's Intent to Participate in the JCE:

"Šešelj personally visited SRS/SČP volunteer units and other Serb forces at the front lines on many occasions, (footnote 97) as well as parts of Vojvodina, Serbia (which borders Croatia) where non-Serbs were being persecuted."

Implementation of the JCE in Croatia - Croatian Serb Police and Military Structures:

“The siege of Vukovar continued until the city fell to JNA-led Serb forces on 18 November 1991. During the three-month siege, JNA shelling largely destroyed the city. Hundreds of persons were killed.” (footnote 141)

“Within days of the city falling under Serb control, most of the non-Serb population of the city had been expelled.” (footnote 143)

Crimes in Croatia – Vukovar, November 1991:

“The killings of at least two hundred and fifty-five Croats and other non-Serbs from the Vukovar hospital continued until 0100 on 21 November. Members of the local Serb TO, including the SRS/SČP volunteers (including members of Kameni's detachment) participated in the killings.” (footnote 208)

2. Summary of testimony for VS-002, [REDACTED]

Recruitment and propaganda; toward the end of August or beginning of September 1991, the witness heard appeals for the men from the Vukovar area to join the Serb forces involved in the battle of Vukovar. At the time, the Serbian television stations were reporting that Serbs in Vukovar were being persecuted. These accounts influenced the witness' decision to volunteer for the Serb forces in Vukovar. Later he learned that these reports were exaggerated. The witness will testify to the recruitment process and the units he was assigned to. The witness participated in military actions in Vukovar from the end of September 1991 onwards. While he served in Vukovar, the witness and his unit received orders from JNA officers. The witness will testify about the allegations intentionally spread among the conscripts about atrocities perpetrated by the Croatian side. This caused an incredibly phobic atmosphere among the young conscripts. The stories enraged the young soldiers and made them feel fearful at the same time.

Vukovar TO: The witness will testify to the activities of the Vukovar TO. The commander of this TO was Miroљjub Vujović and the TO headquarters was in an area of Vukovar called Petrova Gora. The TO unit received several assignments to “clear” certain areas, i.e. to go from house to house and remove the people in them. Civilians taken from houses were brought to the *Velepromet* warehouse.

SRS volunteers: The witness will testify that there was a group of SRS volunteers in Vukovar. Their number might have been between 100 and 140 men.

They participated in actions with the TO in Vukovar. Their leader, who later assumed the title of a Chetnik *vojvoda*, was Milan Lančužanin, nicknamed Kameni.

[REDACTED]

[REDACTED]

The TO commanders held regular meetings at Stanko Vujanović's house. Among those people attending the meetings was a JNA Captain by the name of Radić, who the witness believes was also staying in the house. The meetings were often held in the evening before an action.

The witness will provide information about an incident involving Cetinje and another man called Kizo who claimed to have killed 165 people at *Velepromet*. The witness will testify that the TO members were deeply involved in looting, as was the JNA.

Vukovar hospital and Ovčara: the witness will testify about what happened at the Vukovar hospital on and after 19 November. On 19 November, he went to the Vukovar hospital. The fighting had stopped either on 17 or 18 November. The witness saw JNA military police at the gate. He also saw TO members on the premises. The witness saw Veselin Šljivančanin in the hospital courtyard. The witness had previously encountered him twice during the military operations in Vukovar. Within the hospital, he saw a group including Stanko Vujanović, several TO members, and one of them threatened to shoot Dr Bosanac. Terrible stories were going around about her, so that the TO member wanted to shoot her on the spot. On 20 November, the witness got information that Vujanović's men had taken custody of a group of "Ustashas" from the JNA soldiers. The witness went to Ovčara. When he arrived at Ovčara, he observed buses full of people parked close to the hangar. He went into the hangar, where he saw several Serbs, among them Miroљjub Vujović, his deputy Đanković, [REDACTED] and several TO members. He did not notice any JNA soldiers in or outside the hangar. TO members from Vukovar formed two parallel lines and forced the detainees to pass the gauntlet. The TO soldiers would severely beat the detainees, using all kinds of objects, and also kick them. The witness realised that the detainees were the people from the Vukovar hospital. The witness saw at one point in time a high-ranking JNA officer, probably a colonel, accompanied by another JNA soldier. The JNA officer tried to prevent TO members from beating the detainees, but the soldiers disobeyed. The JNA officer then left. No JNA intervention followed.

The witness saw Miroljub Vujović walking around and watching what was going on. Miroljub Vujović did not allow shooting inside the hangar. [REDACTED]

[REDACTED]

The witness will identify those volunteers and TO members whom he remembers were present at Ovčara. The witness estimates that there were more than 300 people detained in the hangar. [REDACTED]

[REDACTED]

Paragraphs: 6, 7, 8, 10g, 12, 14-17a, h, j, 18, 20, 27, 31.

Counts: 1, 2-4, 10, 11, 12-14.

3. Content of testimony

The witness testified on 6, 7 and 8 May 2008 under protective measures and with image and voice distortion. [REDACTED]

[REDACTED]

Before appearing in the courtroom, while being proofed by the Prosecution, the witness was exposed to threats, told that he would give his statement as a suspect and advised to have an attorney on standby. OTP staff member Reynaud Theunens, who had previously testified as a military expert, also participated in this interview. The witness gave his first statement to the OTP in 1997. All matters in dispute regarding Vukovar have been cleared up through this witness, practically without a single word of accusation.

This witness fully verified the premise presented by the Defence in all its aspects: the situation in and around Vukovar before the outbreak of the conflict, recruitment, command, Professor Vojislav Šešelj's visit to Vukovar, events at the hospital and particularly at Ovčara, where he was an eyewitness.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed:

The witness was asked to confirm paragraphs 6, 7, 8, 10g, 12, 14, 15, 16, 17a, 17h, 17j, 18, 20, 27 and 31, but the charges concerning Vukovar are contained in paragraphs 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

The witness was planned for counts 1, 2, 3, 4, 10, 11, 12, 13 and 14 of the indictment, but Vukovar is referred to in Counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-051, [REDACTED], UNDER PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-051, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Croatia – Vukovar, November 1991:

“Armed SRS/SČP volunteers, including Topola, guarded this room and on the night of 19 November, Topola told members of the JNA military police that the volunteers would not permit the detainees to leave the room. Instead, the detainees would be kept there in order to be punished; that is, 'deal with them the way they dealt with the Serbs'.” (footnote 210)

“Shortly thereafter, Topola and other Serbs began taking detainees out of the room and killing them. Bursts of gunfire were heard.” (footnotes 211 and 212)

2. Summary of testimony for VS-051, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Paragraphs: 15, 16, 17a-d and j, 18, 20, 21, 24-26.

Counts: 1, 2-9.

3. Content of testimony

The witness testified in closed session on 28 and 29 May 2008.

[REDACTED]

[REDACTED]

On the basis of the examination-in-chief and cross-examination it was not possible to establish what had been planned for this witness in the Pre-Trial Brief and partly in the Summary of Evidence. At the time of the events near *Velepomet* and at Ovčara Serbian Radical Party volunteers were not even in Vukovar.

The event at Ovčara certainly could not be pleaded as a charge either on the grounds of participation in a JCE or on the grounds of hate speech. There can be no JCE or executions as part of a criminal plan because all the witnesses have confirmed that they expected the prisoners to be transferred from Ovčara to Sremska Mitrovica. Nor can the executions be a predictable consequence of a criminal plan because there is no causal link between the Serbian Radical Party volunteers and the perpetrators of the crime.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed:

The witness was asked to confirm paragraphs 15, 16, 17a, 17b, 17c, 17d, 17j, 18, 20, 21, 24, 25 and 26, but the charges concerning Vukovar are contained in paragraphs 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

The witness was planned for counts 1, 2, 3, 4, 10, 11, 12, 13 and 14 of the indictment, but Vukovar is referred to in counts 1, 2, 3, 4, 5, 6, 7, 8 and 9.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-016,

[REDACTED]

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-016, [REDACTED], was not planned as a Prosecution witness.

2. Summary of testimony for VS-016, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Paragraphs: 5, 6, 9, 10a-c and e, 11, 15, 16, 17a, 17i, 17 k, 20, 28, 29a and 29b.
Counts: 1-9.

3. Content of testimony

The witness testified on 28 and 29 October 2008 in closed session and under protective measures. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed:

The witness was asked to confirm paragraphs 5, 6, 9, 10a, 10b, 10c, 10e, 11, 15, 16, 17a, 17i, 17k, 20, 28, 29a and 29b, but the charges concerning Vukovar are contained in paragraphs 5, 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

The witness was planned for counts 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the indictment, but Vukovar is referred to in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes committed at Ovčara.

ANALYSIS OF THE TESTIMONY OF WITNESS VESNA BOSANAC UNDER RULE 92 *TER*

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, Vesna Bosanac was not planned as a Prosecution witness.

2. Summary of testimony of the witness Vesna Bosanac

There is no summary of evidence because she was not planned as a Prosecution witness. She was subsequently included in the witness list.

3. Content of testimony

The witness testified on 4 and 5 November 2008 under Ruler 92 *ter*, without protective measures. She had testified earlier in the Dokmanović (two days), Milošević (two days) and Mrkšić cases. She testified six days in the Mrkšić case, but

she claimed that it was three days. She testified before the investigating judge of the court in Osijek and in the Bogdan Kuzmić case in Vukovar. In addition to the objection regarding Rule 92 *ter*, Professor Vojislav Šešelj indicated that Vesna Bosanac was such a significant witness for Vukovar and Ovčara that it was inadmissible to have her just walk through the courtroom, notwithstanding the fact that she makes no mention of Professor Vojislav Šešelj in her statement.

As this is a Rule 92 *ter* witness, the judge indicated that the reference was to her statement given on 23 September 2008 and said:

“The written statement is organised in the following manner: There's the first part of the testimony dedicated to the personal background of the witness, her education and career. Then we have a second part dedicated to the Vukovar population under the blockade and regarding the situation in town. Then there is something about looting. Apparently, you were not the one who ordered this, or that is what you say at least. Then we move on to 17 November 1991, 18 November 1991, 19 November 1991. After that, we have 20 November. Then we have two sections dedicated to her detention because she was arrested and detained. Then we have a list of victims, and then we have a section related to submitted documents. So that's it. The only part of the statement which could relate directly to you is the part where she talks about Chetniks in a very general way. We will see what this witness will say.”

The sentence told by Vesna Bosanac is important:

“They sacrificed them deliberately just in a way to take their revenge for I don't know what, for the failure they had experienced, in fact, because they expected to capture Vukovar in a month. I personally heard the accused say on the radio: 'Vukovar must fall in early October. We will plough over everything, make a park here.' He came, he encouraged these Serbian soldiers to destroy the town completely and then they had to let these soldiers enjoy the massacres which they committed against our wounded and our friends, relatives and fellow townsmen. That is my opinion.”

The witness also presented several insinuations against the volunteers and Professor Vojislav Šešelj's political views.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed:

The charges for Vukovar are contained in paragraphs 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

Vukovar is referred to in Counts 1, 4, 8, 9, 10, 11, 12, 13 and 14 of the indictment.

Based on her testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes committed against the witness. If the testimony of this witness is viewed in relation to all the counts of the indictment for Vukovar, then:

- in relation to hate speech, there is no mention of killings, torture or anything similar, just an insinuation which does not even interpret the statement from the indictment;

- in relation to speech on the radio as an incitement for members of the Serbian forces, there are no grounds, because the fact that someone listened to the radio in Vukovar where there was no electricity does not seem probable, and none of the other witnesses referred to speech over the radio;

- there were no Serbian Radical Party volunteers at the hospital, nor did they carry out any evacuation from the hospital;

- in relation to looting and destruction of buildings, the witness accused all Serbian forces, and therefore the Mrkšić judgement should be borne in mind.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1131,

MILORAD VOJNOVIĆ, UNDER RULE 92 TER

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1131, Milorad Vojnović was not planned as a Prosecution witness.

2. Summary of the testimony of VS-1131, Milorad Vojnović

Biography: the witness was the commander of the Kragujevac-based 80th Motorised Brigade (mtbr). The 80th Motorised Brigade (mtbr) was deployed in Eastern Slavonia on 29 October 1991, the deployment was completed around 7 November 1991. The witness will testify to the failed integration of volunteers into his brigade. He found that their main interest was looting.

Events in Ovčara: The witness will testify that his brigade, after the cease-fire on 18/19 November 1991, was responsible for the protection of groups of evacuees that passed through Ovčara. These groups of evacuees did not include the detainees from the Vukovar hospital. One group of evacuees, the witness' unit took care of, consisted of nine to ten buses full of non-Serb women, children and the elderly. These civilians stayed on the buses for security reasons and due to the fact that it was very cold in the hangar. It was known that TO members and volunteers in Vukovar were extremely aggressive and undisciplined and posed a threat to evacuees. The witness will testify that he saw the two local TO commanders from Vukovar, Stanko Vujanović and Miroljub Vujović, at Ovčara. The witness did not know that detainees from the hospital, arrived at Ovčara. However, on his way to a daily command briefing at the OG South command, when he passed the hangar, he became aware that at least two additional buses, under the escort of the military police, had arrived from the hospital. The witness noticed about 10 to 15 TO members outside and about 20 TO members inside the hangar, forming two rows, through which the detainees had to pass to get inside the hangar. These TO members kicked, beat and cursed at them. Their personal documents were taken away. The witness will describe his efforts to protect the detainees. The witness spent about 30 minutes inside and outside the hangar, and then left to attend the daily command briefing at the OG South command post in Negoslavci. He relied on the remaining officers that they would establish order and would not let the situation get out of control. At the command briefing he informed Colonel Mrkšić of the situation in Ovčara and the maltreatment of detainees. The witness had the feeling that Mrkšić knew what was going on. When, at about 21.30, the witness returned to his command post, Captain Marček informed him that the military police had withdrawn from the hangar and that the local Serbian TO had taken over responsibility for the safety of the detainees.

Paragraphs: 15, 16, 17a, 17b, 17 h, 20.

Counts: 1, 2, 3, 4.

3. Content of testimony

The witness was a retired JNA colonel and he testified on 5 and 6 November 2008 under Rule 92 *ter*, without protective measures.

He was a Prosecution witness in the Ovčara case in Belgrade and the Mrkšić case in The Hague. He was first planned as a Defence witness in the Mrkšić case and

as the Defence decided not to use him as a witness, he later became a Prosecution witness, but before that he had contacts with the Defence in the Mrkšić case.

He was the commander of the 80th Motorised Brigade from Kragujevac, which arrived and was deployed in Vukovar on 7 November 1991 as part of Operations Group South. After the liberation of Vukovar and the withdrawal of the 1st Guards Brigade, he became, on Mrkšić's order, the commander of the city of Vukovar. His unit stayed in Vukovar until 28 February 1992.

The witness rationally replied to the judges' questions and in such a way that it was factually concordant with the Defence. The Leva Supoderica Detachment was under JNA command as part of the 1st Guards Brigade under Mrkšić's command. No one from Leva Supoderica came to the meetings in Mrkšić's office because the command was above the detachment and military hierarchy was observed. JNA documents referring to subordination of units and containing rational and professional explanations were entered in the case file through this witness. In addition to the rational explanation concerning the volunteers in the JNA, this witness denied the possibility of JNA units jointly coordinating action with a paramilitary formation.

This witness stated that after Ovčara the army conducted an investigation through high-ranking military court officers. With regard to Ovčara, the witness stated that soldiers, officers, TO members and civilians were present, but he spoke in very general terms in respect of the volunteers. The explanation that he was the highest ranking officer at Ovčara is interesting because it corroborates the hypothesis that some other officers with the rank of colonel were also present who are not part of the establishment of the 1st Guards Brigade.

The Prosecution's wrong and malicious interpretation regarding the evidentiary documents which were entered in the case file has been successfully thwarted and this was entered into the record.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed:

The witness was asked to confirm paragraphs 15, 16, 17a, 17b, 17h and 20, but the charges concerning Vukovar are contained in paragraphs 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

The witness was planned for counts 1, 2, 3 and 4 of the indictment, but Vukovar is referred to in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1139, LJUBIŠA VUKAŠINOVIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1139, Ljubiša Vukašinović, was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Croatia - Vukovar, November 1991:

"On 20 November, members of the JNA, including Major Šljivančanin, as well as Stanko Vujanović, Miroljub Vujović, aka Kameni, and thirty to forty heavily armed SRS/SČP volunteers gathered at the Vukovar hospital. At that time, the hospital was full of patients, civilians who had taken shelter there and persons who had laid down their arms. It was clear to both the Croats and the Serbs forces present that the volunteers wanted revenge." (footnote 203)

2. Summary of testimony for VS-1139, Ljubiša Vukašinović

Events in Vukovar: The witness will testify to the structure of the JNA Guards Motorised Brigade. He will address the integration of volunteers from Serbia into this Brigade in November 1991. The volunteers received weapons and uniforms from the JNA. The witness will testify to the Serb forces in Vukovar that comprised JNA units and two units of the Territorial Defence that were called TO Petrova Gora and TO Leva Supoderica. The Commander of the TO Leva Supoderica was a certain Milan Lančuzanin aka Kameni. Most of the fighters in these units were local Serbs from Vukovar, but there were also volunteers from Serbia among them. The members of those units had their own weapons, but as they were subordinated to the JNA, the JNA provided them with ammunition, food and other logistic supplies. The regular JNA soldiers did not appreciate these volunteers, because some of them were dangerous people and difficult to control.

Šešelj's visit to Vukovar: the witness will testify that he personally saw Šešelj in mid-November 1991, shortly before the fall of Vukovar when he passed the command post in Negoslavci. Šešelj visited members of his party in Vukovar. The

witness is aware that many members of the TO Leva Supoderica were volunteers of the Serbian Radical Party.

Velepromet: the witness will testify that Croats, Serbs and civilians of other nationalities were gathered in the *Velepromet* collection centre, basically all of those who managed to get out of the areas affected by the military operations. The witness believes that most of the people in the centre were civilians.

Vukovar hospital: the witness will testify that he saw Stanko Vujanović, the chief of the Vukovar TO, Miroljub Vujović, the commander of the Vukovar TO and Kameni around the Hospital, accompanied by 30 to 40 of their fighters all armed with automatic assault rifles and hand-grenades. Most of them wore JNA uniforms but instead of a cap with a five-pointed star, they had cockades on their caps. They were all very aggressive and it was clear to the witness and the members of his unit that they wanted to take revenge on members of the Croat forces that had fled into the hospital. The witness will speak about his encounters with these TO members. When all the male inmates from the hospital had entered the buses, the witness observed that approximately 30 to 40 people from TO Petrova Gora and TO Leva Supoderica followed the buses to the JNA Barracks. Again they behaved very aggressively and tried to remove people from the buses to take revenge on them. Military Policemen prevented them from doing so, but were often exposed to swearing, unpleasant situations and even the threats with weapons. At the barracks, Major Šljivančanin produced a list with about 20 names of persons who were in this bus. Major Šljivančanin had these persons removed from the buses and returned to the hospital. The members of the TO opposed this.

Ovčara: the witness will testify to his observations at Ovčara farm. He did not eyewitness any beatings, but when he went into the hangar he saw that many detainees who had arrived with the first three buses were covered in blood and beaten up. He then noticed a group of armed men, in which he recognised Vujanović and Vujović; he also saw Kameni at Ovčara. He noticed that they were quite loud and that they were verbally threatening those in the hangar. However, the JNA officers removed these armed men from the hangar. Then the hangar was closed and military policemen placed in front of the door.

Colonel Mrkšić was informed about the conduct of the mentioned group and the threat these armed men posed to the detainees. The witness will describe the actions that were then taken.

Paragraphs: 14-16, 17a-d, 18, 20, 21 and 24-26.

Counts: 1, 2-9.

3. Content of testimony:

The witness testified on 27 November 2008, without protective measures.

The witness testified several times as a defence witness in the Šljivančanin Case and several times in the Ovčara Case. Probably the best testimony in this case. A qualified witness, eyewitness, and the only one who had enough courage to publicly expose Aleksandar Vasiljević.

4. Summary of testimony:

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 14, 15, 16, 17a, 17b, 17c, 17d, 18, 20, 21, 24, 25 and 26, but charges concerning Vukovar are contained in paragraphs 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

The witness was planned for counts 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the indictment and Vukovar is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-065, [REDACTED], IN CLOSED SESSION AND BY VIDEO CONFERENCE LINK

1. According to the Prosecution's Final Trial Brief of 25 July 2007, [REDACTED] was not planned as a Prosecution witness.

2. Summary of testimony for witness [REDACTED]

There is no summary because [REDACTED] was not planned as a Prosecution witness. He was subsequently included in the witness list.

3. Content of the testimony

The witness testified on 8 and 9 January 2009, in closed session, by video conference link [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

Vukovar-related charges are contained in paragraphs 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

Vukovar is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14 of the indictment.

[REDACTED]

[REDACTED]

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-008, [REDACTED]
[REDACTED], WITH PROTECTION MEASURES AND IN CLOSED
SESSION**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-008, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's participation in the JCE:

"First, the Accused used his power and popularity as a politician to constantly promote the goal of the creation of a Serb dominated "Greater" Serbia by force, in the media and directly to the public, and to create a climate of ethnic fear and hatred that prepared the ground for the crimes alleged." (footnote 6)

"Second, as the President of the SRS and the leader of the SČP, Šešelj oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of volunteers who often participated in crimes that resulted in the permanent forcible removal of non-Serbs from the targeted territories." (footnote 8)

Šešelj Recruited and Coordinated SRS/SČP Volunteers

“More than once Šešelj told his volunteers that their task was to kill ‘Ustashas’ or ‘Turks’.” (footnote 78)

“SRS/SČP volunteers operating in Vukovar, a town in Eastern Slavonia in Croatia, during 1991 understood that their primary goal was to ‘cleanse the area of Ustasha’.” (footnote 79)

“The prevailing atmosphere, not surprisingly, was that every Croat was an ‘Ustasha’ (footnote 80) and any ‘Ustasha’ who tried to surrender was immediately shot.”

Šešelj’s Intent to Participate in the JCE:

“On other occasions, commanders of SRS/SČP volunteer units and TO commanders reported to the War Staff, who in turn informed Šešelj, in great detail, about events and the activities of the volunteers.” (footnote 94)

“Šešelj personally visited SRS/SČP volunteer units and other Serb forces at the front lines on many occasions, (footnote 97) as well as parts of Vojvodina (which borders Croatia) where non-Serbs were being persecuted.”

“Šešelj did not take steps to correct these problems or condemn them. He never directed the members of the SRS or the SČP to respect the Geneva Conventions or other rules of international humanitarian law, and never distanced himself from the ongoing persecution of non-Serbs in any way. Instead, SRS/SČP volunteers were told that “the less prisoners, the better.” (footnote 102)

“Šešelj told VS-008’s group of volunteers that they had ‘to kill Ustashas’.” (footnote 105)

Crimes in Croatia - Vukovar, November 1991:

“On or about 12 November 1991, Šešelj came to Vukovar in order to visit the volunteers and boost their morale. A meeting took place that evening in a house at Ulica Nova 81, which was used as a command post by members of the JNA army and the local Serb TO. Present were Šešelj and other leaders of the SRS, JNA officers such as Major Veselin Šljivančanin, Captain Miroslav Radić and Captain Bojkovski, Stanko Vujanović, the commander of the First TO Detachment, Miroљjub Vujović, a member of the Vukovar TO Staff, and a number of SRS/SČP volunteers, including Kameni. (footnote 201)

“Šešelj told the gathering: ‘We are all one army. This war is a great test for Serbs. Those who pass the test will become winners. Deserters cannot go unpunished.

[REDACTED]

Paragraphs: 5-9, a, b, d, e, g, 11, 12, 15, 16, 17a, h, j, 18, 20, 27, 28 and 31.

Counts: 1, 2-4, 10, 11 and 12-14.

3. Content of testimony

This witness testified on 13 and 14 January 2009, with protection measures and in closed session. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. Summary of the testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 5, 6, 7, 6, 9, 9a, 9b, 9d, 9e, 9g, 11, 12, 15, 16, 17a, 17h, 17j, 18, 20, 27, 28 and 31, but charges concerning Vukovar are contained in paragraphs 5, 17a, 17b, 17e, 17j, 17k, 18, 20, 21, 29a, 29b, 31 and 34a.

The witness was planned for counts 1, 2, 3, 4, 10, 11, 12, 13 and 14 of the indictment, but Vukovar is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13, 14.

[REDACTED]

THE ZVORNIK LOCATION

This location is analysed through the positions advocated by the Prosecution, starting with additional historical and political facts concerning Bosnia and Herzegovina that were annexed to the indictment, through the Third Amended indictment, the Prosecution's Final Pre-Trial Brief, the witness list, testimonies, the tasks of the Prosecution and what could be established by the judges in the courtroom.

Remarks Concerning Zvornik in the Indictment

Zvornik is mentioned in the indictment as a place where crimes were committed under:

- individual criminal responsibility (paragraphs 5, 6 and 10e)

5. Vojislav Šešelj is individually criminally responsible for the crimes referred to in Articles 3 and 5 of the Statute of the Tribunal and described in this indictment, which he planned, ordered, instigated, committed or in whose planning, preparation, or execution he otherwise aided and abetted. By using the word “committed” in this indictment, the Prosecutor does not intend to suggest that the accused physically committed all of the crimes charged personally. Physical commitment is pleaded only in relation to the charges of persecutions (Count 1) by direct and public ethnic denigration (paragraphs 15 and 17 (k)) with respect to the Accused’s speeches in Vukovar, **Mali Zvornik** and Hrtkovci, and by deportation and forcible transfer (paragraphs 15 and 17 (i)) with respect to the Accused’s speech in Hrtkovci, and in relation to the charges of deportation and inhumane acts (forcible transfer) (Counts 10 – 11, paragraphs 31 - 33), with respect to the Accused’s speech in Hrtkovci. “Committed” in this indictment includes the participation of Vojislav Šešelj in a joint criminal enterprise as a co-perpetrator. By using the word “instigated”, the Prosecution charges that the accused Vojislav Šešelj’s speeches, communications, acts and/or omissions contributed to the perpetrators’ decision to commit the crimes alleged.

6. Vojislav Šešelj participated in a joint criminal enterprise. The purpose of this joint criminal enterprise was the permanent forcible removal, through the commission of crimes in violation of Articles 3 and 5 of the Statute of the Tribunal, of a majority of the Croat, Muslim and other non-Serb populations from approximately one-third of the territory of the Republic of Croatia (“Croatia”), and large parts of Bosnia and Herzegovina, and from parts of Vojvodina, in the Republic of Serbia (“Serbia”), in order to make these areas part of a new Serb-dominated state. With respect to Croatia the areas included those regions that were referred to by Serb authorities as the “SAO Krajina”, the “SAO Western Slavonia”, and the “SAO Slavonia, Baranja and Western Srem” (after 19 December 1991, the “SAO Krajina” became known as the RSK; on 26 February 1992, the “SAO Western Slavonia” and the “SAO Slavonia, Baranja and Western Srem” joined the RSK), as well as the “Dubrovnik Republic”. With respect to Bosnia and Herzegovina, the areas included

Bosanski Šamac, **Zvornik**, five municipalities collectively known as Greater Sarajevo (Ilijaš, Vogošća, Novo Sarajevo, Ilidža and Rajlovac), Bijeljina, Mostar, Nevesinje and Brčko.

10. Professor Vojislav Šešelj participated in the joint criminal enterprise in the following ways:

e. Professor Vojislav Šešelj participated in the planning and preparation of the take-over of towns and villages in two Serbian autonomous districts in Croatia and in the municipalities of Bosanski Šamac, **Zvornik**, Greater Sarajevo, Bijeljina, Mostar, Nevesinje and Brčko in Bosnia and Herzegovina and the subsequent forcible removal of the majority of the non-Serb population from these areas.

- Count 1: Persecutions (paragraphs 15,17a, 17b,17e, 17g, 17j and 17k)

15. From on or about 1 August 1991 until at least September 1993, Vojislav Šešelj, acting individually or as a participant in a joint criminal enterprise, planned, ordered, instigated, committed or otherwise aided and abetted in the planning, preparation or execution of, or physically committed, persecutions of Croat, Muslim and other non-Serb civilian populations in the territories of the SAO SBWS (Slavonia, Baranja and Western Srem), and in the municipalities of **Zvornik**, Greater Sarajevo, Mostar, and Nevesinje in Bosnia and Herzegovina and parts of Vojvodina in Serbia.

17. These persecutions were committed on political, racial and religious grounds and included:

a. The [REMOVED] murder of many Croat, Muslim and other non-Serb civilians, including women, children and elderly persons, in the municipality of Vukovar, in the municipalities of **Zvornik**, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina, as described in paragraphs 18 to 27.

b. The prolonged and routine imprisonment and confinement of Croat, Muslim and other non-Serb civilians in detention facilities within Croatia and Bosnia and Herzegovina, including prison camps in Vukovar, and in **Zvornik**, Greater Sarajevo, Mostar, and Nevesinje as described in paragraphs 28 to 30.

e. Prolonged and frequent forced labour of Croat, Muslim and other non-Serb civilians detained in the said detention facilities or under house arrest in their respective homes in Vukovar, **Zvornik**, Greater Sarajevo and Mostar. The forced labour included digging graves, loading ammunition for the Serb forces, digging trenches and other forms of manual labour at the front lines

g. The imposition of restrictive and discriminatory measures against the Croat, Muslim and other non-Serb civilian populations, including persons in **Zvornik**, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina, and in parts of Vojvodina, Serbia (namely Hrtkovci, Nikinci, Ruma, Šid, and other places bordering Croatia), such as restriction of movement; removal from positions of authority in local government institutions and the police; dismissal from jobs; denial of medical care; and arbitrary searches of homes.

j. Deliberate destruction of homes, other public and private property, cultural institutions, historic monuments and sacred sites of the Croat, Muslim and other non-Serb civilian populations in the municipality of Vukovar in Croatia, and in the municipalities of **Zvornik**, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina as described in paragraph 34.

k. Direct and public denigration through "hate speech" of the Croat, Muslim and other non-Serb populations in Vukovar, **Zvornik** and Hrtkovci on the basis of their ethnicities as described in paragraphs 20, 22, and 33.

- Count 4: Murder (paragraphs 18 and 22)

18. From on or about 1 August 1991 until June 1992 in the territory of the SAO SBWS in Vukovar, from on or about 1 March 1992 until at least September 1993 in the municipalities of **Zvornik**, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina, Vojislav Šešelj, acting individually or as a participant in a joint criminal enterprise, planned, ordered, instigated, committed or otherwise aided and abetted in the planning, preparation, or execution of the [Removed] murder of Croat, Muslim and other non-Serb civilians as specified in paragraphs 20-22, 24, 26 and 27.

ZVORNIK

22. In March 1992, Vojislav Šešelj gave a speech at a **rally in Mali Zvornik**, located across the Drina river from Zvornik. Vojislav Šešelj said: "Dear Chetnik brothers, especially you across the Drina river, you are the bravest ones. We are going to clean Bosnia of pagans and show them a road which will take them to the east, where they belong." This speech persecuted and/or instigated the persecution of non-Serbs in **Zvornik**. In April 1992, Serb forces, including volunteers known as "Šešelj's men" and "Arkan's tigers", attacked and took control of the town of Zvornik and surrounding villages. During the attack, Serb forces killed many non-Serb civilians.

On or about 9 April 1992, Serb forces, including members of Arkan's unit, executed twenty Bosnian Muslim and Croat men and boys in Zvornik town. Following the take-over, non-Serbs were routinely detained, beaten, tortured and killed. From April to July 1992, hundreds of non-Serb civilians were detained in or near Zvornik in the *Standard* shoe factory, the *Ciglana* factory, the *Ekonomija* farm, the Drinjača Cultural Centre and the Čelopek Cultural Centre. On or about 12 May 1992, at the *Ekonomija* farm, Serb forces, including the leader of a group of "Šešelj's men", beat to death a detainee named Nesib Dautović. Between 12 and approximately 20 May 1992, Serb forces killed at least four other Muslim men at the *Ekonomija* farm. In June or July 1992, Serb forces, including volunteers known as "Šešelj's men", killed a non-Serb male detainee at the *Ciglana* factory. Between 30 and 31 May 1992, Serb forces, including a group of "Šešelj's men", tortured and killed 88 Bosnian Muslim males at Drinjača Cultural Centre. Between 1 and 5 June 1992, Serb forces killed more than 150 Bosnian Muslim males at Karakaj Technical School. Between 7 and 9 June 1992, Serb forces killed more than 150 detainees at Gero's slaughter-house. Between 1 and 26 June 1992, Serb forces killed more than forty non-Serb male detainees at Čelopek Cultural Centre. The names of the identified murder victims at the *Ciglana* factory, Drinjača Cultural Centre, Karakaj Technical School, Gero's slaughter-house, Čelopek Cultural Centre, and the *Ekonomija* farm are set out in Annex V to this indictment.

- Counts 8 and 9: Torture and Cruel Treatment (paragraph 29e)

29. Serb forces, including those volunteer units recruited and/or incited by Vojislav Šešelj, captured and detained hundreds of Croat, Muslim and other non-Serb civilians. They were detained in the following short- and long-term detention facilities:

e) The *Standard* shoe factory, the *Ciglana* factory, the *Ekonomija* farm, the Drinjača Cultural Centre, the Karakaj Technical School, Gero's slaughter-house and the Čelopek Cultural Centre, **Zvornik**, Bosnia and Herzegovina between April and July 1992, hundreds of detainees.

- Counts 10 and 11: Deportation and Forcible Transfer (paragraph 31)

31. From on or about 1 August 1991 until May 1992 in the SAOs in Croatia and the RSK, from on or about 1 March 1992 until at least September 1993 in Bosnia and Herzegovina, and between May and August 1992 in parts of Vojvodina, Serbia, Vojislav Šešelj, acting individually or as a participant in a joint criminal enterprise,

planned, instigated, committed, or otherwise aided and abetted in the planning, preparation, or execution of the deportation or forcible transfer of the Croat, Muslim and other non-Serb civilian populations from their legal domiciles, in Vukovar (SAO SBWS) in November 1991, in the municipality of **Zvornik** in Bosnia and Herzegovina between March 1992 and September 1993, in Greater Sarajevo in Bosnia and Herzegovina between April 1992 and September 1993, in the municipality of Nevesinje in Bosnia and Herzegovina between June 1992 and September 1993 and in parts of Vojvodina, Serbia, including the village of Hrtkovci, between May and August 1992.

- Counts 12 to 14: Wanton Destruction and Plunder of Public or Private Property (paragraphs 34 and 34b)

34. From on or about 1 August 1991 until May 1992 in the territories of the SAOs in Croatia and the RSK, from on or about 1 March 1992 until at least September 1993 in the municipalities of **Zvornik**, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina, Vojislav Šešelj, acting individually or as a participant in a joint criminal enterprise, planned, ordered, instigated, committed, or otherwise aided and abetted in the planning, preparation, or execution of the wanton destruction and plunder of public and private property of the Croat, Muslim and other non-Serb populations, acts which were not justified by military necessity. This intentional and wanton destruction and plunder included the plunder and destruction of homes and religious and cultural buildings, and took place in the following towns and villages:

b) Bosnia and Herzegovina: **Zvornik** (hundreds of homes plundered, and many mosques and other places of worship and a religious archive destroyed); Greater Sarajevo (homes plundered and many homes destroyed, and mosques and Catholic churches and other places of worship destroyed in the municipality of Ilijaš; homes plundered and many homes destroyed, and mosques and Catholic churches and other places of worship destroyed in the municipality of Vogošća); Mostar (many homes plundered and destroyed and several mosques destroyed) and Nevesinje (many homes plundered and destroyed and many mosques destroyed).

Victims: Annex V

According to the Prosecution's Final Pre-Trial Brief

In the Prosecution's Final Pre-Trial Brief, Zvornik is mentioned as a crime location in the following paragraphs: 1, 3 (f), 3 (i), 4, 22, 27, 47, 53, 62, 91, 92, 93, 4. ZVORNIK, 94, 131, 141, 143 and 148.

ZVORNIK

Paragraph 1

1. In the time period relevant to the indictment, between August 1991 and September 1993, the Accused was the President of the Serbian Radical Party and the leader of the Serbian Chetnik Movement. In these capacities, the Accused was one of the most prominent politicians in the former Yugoslavia and exercised substantial political power and influence. Along with Croatian Serb and Bosnian Serb political leaders, Croatian Serb and Bosnian Serb government, military and police officials, high-ranking members of both the Yugoslav People's Army/Yugoslav Army and the Ministry of the Interior of Serbia, and with other leading Serbian and Montenegrin political figures and officials, the Accused participated in the formulation, preparation and execution of a JCE to forcibly remove non-Serbs from targeted regions of Croatia, Bosnia and Herzegovina and the (S)FRY. This objective was achieved through the expulsion of hundreds of thousands of non-Serb civilians from their homes, their extended detention in brutally inhumane conditions, massacres, and a range of other persecutory conduct designed to drive them out of the territories considered to be Serb. The indictment sets forth the Accused's responsibility for inciting, instigating, creating, supporting, directing, coordinating and encouraging the forces that committed the crimes charged in the indictment. The Prosecution also alleges that the Accused physically committed the crime of persecution as a crime against humanity (through "hate speech") in Vukovar, Croatia, Zvornik, BH, and Hrtkovci, the Autonomous District of Vojvodina, Serbia. Moreover, Šešelj personally committed the crimes of deportation and inhumane acts (forcible transfers) in Hrtkovci.

Paragraphs 3 (f) and 3 (i)

3. Although the process varied from place to place, the take-overs achieved the common goal of establishing Serb control in the targeted territories. The Accused participated in this process by:

a) publicly and systematically promoting the establishment by force of a unified Serb-dominated state known as "Greater Serbia" with its western borders

along the “Karlobag-Karlovac-Ogulin-Virovitica line”, thereby including wide parts of Croatia and BH;

b) publicly and systematically inspiring fear and hatred in Serbs that non-Serbs, in particular Croats and Muslims, were their enemies and intended to cause them harm, thereby creating and/or exacerbating an atmosphere conducive to violent acts against targeted non-Serb populations and inciting, participating in and contributing to the crimes alleged in the indictment;

c) recruiting, organising, financing, supporting, encouraging and instigating Serb volunteers affiliated with the SRS/SČP, who committed crimes alleged in the indictment;

d) encouraging and inciting other Serb Forces, such as the JNA/VJ, local Serb TO units and TO units from Serbia, the VRS, the SVK and the police, to commit crimes alleged in the indictment;

e) coordinating the activities of SRS/SČP volunteers with members of other Serb institutions who committed crimes alleged in the indictment;

f) participating and assisting in the planning and preparation of the take-over of villages in Western Slavonia and Eastern Slavonia, Baranja and Western Srem (SBWS) in Croatia and in the municipalities of Bosanski Šamac and Zvornik in BH, and in the subsequent persecution campaigns;

g) publicly calling for the expulsion of inhabitants of Croat ethnicity from parts of the Vojvodina region in Serbia, thereby instigating his followers and local authorities to engage in a persecution campaign against the local Croat population;

h) personally and directly causing the expulsion of Croat residents from villages in Vojvodina, in particular the village of Hrtkovci, by intimidating and insulting Croats in public speeches; and

i) denigrating the non-Serb populations in Vukovar, Zvornik and Hrtkovci through public “hate speech”.

Paragraph 4

4. The Accused’s participation in the JCE can be divided into three essential segments.

First, the Accused used his power and popularity as a politician to constantly promote the goal of the creation of a Serb dominated "Greater Serbia" by force in the media and directly to the public, and to create a climate of ethnic fear and hatred that prepared the ground for the crimes alleged.

Second, as the President of the SRS and the leader of the SČP, the Accused oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of "volunteers" who often participated in crimes that resulted in the permanent forcible removal of non-Serbs from the targeted territories

Third, in certain areas which will be discussed below, such as Vukovar, Zvornik, Bosanski Šamac and Hrtkovci, the Accused personally planned, instigated, ordered and/or committed these crimes, thus additionally participating in and contributing to the JCE.

Paragraph 22

22. SRS/SČP volunteers agreed with the goal of creating "Greater Serbia" by using all necessary means, including violence, because they fervently believed in the Accused. Thus, when the Accused visited his volunteers near the battlefields, the volunteers reacted as if "God came to earth". The Accused's visits to the front lines provided great motivation to the volunteers, and strengthened their will to kill "Ustashas". As the armed conflict progressed, the lack of discipline and violent nature of some SRS/SČP volunteers became well-known, both on the battlefield and among the SRS leadership, including the Accused. When the Accused was informed of the atrocities committed in Vukovar by one of the SRS/SČP volunteers, a man called Topola, the Accused responded: "What can I do now? Disarm the man and send him home. He is tired." (Translated from English) Later, the SRS redeployed Topola to participate in the take-over and ethnic cleansing of Zvornik in eastern BH. The Accused's failure to react adequately to the atrocities committed by SRS/SČP volunteers was yet another indication that violent treatment of non-Serbian population was necessary and appropriate.

Paragraph 27

27. In addition, evidence will show that the Accused and other participants in the JCE knew that crimes such as those alleged in the indictment would likely be committed as a consequence of implementing the JCE. For example, the Accused himself repeatedly called on Serbs to take revenge against non-Serbs. The leadership of the SRS was aware that the SRS/SČP volunteers might "take revenge" against non-Serbs after the take-over of municipalities such as Zvornik in B-H. In addition, many SRS/SČP volunteers were known to be criminals and did not hide it.

Paragraph 47

47. On 19 December 1991, the SDS leadership intensified local organisational efforts to seize power. They distributed to SDS municipal boards “strictly confidential” instructions detailing “tasks, measures and other activities” for implementing the results of the plebiscite (the “19 December Instructions”). The 19 December Instructions, distinguishing between municipalities where Serbs were a majority (“Variant A” municipalities) and those where Serbs were a minority (“Variant B”) were sent to SDS municipal leaders who were ordered, as part of the first of the two stages, to form “crisis staffs”, proclaim Serbian Assemblies and carry out “preparations for the formation of municipal government bodies.” In stage two, SDS leaders were instructed to mobilise Bosnian Serb police and subordinate them to JNA command, which shared the goals of the JCE. They would also call up JNA reserves, local Serb TO units and take other steps. These measures were to be taken upon receipt of an order “given exclusively by the SDS Bosnia president, using a secret procedure.” Just before the Serb take-over of Zvornik, Bijlana Plavšić met members of the Crisis Staff at their headquarters in Zvornik town. She inquired whether they had completed all the preparatory stages directed by Variant B of the 19 December Instructions.

Paragraph 53

53. On 6 April 1992, the European Community recognised BH as an independent and sovereign state. The United States followed the next day. This signalled the onset of military attacks and take-overs by Serb forces. By 12 May 1992, when the Bosnian Serbs held the 16th session of the Serbian Assembly in Banja Luka, many municipalities had been taken over, including Bijeljina on 31 March, Zvornik on 9 April, Bosanski Šamac on 17 April, Sanski Most on 21 April and Doboje on 3 May. SRS/SČP volunteers participated in the takeovers of, inter alia, Zvornik and Bosanski Šamac, and the Accused was often present in BH, where he would meet with the Bosnian Serb leadership and with his volunteers.

Paragraph 62

62. Each sub-section focuses upon one geographic region where crimes took place: Vukovar, Voćin, Bijeljina, Brčko, Zvornik, Bosanski Šamac, Greater Sarajevo, Mostar, Nevesinje and Hrtkovci.

Paragraphs 91, 92, 93 and 94)

4. Zvornik – April 1992 - September 1993

91. The city of Zvornik is located in Eastern BH on the banks of the Drina River, which there marks the border between BH and Serbia. The 1991 census figures recorded that the population in Zvornik in 1991 was 59% Muslim and 38% Serb. By March 1992, the Bosnian Serb forces had established their own police force in Zvornik, had declared Zvornik a Serbian Municipality, and were preparing to attack Zvornik with the backing of the JNA. That same month, the Accused gave a speech in Mali Zvornik, located across the Drina River from Zvornik. He declared: "Dear Chetnik brothers, especially you across the Drina river, you are the bravest ones. We are going to clean Bosnia of pagans and show them a road which will take them to the east, where they belong.

92. Before the take-over, local Serbs in Zvornik were armed by both the JNA and local Serbs who received weapons from Serbia and distributed them through a pre-established SDS network. In early April 1992, the Accused approved a request to send SRS/SČP volunteers to Zvornik and SRS leaders brought SRS/SČP volunteers from Loznica, Serbia to Zvornik. Subsequently, when the war broke out, local Serbs joined the SRS/SČP volunteers in Zvornik and considered themselves members of the organisation.

93. The takeover of Zvornik town occurred between 8 and 9 April 1992 when Serb forces, including Arkan's men, SRS/SČP volunteers, local Serb TO and police attacked and took over the town. The attack was supported by JNA shelling from Serbia and the Serbian TO from Loznica. Many non-Serb civilians were killed during the takeover. Soon after the take-over, the Accused went to Zvornik or Mali Zvornik where he spoke at an SRS rally. Over the coming weeks other parts of the municipality were taken over by Serb forces including Arkan's men, the JNA and SRS/SČP volunteers. The Accused and the SRS War Staff were informed of developments on the battlefield and the performance of the SRS/SČP volunteers. There is evidence of mass killings of non-Serb civilians in Zvornik – the bodies of 200 Muslims were recovered from the streets of Zvornik following the take-over and 750 men were massacred at the Karakaj Technical School in the second biggest massacre in BH after Srebrenica. There was widespread detention in brutal detention facilities where many non-Serbs were beaten, tortured and killed. At the Čelopek Cultural Centre, Serb forces, including SRS/SČP volunteers, forced Muslim men to engage in sexual activity. Most, if not all, of the mosques in Zvornik were destroyed.

There was a mass displacement of people in Zvornik along ethnic lines and non-Serbs were forcibly deported to Austria and Hungary.

94. There was extensive, organised looting during this period of time, and at least some of the proceeds went to fund the SRS. Around 30th May 1992, a group of SRS/SČP volunteers took charge of the detainees in the *Ciglana* factory and forced them to plunder and loot houses in Zvornik. Throughout this time period, the Accused was regularly provided with information by SRS officials around Zvornik. For example, Miroslav Vuković, also known as Čele, a leader of SRS/SČP volunteers in Zvornik, would call Šešelj from the front lines or send messages through intermediaries.

Paragraph 131

131. “Committing” covers physically perpetrating a crime or engendering a culpable omission in violation of criminal law, whether alone or jointly with co-perpetrators. Several perpetrators may “commit” the same crime if each individual fulfils the requisite elements of the crime. The requisite mens rea is that the Accused acted in the awareness of the substantial likelihood that a criminal act or omission would occur as a consequence of his conduct.

Paragraph 141

141. In addition to the “commission” of all the crimes charged in the indictment as a participant in the JCE, the Accused physically committed the crime of persecution in Vukovar (Count 1, paragraphs 15 – 17 and 20), Zvornik (Count 1, paragraphs 15 – 17 and 22 of the indictment) and Hrtkovci (Count 1, paragraphs 15 – 17, 29 and 33 of the indictment), through his use of “hate speech” targeted at the non-Serb populations of those localities. The intent of the Accused to commit persecution in these locales is evidenced by: (1) the derogatory, violent and ethnic content of his speeches, (2) the environment of violent ethnic conflict in which the Accused made his speeches and (3) the fact that (as described above) such crimes occurred shortly after the Accused made his speeches.

Paragraph 143

143. In addition to the other modes of criminal liability contained in Article 7(1), the Accused planned the crimes of persecution, murder, detention, torture, other inhuman acts, cruel treatment, deportation, forcible transfer, wanton destruction and plunder of public or private property in Vukovar and Zvornik (Counts 1, 4, 8-9, 10-14, paragraphs 15-18, 20-22, 24, 26-34 of the indictment), and the crimes of

persecution, deportation and forcible transfer in Hrtkovci (Counts 1, 10 and 11, paragraphs 15 – 17 and 31 – 33 of the indictment). With respect to the Accused's mens rea for planning the crimes in Vukovar and Zvornik, the Accused awareness that such crimes would likely occur may be inferred from:

(1) his inflammatory speeches,

(2) the fact that he approved the dispatch of volunteers to these areas with knowledge that the volunteers often committed crimes at the battlefields and

(3) the fact that the crimes occurred.

With respect to the Accused's mens rea for planning the crimes in Hrtkovci, the Accused's intent is evident from his statements during meetings with SRS supporters and members prior to and during the persecution campaign in Hrtkovci, as well as the fact that the criminal actions encouraged by the Accused during those meetings eventually took place in Hrtkovci.

Paragraph 148

148. In addition to the other modes of criminal liability contained in Article 7(1), Šešelj instigated the crimes of persecution, murder, torture, cruel treatment and forcible transfer in Vukovar (Counts 1, 4, 8-9 and 11, paragraphs 15 – 18, 20, 28-32 of the indictment), the crimes of persecution, murder, torture, other inhuman acts, cruel treatment, deportation, forcible transfer, wanton destruction and plunder of public or private property in Zvornik (Counts 1, 4, 8-9, 10-14, paragraphs 15 – 18, 22, 28-34 of the indictment) and the crimes of persecution, deportation and forcible transfer in Hrtkovci (Counts 1, 10 and 11, paragraphs 15 – 17, 31-33 of the indictment) by his inflammatory speeches given when he visited those locales or places close to them, such as Mali Zvornik. Šešelj's /intent/ to instigate these crimes can be inferred from the same evidence with respect to Šešelj's intent to commit persecution and from Šešelj's acknowledgements of his ability to incite persons.

Summary Regarding Witnesses for Zvornik

B. Implementation of the JCE in Bosnia and Herzegovina:

Witnesses: VS-043 (Milan Babić, deceased), VS-037 (██████████), testified as if he were a Defence Witness), VS-1061 (Miroslav Deronjić, deceased), VS-026 (██████████), did not testify, but wanted to be a Defence Witness).

4. Zvornik - April 1992 - 1993:

Witnesses: VS-036 ([REDACTED], [REDACTED]), VS-1088 (identity of the witness unknown), VS-037 ([REDACTED], testified as if he were a defence witness), VS-1097 (identity of the witness unknown), [REDACTED] ([REDACTED] VS-2000, [REDACTED], testified), VS-1012 ([REDACTED] [REDACTED], testified), VS-017 (Zoran Rankić, testified, but wanted to be a Defence witness), VS-1066 ([REDACTED], testified), VS-1105 ([REDACTED], testified), VS-1014 (Fadil Kopic, testified), VS-047 (identity of the witness unknown), VS-1100 (identity of the witness unknown), VS-1039 (identity of the witness unknown), VS-02 (identity of the witness unknown), VS-1062 ([REDACTED], testified), VS-039 (Matija Bošković, deceased), VS-043 (Milan Babić, deceased), VS-1086 (identity of the witness unknown), VS-1093 ([REDACTED], testified), VS-1016 (Fadil Banjanović, testified), VS-1065 ([REDACTED], testified), VS-1063 ([REDACTED], did not testify), VS-038 ([REDACTED], testified, false witness), VS-1087 ([REDACTED], testified), VS-1013 ([REDACTED], testified), VS-032 (Nenad Jović, testified, but wanted to be a Defence witness), VS-011 (Ljubiša Petković, did not testify, but wanted to be a Defence witness), VS-027 ([REDACTED], testified, false witness).

Prosecution's Revised Final Witness List and Summaries of Witness' Evidence

Crime base witnesses for Zvornik:

VS-036 ([REDACTED]), VS-037 ([REDACTED], testified as if he were a Defence Witness), VS-038 ([REDACTED], testified, false witness), VS-039 (Matija Bošković, deceased), VS-1012 ([REDACTED], testified), VS-1013 ([REDACTED], testified), VS-1014 (Fadil Kopic, testified), VS-1015 ([REDACTED], testified, but the witness is not to be found in the Prosecution's Final Pre-Trial Brief), VS-1016 (Fadil Banjanović, testified), VS-1062 ([REDACTED], testified), VS-1063 ([REDACTED], did not testify), VS-1064 ([REDACTED], testified, but the witness is not to be found in the Prosecution's Final Pre-Trial Brief), VS-1065 ([REDACTED], testified), VS-1066 ([REDACTED], testified), VS-1087 ([REDACTED], testified), VS-1093 ([REDACTED], testified), [REDACTED] ([REDACTED] VS-2000, [REDACTED], testified), VS-1105 ([REDACTED], testified), VS-1106 (the

witness is not to be found in the Prosecution's Final Pre-Trial Brief), VS-1132 (the witness is not to be found in the Prosecution's Final Pre-Trial Brief).

Task of the Prosecution

The task of the Prosecution was to establish, through witnesses, the facts submitted in the Prosecution's Pre-Trial Brief, to have the witnesses at least confirm in the courtroom what the Prosecution is referring to in the summaries of witness testimonies for Zvornik, to prove that the general requirements under Articles 3 and 5 of the Statute have been met, and that Professor Vojislav Šešelj is liable for his actions under Article 7(1) (complicity, participation in a JCE and direct commission through hate speech).

Essentially, in order to prove the existence of the crimes from the indictment and, naturally, the individual criminal responsibility of Professor Vojislav Šešelj, the Prosecution had to prove each individual crime (action, victim, perpetrator, responsibility of the immediate perpetrator). The Zvornik was mentioned as a location in all counts of the indictment and for all aspects of individual criminal responsibility under Article 7(1) of the Statute.

During the presentation of the Prosecution's evidence, the following witnesses were heard:

1. [REDACTED], VS-1013, testified *viva voce* under protective measures and with image and voice distortion, on 25 and 26 March 2008.
2. [REDACTED], VS-1015, testified *viva voce* on 27 March 2008, under protective measures and with image and voice distortion.
3. Fadil Ković, VS-1014, testified *viva voce* on 9 April 2008, pursuant to Rule 92 *ter*.
4. [REDACTED], VS-1062, testified *viva voce* on 10 April 2008, under a pseudonym and with image and voice distortion.
5. [REDACTED], VS-1065, testified *viva voce* on 22 April 2008, with protective measures.
6. Asim Alić, VS-1106, testified *viva voce* on 15, 20 and 21 May 2008.
7. [REDACTED], VS-1012, testified in closed session on 18 and 19 June 2008, with protective measures.
8. [REDACTED], VS-1064, testified *viva voce* on 25 June 2008, with protective measures.

9. ██████████, VS-1105, testified with protective measures on 16 July 2008, pursuant to Rule 92 *ter*.

10. ██████████, VS-038, testified *viva voce* on 1 and 2 October 2008, with protective measures.

11. ██████████, VS-1093, testified *viva voce* on 12 November 2008, with protective measures.

12. Fadil Banjanović, VS-1016, testified *viva voce* on 2 December 2008.

13. ██████████, VS-1087, testified via video conference link from ██████████ on 9 January 2009, with protective measures and pursuant to Rule 92 *ter*.

14. ██████████, VS-1066, testified in closed session, with protective measures on 3 and 4 February 2009.

15. ██████████, VS-2000, testified *viva voce* on 4 and 5 February 2009, with protective measures and a change of pseudonym.

16. ██████████, VS-037, testified *viva voce* on 12 and 13 January 2010, with protective measures.

In addition to a degree of confusion regarding its witnesses, it must also be noted that the Prosecution failed to adhere to the structure devised by the Trial Chamber for the presentation of evidence relevant for this location; instead of its key witness, VS-2000, testifying first, the Prosecution intentionally presented him as their penultimate witness because it did not suit them that this false witness, whose testimony was intended to be the foundation for all the charges related to the area of Zvornik, be heard at the beginning.

The Annex contains an analysis of the evidence given by each of the Prosecution witnesses, including the allegations from the Prosecution's Pre-Trial Brief they were going to confirm, summaries of their evidence and what they actually said during the hearing. All charges related to Zvornik are based on a speech delivered by Professor Vojislav Šešelj at a rally allegedly held by the Serbian Radical Party in Mali Zvornik in March 1992 and his words which instigated the commission of all crimes listed as having been perpetrated in Zvornik. The fact that the Prosecution witness who was to confirm this as an eyewitness was only heard on 4 and 5 February 2009, as the final Prosecution witness for Zvornik, tells us that this is a falsification and a trick on the part of the Prosecution. Had he been heard first, the Prosecution's evidence would surely not have been presented because it would have been clear that

the Prosecution did not have grounds for the whole story about Zvornik, particularly in view of the two trials currently under way in Belgrade for the war crimes committed in Zvornik, in which there has been no mention of the Serbian Radical Party, volunteers, or Professor Vojislav Šešelj.

When it was established during the cross-examination of Witness VS-2000, [REDACTED], that no meeting had taken place in Mali Zvornik in March 1992, the judges realised, and the Presiding Judge stressed, the significance of this fact for the upholding of all charges relating to Zvornik. The witness moved the date of the rally of the Serbian Chetnik Movement, which was held on 4 August 1990 in Mali Zvornik, to March 1992.

It can be concluded from this that the charges of direct commission of the crime of persecution through hate speech have collapsed, as have all those related to indoctrination, incitement and aiding and abetting the direct perpetrators of crimes. This is why victim testimonies about the consequences of the hate speech with which Professor Vojislav Šešelj is charged are almost entirely irrelevant.

What remains to be analysed is whether Professor Vojislav Šešelj could be held liable, in the sense of participating in a JCE as a co-perpetrator and co-participant, for even a part of the joint criminal objective and, by virtue of that, the enterprise itself. The issue boils down to whether Professor Vojislav Šešelj can be held responsible for crimes committed by other persons as members of the Serbian forces. This is certainly the central issue, and it is only at first sight that in the context of Zvornik Professor Vojislav Šešelj treated this as a side issue, albeit only to the degree necessary for the Prosecution to fall into a trap and invalidate its own evidence. Professor Vojislav Šešelj forced the Prosecution and its witnesses to clearly state who were the direct perpetrators of the crimes. For almost every count of the indictment, we heard in the courtroom who were the direct perpetrators of the crime (murder, torture, looting, destruction, etc.) when and how it was perpetrated, to whom they belonged and what they looked like. It is important for the purposes of the defence that not a single name of a direct perpetrator, or his description as provided by witnesses, can be linked in any way to the volunteers of the Serbian Radical Party or Professor Vojislav Šešelj.

Furthermore, it is completely clear that the volunteers of the Serbian Radical Party (approximately 100 of them) were in Zvornik from 8 to 26 April 1992 and that they participated in the fighting until the Kula Grad was liberated, after which they

withdrew. The Prosecution witnesses' testimonies about the period leading up to the liberation of Kula Grad contain facts about the fighting, but almost nothing about crimes. Almost all the charges brought against Professor Vojislav Šešelj pertain to the events from May and June 1992, but it was established in the courtroom that there were no volunteers of the Serbian Radical Party there at that time. The Prosecution's attempt to use its witnesses to incorporate the information about the symbols, appearance, cockades, the White Eagles, lists, payrolls, etc. into the existing material relating to Zvornik, and thus build up a case that crimes were also committed by Šešelj's men, has also been thwarted.

Almost no crimes are linked to the JNA, and the volunteers of the Serbian Radical Party, who were with the JNA, left Zvornik before the JNA pulled out. The fact that certain individuals from Mali Zvornik and Loznica joined the police forces of the Zvornik TO of their own free will cannot influence this conclusion. None of these people, whether or not they were members of the Serbian Radical Party at the time or later on, can be linked to Professor Vojislav Šešelj, and no thought of Professor Vojislav Šešelj's liability for their actions can be entertained. In order to absolve Professor Vojislav Šešelj of any responsibility whatsoever, it is sufficient to mention his public criticism of the "Yellow Wasps" in August 1992 and his praise of the action mounted by the Bijeljina police.

In particular, it must be borne in mind that the location of Zvornik had been dealt with by the Trial Chamber Judgement in the Krajišnik case, IT-00-39-T, of 27 September 2006, which does not mention a single word about the volunteers of the Serbian Radical Party and Professor Vojislav Šešelj. It should be noted that the Judgement contains allegations about "Arkan's men" but no allegations about the volunteers of the Serbian Radical Party being together with Arkan's men. Paragraphs 359-374 of the Judgement are proof of that. It must also be said that it would have been impossible to use the Krajišnik case to draw conclusions about Professor Vojislav Šešelj's alleged participation in a JCE in Zvornik. The situation with regard to the Belgrade judgements is almost identical: it is known exactly who directly perpetrated the crimes which may together constitute a crime under the ICTY Statute.

The Prosecution has not presented sufficient evidence to support a conviction. The conclusion is: not guilty. Thus the evidence adduced, its relevance, reliability and the credibility of the witnesses do not lead to a conviction. In that respect, it is important whether the evidence meets the requirements for drawing a conclusion

beyond a reasonable doubt. Since it is the witnesses who are, in fact, the evidence, it is important whether a witness is an eyewitness, a participant in an event or an armed conflict, somebody who heard and from whom he heard it, whether the information and details are from the time of the event or were obtained subsequently, whether it is a matter of an opinion or a personal view without direct knowledge, but rather the result of a system of indirect reasoning.

What should, essentially, be established is whether the actions of Professor Vojislav Šešelj in this period, including the actions which might pertain to the location of Zvornik, were unlawful. This is important because there is no causal link between the direct perpetrators of crimes in the municipality of Zvornik and Professor Vojislav Šešelj. What is more, under no circumstances could an elementary link be established between the direct perpetrators of crimes and Professor Vojislav Šešelj on the basis of the objectives of a JCE. The direct perpetrators of crimes were a threat to the Serbs as well and they looted whatever they could find, and all this was publicly criticised by Professor Vojislav Šešelj. The crimes committed by the direct perpetrators were tried relatively shortly after their commission; even if we were to proceed from the supposition that a joint criminal enterprise actually existed, the acts committed by the direct perpetrators of crimes can in no way be attributed to its objective, nor can a conclusion be drawn about the third category of participation in the JCE. With this in mind, the departure of Muslims from the village of Kozluk takes on a completely new dimension because those who were formally in power could not guarantee their safety and security from groups that were operating outside anyone's control. The fact that, once arrested and expelled from the territory of Republika Srpska, they continued with their criminal activities in Serbia, speaks volumes about the character of this group.

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-1013, [REDACTED]
[REDACTED], WITH PROTECTIVE MEASURES**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1013, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Bosnia and Herzegovina

Zvornik, April 1992 – September 1993:

“Around 30 May 1992, a group of SRS/SČP volunteers took charge of the detainees in the *Ciglana* factory and forced them to plunder and loot houses in Zvornik.” (footnote 306)

2. Summary of testimony for VS-1013, [REDACTED]

Biography: [REDACTED].

Background: several days before the attack on Zvornik, the witness saw JNA convoys moving around Zvornik and heard there were Serb-operated barricades on the road between Zvornik and Karakaj.

Around the same time, the witness saw reports on Belgrade television claiming that “Green Berets, Kurds and Mujahideen were concentrated in Kula Grad, preparing to attack Zvornik.”

Take-over: the witness observed Serb forces attacking Zvornik on the morning of 8 April 1992. He heard shooting coming from Karakaj, and saw Serbs advancing on Zvornik. There was little resistance. However, Serb forces stayed on the outskirts of town and continued firing their weapons. The witness believes that the purpose of the firing was to scare people into fleeing and to lend credibility to the story that the Mujahideen were in control of Zvornik and the Serbs were fighting against them.

Siege of Kula Grad: on the first day of the attack, the witness fled from Kula Grad, returned to Zvornik and fled to Kula Grad again, where he spent several days. By the afternoon of 9 April 1992, Zvornik was under Serb control.

There were about 40 armed persons in Kula Grad, but they were not organised in a military fashion. During mid-late April, Kula Grad was captured by Serb forces using tanks, helicopters and fixed-wing aircraft.

The witness will testify to the death of Rambo, Arkan’s brother in law and that Arkan executed 80 Muslims in retaliation for Rambo’s death. The witness, when detained in the *Ciglana* factory, was forced to sing the song “Because of Rambo, to the grief of their mothers, 80 Muslims died.”

Fleeing: meeting up with a group in Novo Selo, the witness fled in the direction of Cerska. The witness and others who were fleeing were continuously shelled. They eventually encountered a young man who said he was Muslim and offered to take them to free territory.

The young man led them to the Cultural Centre in Orahovac where a group of Serb men with long beards, wearing fur hats with cockades on them, ambushed the witness and his companions.

Zvornik: the witness and his companions were searched and then turned over to men wearing blue police uniforms with Serbian flags. The police transported the witness and others to Zvornik. The policemen took the detainees to the SUP. The police ordered the witness and other detainees to turn over any documents, watches, money or valuables. The policemen discussed whether to kill the detainees now or later.

The *Standard* factory: after a brief interrogation in the SUP, the witness and other detainees were taken to the *Standard* factory in Karakaj where they were turned over to military police. At the *Standard* factory, the witness saw 11 to 12 SRS volunteers from Kraljevo, 10 "Special Military Police" from Loznica, military police, reconnaissance teams and military commandos.

The "Military Police" from Loznica out-ranked the other groups and reported to Major Marko Pavlović and Brano Grujić. Major Marko Pavlović led the attack on Zvornik by Serb forces. The witness believes that Pavlović was in charge of the Zvornik TO and Grujić was the President of the SDS in Zvornik.

The witness believes that *Vojvoda Čele* was in charge of the group from Kraljevo. Other SRS volunteers included Major Toro, Pufta, Captain Zoks, Major Saša and Sava. The witness saw that Toro carried a military ID, identifying him as a member of "Šešelj's army". The witness heard that he had a JNA ID as well.

During his first five days at *Standard*, the witness was threatened and insulted by irregular soldiers. Detainees were taken out of the detention room and did not return.

On the evening of 9 May 1992, a group of soldiers from Loznica entered the detention room. One of them wore an armband which read "Military Police" in Cyrillic text. This group beat and insulted the detainees. They ordered the witness and others to write down everything they knew about a group of Muslims from Zvornik. While doing so, the detainees were beaten. Involved in this event was also a soldier, who the witness believes worked for Arkan. As the soldiers left, one member of the group from Loznica told the detainees that he would see them at noon at the *Ekonomija*.

That day, military police escorted the witness and others to Zvornik, where they were given passes which would enable them to move around. The group from Loznica arrived, took the passes and showed a document to the military police stating

that the witness and others should be detained at the *Ekonomija*. The military police then transported the witness and his fellow detainees to the *Ekonomija*.

The *Ekonomija*: the witness was transported to the *Ekonomija* where he remained from 9 May 1992 to 12 May 1992. The guards at the *Ekonomija* wore grey JNA uniforms. While at the *Ekonomija*, the group from Loznica repeatedly beat the detainees with clubs, pipes, stakes and hoses. The detainees were forced to beat each other as well. Guards played Russian roulette with detainees. Some detainees died during beatings. At some point in time, the soldiers from Kraljevo were present and humiliated the detainees during the beatings. On another occasion, the group from Kraljevo ordered the detainees to undress, sharpened their knives, and then took [REDACTED] outside to be beaten.

On another occasion, someone came to get prisoners to be used for labour. When *Vojvoda Čelo* told him to look for detainees elsewhere, he responded by saying, "Where? You have slaughtered everyone."

The *Ciglana*: On 12 May 1992, the witness was transferred to the *Ciglana* brick factory where detainees were forced to work. The detainees were told they would be paid and not get beaten, but neither of these claims was true. Guards beat detainees and ordered them to lick their boots and sing Chetnik songs.

On 30 May 1992, the group from Kraljevo took charge of the detainees in the *Ciglana* and used them to plunder building materials and household goods. Serb looters and their associates took some of the stolen goods. Trucks carried looted materials towards Serbia. The witness heard a truck driver say that they were sold through the Jadar Company in Loznica. The witness saw that detainees who were forced to take part in looting were beaten and stabbed..

The witness will testify to his work assignments and to who ordered him to work. On one occasion, while having to clean a car the witness saw that the trunk of the car was covered in blood with marks that looked like they were made by human heads.

On one occasion, the witness saw six buses full of detainees going from Zvornik towards Bijeljina. The witness later learned that they carried 800 men to Pilica, purported to be exchanged. The witness was also told about abuse of detainees in the Čelopek Cultural Centre.

Batković: on 15 July 1992, the Loznica group, which had taken control of the detainees, announced they would be transported to Subotica. The Kraljevo group

objected to this. Eventually, the witness and other detainees were put on buses and brought to Batković. There were 186 detainees from all over Zvornik who were transported to Batković.

In Batković, the witness met detainees, who reported being abused in the Čelopek Cultural Centre by Zoks, Pufta and *Vojvoda* Repić. The witness was released from Batković in December 1992.

Paragraphs: 12, 15, 16, 17 a, 17b, 17c, 17d, 17e, 17g, 17h, 17i, 17j, 18, 22, 24, 25, 26, 27 and 28.

Counts: all counts.

3. Content of the testimony

Witness VS-1013, [REDACTED], testified under protective measures and with image and voice distortion on 25 and 26 March 2008.

The witness clearly stated that he had heard about a rally held by the Serbian Radical Party in Mali Zvornik in 1990 or 1991 and about some shooting. This witness will be remembered for his assumption that the war began because of the grand plan devised by the Serbian Academy of Sciences and Arts following the arrival of Dobrica Ćosić, Vuk Drašković, Professor Vojislav Šešelj and Bora Đorđević at that institution, which he also linked with the suicide of Branko Ćopić. This witness armed himself by purchasing a rifle. Through this witness, Professor Vojislav Šešelj managed to go through the most important details of the book written by Himzo Tulić, who described both Muslim preparations for the armed conflict and the anarchy which reigned in the Muslim leadership in Zvornik. The witness did not contest the allegations from the book, but stated that, according to him, everything that was written was probably correct because he respected the author of the book.

The witness confirmed that the fighting for Kula Grad lasted from 8 April to 26 April 1992. The witness was in Kula Grad on the day before it fell.

At first, the witness could not remember the testimony he had given to the Muslim authorities in Vienna in 1993, but he recalled it when it was presented to him. In this written statement, the witness never mentioned “Šešelj’s men”, Professor Vojislav Šešelj, or the Serbian Radical Party. This was the witness’ first statement, given when his memory was the freshest. The statement also mentions *Vojvoda* Čelo from Kraljevo, who does not exist.

It was also included in the record that Prosecutor Mussemeyer had questioned Miroslav Vuković Čele as a suspect and that the Prosecution knew that Čele had come

to Zvornik from the Junaković spa, where he had been undergoing treatment, and that his task was to guard the alumina plant in Zvornik. In 1992 Čele was not a *vojvoda*, and he remained in the Zvornik municipality until 17 May 1992, when the JNA withdrew.

During the hearing of this witness, it was established that none of the persons named by the witness as his torturers belonged to the Serbian Radical Party. Statements given to the defence team by Žuća, Gogić and Miroslav Vuković aka Čele were read out, [REDACTED]

[REDACTED]. The witness provided a completely erroneous description of *Vojvoda* Čele (about everything, in particular about Čele limping) and Žuća. The witness repeated that he had never claimed that Gogić had been a member of the Serbian Radical Party but that this referred to the Kraljevo group.

The witness' claim that Dragan aka Toro from Kraljevo had a black military record booklet which said that he was a member of "Šešelj's army" is nonsense.

Through this witness, the judges heard about the book entitled *Milan Panić mora pasti* /Milan Panić Must Fall/ which contains interviews from 1992. A portion about the press conference of 6 August 1992 was read out.

4. Summary of testimony:

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 12, 15, 16, 17a, 17b, 17c, 17d, 17e, 17g, 17h, 17i, 17j, 18, 22, 24, 25, 26, 27 and 28, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1-14 of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1015, [REDACTED] [REDACTED], WITH PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1015, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

2. Summary of testimony for VS-1015, [REDACTED]

Biography: [REDACTED].

Background: the witness lived in the village of [REDACTED]. According to the 1991 census, the village was 75% Serb and 25% Muslim. Ethnic communities in [REDACTED] lived alongside each other peacefully.

The witness heard on Radio Zvornik that Arkan's men attacked Bijeljina in March or April 1992. Soon after, Serbs set up checkpoints on brigades over the Drina and in places where Serb-populated areas bordered Muslim populated areas. All Muslims were checked.

Two days before the attack on Zvornik, the witness and his family tried to drive to Serbia. Two Serbs stopped them from passing through Zvornik. The witness left his car and, thanks to connections with local Serbs, crossed the Drina in a boat normally used to ferry Serbs who wished to leave Bosnia.

After the take-over: on 10 April 1992, the witness heard on Radio Zvornik that it was safe to return. The witness returned to [REDACTED], where he heard the Serbian police had been looking for him. The witness heard that Muslims had to turn in all of their weapons and went to the police station to do so.

During the following weeks, it became difficult for Muslims to move freely, and the witness saw Serbs from elsewhere coming to the area.

Detention: on 7 May 1992, three Serbs, [REDACTED], [REDACTED], detained the witness, [REDACTED]. They were forced, at gunpoint, into a van, which was stained on the inside with blood. The Serbs drove to a nearby café to pick up two other Serbs, whom the witness believes gave the order to arrest him [REDACTED]. One of these Serbs was referred to as *vojvoda*. The van drove through a barricade near the Cultural Centre in Čelopek. The witness saw JNA tanks around this barricade. The witness, [REDACTED] were taken to the *Ekonomija* farm where men in JNA uniforms guarded them.

The *Ekonomija*: the witness [REDACTED] were briefly interrogated and then two men took their shoelaces, watches and belts. These men were named Pivarski and Saša. The witness [REDACTED] were placed in a room with 17-18 other men who were bruised and visibly frightened. A group of Šešelj's men from Kraljevo, including Pufta, Sava, Saša and Zoks, would regularly come to this facility to beat the detainees. A group of "special police" from Loznica, including a man named Gogić, beat them as well. The witness was told about [REDACTED] being sodomised by Zoks.

On one occasion, Zoks removed the witness from the detention room and was ordered to answer questions asked by the *vojvoda*, the same man who had been in the van when the witness was detained. The *vojvoda* asked him questions about a Serb selling arms to Muslims while Zoks beat him. The *vojvoda* threatened to rape his family. The witness' [REDACTED] was removed for a similar beating and died soon after. [REDACTED]

On another occasion, the detainees were ordered to pray while the *vojvoda* decided who would live or die. After five minutes, the *vojvoda* entered, wearing a fur hat with a cockade. He declared that they would be spared and sent to work in the *Ciglana*. The *Vojvoda* used words commonly used in Serbia rather than Bosnia. Eventually, "Captain Niški", a leader of a group of Šešelj's men, came and selected a group to go to the *Ciglana* brick factory. The witness was part of that group. During his detention, the witness saw others come to the *Ekonomija*, at least one of which was brought by Pivarski.

The *Ciglana*: at the *Ciglana*, guards placed white arm bands on the witness and his fellow detainees to distinguish them from Serb workers. They worked in four-hour shifts producing bricks. While at the *Ciglana*, the witness and other detainees were also ordered to go to Zvornik and Kozluk to plunder. These plundering missions were usually lead by Majo, Dragan, Toro, Zoks, Pufta, Saša and other men whom the witness believes to be "Šešelj's men". They mainly looted from Muslim homes. Looted goods were eventually sent to Serbia.

On one occasion, Pufta ordered [REDACTED] to remove a crescent tattoo from his arm. He tried to burn it off with matches, but it did not come off. Pufta eventually cut it off. Pufta also murdered another detainee. On one occasion, the witness saw a detainee at the *Ciglana* beaten to death.

While at the *Ciglana*, the witness learned from others about abuse of detainees at the Cultural Centre in Čelopek and about a large number of people detained at the School Centre in Karakaj. The witness heard that local Serbs beat and humiliated other detainees. On 1 June 1992, the witness saw large trucks filled with elderly Muslim men and women pass by the *Ciglana*, heading towards Zvornik. Soon after, he saw the same trucks driving in the opposite direction, empty.

On 2 July 1992, the Special Police from Loznica replaced the Kraljevo Group (Toro, Zoks, Saša, etc.) at the *Ciglana*. By that time, it appeared to the witness that the local Serbian authorities of Zvornik had complete control over the city, and no longer desired the presence of Šešelj's men. The Special Police from Loznica continued the looting operation that had been previously carried out by Šešelj's men. Local Serbs from Zvornik were permitted to enter the *Ciglana* factory complex and humiliate the non-Serb detainees. On 15 July 1992, the witness was forced to take part in a plundering trip to [REDACTED]. He noticed that most Muslim-owned houses, including his, were occupied by Serbs.

Batković: on 15 July 1992, the witness was transferred to Batković. In Batković, there were 86 detainees from Cultural Centre in Čelopek. They spoke to the witness about crimes committed at Čelopek..

The witness was eventually exchanged from Batković.

Paragraphs: 12, 15, 16, 17a, 17b, 17c, 17d, 17e, 17f, 17g, 17h, 17i, 18, 22, 24, 25, 26, 27, 28, 29, 30, 31 and 32.

Counts: all counts.

3. Content of testimony:

Witness VS-1015, [REDACTED], testified on 27 March 2008 under protective measures and with image and face distortion. [REDACTED]
[REDACTED]
[REDACTED]

The witness could not recall the statement he had given to the Muslim authorities on 22 December 1993, after his release from Batković, but remembered it later on. The statement differed from the one he gave to the Prosecution's investigators. Through this witness a solution was found to the dilemma over attempts to use various witnesses to identify the *vojvoda* as Čele and thus find a link with Professor Vojislav Šešelj. This witness exaggerated when he told the story of Šešelj's

sabotage units. This witness was instrumentalised and his testimony does not correspond to the first statement he gave in 1993.

4. Summary of testimony:

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 12, 15, 16, 17a, 17b, 17c, 17d, 17e, 17f, 17g, 17h, 17i, 18, 22, 24, 25, 26, 27, 28, 29, 30, 31 and 32, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1-14 of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-1014, FADIL KOPIĆ,
PURSUANT TO RULE 92 *ter***

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1014, Fadil Kopic, was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Bosnia and Herzegovina - Zvornik, April 1992 - September 1993:

"Moreover, there was widespread detention in brutal detention facilities where many non-Serbs were beaten, tortured and killed." (footnote 300)

"Around 30th May 1992, a group of SRS/SČP volunteers took charge of the detainees in the *Ciglana* factory and forced them to plunder and loot houses in Zvornik." (footnote 306)

2. Summary of testimony for VS-1014, Fadil Kopic

Biography: Muslim male.

Background: on 5 May 1992, the witness and a dozen other men, while trying to flee towards free territory, were detained by several police officers.

The witness and his companions were taken to the Serbian village of Vidovići. The witness saw men in civilian, police and military clothes. The detainees were searched and their money, documents, watches and gold were taken. The detainees were ordered to lie on the ground and were beaten. One of the captors, an older man

with a šubara and a long beard said that he would kill the detainees. Another captor declared that their orders were to take the detainees to Zvornik. The policemen restrained the detainees' hands and loaded them on a truck that travelled towards Zvornik.

The truck first stopped at the *Alhos* factory in Karakaj, where the police captors spoke with a group of Serb soldiers in green and grey uniforms. The truck then stopped at the SUP building in Zvornik. At the SUP, the detainees were questioned individually about their background and threatened.

The *Ekonomija*: The witness and other detainees were taken to the *Ekonomija* farm at Karakaj, where they were guarded by men in olive grey JNA uniforms. The witness was placed in a concrete room covered in blood stains. For the first few days, the witness had no bedding. Hay and cardboard was eventually provided. There were two meals a day, no soap and no towels. Some guards allowed the detainees to use toilet facilities.

During this period of detention, a group of men wearing camouflage uniforms entered the room and beat the detainees. They referred to themselves as "White Eagles". Each of these men had at least three pistols, an automatic weapon and a knife stuck in the boot. They threatened, insulted and cursed the detainees and their president. They glorified their leader, Professor Vojislav Šešelj, and according to what they said to the witness, it appeared that they reported directly to Šešelj. The witness later learned that these men were from Kraljevo. The group included Major, Dragan Toro, Zoks, Pufta, Savo and Repak.

A few days later, the witness was joined by more detainees from the *Standard* factory in Karakaj. The group from Kraljevo and a group of five or six military policemen from Loznica beat them as well. Based on what the men from Loznica said, the witness believes that they reported directly to Šešelj. Pivarski later joined these men and took part in the beatings as well.

New detainees arrived and others left. At one time, there were 40 detainees at the *Ekonomija*. All of the detainees were repeatedly beaten by the men from Loznica and Kraljevo. The witness saw one detainee being sexually assaulted and then killed. The guards did nothing to stop this treatment. Local Serbs from Zvornik were permitted to mistreat the detainees.

In one instance, Niški, one of the men from Loznica, lined up detainees and selected the most physically fit. The selected group was then put on a truck and taken to the *Novi Izvor* brick factory, also known as the *Ciglana*.

Pivarski approached the witness and asked if he could pay any money to be released or exchanged. The witness could not locate his family but offered 700 DM which he had carefully hidden. Pivarski took the money but the witness was not released. The next day Niški arrived and told the witness that he could not be released but would be brought to another camp where the detainees were not beaten.

The *Ciglana*: The witness was then taken to the *Ciglana*. In the *Ciglana*, the witness was forced to work with the men from Loznica and Kraljevo to loot empty Muslim houses in the town of Zvornik and neighbouring villages. Trucks transported the looted items across the Drina to Serbia. Other detainees worked in the *Ciglana* to make bricks.

Beating eventually began in the *Ciglana* as well. While in the *Ciglana*, the witness met people who had been detained at Cultural Centre in Čelopek and had been tortured there.

Batković: In mid-July or late July, the witness was transferred to Batković. Sanitary conditions were awful and food was scarce. Detainees were beaten and elderly detainees and children were hidden whenever the ICRC would visit the camp.

Paragraphs: 12, 14, 15,16, 17a, 17i, 18, 22, 24, 25, 26, 27, 28, 30, 31 and 32.

Counts: all counts.

3. Content of testimony

Witness VS-1014, Fadil Kopic, testified *viva voce* on 9 April 2008 pursuant to Rule 92 *ter*. [REDACTED]

Having learned from testimonies previously given pursuant to Rule 92 *ter*, the judges concluded that there were discrepancies between this witness' recent statements and the one he gave in 1993, in which he never mentioned "Šešelj's men". Other witnesses considerably clarified who the men referred to as the Kraljevo and Loznica groups were and that they had nothing to do with the Serbian Radical Party or Professor Vojislav Šešelj. Obviously, this witness also was prepared to draw his conclusions about the men who were allegedly "Šešelj's men" from their alleged admission, or, rather, from the fact that they introduced themselves as such. It is characteristic of all witnesses testifying about Zvornik that they did not mention the

Serbian Radical Party or Professor Vojislav Šešelj in their initial statements, but as the trial approached, they suddenly remembered that those were “Šešelj’s men”, if not on account of their uniforms and beards, then because their torturers admitted it to them or allegedly bragged of being Šešelj’s men.

This witness allegedly became the prisoner of “Šešelj’s men” after Kula Grad was liberated, but the judges know that not a single volunteer of the Serbian Radical Party remained on the territory of Zvornik after 26 April 1992.

4. Summary of testimony:

Proceeding from the Prosecution’s obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 12, 14, 15, 16, 17a, 17i, 18, 22, 24, 25, 26, 27, 28, 30, 31 and 32, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1-14 of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1062, [REDACTED], [REDACTED], WITH PROTECTIVE MEASURES

1. According to the Prosecution’s Final Pre-Trial Brief of 25 July 2007, VS-1062, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Bosnia and Herzegovina - Zvornik, April 1992 – September 1993:

“The takeover of Zvornik town occurred between 8 and 9 April 1992 when Serb forces, including Arkan’s men, (footnote 286) SRS/SČP volunteers, local Serb TO and police attacked and took over the town.” (footnote 287)

“The takeover of Zvornik town occurred between 8 and 9 April 1992 when Serb forces, including Arkan’s men, SRS/SČP volunteers, local Serb TO and police attacked and took over the town. The attack was supported by JNA shelling from Serbia and the Serbian TO from Loznica. Many non-Serb civilians were killed during the takeover.” (footnote 290)

“There was a mass displacement of people in Zvornik along ethnic lines (footnote 303) and non-Serbs were forcibly deported to Austria and Hungary.” (footnote 304)

2. Summary of testimony for VS-1062, [REDACTED]

Biography: [REDACTED]

Background: the first indications of the war spreading to Zvornik occurred a few days before the attack on the municipality with small arms being fired from Mali Zvornik and the arrival of tanks in the area.

On 8 April 1992, there was a meeting in Mali Zvornik between Arkan, representing the Serbs, and [REDACTED], representing Bosnian Muslims. After the meeting, Kapidžić told the witness that the situation was grave and she should leave Zvornik.

Attack on Zvornik: On 8 April, Zvornik was shelled from Mali Zvornik. The witness and others in her apartment block took shelter in the basement. In the cellar, there were about 12 men, 15 to 16 women, three children and two babies. None of them had any weapons.

On the morning of 9 April 1992, a group of soldiers in camouflage uniforms broke into the basement. [REDACTED]

[REDACTED] The soldiers searched the occupants for weapons, but no weapons were found. The soldiers separated the men and boys from the women [REDACTED] and lined the men and boys against a wall. The witness heard gunfire from where the men were lined up and believes they were executed. The witness heard from others that they'd seen bodies where the men were assembled earlier.

SUP: The witness and other women were marched to the SUP building. En route, they saw the bodies of several Muslims and heard loud Chetnik music. The witness and others were placed inside the library near the SUP building where they were abused by a group identifying themselves as “Šešelj's men”. These men claimed that they were “good guys”, but the witness believes that “Šešelj's men” took part in the execution at the basement..

Arkan arrived and announced that buses would take them away. The witness and other women were transported to Banja Koviljača, in Serbia. While travelling through Zvornik, the witness saw many dead bodies.

Return to Zvornik: A week later, the witness and another Muslim woman returned to Zvornik and spoke to Dragan Nikolić to find out about her family. He told them to go home.

The witness went to see Grujić, the Serb President of the Municipality, who informed them that he could not help them and that there was no longer a place for Muslims in Zvornik.

The witness returned to her own apartment block. At the site where she had last seen the men from the cellar, she saw her husband's hat and one of her son's sports shoes lying on the ground covered in blood. There was blood on the wall, which was peppered with bullet holes. On the ground the witness saw a number of spent bullets and three or four garrotte wires.

Paragraphs: 12, 15, 16, 17a, 17i, 18, 22, 27 and 28.

Counts: 1, 2, 3, 4, 10 and 11.

3. Content of testimony

Witness VS-1062, [REDACTED], testified on 10 April 2008, under a pseudonym and with image and voice distortion. The trial often went into private session. During the hearing, she failed to confirm many details from the Prosecution's Final Pre-Trial Brief and her evidence summary. She did not even try to describe the abuse by "Šešelj's men", and clearly stated that "Arkan's men" took part in the execution. A problem emerged here because no execution had taken place in a cellar or shelter. It is characteristic of this witness that, guided by her open hatred and wish to put the blame on Professor Vojislav Šešelj, she would not confirm that she had never mentioned "Šešelj's men" in her initial statements. She did not hide her hatred and almost never turned towards Professor Vojislav Šešelj during the hearing, but kept looking towards the Prosecution instead. She did not even admit to the signature on what was obviously a statement she had given to the organs of Bosnia and Herzegovina on 3 February 2003 and which the Prosecution had disclosed to Professor Vojislav Šešelj. Professor Vojislav Šešelj therefore interrupted the cross-examination and the judges furiously tried to smooth over this situation in which Professor Vojislav Šešelj was obviously being falsely accused. [REDACTED]

[REDACTED]

What matters is that she did not even mention "Šešelj's men" in her first statement.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 12, 15, 16, 17a, 17i, 18, 22, 27 and 28, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1, 2, 3, 4, 10 and 11 of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1065, ██████████, WITH PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1065, ██████████, was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Bosnia and Herzegovina

Zvornik, April 1992 - September 1993:

"The attack was supported by JNA shelling from Serbia [288] and the Serbian TO from Loznica." (footnote 289)

"Over the coming weeks other parts of the municipality were taken over by Serb forces including Arkan's men, the JNA and SRS/SČP volunteers." (footnote 293)

"There is evidence of mass killings of non-Serb civilians in Zvornik (footnote 296) – the bodies of 200 Muslims were recovered from the streets of Zvornik following the take-over and 750 men were massacred at the Karakaj Technical School in the second biggest massacre in Bosnia and Herzegovina after Srebrenica." (footnote 299)

"Moreover, there was widespread detention in brutal detention facilities where many non-Serbs were beaten, tortured and killed." (footnote 300)

"At the Čelopek Cultural Centre, Serb forces, including SRS/SČP volunteers, forced Muslim men to engage in sexual activity." (footnote 301)

“There was a mass displacement of people in Zvornik along ethnic lines, (footnote 303) and non-Serbs were forcibly deported to Austria and Hungary.” (footnote 304)

2. Summary of testimony for VS-1065, [REDACTED]

Biography: [REDACTED]

Background: The witness will testify that Serb/Muslim relations in Zvornik were good until a few months prior to the war. In April 1992, the villagers held a protest rally in favour of peace and after the rally established a Crisis Staff to organise their defence. The next day, the witness heard that the Serbs in Zvornik had erected barricades and that the war had started. But nothing happened at the witness' village.

During the month leading up to the attack on Zvornik, the witness saw artillery and tanks on the Serbian side of the bridges near Zvornik.

Take-over: On 8 April 1992, Serbian police blocked the road between Karakaj and Zvornik. Within two days, Serbs took over the town of Zvornik. The witness was in the village of Divič which remained under local control. Throughout May, Major Marko Pavlović repeatedly met with the Divič Crisis Staff, trying to convince them to turn over their weapons.

Sometime during May 1992, Serbs attacked Divič. The witness saw Serb soldiers searching houses for weapons. Zvornik police initially controlled the village and treated civilians well. Around 20 May 1992, the military replaced the Zvornik police. On 26 May 1992, Serb soldiers gave the civilian population two hours' notice to board buses and move out of the village. The witness observed approximately 500 people board 11 buses.

Čelopek: After being kept on these buses for nearly a day, the witness and other civilians arrived in Zvornik. The men were ordered off the buses and taken to a football field where men of military age were separated from the rest. The witness and 173 other men of military age were forced to stay behind as the others left. Later, these men were taken to the *Novi Izvor* mine and placed in a room that had only enough place to stand. After several days, the witness and 161 other Muslim men boarded buses and were taken to the Cultural Centre in Čelopek. The witness was detained there for one month. During much of this time, there was little food and limited access to toilet facilities. Soldiers ordered the witness and other detainees to turn over belts, shoelaces, documents and other possessions. Detainees were later ordered to create a list of their names and their fathers' names. The witness believes

that Dušan Vučković aka Repić was in charge of the group detaining him. Repić wore a fur hat with a cockade. He spoke a dialect spoken in Serbia and carried a long knife.

The witness and others were asked questions about weapons and the locations of particular people. On one occasion, Repić interrogated a group of detainees while other Serbs kicked and hit them. On another occasion, Zoka took several detainees outside and shot them. He then announced that every tenth person would be killed if they didn't answer the questions.

The witness and others observed that Repić and Zoka commanded two different groups of men. One group came from Loznica in Serbia. Both groups tortured the detainees. They forced detainees [REDACTED], to sing Serb songs, perform oral sex on each other [REDACTED]. They threatened, assaulted and killed detainees as well, beating, stabbing and shooting them. They forced the witness and other detainees to carry away bodies and clean up blood. Throughout this period, Serbs continually asked for money. On 26 June 1992, Repić shot and killed 20 people and injured another 22. On 27 June 1992, the witness and other detainees were taken to the Zvornik jail.

Batković: On 17 July 1992, the witness and other detainees were taken to Batković where they had to perform forced labour. They lived in tents for about a month before being moved into hangars. Several detainees died there while performing forced labour.

Paragraphs: 12, 14, 15, 16, 17, 18, 22, 24, 25, 26, 27, 28, 30, 31 and 32.

Counts: 1,2,3,4,5,6,7,8,9, 10 and 11.

3. Content of testimony

This witness testified with protective measures on 22 April 2008. [REDACTED] The witness was tortured from 26 May 1992. Professor Šešelj did not cross-examine the witness because his whole argument is that no volunteers of the Serbian Radical Party remained in the territory of Zvornik municipality after 26 April 1992, and the witness never suggested by a single word that there might be a link between Professor Vojislav Šešelj and the volunteers of the Serbian Radical Party on the one hand and the Yellow Wasps on the other.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 12, 14, 15, 16, 17, 18, 22, 24, 25, 26, 27, 28, 30, 31 and 32 but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17f, 17g, 17h, 17i, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1106, ASIM ALIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1106, Asim Alić, was not planned as a Prosecution witness

2. Summary of witness evidence for VS-1106, Asim Alić

Biography: Muslim male, police officer in Zvornik at the time of the events.

Events in Zvornik before the outbreak of the war: Two weeks before the attack on Zvornik, the Serbian population started to move out of the village, taking all their valuables with them. When the witness asked his Serbian colleagues what was happening, he did not receive a reasonable answer. JNA forces The witness will testify that the JNA forces, on their way to the battlefield, fired their weapons as they passed through Zvornik and the surrounding area in order to scare the inhabitants. The first barricades were erected the night of the 5th and 6th April 1992. Serb forces completely shut down the access roads to Zvornik and it was impossible for the witness to go to the different police stations in Zvornik. He could communicate only over the phone. On 6 April 1992, all Serb police officers left Zvornik and relocated in the *Alhos* factory in Karakaj. The witness became Chief of the Police in Zvornik, because he was simply the highest ranking officer who remained. The Serb policemen had taken almost all of the equipment with them to Karakaj. They destroyed the equipment that they were unable to take.

In the morning of 7 April 1992, two Muslim representatives together with two Serb representatives were invited by Arkan to come to the *Jezero* Hotel in Mali Zvornik. The witness heard that Arkan slapped the faces of all four of them. He threatened one of the Muslim representatives with a pistol and a knife to make him

sign a statement, saying that there were 7,000 Green Berets in the city of Zvornik, who came to expel the Serbian population. Later, Arkan issued an ultimatum to the effect that all the weapons should be surrendered to the TO by the next morning. Otherwise Zvornik would be attacked.

Arrest of four armed Serbs the morning of the attack: About one in the morning on 8 April 1992, four armed Serbs who entered Zvornik were arrested. The witness interviewed them. Two of them were brothers and showed their IDs, identifying themselves as members of the Serbian Chetnik Movement. Their nicknames were Žučo and Repić. The two others belonged to "Arkan's men". The witness collected all the equipment they had on them and put it on the table. They had automatic rifles, pistols, Rambo compass knives, special strangling wires, etc. They wore the JNA Special Forces camouflage uniforms with belts, fingerless gloves, woollen balaclavas and military field boots. The two "Šešelj's men" wore Serbian Chetnik Movement insignia on their arms. The two "Arkan's men" also had some insignia on their arms, but the witness does not remember it. He separated them, placed each of them in a different room and interviewed them. The four men told the witness that they had learned from the Serbian TV that the Serbs in Zvornik were endangered. They had voluntarily come to Zvornik to protect the Serb nation. They were told that Muslim in Zvornik were maltreating and killing Serb people, raping Serb women, burning their houses down, etc. The witness asked them whether they found that information to be correct. They admitted that they were misled by the propaganda, but the witness believed they said so only because they were afraid. They admitted that they were to report to Zvornik SDS based in the *Jezero* Hotel in Mali Zvornik. They mentioned the JNA Major Marko Pavlović. They admitted that they were lost and had accidentally driven into BH Territory. The witness will testify that during the arrest and interrogation of these men, Major Pavlović called several times, indicating that one of the arrested was very important to the Serb forces. Later on, after the four Serbs were released, the witness learned from the statements of detainees at the *Ciglana* camp that the four above-mentioned Serbs had maltreated, tortured and killed Muslim detainees the most.

Attack on Zvornik: The witness will state that, about 1000 hours in the morning of 8 April 1992, the Serbs started to shell Zvornik. All important buildings in Zvornik were targeted, as well as the town centre where most of the population lived.

The Muslim forces did not have the means to resist and withdrew at around 2100 hours in the direction of Kula Grad.

Paragraphs: 5, 6, 7, 8, 10g, 15, 16, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 31 and 32.

Counts: all counts.

3. Content of testimony

He testified *viva voce* on 15, 20 and 21 May 2008. Until October 1991 the witness was a policeman in Belgrade and he confirmed that on between 10 and 20 occasions he had participated in the arrest of Professor Vojislav Šešelj in Belgrade. This is invaluable information because it refutes the Prosecution's argument that Professor Vojislav Šešelj participated in the JCE prior to August 1991. This was also the first time that we heard that the Tuzla police had planned to arrest Professor Vojislav Šešelj on his way to Bratunac in early 1992 in order to prevent him from delivering a speech in Bratunac. The witness explained what preventive arrest meant.

It was explained that the Serbian Radical Party had branches in Banja Luka and Bijeljina, and that there had been no rallies in Bosnia in Herzegovina in general and, in particular, no chance that one was held in Bratunac. The witness confirmed that, as he said, unfortunately, Professor Šešelj still had followers and sympathisers in Tuzla today. The witness confirmed that there were sympathisers and followers in Zvornik as well but no members or the Serbian Radical Party and no board. It was established that Professor Vojislav Šešelj had not received two statements that the witness had given to the Prosecution prior to his testifying in Belgrade.

Also discussed were the first armed clash in the village of Sapna on 5 April 1992, the death of a warrant officer 2nd class and one local man, and Obrenović's threat that, unless the detained soldiers were released, the army would raze the village to the ground. On 6 April 1992, Colonel Tačić issued an ultimatum, demanding that all weapons owned by Zvornik municipality be surrendered. The witness told a fairy tale of how he drove Tačić from the checkpoint to the municipality in his car for the meeting, which is not true, but in this way he admitted that the Muslims had barricades and that Muslim criminals were armed.

During the attack, which is the term used by the witness, who objects to the use of the term clash, no Muslim policemen were killed, which corresponds to the statement of [REDACTED], because they had all fled.

Professor Vojislav Šešelj confirmed that two buses of Serbian Radical Party volunteers had arrived from Belgrade before the armed conflict began. The witness tried to avoid “Arkan’s men” but confirmed that they had erected barricades near Karakaj, that the JNA controlled four important points in the wider area of Zvornik and that it had mobilised the reserve forces from the territory of Zvornik, who were predominantly Serbs because Alija Izetbegović had ordered the Muslims not to respond to the draft.

The witness was shown the statement of [REDACTED] according to which the witness had been organising Muslim armed forces, which the witness denied, and that two meetings of the SDA Crisis Staff had been held at the police station, which the witness confirmed. The witness confirmed that the Muslims had armed themselves with weapons from the police depot, but alleged that they had broken into the depot and he had not given them the weapons.

The witness denied that he had participated in the formation of the Patriotic League, but confirmed the existence of the plaque in the village of Goduš, referred to by [REDACTED] in his statement as a monument commemorating the formation of the Patriotic League in October 1991. The witness fled from Zvornik to Tuzla, returning on 22 May 1992 to the new municipality of Sapna, where he participated in the expulsion and killing of Serbs from the surrounding villages. In response to a question from the judge, the witness confirmed that the Muslim army had cleansed the Serbian villages and that it was not within his competence to investigate and file criminal reports. The witness was compromised because he had been involved in illegal dealings as a policeman and is currently suspended from his job in Tuzla.

The witness erroneously described an SČP card allegedly found on Žučo and Repić, who were arrested on 6/7 April 1992 at a Muslim barricade in Karakaj. An important detail stood out during the hearing, i.e. that “Šešelj’s men” and “Arkan’s men” had arrived in buses during the previous days. It is unclear how come two of “Šešelj’s men” and two of “Arkan’s men” could have been in the same car.

A report from the Bijeljina police on the criminal activities of three paramilitary groups in Zvornik municipality, signed by Adnan and dated of 20 July 1992, was also introduced. The document contains information about the members of the group, most of whom came from Zvornik municipality, with a remark that Žučo was not a member of the Serbian Radical Party. The witness also knows that the members of the Yellow Wasps also mistreated Serbs.

The witness confirmed that high-ranking police representatives visited them on several occasions because of the situation in the Zvornik police station. When the police force was divided, one Serb remained with the Muslim police and was expelled from the station.

The witness was compromised by Milivoj Ivanišević's document, according to which he took part in an attack on Rožanj village on 2 July 1992 in which Serbs were killed; he was the chief of the Sapna police station at the time. The credibility of this witness was destroyed by the statements of Tačić, Žučo and Milivoj Dukić.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 5, 6, 7, 8, 10g, 15, 16, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 31 and 32, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1012, [REDACTED], [REDACTED], WITH PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1012, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Bosnia and Herzegovina - Zvornik, April 1992 - September 1993:

"There is evidence of mass killings of non-Serb civilians in Zvornik – the bodies of 200 Muslims were recovered from the streets of Zvornik following the take-over and 750 men were massacred at the Karakaj Technical School in the second biggest massacre in BiH after Srebrenica." (footnote 298)

"Moreover, there was widespread detention in brutal detention facilities where many non-Serbs were beaten, tortured and killed." (footnote 300)

[REDACTED]

Paragraphs: 12, 15, 16, 17 a, a7b, 17c, 17d, 17g, 17h, 17i, 18, 22, 24, 25, 26, 27, 28.

Counts: 1-11.

3. Content of testimony

[REDACTED]

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 12, 15, 16, 17 a, a7b, 17c, 17d, 17g, 17h, 17i, 18, 22, 24, 25, 26, 27 and 28, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1064, [REDACTED], WITH PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1064, [REDACTED], was not planned as a Prosecution witness.

2. Summary of testimony for VS-1064, [REDACTED]

Biography: [REDACTED]

Events in Drinjača: The witness will testify about the rising tension between Serbs and Muslims in the Drinjača area leading up to the 1990 elections and the events that ensued. He will describe the arming of the Serbs who wished to remain in Yugoslavia. The Muslims guarded their villages, such as Kostijerevo and Drinjača, in order to protect themselves, but, in general, they only had a few hunting rifles (although a few individuals were able to purchase other weapons on the black market).

In or around February/March 1992, the witness was at the Municipal Building in Zvornik where he overheard a man dressed in a reservist uniform say that he was part of the Serbian Army based in Čelopek. In mid-March the witness heard that the Serbs had established their own police force in Zvornik, had declared Zvornik a Serbian municipality and were preparing to attack Zvornik with the backing of the JNA.

In early April, Zvornik was attacked by the Serbs and overrun. The Muslims retreated to Kula Grad until the Serbs took Kula Grad on 26 April. The Serbs then demanded that all the Muslim villagers surrender. The day Kula Grad fell, a certain Ljubiša Petrović, who was a Serb policeman, came to Kostijerevo and Drinjača and passed the message that the villagers should surrender all their weapons. Consequently, on 29 April, Major Marko Pavlović came to Drinjača with some former JNA soldiers and some irregular soldiers and oversaw the surrender of all the Muslims' hunting rifles. The JNA tanks had Yugoslav flags on them. Pavlović promised the villagers full security. After this, people from Kostijerevo who went to work were beaten up by Serbs and sent back home. People became afraid and therefore began to stay in the forest rather than at home.

On 30 May it rained heavily so most of the villagers had returned to the village. The witness heard over Serb radio that soldiers were coming to the area and that the villagers should treat them with respect. At about 1000 hours, two military trucks full of soldiers entered the village. Soldiers also surrounded the village and started firing in the air. The soldiers were well armed and wore both camouflage and the former JNA olive drab uniforms. The soldiers rounded up the villagers and gathered them at [REDACTED] house in the centre of the village.

There were about 150 non-Serb men, women and children and the soldiers started beating and cursing them. They were kept outside [REDACTED] house until about noon when the officer in command received orders over the radio to take them

to the Cultural Centre in Drinjača which was about one kilometre away. They were escorted by the soldiers who told them that if they tried to escape they would kill them. They were taken to the Cultural Centre in Drinjača, where later people from surrounding villages such as Sopotnik and Devanja were also brought. Some of the witness' Serb neighbours were armed and in JNA uniform.

An officer, whom the witness later learnt was Lieutenant Branko Studen of the JNA, came in and ordered the women and children to go outside. The men were counted and there were 91 men in total. Studen told them that they "were guilty of nothing" and would be exchanged for Serbs in Zenica. Before Studen left, he told them that some specials would come and ask them some military questions. About 15 minutes after Studen left, paramilitaries arrived and the witness recognised them as "Arkan's men" by the uniforms they wore.

There were about six "Arkan's men" who humiliated the Muslim detainees by forcing them to pray as Christians and sing Serbian songs. Many of the men were dragged to the stage and severely beaten with iron bars and sticks. The "Arkan's men" told the detainees that they were Muslims and that no one would help them. Not Izetbegović, not Boutros Boutros Ghali of the UN.

The men were beaten until they could not walk. Those who passed out were revived with water. About 30 men were beaten in this severe manner. One man was stabbed on the stage. Another begged to be killed as the beating was so intense. Another looked like he had been tortured with electricity. This torture went on for about four hours. The group of "Arkan's men" then left.

About 30 minutes later, another group came in dressed in Chetnik uniforms. They had White Eagle insignia and cockades on their hats. These men demanded 10 volunteers whom they beat before taking them outside. The witness heard bursts of gunfire and presumed that the killing had started.

This process was repeated a number of times until the witness' group was taken out. There were less than half of them left at this time. Outside, five men fired at his group of 10 men. The witness was wounded and fell down and was shot again in order to finish him off.

When the Serbs went in to get more people, despite being surrounded by dead people, the witness managed to get up and head towards his village. He saw about 20 dead people in the school compound which is behind the Cultural Centre. After a

while, the witness stopped in a forest to rest and heard about four further bursts of gunfire coming from the Cultural Centre.

The witness believes that about 88 people were executed just outside the Cultural Centre in Drinjača, including his father and three brothers. When Ramin Grob/Glumina was exhumed, the witness identified his father and three brothers. The witness lists 52 of the people he remembers were executed in the Cultural Centre at Drinjača. Homes of Muslims in Kostijerevo and Drinjača were also set on fire. The witness believes that the Serb plan was to kill all Muslim men in the Zvornik area, to transport the Muslim women and children to Tuzla and to destroy their houses in order to eradicate all traces of the Muslims having lived in Zvornik.

Paragraphs: 12, 14, 15, 16, 17a, 17c, 17d, 17h, 17i, 18, 22, 24, 25 and 26.

Counts: 1, 2, 3, 4, 5, 6, 7, 8 and 9.

3. Content of testimony

The witness testified *viva voce* on 25 June 2008 with protective measures. The witness also testified in the Milošević case and gave two statements to Prosecution investigators without ever mentioning “Šešelj’s men”. The witness makes a clear distinction between “Arkan’s men” and all others, whom he describes as Chetniks. During the cross-examination, the witness was asked why he had only mentioned “Šešelj’s men” during the Prosecution’s proofing but never in his previous statements and testimonies, and he was also asked whether his grandfather, a member of the Ustasha army, had been killed by OZNA after WW2.

4. Summary of testimony

Proceeding from the Prosecution’s obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 12, 14, 15, 16, 17a, 17c, 17d, 17h, 17i, 18, 22, 24, 25 and 26, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-1105, [REDACTED],
PURSUANT TO RULE 92 *ter* WITH PROTECTIVE MEASURES**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1105, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Bosnia and Herzegovina - Zvornik, April 1992 – September 1993:

“In early April 1992, the Accused approved a request to send SRS/SČP volunteers to Zvornik and SRS leaders brought SRS/SČP volunteers from Loznica, Serbia to Zvornik. Subsequently, when the war broke out, local Serbs joined the SRS/SČP volunteers in Zvornik and considered themselves members of the organisation.” (footnote 285)

2. Summary of testimony for VS-1105, [REDACTED]

Biography: [REDACTED]

Background: The witness will testify that Šešelj spent a night in Zvornik 15-30 days before the war.

Šešelj's role: The witness will testify that soon after the war began, people joined Šešelj's formations, including Žučo's "Yellow Wasps" [REDACTED]

[REDACTED]

Detention: Between 15 and 20 May 1992, the witness was taken by several police officers to the Technical School in Karakaj. [REDACTED]

[REDACTED] The witness was placed in a dark room with 45-50 detainees.

While in detention, the witness met another detainee, Saša, an SRS volunteer who was there because of his role in killing a civilian in Zvornik in order to take revenge for the death of a friend during the attack on Zvornik. Another detainee was taken from the Zvornik hospital. He was wounded by a bullet and therefore accused of having defended Zvornik. The rest of the detainees came from the *Ekonomija* camp.

Other detainees told the witness about being tortured in camps around Zvornik and being forced to loot. The witness was told by one of his captors that younger

detainees were used to load stolen goods onto trucks for transport to Serbia. The witness was abused while in detention. While being escorted between interrogations, he was knocked unconscious and urinated on.

[REDACTED]

Command: The witness will testify to the role of Marko Pavlović, whose real name was Branko Popović. He issued orders over the radio.

Graves: The witness will speak about mass graves in caves in Šahmanske Stijene, where helicopters dropped bodies out of nets. [REDACTED]

[REDACTED]

Paragraphs: 12, 14, 15, 16, 17a, 17b, 17c, 17d, 18, 22, 24, 25, 26, 27, 28, 30, 31 and 32.

Counts: all counts.

3. Content of testimony

The witness testified with protective measures, pursuant to Rule 92 *ter*, on 16 July 2008. [REDACTED]

[REDACTED] The witness was not cross-examined. [REDACTED]

[REDACTED] The witness renounced part of his statement according to which Šešelj had allegedly slept in someone's home in Zvornik between 14 and 30 days before the conflict in Zvornik began, but said that Žučo was one of "Šešelj's men". In the first statement he gave to the Muslim authorities in 1993, the witness had said that Žučo was one of "Arkan's men".

Based on the reply of Judge Antonetti, who said that he had asked the witness how he had concluded that Žučá was one of “Šešelj’s men” because he wanted to verify the witness’ earlier statements, it could be concluded that the relevance and probative value of the witness’ previous statements were not going to be uniformly interpreted.

4. Summary of testimony

Proceeding from the Prosecution’s obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 12, 14, 15, 16, 17a, 17b, 17c, 17d, 18, 22, 24, 25, 26, 27, 28, 30, 31 and 32, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18,22, 29e, 31,34 and 34b.

The witness was planned for counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-038, [REDACTED], WITH PROTECTIVE MEASURES

1. According to the Prosecution’s Final Pre-Trial Brief of 25 July 2007, VS-038, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Šešelj’s participation in the JCE:

“Second, as the President of the SRS and the leader of the SČP, Šešelj oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of “volunteers” who often participated in crimes that resulted in the permanent forcible removal of non-Serbs from the targeted territories.”

[8]

Šešelj’s intent to participate in the JCE:

Commanders of SRS/SČP volunteer units and TO commanders often reported directly to Šešelj about events at the front lines and told him about crimes committed by volunteers. (footnote 93)

[REDACTED]

Paragraphs: 5, 6, 10a, 106, 10e, 10f, 10g, 15, 16, 17a, 17g, 18, 22, 31.

Counts: 1, 2, 3, 4, 12, 13, 14, 15.

3. Content of testimony

The witness testified with protective measures on 1 and 2 October 2008. The credibility of this witness was demolished. It turned out that he was a criminal with a thick file who may have gone to the Zvornik area to steal. [REDACTED]

[REDACTED]

[REDACTED] His testimony is of no use to the Prosecution.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 5, 6, 10a, 106, 10e, 10f, 10g, 15, 16, 17a, 17g, 18, 22 and 31, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1, 2, 3, 4, 12, 13, 14 and 15, of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1093, [REDACTED], WITH PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1093, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Bosnia and Herzegovina – Zvornik, April 1992 - September 1993.

“There was a mass displacement of people in Zvornik along ethnic lines” (footnote 303) and non-Serbs were forcibly deported to Austria and Hungary.(footnote 304)

2. Summary of testimony for VS-1093, [REDACTED]

Biography: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In early January 1992, a military unit set up by the JNA arrived in the Zvornik area. In February 1992, a JNA armoured brigade stationed in Jastrebarsko, Croatia, before the war, arrived in Dubrave, a place between Zvornik and Tuzla. This unit was commanded by Colonel Tačić who moved his HQ from Dubrave to Šekovići shortly before the conflict commenced in Zvornik. They deployed one battery under the command of Captain Obrenović who had his HQ in Mali Zvornik or Čelopek. Every bridge in Zvornik was secured with one tank and an anti-aircraft gun. The JNA sent and positioned several tanks in the Šeković municipality. General Janković, who was based in Tuzla and allegedly reported directly to Belgrade, was the overall commander.

Between January and March 1992, the Serbs completed setting up their parallel authorities. They formed a Serbian municipality of Zvornik, a Serbian SUP, a Serbian TO. The Serbs simply withdrew from all the municipal bodies based in Zvornik town and they set up premises in companies in Karakaj.

During the first week of April 1992, the witness observed a tremendous military build-up in the area, including tanks, artillery and anti-aircraft guns. In this period, schools were closed and many Serbs left Zvornik.

On 7 April 1992, Muslim police stopped four members of Arkan's unit. The four men were interrogated and said that they had orders to assemble in Mali Zvornik (in the FRY, immediately across the Drina River from Zvornik) and collect weapons. They said they had come to liberate Zvornik. The four men had knives, handcuffs and Magnum pistols. In the JNA, only generals had such pistols. They also had pieces of steel wire with which to strangle people. They said they were well paid, and that they trained at special training grounds provided by the JNA, mainly in Pančevo. They explained that they had come to liberate Zvornik. The four men said busloads of Serbian volunteers had already arrived in Mali Zvornik. The four were released the following day.

One of "Arkan's men" said that the Belgrade media, radio and television continually broadcast reports about the corpses of Serbs floating down the River Drina, about camps set up at football stadiums in Muslim areas, and that every Serb should help to save Serbs in Bosnia. The witness did not observe anything of this nature.

[REDACTED]

[REDACTED], Zvornik was shelled from Serb positions in Mali Zvornik. Most of the shells landed on neighbourhoods and villages inhabited by the Muslim population.

Cleansing: The next day, from a vantage point on the hill overlooking Zvornik, the witness observed, through binoculars, groups of Muslims forced out of their homes by members of the different Serb units. Men and boys were separated from women and children. The witness saw several executions. He saw about 20

people being killed that day. The witness believes that the JNA witnessed these incidents but did not intervene or take action to protect the Muslim people.

Paragraphs: 12, 15, 16, 17a, 17g, 17j, 18, 22 and 31.

Counts: 1, 2, 3, 4 and 12.

3. Content of testimony

The witness testified *viva voce*, with protective measures, on 12 November 2008. The witness testified to the events in Zvornik leading up to 9 April 1992 and the subsequent period of fighting. The witness was used to confirm the irrefutable details about the arrest of four men on the barricades and the fact that they were "Arkan's men". It remains rather hard to believe that the witness saw "Arkan's men" killing Sabit Bilalić and his sons from the hill, because it is impossible to see anything from such an enormous distance. His testimony was used to confirm [REDACTED]

[REDACTED]

Nevertheless, the testimony was heavily biased in favour of the Muslims' innocence.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 12, 15, 16, 17a, 17g, 17j, 18, 22 and 31, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1, 2, 3, 4 and 12, of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1016, FADIL BANJANOVIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1016, Fadil Banjanović, was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Bosnia and Herzegovina – Zvornik, April 1992 - September 1993:

“The attack was supported by JNA shelling from Serbia and the Serbian TO from Loznica.” (footnote 289)

“There is evidence of mass killings of non-Serb civilians in Zvornik – the bodies of 200 Muslims were recovered from the streets of Zvornik following the take-over and 750 men were massacred at the Karakaj Technical School in the second biggest massacre in BiH after Srebrenica. Moreover, there was widespread detention in brutal detention facilities where many non-Serbs were beaten, tortured and killed.” (footnote 300)

“There was a mass displacement of people in Zvornik along ethnic lines and non-Serbs were forcibly deported to Austria and Hungary.” (footnote 304)

2. Summary of witness' testimony for VS-1016, Fadil Banjanović

Biography: Muslim male, 29-years-old at the time of the attack. Former mayor of Kozluk.

Background: Prior to the outbreak of war, Serb irregular soldiers started coming into the Kozluk area and set up barricades. They told the witness that Brano Grujić had invited them and that they had come from Serbia. At that time, Brano Grujić was President of the SDS Crisis Staff. These soldiers started giving military training to local Serbs. Brano Grujić was stirring up ethnic tension in the area. Radio Zvornik and Radio Loznica were also broadcasting that the Muslims were heavily armed and were going to attack the Serbs.

By April 1992 military vehicles with “Drina Corps” markings were coming to the Kozluk area, asking the Muslims to surrender their weapons. The witness heard that in the town of Zvornik, the Serb and Muslim police had split, with the Serb police taking most of the weapons, vehicles, equipment and setting up a base in Čelopek.

The people in the main positions in Zvornik Municipality were Brano Grujić (President), Jovo Mijatović (parliamentary deputy for Zvornik municipality in the Serbian Assembly), Jovo Ivanović (President of the Executive Board) and Stevo Radić (deputy president of the municipality). Marko Pavlović, who the witness heard was a State Security agent from Serbia, was made head of the TO. Pavlović also had

connections with the local JNA commanders like General Janković and Colonel Tačić.

On 8 April 1992, Serbs attacked Zvornik. Kozluk was surrounded and cut off. The Kozluk Crisis Staff organised three separate meetings with the Serb hierarchy: two in Kozluk and one in Tabanci. The first meeting was chaired by Boško Milić, the manager of Drina Transport Company, and attended only by local Serbs. The objective of the meeting was to keep good relations between the parties. The other two meetings were held in Kozluk. The second meeting was attended by Branko Grujić, as President of the SDS Crisis Staff, Pavlović and other high-ranking SDS officials. Grujić ordered the non-Serbs to surrender their weapons and accused them of plotting against the Serbs. Following the second meeting, non-Serb villagers from the surrounding villages of Šepak and Skočić, fled to Kozluk because they were being terrorised by the Serb paramilitaries who were demanding weapons which they did not have, taking away people and killing them.

Meeting at *Alhos*: The witness went to the *Alhos* factory to meet with the Serbs in power. At *Alhos* he was introduced to Pejić who seemed to be in charge of the large number of armed soldiers there. The soldiers had close-cropped hair and looked like elite commandos. They were called "Arkan's men" On another occasion, the witness went to *Alhos* to arrange for the release of non-Serb villagers. They were badly beaten and spoke of witnessing killings and mutilations.

Žučo: Some time in May, Pejić was succeeded by a man called Žučo, who was a paramilitary leader. Things then changed for the worse. Soldiers passing through Kozluk fired in the air, looted, robbed and intimidated the Kozluk villagers. By the end of May 1992, most Muslims had secretly fled the area since the living conditions had become intolerable.

Attack on Kozluk: On 21 June, Kozluk was attacked by local Serbs who threw grenades into the village and fired from small arms. One day before the attack, Marko Pavlović called the Serbs in Kozluk to the churchyard and ordered them to mark all the Serb houses so that they would not be shot at.

Deportation: On 26 June, tanks surrounded Kozluk. At that time, 2,000 soldiers in Kozluk were firing in the air and harassing the non-Serb inhabitants. Houses were set on fire and some people were shot at. Non-Serb residents were given an hour to leave the village. The witness was given a document signed by Major Marko Pavlović, indicating that he and the other people from Kozluk were never

going to be allowed to return. A table was set up where soldiers registered the Muslims and made them sign papers stating that they were leaving voluntarily.

About 1,822 people were loaded onto buses and taken to Loznica. Escorted by the police, they were taken to Ruma, placed on passenger trains and cattle cars which took them to Subotica. In Subotica, the detainees waited in a refugee centre, until most of them were transported to Hungary, Austria and Germany.

Paragraphs: 12, 15, 16, 17, 17a, 17b, 17c, 17d, 17g, 17h, 17i, 17j, 18, 22, 24, 26, 27, 28 and 31.

Counts: All.

3. Contents of testimony:

The witness testified *viva voce* on 2 December 2008. He had previously testified in the Milošević case and in the Zvornik case in Belgrade., He mentioned Zoran Subotić in his earlier statements, but not in a negative context. He testified about deportations but without mentioning either “Šešelj’s men” or the volunteers of the Serbian Radical Party. He confirmed that the Serbian authorities had lost control in Zvornik following the departure of the JNA and that the paramilitary formations had taken over. During these events, not a single volunteer of the Serbian Radical party was present in the municipality of Zvornik. This witness was unable to testify to practically anything except for the specific events in Kozluk, which deviated from his planned testimony. The encirclement of Kozluk and the armed conflicts shed a different light on and bring into question the claim that there were deportations or forced relocations.

4. Summary of testimony

Proceeding from the Prosecution’s obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 12, 15, 16, 17, 17a, 17b, 17c, 17d, 17g, 17h, 17i, 17j, 18, 22, 24, 26, 27, 28 and 31, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-1087, [REDACTED]
[REDACTED], PURSUANT TO RULE 92 *ter* WITH PROTECTIVE
MEASURES AND VIDEO CONFERENCE LINK**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1087, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Bosnia and Herzegovina - Zvornik, April 1992 - September 1993:

"The takeover of Zvornik town occurred between 8 and 9 April 1992 when Serb forces, including Arkan's men, SRS/SČP volunteers, local Serb TO and police attacked and took over the town. The attack was supported by JNA shelling from Serbia and the Serbian TO from Loznica. Many non-Serb civilians were killed during the takeover. (footnotes 290 and 291)

"There is evidence of mass killings of non-Serb civilians in Zvornik (footnote 296) – the bodies of 200 Muslims were recovered from the streets of Zvornik following the take-over and 750 men were massacred at the Karakaj Technical School in the second biggest massacre in BiH after Srebrenica."

"There is evidence of mass killings of non-Serb civilians in Zvornik – the bodies of 200 Muslims were recovered from the streets of Zvornik following the take-over and 750 men were massacred at the Karakaj Technical School in the second biggest massacre in BiH after Srebrenica." (footnote 299)

2. Summary of testimony for VS-1087, [REDACTED]

Biography: Serb [REDACTED] from Zvornik.

The witness will testify to his recruitment into the Serb army. He will describe those involved into the recruiting. At the *Alhos* factory, he saw about 60 paramilitaries dressed as "Arkan's men". Branko Grujić, the President of Zvornik municipality, then turned up with Arkan and Arkan's deputy Pejo. Marko Pavlović was head of the TO.

The witness will testify to the assignments he got. He will detail those giving orders to the soldiers and the co-operation with the local authorities with Arkan and other leaders of groups of irregular soldiers. He will describe the collection of bodies.

[REDACTED]
[REDACTED]

Bodies were found outside [REDACTED] and in the villages of Kazanbašča, [REDACTED], Šahbegovići, [REDACTED], Drinjača, [REDACTED] and Crni Vrh. The bodies were deposited behind the boilers in *Alhos*. The dead had been shot.

At *Alhos*, the bodies were examined by Dr Zoran Stanković of the JNA and other pathologists from Belgrade [REDACTED]

After the examination, the bodies were buried in the Kazanbašča cemetery in Zvornik. When this cemetery was full, some bodies were dug up with mechanical diggers and re-buried elsewhere. The witness will testify to the graves related to victims from the Cultural Centre in Drinjača, the Karakaj Technical School, the *Ekonomija* farm and Gero's Slaughterhouse. Members of different units, among them Žučo's unit, Pivarski's unit and Niški's unit, would load the bodies onto the trucks prior to their transport.

Paragraphs: 15, 16, 17a, 17b, 17c, 17d, 18, 22, 24, 25, 26.

Counts: 1-9.

3. Content of testimony

The witness testified via video conference link from [REDACTED] on 9 January 2009, with protective measures and pursuant to Rule 92 *ter*. The judges questioned the witness. The witness asked to testify as a Defence witness because he had given several statements to that effect to the Defence team. This testimony is important because it proves that pathologists had done some autopsies and that the bodies had been collected and buried by qualified persons and in accordance with the rules. [REDACTED] he did not even mention either "Šešelj's men" or the volunteers of the Serbian Radical Party.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 15, 16, 17a, 17b, 17c, 17d, 18, 22, 24, 25 and 26, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34 and 34b.

The witness was planned for counts 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13 and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1066, [REDACTED], WHO TESTIFIED IN CLOSED SESSION

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1066, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Crimes in BH – Zvornik, April 1992 – September 1993:

“There is evidence of mass killings of non-Serb civilians in Zvornik – the bodies of 200 Muslims were recovered from the streets of Zvornik following the take-over and 750 men were massacred at the Karakaj Technical School in the second biggest massacre in BiH after Srebrenica.” (footnotes 298 and 299)

“Moreover, there was widespread detention in brutal detention facilities where many non-Serbs were beaten, tortured and killed.” (footnote 300)

“There was a mass displacement of people in Zvornik along ethnic lines (footnote 303) and non-Serbs were forcibly deported to Austria and Hungary.”

2. Summary of testimony for VS-1066, [REDACTED]

Biography: [REDACTED]

[REDACTED]

[REDACTED]

Paragraphs: 12, 15, 16, 17a, 17b, 17c, 17d, 17g, 17h, 17i, 18, 22, 24, 25e, 26, 27, 28, 29e, 31.

Counts: all counts.

3. Content of testimony

The witness testified in closed session with protective measures on 3 and 4 February 2009. [REDACTED]

[REDACTED]

[REDACTED]

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 12, 15, 16, 17a, 17b, 17c, 17d, 17g, 17h, 17i, 18, 22, 24, 25e, 26, 27, 28, 29e, and 31, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34, and 34b.

The witness was planned for counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13, and 14 of the indictment.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-2000 [REDACTED], [REDACTED], WITH PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, [REDACTED], [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's participation in the JCE:

"First, Šešelj used his power and popularity as a politician to constantly promote the goal of the creation of a Serb dominated "Greater Serbia" by force in the media and directly to the public, and to create a climate of ethnic fear and hatred that prepared the ground for the crimes alleged." (footnote 6)

Crimes in BH – Zvornik, April 1992 – September 1993:

“By March 1992, the Bosnian Serb forces had established their own police force in Zvornik, had declared Zvornik a Serbian Municipality, and were preparing to attack Zvornik with the backing of the JNA. That same month, Šešelj gave a speech in Mali Zvornik, located across the Drina river from Zvornik. He declared: 'Dear Chetnik brothers, especially you across the Drina river, you are the bravest ones. We are going to clean Bosnia of pagans and show them a road which will take them to the east, where they belong.'” (footnote 281)

2. Summary of testimony [REDACTED]

Biography: [REDACTED]
[REDACTED]

The witness will describe the ethnic division in the municipality starting in autumn 1991 and the establishment of Crisis Committee along ethnic lines.

In December 1991, the municipal Office for the National Defence (a JNA local office) released Muslims from the reserve forces of the army and ordered Muslim reserves to return their uniforms.

At that time, barricades were erected and communication between Muslim and Serbian villages was obstructed. The witness heard of secret meetings amongst Serbs and believes they discussed preparations for war.

In March 1992, the witness heard Šešelj's speech at a rally in Mali Zvornik, where he said: “Dear Chetnik brothers, especially you across the Drina river, you are the bravest ones. We are going to clean Bosnia of pagans and show them a road which will take them to the east, where they belong.” The rally was secured by the local police from Mali Zvornik and Loznica, Serbia.

On 7-8 April 1992, Serbs began leaving Zvornik for Mali Zvornik.

Take-over: On 8 April 1992, four men wearing Green berets, whom the witness believes to be “Arkan's men”, went to Zvornik to perform reconnaissance of the town prior to a larger attack by Arkan's men. The witness was told that Serbs from Serbia and Zvornik had attacked Divič. The four “Arkan's men” were arrested and interrogated by the Zvornik police. One of these men told the witness that he and many others were told constantly that Muslims in the Zvornik area were slaughtering, roasting, skinning and salting the Serbs. The men carried wire used for strangling people. The witness later learned that one of these men had the nickname Repić.

Later on 8 April, shooting began in Zvornik. Many Muslims fled to Kula Grad and Liplje. The witness will speak about the attempts of the SDA to organise resistance of the Muslim villages and municipalities. The witness took part in the defence of Liplje. The Muslim defenders were handicapped by a shortage of weapons and a lack of military training. They did not have sophisticated weaponry such as grenades, rocket launchers or mines.

On 26 April 1992, Kula Grad fell, and Serbs went from village to village, demanding that Muslims surrender their weapons. The Serbs assured the villagers that if they complied with this order, their lives would return to normal. The witness did not trust such claims. Residents from several villages agreed with the witness and fled with him into the forest. However, the residents of other villages complied with the Serbian demands. Most of these persons were eventually arrested in May 1992 and detained at "Đuza's house".

The witness heard that on 22 or 23 May 1992, Muslims in Liplje were ordered by the Serbs to come to the school and surrender their identification papers. Almost 750 people went to the school with the hope of getting passes to travel to Zvornik, if they complied with the demand. The Serbs took everybody's ID papers and did not issue any passes. On 25 May 1992, the Serbs started to round up villagers and detained them at Đuza's house. From his observation point on Veljeva Glava Mountain, the witness could observe with binoculars the activities around Đuza's house. On 1 June 1992, the witness saw naked women walking amongst Chetniks. The witness later learned that 483 people were detained at Đuza's house, some of whom were raped and tortured. Early in the morning of 2 June 1992, [REDACTED] group of Muslim soldiers who succeeded in liberating the detainees from "Đuza's house".

During July 1992, the witness communicated by letter with Major Pavlović, the chief of staff of the Zvornik TO. The witness demanded that Pavlović release all the detainees from the *Novi Izvor* building in Zvornik and the "Vezionica" factory in Karakaj. Major Pavlović responded by saying that he was unaware of detainees being held in those buildings and demanded that the witness deliver the bodies of Serbs killed in action. Eventually, the witness arranged the exchange of the bodies of three Serbian soldiers for 12 Muslim civilians. Subsequently, Major Pavlović sent the witness a third letter which ordered Muslims to leave the area and offered transport for this purpose. After a further exchange of letters, the Serbian forces launched an

attack on the village of Liplje in mid-July. The attack lasted three days but did not succeed.

In the first half of October 1992, the Serbian forces again attacked and occupied the villages of Liplje, Novo Selo and Kamenica. On 21 October, however, the Muslim forces re-captured these villages. Major Pavlović oversaw the operations of the Serbian forces from Zvornik. Another serious battle for control of the village of Žlijebac occurred in December 1992. The witness remained in Liplje until February 1993. The exodus of Muslims from the area started in early 1993. On one occasion, 400-500 people left Srebrenica. The witness and several thousand people left for Tuzla in February 1992. The group walked the entire night over the mountains. One hundred people died as a result of the extreme cold.

Paragraphs: 12, 15, 16, 17a, 17b, 17c, 17d, 17f, 17i, 17j, 18, 22, 24, 25, 26, 27, 28, 30, 31, and 32.

Counts: All.

3. Content of testimony

The witness testified on 4 and 5 February 2009, with protective measures. This witness is most important for the part of the indictment relating to hate speech in Mali Zvornik in March 1992. His testimony fell apart, because he tried to move to March 1992 the Serbian Chetnik Movement rally held in Mali Zvornik on 4 August 1990. The opportunity was used to introduce Legija's statement and books by Muslim authors from Zvornik. This witness clearly gave false testimony and there is no material evidence that can make his statement plausible. This witness is important, because his statement about the March 1992 rally in Mali Zvornik is used as the basis for almost all allegations regarding Zvornik. That is, not only with regard to the alleged hate speech, but also with regard to participation in the JCE.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed. The witness was asked to confirm paragraphs 12, 15, 16, 17a, 17b, 17c, 17d, 17f, 17i, 17j, 18, 22, 24, 25, 26, 27, 28, 30, 31, and 32, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34, and 34b.

The witness was planned for counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13, and 14 of the indictment. Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-037,

[REDACTED]

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-037, **[REDACTED]**, was planned as a Prosecution witness through whom the following was to be proven:

Implementation of the JCE in Croatia:

"On 25 July 1990, SDS leaders participated in a Serbian Assembly in Srb, attended by approximately one hundred thousand Croatian Serbs. Šešelj was present at this gathering." (footnote 112).

Implementation of the JCE in BH:

"Just before the Serb take-over of Zvornik, Biljana Plavšić met members of the Crisis Staff at their headquarters in Zvornik town. She inquired whether they had completed all the preparatory stages directed by Variant B of the 19 December Instructions." (footnote 159).

Crimes in BH – Zvornik, April 1992 – September 1993:

"By March 1992, the Bosnian Serb forces had established their own police force in Zvornik, had declared Zvornik a Serbian Municipality, and were preparing to attack Zvornik with the backing of the JNA." (footnote 280)

"Before the take-over, local Serbs in Zvornik were armed by both the JNA and local Serbs who received weapons from Serbia and distributed them through a pre-established SDS network." (footnote 282)

"The takeover of Zvornik town occurred between 8 and 9 April 1992 when Serb forces, including Arkan's men, SRS/SČP volunteers, local Serb TO and police attacked and took over the town. The attack was supported by JNA shelling from Serbia and the Serbian TO from Loznica." (footnote 289)

"Over the coming weeks other municipalities were taken over by Serb forces including Arkan's men, the JNA and SRS/SČP volunteers." (footnote 294)

2. Summary of testimony for VS-037, **[REDACTED]**

Meeting of SDS leaders in the Holiday Inn in Sarajevo: the witness will give evidence about an SDS meeting at the Holiday Inn in Sarajevo held in December 1991, attended by members of the Bosnian Serb leadership including Radovan Karadžić, Momčilo Krajišnik and Biljana Plavšić. During this meeting, a document was distributed which envisaged the division of Bosnian municipalities into Variant A municipalities (where the Serb population was the majority) and Variant B municipalities (where the Serb population was a minority). The Presidents of the SDS Crisis Staff of the Bosnian municipalities were expected to ensure the implementation of the measures allotted to the Variant A or Variant B municipalities.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Arrival of Serb volunteers: By the end of March, or beginning of April 1992, Serbian volunteers started arriving [REDACTED]. Most of these volunteers came from Serbia. The witness will describe the events (such as the declaration of independence of BH and the subsequent decision of the Zvornik Crisis Staff to militarily take over the municipality) that led to the attack on Zvornik, including the arrival of Arkan and his involvement in the events that occurred.

[REDACTED]

[REDACTED]

[REDACTED]

The takeover, crimes committed in Zvornik: the witness will describe the takeover of the municipality by Serb forces, and his knowledge of crimes that were committed by members of those forces including volunteer/paramilitary groups from Serbia. The witness describes many of the irregular soldiers that came to Zvornik as hard-core criminals. When, on 7 April 1992, the decision to attack Zvornik was made, more volunteers from Serbia arrived. Except for Žuća's unit, the volunteer/paramilitary units were brought under the control of the temporary government. This government tolerated the behaviour of the volunteers/paramilitaries because they helped to achieve the goal of securing more territory for the Serb people and obtain the six strategic objectives as laid down by Radovan Karadžić. The witness

will testify that, in April 1992, Biljana Plavšić visited Zvornik twice. The witness will address the killings of detainees at the Karakaj Technical School and the Čelopek Cultural Centre. The witness will give evidence of payments being made to commanders and members of volunteer groups, including members of the Loznica TO, by the municipal authorities. He will describe the involvement of leading SDS members and their links to Serbia, the involvement of the Serbian DB and the JNA in Zvornik. He will talk specifically about individuals including Marko Pavlović, Brano Grujić and Stevo Radić, and the role they played in the events that occurred in Zvornik.

Destruction of cultural monuments: the witness will testify that, after the conflict, all the mosques in Zvornik were either damaged or destroyed.

Paragraphs: 5, 6, 15, 16, 17 a-d, g-j, 18, 22, 24, 25e, 26, 27, 28, 31 and 32.

All counts.

3. Content of testimony

The witness testified on 12 and 13 January 2010 as a court witness, with protective measures and in the presence of his defence counsel/lawyer.

[REDACTED]

The witness clarified his previous statements given to the Prosecution. [REDACTED] He testified about Arkan, the first meeting with him in the Cultural Centre in Bijeljina, the participation of Arkan's members, the arrival of volunteers, the establishment of the Serbian police in Karakaj, arming, and the supply of uniforms from TO warehouses.

During cross-examination, the witness was shown parts of the book *Zvornik od izbora do Dejtona* /Zvornik from the Elections to Dayton/, written by Mirzet Hamzić. The arming of the Muslims from July 1991, about 4,000 rifles, the smuggling of weapons, the preparation plans, the plan to blow up the Crveni Mulj dam six kilometres from Zvornik towards Sapna. He confirmed that there was a plan to blow up the dam on the Drina and that the JNA provided security for the dam. Information

was also presented about the Patriotic League plan of 25 February 1992, with the focus on Podrinje. The witness confirmed that the arming of the Serbs was a reaction to the previous arming of the Muslims.

It was described in detail that the Serbs had been previously driven out of Zvornik. The dilemma about volunteers was resolved with the help of Colonel Tačić's statement. First, a group of Serbian Radical Party volunteers came through the JNA from Belgrade and joined the JNA unit in Zvornik, and there were Serbian Radical Party members from Mali Zvornik and Loznica who had come to Zvornik on their own initiative. [REDACTED]

[REDACTED] Mali Zvornik and Zvornik were one place and it was perfectly normal to live in one place, and work on the other side of the Drina. The witness confirmed that Serbian Radical Party volunteers were disciplined, that they did not kill, and that they did not loot.

The witness confirmed that Arkan was in Zvornik twice, that he stayed only a few hours each time, and that he slapped members of the Crisis Staff, but did not slap him. The witness confirmed that there had always been a clash between Šešelj and Arkan, and that Šešelj had no criminal intentions. The witness also discussed the participation of the JNA special unit from Pančevo in the liberation of Kula Grad, which had "red berets" but had nothing to do with the "Red Berets" special police unit created later.

Kula Grad was liberated on 26 April 1992, and then JNA units and Serbian Radical Party volunteers withdrew, and already on 8 May the VRS was formed. When the JNA was withdrawing, there were protests in Zvornik, so the JNA left some weapons and old tanks, and everything else and new tanks were transferred to Vršac. The witness confirmed that three paramilitary groups stayed as part of the TO after 26 April 1992: Niški's, Pivarski's and Žuća's groups, and the volunteers from Loznica with Gogić were part of the police.

Žuća's group was the Igor Marković detachment, which was named after a soldier who was killed in the fighting for Kula Grad, so before 26 April 1992 there could not have been any Žuća's group, which later changed its name to Yellow Wasps.

The witness confirmed that Gogić and Niški had come to Zvornik as “Arkan’s men”, and that Arkan had the habit of leaving one of his men behind on location and then local people would join, and so they made a unit or group. The witness confirmed that this was also the case with Mauzer in Bijeljina.

The witness also confirmed that Mauzer was in Zvornik with his group several times, that he was assistant minister of the interior in Dodik’s first government, that he was the president of the Democratic Party in RS, and that Arkan’s party took part in the 1996 elections and received money for the elections from the OSCE. The witness could not confirm that it was about 300 to 400,000 German marks and that the money was taken to Arkan.

The witness stated that between 10 and 12 Muslims and about two Serbs had been killed in the fighting around Zvornik.

The witness confirmed the absolute intolerance between “Šešelj’s men” and “Arkan’s men”.

The witness explained that he had heard about the killing of the Muslims in the Technical School in Karakaj in June or July 1992 [REDACTED]

The witness confirmed that mosques were torn down in May or June 1992 and that churches were torn down by Muslim members.

The witness confirmed that a group of four people led by Legija, who had gone to arrest Pusula, were arrested, and that Fadil Mujić, who was a friend of [REDACTED], released the group in exchange for his family going abroad via Serbia. The witness saw Legija and friends in the *Jezero* motel and confirmed that Legija then joined “Arkan’s men”.

The witness confirmed that Fadil Mujić told him that Colonel Nedo Bošković had called him and insisted that the four men be released, because they were military policemen.

The witness confirmed that Biljana Plavšić was in Zvornik twice and spoke with members of the Crisis Staff, and that she suggested going to Bijeljina to bring Arkan.

Periša Ivanović’s statement about payment to Arkan was also read out, and the statement was submitted by the Prosecution. A statement about Rade Kostić from Darda, who had warned that Arkan was a criminal, was also read out. During the

questioning, material disclosed by the Prosecution was also used: the statements of Dragan Gotovac and [REDACTED] that these people were suspected of some crimes in Zvornik, but the blame was later put on Professor Vojislav Šešelj.

The witness confirmed that Professor Vojislav Šešelj had held a promotional event before 1991 and agreed that it could have been August 1990. The witness confirmed that he was at the promotional event and that he knew about the fight that took place, but he added that it had been prepared by the police.

Also discussed were the allegations from the transcript of [REDACTED] testimony that this witness had bought freedom from prosecution by the Hague investigators, thus preventing the admission of documents under Rule 92 *quater* into the court record.

Also discussed was a document of 12 May 1992 published in the *Official Gazette of Republika Srpska* on 26 November 1993, where the preamble reads: “National Assembly of Republika Srpska of the Serbian People in Bosnia and Herzegovina.”

The earlier name was the “National Assembly of the Serbian Republic of Bosnia and Herzegovina”, and later it was the “National Assembly of Republika Srpska.” The point at issue is a decision on strategic objectives which was never adopted in the National Assembly and, as such, does not exist in the transcript of the National Assembly session of 12 May 1992, but at the Hague Tribunal it was presented as a document containing a defined objective of the JCE.

The testimony was valuable with regard to all counts of the indictment, because he is a qualified witness, eyewitness and participant in many events.

4. Summary of testimony

Proceeding from the Prosecution’s obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 5, 6, 15, 16, 17a, 17b, 17c, 17d, 17g, 17h, 17i, 17j, 18, 22, 24, 25e, 26, 27, 28, 31, and 32, but charges concerning Zvornik are contained in paragraphs 5, 6, 10e, 15, 17a, 17b, 17g, 17j, 17k, 18, 22, 29e, 31, 34, and 34b.

The witness was planned for all counts of the indictment, but Zvornik is mentioned in counts 1, 4, 8, 9, 10, 11, 12, 13, and 14.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the perpetrators of crimes in Zvornik.

**THE VOJVODINA LOCATION
(HRTKOVCI, NIKINCI, RUMA, ŠID)**

This location is analysed through the positions which the Prosecution advocates, starting with additional historical and political facts for Croatia and Bosnia and Herzegovina, as annexes to the indictment, through the Third Amended indictment, the Prosecution's Final Pre-Trial Brief, the list of witnesses, testimonies, the Prosecution's task, and what the judges were able to establish in the courtroom.

Remarks Concerning Vojvodina, with the emphasis on Hrtkovci, from the indictment

Vojvodina and Hrtkovci, as a crime location, is cited in the indictment as part of:

- individual criminal responsibility (paragraphs 5, 6 and 10d)

5. Professor Vojislav Šešelj is individually criminally responsible for the crimes referred to in Articles 3 and 5 of the Statute of the Tribunal and described in this indictment, which he planned, ordered, instigated, committed or in whose planning, preparation, or execution he otherwise aided and abetted. By using the word "committed" in this indictment, the Prosecutor does not intend to suggest that the accused physically committed all of the crimes charged personally. Physical commitment is pleaded only in relation to the charges of persecutions (Count 1) by direct and public ethnic denigration (paragraphs 15 and 17(k)) with respect to the Accused's speeches in Vukovar, Mali Zvornik and **Hrtkovci**, and by deportation and forcible transfer (paragraphs 15 and 17(i)) with respect to the Accused's speech in **Hrtkovci**, and in relation to the charges of deportation and inhumane acts (forcible transfer) (Counts 10 – 11, paragraphs 31-33), with respect to the Accused's speech in Hrtkovci. "Committed" in this indictment includes the participation of Vojislav Šešelj in a joint criminal enterprise as a co-perpetrator. By using the word "instigated", the Prosecution charges that the accused Vojislav Šešelj's speeches, communications, acts and/or omissions contributed to the perpetrators' decision to commit the crimes alleged.

6. Professor Vojislav Šešelj participated in a JCE. The purpose of this JCE was the permanent forcible removal, through the commission of crimes in violation of

Articles 3 and 5 of the Statute of the Tribunal, of a majority of the Croat, Muslim and other non-Serb populations from approximately one-third of the territory of the Republic of Croatia (“Croatia”), and large parts of Bosnia and Herzegovina, and **from parts of Vojvodina**, in the Republic of Serbia (“Serbia”), in order to make these areas part of a new Serb-dominated state. With respect to Croatia the areas included those regions that were referred to by Serb authorities as the “SAO Krajina”, the “SAO Western Slavonia”, and the “SAO Slavonia, Baranja and Western Srem” (after 19 December 1991, the “SAO Krajina” became known as the RSK; on 26 February 1992, the “SAO Western Slavonia” and the “SAO Slavonia, Baranja and Western Srem” joined the RSK), as well as the “Dubrovnik Republic”. With respect to Bosnia and Herzegovina, the areas included Bosanski Šamac, Zvornik, five municipalities collectively known as Greater Sarajevo (Ilijaš, Vogošća, Novo Sarajevo, Ilidža and Rajlovac), Bijeljina, Mostar, Nevesinje and Brčko.

Professor Vojislav Šešelj participated in the JCE in the following ways:

d. In public speeches Professor Vojislav Šešelj called for the expulsion of Croat civilians from parts of the **Vojvodina** region in Serbia (namely **Hrtkovci, Nikinci, Ruma, Šid**, and other places bordering Croatia) and thus instigated his followers and the local authorities to engage in a persecution campaign against the local Croat population.

- General allegations (paragraphs 12 and 14)

12. At all times relevant to this indictment, a state of armed conflict existed in Croatia and Bosnia and Herzegovina. A nexus existed between this state of armed conflict and the alleged crimes in Croatia, Bosnia and Herzegovina, and **parts of Vojvodina**, Serbia.

14. Conduct charged as a crime against humanity was part of a widespread or systematic attack directed against the Croat, Muslim and other non-Serb civilian populations within large areas of Croatia, Bosnia and Herzegovina and **Vojvodina**, Serbia. With regard to conduct as a crime against humanity, Professor Vojislav Šešelj acted knowing that the civilian population was being attacked and that his acts comprised part of those attacks.

- **Count 1: Persecutions (paragraphs 15, 17g, 17i, and 17k)**

15. From on or about 1 August 1991 until at least September 1993, Professor Vojislav Šešelj, acting individually or as a participant in a JCE, planned, ordered,

instigated, committed or otherwise aided and abetted in the planning, preparation or execution of, or physically committed, persecutions of Croat, Muslim and other non-Serb civilian populations in the territories of the SAO Slavonia, Baranja and Western Srem, and in the municipalities of Zvornik, Greater Sarajevo, Mostar, and Nevesinje in Bosnia and Herzegovina and **parts of Vojvodina** in Serbia.

17. These persecutions were committed on political, racial and religious grounds and included:

g. The imposition of restrictive and discriminatory measures against the Croat, Muslim and other non-Serb civilian populations, including persons in Zvornik, Greater Sarajevo, Mostar and Nevesinje in Bosnia and Herzegovina, and in **parts of Vojvodina**, Serbia (namely **Hrtkovci, Nikinci, Ruma, Šid**, and other places bordering Croatia), such as restriction of movement; removal from positions of authority in local government institutions and the police; dismissal from jobs; denial of medical care; and arbitrary searches of homes.

i. Deportation or forcible transfer of tens of thousands of Croat, Muslim and other non-Serb civilians from the territories as specified above, and from **parts of Vojvodina**, Serbia (namely **Hrtkovci, Nikinci, Ruma, Šid**, and other places bordering Croatia) as described in paragraphs 31 to 33.

k. Direct and public denigration through "hate speech" of the Croat, Muslim and other non-Serb populations in Vukovar, Zvornik and **Hrtkovci** on the basis of their ethnicities as described in paragraphs 20, 22, and 33.

- Counts 10 and 11: Deportation and Forcible Transfer (paragraphs 31 and 33)

31. From on or about 1 August 1991 until May 1992 in the SAOs in Croatia and the RSK, from on or about 1 March 1992 until at least September 1993 in Bosnia and Herzegovina, and between May and August 1992 in parts of Vojvodina, Serbia, Professor Vojislav Šešelj, acting individually or as a participant in a JCE, planned, instigated, committed, or otherwise aided and abetted in the planning, preparation, or execution of the deportation or forcible transfer of the Croat, Muslim and other non-Serb civilian populations from their legal domiciles, in Vukovar (SAO SBWS) in November 1991, in the municipality of Zvornik in Bosnia and Herzegovina between March 1992 and September 1993, in Greater Sarajevo in Bosnia and Herzegovina between April 1992 and September 1993, in the municipality of Nevesinje in Bosnia

and Herzegovina between June 1992 and September 1993 and in **parts of Vojvodina**, Serbia, including the village of **Hrtkovci**, between May and August 1992.

33. In May 1992, Professor Vojislav Šešelj came to Vojvodina and met with his associates in the SRS. Vojislav Šešelj instructed his associates to contact non-Serbs and threaten them with death if they did not leave the area. On 6 May 1992 Vojislav Šešelj gave an inflammatory speech in the village of **Hrtkovci, Vojvodina**, calling for the expulsion of Croats from the area and reading a list of individual Croat residents who should leave for Croatia. As a result of this speech, a number of Croat residents decided to leave Hrtkovci. After this speech, supporters and associates of the accused, including members of the SRS and the SČP, began a campaign of ethnic cleansing directed at non-Serbs, particularly Croats, in Hrtkovci. During the next three months, many non-Serbs were harassed, threatened with death and intimidated, forcing them to leave the area. Homes of Croats were looted and occupied by Serbs. Serb families who had been displaced from other parts of the former Yugoslavia often occupied the homes of those non-Serbs who had been compelled to leave. The victims of the offences enumerated in Counts 1, 10, and 11, with respect to **Hrtkovci**, were the non-Serb residents of Hrtkovci. Annex XI sets out the names of the victims that are known.

According to the Prosecution's Final Pre-Trial Brief

In the Prosecution's Final Pre-Trial Brief, Hrtkovci and Vojvodina as a crime location is discussed in paragraphs 1, 3h, 3i, 4, 14, 58, 58, 62, 1. HRTKOVCI, 122, 124, 125, 126, 127, 129, 131, 141, 143, 143(3), 145, 148, and 153.

HRTKOVCI – VOJVODINA

Paragraph 1

1. Between August 1991 and September 1993, the time period relevant to the indictment, the Accused was the President of the Serbian Radical Party and the leader of the Serbian Chetnik Movement. In these capacities, the Accused was one of the most prominent politicians in the former Yugoslavia and exercised substantial political power and influence. Along with Croatian Serb and Bosnian Serb political leaders, Croatian Serb and Bosnian Serb government, military and police officials, high-ranking members of both the Yugoslav People's Army/Yugoslav Army and the Ministry of the Interior of Serbia, and with other leading Serbian and Montenegrin political figures and officials, the Accused participated in the formulation, preparation

and execution of a JCE to forcibly remove non-Serbs from targeted regions of Croatia, Bosnia and Herzegovina, and the (S)FRY. This objective was achieved through the expulsion of hundreds of thousands of non-Serb civilians from their homes, their extended detention in brutally inhumane conditions, massacres, and a range of other persecutory conduct designed to drive them out of the territories considered to be Serb. The indictment sets forth the Accused's responsibility for inciting, instigating, creating, supporting, directing, coordinating and encouraging the Serb forces that committed the crimes charged in the indictment. The Prosecution also alleges that the Accused physically committed the crime of persecution (through "hate speech") in Vukovar, Croatia, Zvornik, BH, and Hrtkovci, Serbia. Moreover, the Accused personally committed the crimes of deportation and inhumane acts (forcible transfers) in Hrtkovci.

Paragraphs 3(h) and 3(i)

3. Although the process varied from place to place, the take-overs achieved the common goal of establishing Serb control in the targeted territories. The Accused participated in this process by:

(a) publicly and systematically promoting the establishment by force of a unified Serb-dominated state known as "Greater Serbia" with its western borders along the "Karlobag-Karlovac-Ogulin-Virovitica line", thereby including wide parts of Croatia and BH;

b) publicly and systematically inspiring fear and hatred in Serbs that non-Serbs, in particular Croats and Muslims, were their enemies and intended to cause them harm, thereby creating and/or exacerbating an atmosphere conducive to violent acts against targeted non-Serb populations and inciting, participating in and contributing to the crimes alleged in the indictment;

c) recruiting, organising, financing, supporting, directing, encouraging and instigating Serb volunteers affiliated with the SRS/SČP, who committed crimes alleged in the indictment;

d) encouraging and instigating other Serbian forces, such as members of the JNA/VJ, units of the local Serbian TO and the TO from Serbia, the VRS, the SVK and the police, to commit crimes alleged in the indictment;

e) coordinating the activities of SRS/SČP volunteers with members of other Serb institutions who committed crimes alleged in the indictment;

f) participating and assisting in the planning and preparation of the take-over of villages in Western Slavonia and Eastern Slavonia, Baranja and Western Srem (“SBWS”) in Croatia and in the municipalities of Bosanski Šamac and Zvornik in BH, and in the subsequent persecution campaigns;

g) publicly calling for the expulsion of inhabitants of Croat ethnicity from parts of the Vojvodina region in Serbia, thereby instigating his followers and local authorities to engage in a persecution campaign against the local Croat population;

h) personally and directly causing the expulsion of Croat residents from villages in **Vojvodina**, in particular the village of **Hrtkovci**, by intimidating and insulting Croats in public speeches; and

i) denigrating the non-Serb populations in Vukovar, Zvornik and **Hrtkovci** through public “hate speech”.

Paragraph 4

The Accused’s participation in the JCE can be divided into three essential segments. First, the Accused used his power and popularity as a politician to constantly promote the goal of the creation of a Serb dominated “Greater Serbia” by force in the media and directly to the public, and to create a climate of ethnic fear and hatred that prepared the ground for the crimes alleged.

Second, as the President of the SRS and the leader of the SČP, the Accused oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of “volunteers” who often participated in crimes that resulted in the permanent forcible removal of non-Serbs from the targeted territories.

Third, in some areas discussed below, such as Vukovar, Zvornik, Bosanski Šamac and **Hrtkovci**, the Accused personally planned, instigated, ordered and/or committed these crimes, thereby additionally participating in the JCE and contributing to it.

Paragraph 14

14. Moreover, the Accused directly instigated and/or planned, ordered, aided and abetted particular offences, as discussed below. In addition, the Accused, with knowledge of ongoing offences committed against Croats and Muslims, continued to disseminate his racist propaganda, thereby physically committing persecution and deportation and inhumane acts (forcible transfer) as charged in the indictment:

- I know and I have reliable information, that **Hrtkovci** people are helping the ZNG and the HDZ. All those who are assisting the ZNG we shall load onto buses with no seats and pack them all off to Lijepa Njihova (referring to the beginning of the Croatian anthem). Those who are loyal should not be afraid, no one shall touch them, but those who are helping the HDZ have nothing to do in Hrtkovci. We shall expel all of them. (translation from English)

Paragraph 58

C. Implementing the JCE in Serbia

58. The implementation of the JCE within Serbia is described in the discussion of **Hrtkovci** and surroundings, at page 55.

Paragraph 62

V. FACTUAL SUMMARIES OF THE CRIMES ALLEGED

62. Each sub-section focuses upon one geographic region where the alleged crimes took place: Vukovar, Voćin, Bijeljina, Brčko, Zvornik, Bosanski Šamac, Greater Sarajevo, Mostar, Nevesinje and **Hrtkovci**.

Paragraphs 122-127

C. Crimes in Serbia

1. Hrtkovci, from May to August 1992

122. As of 1990, **Hrtkovci**, a village in the Ruma municipality of Vojvodina, Serbia, was comprised of a majority of Croats with significant Hungarian and Serb minorities. Relations between local Serbs and Croats in Hrtkovci were generally peaceful. Vojvodina is the province of Serbia which borders Croatia, namely Eastern Slavonia, Baranja and Western Srem. Many of the JNA/VJ and MUP units that engaged in the armed conflicts in Croatia and BH were based in Vojvodina. Many SRS/SČP volunteers were recruited from Vojvodina.

123. In the autumn of 1990, the Accused organised the formation of branches of the SRS in towns in **Vojvodina**. Volunteers were recruited and issued membership cards that bore the signature of the Accused. Included among those recruited were high-ranking members of the police. Eventually, Vojvodina would become an SRS stronghold. The Accused visited different locations in Vojvodina on numerous occasions.

124. Ethnic tensions in **Hrtkovci** began to escalate in 1991 when Serb refugees from Croatia started arriving in Hrtkovci. The SRS brought Serb refugees in

buses to Vojvodina. Refugees were referred to Ostoja Sibiñić, an SRS member and associate of the Accused in **Hrtkovci**, who would give them the addresses of houses owned by Croats. In some cases, the owners of the houses were abroad and refugees would simply move in. In other cases, Serb refugees used threats and intimidation to pressure home owners to “swap” their own home in Croatia for the Croat’s home in Vojvodina.

125. In the autumn of 1992, the Accused gave one of his hate speeches at a rally in Subotica, Vojvodina, during which he declared that he would “take out eyes with rusted forks and spoons of non-Serbs, the Croats and Hungarians living in Subotica.” He called for the expulsion of Croats and Hungarians from Serbia and the provision of their homes to Serbs fleeing Croatia. After the rally, the Accused met with high-ranking members of the SRS and SUP. During this meeting, the Accused called for the expulsion and murder of non-Serbs. The Accused specifically agreed to the actions to be taken in the village of **Hrtkovci** to force the non-Serb population to leave and thus make room for Serbs. These measures included the dismissal of non-Serbs from government jobs and threats against non-Serbs in the form of intimidating telephone calls and attacks on their homes and persons.

126. In early 1992, as the number of Serb refugees grew, a campaign of intimidation of non-Serbs, as promoted by the Accused, began in different communities in Vojvodina, including **Hrtkovci**. SRS members from the Šid municipality, an SRS stronghold, travelled to different towns and villages to harass and intimidate Croats. Phone threats were targeted at non-Serbs, particularly those with large houses. In April 1992, in a public speech before the Serbian Assembly, the Accused called for the expulsion of Croats from Vojvodina to Croatia. In May 1992, the Accused met again with SRS associates in Vojvodina, including members of the police. He expressed his admiration for the process of expulsion of non-Serbs then underway in **Hrtkovci**. The Accused declared that Hungarians and Croats should be forced to leave on their own, but if they failed to do so, then more coercive methods should be used. The Accused explained the strategy for expelling non-Serbs and declared that if they will not leave, attacks on their homes and persons should be used as tools of expulsion. The strategy, as stated by the Accused, was to create an environment of fear through the use of explicit threats and public harassment. He specifically stated that in **Hrtkovci**, people should be killed.

127. On 6 May 1992, the Accused was scheduled to speak at a political rally in **Hrtkovci**. The SRS prepared the stage where the rally was to be held and played ethnically biased Chetnik music throughout the day. Two hours before the speech, a bus of SRS/SČP volunteers, dressed in black uniforms and carrying rifles, deployed at the rally, around the town, and in the surrounding woods. In front of several thousand people, including SRS/SČP volunteers and local non-Serbs, the Accused called for a “Greater Serbia” stretching from Virovitica to Karlobag. He declared that all Croats had to be expelled. He said mixed marriages between Croats and Serbs must be cleansed and children of mixed marriages killed. The Accused read out a list of names of prominent non-Serbs who were told that they should leave Hrtkovci.

Paragraph 129

129. As a result of the Accused’s speech, some Croats decided to leave **Hrtkovci**. In addition, soon after the Accused spoke, a massive campaign of harassment and intimidation directed at non-Serbs, particularly Croats, took hold in **Hrtkovci**. Non-Serbs were threatened over the telephone and in person. These included bomb threats against people’s homes and the brandishing of weapons. SRS/SČP volunteers drove around shouting threats to Croats. SRS members from Šid were organised to travel to other communities in Vojvodina, including Hrtkovci, to intimidate Croats there. Mobs of Serbs in Hrtkovci confronted Croats, demanding they “exchange” their houses. Bombs were thrown at homes. At least one person was killed and his body was mutilated. During 1992, seventy percent of local Croats (approximately 900 – 1,000 people) left **Hrtkovci**, either expelled through direct force or left out of fear for their well-being.

Paragraph 131

131. “Committing” covers physically perpetrating a crime or engendering a culpable omission in violation of criminal law, whether alone or jointly with co-perpetrators. Several perpetrators may “commit” the same crime if each individual fulfils the requisite elements of the crime. The requisite *mens rea* is that the Accused acted in the awareness of the substantial likelihood that a criminal act or omission would occur as a consequence of his conduct.

Paragraph 141

141. In addition to the “commission” of all the crimes charged in the indictment as a participant in the JCE, the Accused physically committed the crime of

persecution in Vukovar (Count 1, paragraphs 15 – 17 and 20), Zvornik (Count 1, paragraphs 15 – 17 and 22 of the indictment) and **Hrtkovci** (Count 1, paragraphs 15 – 17 and 33 of the indictment), through his use of “hate speech” targeted at the non-Serb populations of those localities. The intent of the Accused to commit persecution in these locales is evidenced by: (1) the derogatory, violent and ethnic content of his speeches, (2) the environment of violent ethnic conflict in which the Accused made his speeches and (3) the fact that (as described above) such crimes occurred shortly after the Accused made his speeches.

Paragraphs 143 and 143(3)

143. In addition to the other modes of criminal liability contained in Article 7(1), the Accused planned the crimes of persecution, murder, torture, cruel treatment, deportation, forcible transfer, wanton destruction and plunder of public or private property in Vukovar and Zvornik (Counts 1, 4, 8-9, 10-14, paragraphs 15-18, 20-22, 24, 26-34 of the indictment), and the crimes of persecution, deportation and forcible transfer in **Hrtkovci** (Counts 1, 10 and 11, paragraphs 15-17 and 31-33 of the indictment). With respect to the Accused’s *mens rea* for planning the crimes in Vukovar and Zvornik, the Accused’s awareness that such crimes would likely occur may be inferred from:

- (1) his inflammatory speeches,
- (2) the fact that he approved the dispatch of volunteers to these areas with knowledge that the volunteers often committed crimes at the battlefields, and
- (3) the fact that the crimes occurred.

With respect to the Accused’s *mens rea* for planning the crimes in **Hrtkovci**, the Accused’s intent is evident from his statements during meetings with SRS supporters and members prior to and during the persecution campaign in **Hrtkovci**, as well as the fact that the criminal actions encouraged by the Accused during those meetings eventually took place in **Hrtkovci**.

Paragraph 145

145. In addition to the other modes of criminal liability contained in Article 7(1), the Accused ordered the crimes of persecution, murder, torture, cruel treatment and forcible transfer in Vukovar (Counts 1-9 and 11, paragraphs 15 – 18, 20, 28 – 32 of the indictment) by his instruction that “Not one Ustasha must leave Vukovar alive!” In addition, the Accused ordered the crimes of persecution, deportation and

forcible transfer in **Hrtkovci** (Counts 1, 10 and 11, paragraphs 15 – 17, 27, 31-33 of the indictment) during his meetings with associates and supporters in Vojvodina in 1991 and 1992, and, implicitly, in his speech in **Hrtkovci** on 6 May 1992. The intent of the Accused to order the crimes in Vukovar and Hrtkovci can be inferred from the content of his speeches and discussions, and from the fact that the crimes subsequently occurred.

Paragraph 148

148. In addition to the other modes of criminal liability contained in Article 7(1), the Accused instigated the crimes of persecution, murder, torture, cruel treatment, deportation and forcible transfer in Vukovar (Counts 1, 4, 8-9 and 11, paragraphs 15-18, 20, 28-32 of the indictment), the crimes of persecution, murder, torture, cruel treatment, deportation, forcible transfer, wanton destruction and plunder of public or private property in Zvornik (Counts 1, 4, 8-9, 10-14, paragraphs 15-18, 22, 28-34 of the indictment) and the crimes of persecution, deportation and forcible transfer in **Hrtkovci** (Counts 1, 10 and 11, paragraphs 15-17, 31-33 of the indictment) by his inflammatory speeches given when he visited those locales or places close to them, such as Mali Zvornik. The Accused's intent to instigate these crimes can be inferred from the same evidence with respect to the Accused's intent to commit persecution and from the Accused's acknowledgements of his ability to incite persons.

Paragraph 153

153. Alternatively to the other modes of criminal liability contained in Article 7(1), the Accused aided and abetted all of the crimes charged in the indictment (Counts 1-14, paragraphs 15-32) by his wilful and knowing contribution to the commission of the crimes. The required *mens rea* of the Accused is evidenced by:

- his own acknowledgement that he encouraged and boosted the morale of Serb forces,
- the inflammatory content of his speeches calling for violence against non-Serbs, his repeated visits to the battlefields and towns in Vojvodina such as **Hrtkovci**,
- his continuing, in cooperation with other members of the JCE, to dispatch volunteers to the front lines even while knowing they committed crimes, and
- moreover, his ordering the volunteers and other Serb forces to commit crimes,

- and his failure to discipline volunteers for the commission of crimes.

Summary Regarding Witnesses for Hrtkovci

C. Implementing the JCE in Serbia:

The witnesses appear with regard to Hrtkovci.

C. Crimes in Serbia

1. Hrtkovci, from May to August 1992:

The witnesses: VS-026 (██████████, did not testify, but wanted to be a Defence witness), VS-015 (Goran Stoparić, testified, false witness), VS-1141 (formerly ██████████, did not testify), VS-017 (Zoran Rankić, testified, but wanted to be a Defence witness), VS-1136 (Katica Paulić, testified, false witness), VS-1135 (Vesna Kljajić, did not testify, false witness), VS-1134 (██████████, testified), VS-034 (██████████, did not testify, but wanted to be a Defence witness), VS-1133 (Franjo Baričević, testified, false witness), VS-007 (██████████, testified, false witness), ██████████ (now VS-067, ██████████, testified), VS-035 (Aleksa Ejić, testified), VS-043 (Milan Babić, deceased).

Prosecution's Revised Final Witness List and Summaries of Witness' Evidence

Crime base witnesses for Hrtkovci:

VS-035 (Aleksa Ejić, testified), ██████████ (now VS-067, ██████████, testified), ██████████ (now VS-061, ██████████, testified), this witness does not exist in the Prosecution's Final Pre-Trial Brief), VS-1133 (Franjo Baričević, testified, false witness), VS-1134 (██████████, testified), VS-1135 (Vesna Kljajić, did not testify, false witness), VS-1136 (Katica Paulić, testified, false witness), VS-1141 (formerly ██████████, did not testify).

Task of the Prosecution

The task of the Prosecution was to establish, through witnesses, the facts submitted in the Prosecution's Pre-Trial Brief, to have the witnesses at least confirm in the courtroom what the Prosecution is referring to in the summaries of witness testimonies for Hrtkovci, to prove that the general requirements under Article 5 of the Statute have been met, and that Professor Vojislav Šešelj is liable for his actions under Article 7(1) of the Statute (complicity, participation in a JCE and direct commission through hate speech).

During the presentation of Prosecution evidence, the following witnesses were heard:

1. [REDACTED], VS-061, testified *viva voce* on 24 and 25 September 2008, with protective measures, a new pseudonym, and image and voice distortion.
2. Aleksa Ejić, VS-035, testified *viva voce* on 7, 8 and 9 October 2008, without protective measures.
3. Franjo Baričević, VS-1033, testified *viva voce* on 14 and 15 October 2008, without protective measures.
4. [REDACTED], VS-1034, testified on 15 October 2008, with protective measures, under Rule 92 *ter*.
5. Katica Paulić, VS-1136, testified *viva voce* on 19 November 2008, without protective measures.
6. [REDACTED], VS-067, testified as a Chamber witness on 16 and 17 February 2010, with protective measures and via video link.

Since Hrtkovci is presented in the indictment as a place where three crimes against humanity occurred (persecution, deportation, and forcible transfer), which the Prosecution alleges were directly committed by Professor Vojislav Šešelj through hate speech, but for which he is also responsible on the grounds of his participation in the JCE, it follows that the task of the Prosecution is complicated and difficult with regard to proving the action and crime, but at the same time easy when viewed with regard to how the Prosecution raised the question of Professor Vojislav Šešelj's individual criminal responsibility. The Prosecution believes that, if it cannot prove and establish responsibility on the grounds of "hate speech", then it remains on the grounds of participation in the JCE. These wishes of the Prosecution were buried by the Prosecution witnesses and expert witness Ewa Tabeau.

If we start from the arguments in the indictment, it follows that:

- Professor Vojislav Šešelj called for expulsion, thereby instigating his followers and the local authorities to engage in a persecution campaign against the local Croat population,
- Professor Vojislav Šešelj engaged in the imposition of restrictive and discriminatory measures against the Croatian population, the restriction of freedom of movement, removals from positions of authority in local government institutions and the police, dismissals from jobs, the denial of medical care, and arbitrary searches of homes,

- Professor Vojislav Šešelj engaged in or enabled the deportation or forcible transfer of Croatian civilians from Hrtkovci.

After an analysis of the speech given on 6 May 1992, it is easily concluded that this was a pre-election rally of the Serbian Radical Party before the elections for the Federal Assembly and local self-government held on 31 May 1992. Everything that was said in the speech related to election promises which the Serbian Radical Party would fulfil if it was in power, and to tough criticism of the government led by Slobodan Milošević. The objective of the speech at the rally on 6 May 1992 was not an order or anything that could be interpreted as an incitement to violence; rather, it was purely a pre-election political speech advertising the party and calling on voters to vote for the Serbian Radical Party in 20 days. So he neither called on nor incited his followers (there were few followers at the rally in the village because there was no party organisation, and the Local Board of the Serbian Radical Party was only formed after the rally), and he could not influence the local government, because it was in the hands of another political party. As there was no persecution campaign, it is pointless to prove that he did not join something that did not exist, but it is important that none of the representatives of the local government of Ruma municipality and the Hrtkovci MZ, even as individuals, carried out persecution. On the contrary, there is a great deal of evidence that the local authorities were faced with the problem, insoluble for them, of how to accommodate refugees, and the police with the problem of how to prevent any form of entry into the abandoned houses of Croats in Hrtkovci. There is a great deal of evidence for this assertion in the book *Afera Hrtkovci i ustaška kurva Nataša Kandić / The Hrtkovci Affair and the Ustasha Whore Nataša Kandić*, which published about 350 documents of the relevant organs of authority which, within their powers, took measures to prevent any form of violence.

None of the witnesses were able to declare their position about discriminatory or restrictive measures against Croats, and it is not clear even now how Professor Vojislav Šešelj would have been able to take part in imposing such measures. No evidence suggests that Professor Vojislav Šešelj enabled or implemented deportation or forcible transfer.

The assertion made in the indictment and the Prosecution Pre-Trial Brief that Professor Vojislav Šešelj organised SRS boards in 1990 is untenable, and it has not been confirmed by the witnesses heard, considering that one can talk of the SRS only as of 23 February 1991, and it is sufficient evidence of the situation in Vojvodina that,

for example, the Local Board of the Serbian Radical Party was formed in Hrtkovci only after 6 May 1992.

The assertion that the SRS brought Serb refugees in buses to Vojvodina is so unfounded that it was not confirmed by any of the witnesses heard. Admittedly, there were insinuations, but they also fell apart when faced with well-known facts.

In effect, a good basis for establishing what really happened in Hrtkovci was given by witness Aleksa Ejić in his testimony. The good basis is that which relates to the facts concerning the events in Hrtkovci and, partly, to the background and political situation, but what relates to his opinion and stance is totally unacceptable, although he admitted that there was no evidence for forming such an opinion.

Most importantly, the role and status of Ostoja Sibinčić have been definitively resolved. At the time relevant to the indictment, Ostoja Sibinčić was a member of the SPO /Serbian Renewal Movement/, and he is married to a non-Serb. Also important is the admission of some Prosecution witnesses who present Ostoja Sibinčić as their friend before, at the time, and later. This means that they did not see him as the organiser of persecution, because if he had been that it would be difficult to justify the situation that they remained friends. Friendship in Serbia stops, ends or breaks up for more minor and trivial questions than persecution, no matter what that means and involves.

The witnesses for this location, mostly in their statements given to Prosecution investigators, provided hearsay information, although some of them tendentiously exaggerated and lied. It is important to bear in mind that the lies were exposed, and it was clearly shown that the exaggerations were not based on facts and evidence, but rather on their feeling, opinion and wish for Professor Vojislav Šešelj to be found guilty at any cost. It is also important that departures from Hrtkovci with the exchange of property took place continuously from the second half of 1991 all the way to 1995. It is clear that the cause lay in what was happening to Serbs outside Serbia, that Franjo Tuđman's regime was persecuting them, driving them out of the territory where they lived, and that Serbs were appearing in Serbia as refugees. The role of the Roman Catholic Church has been resolved, but the contents of the book *Kako je umirao moj narod /How My People Were Dying/* has also been called into question. It is clear that the truth about the events is in the book *The Hrtkovci Affair and the Ustasha Whore Nataša Kandić*.

The question of the murder of Mijat Štefanac, which cannot possibly be connected with the speech in Hrtkovci or the Serbian Radical Party, has also been resolved. It is interesting that witness Aleksa Ejić could not give more than eight names /of persons/ who had allegedly been driven out, or who exchanged property under pressure, and he even included himself among the people who had allegedly been threatened and were then driven out. Aleksa Ejić really was an interesting witness, not only because he is a member of the SPO, [REDACTED] [REDACTED], at the time when elections were held at all levels, and he was a candidate for assemblyman, so he knows that the Serbian Radical Party candidate did not make it through to the second round of voting for assemblymen, based on the majority system. He is interesting also because he asked for help from Nenad Čanak, who was unknown at the time, and basically from that point a fierce campaign began against Professor Vojislav Šešelj and the Serbian Radical Party regarding the rally of 6 May 1992.

The testimony of expert witness Ewa Tabeau was, in effect, an attempt at using expertise to bolster and maintain the custom-made media story about the events in Hrtkovci. Her testimony ended in a fiasco, because her list of over 800 people who were allegedly the victims of persecution turned out to be a list of people born in Hrtkovci but currently resident in another territory. So the list included people whose only connection with Hrtkovci was that they were born in Hrtkovci 30 or more years ago and were recorded in the register of births or some records kept by the Roman Catholic church there.

Although he testified as an insider witness, Goran Stoparić also testified about the events in the territory of Vojvodina. His testimony about the Kopic family from Gibarac and the exchange of property with Vujaklija was in effect contested by the Prosecution's sending a report after Stoparić's testimony that the exchange was voluntary and that no bomb had been thrown into the yard of the Kopic family.

The requirements of Article 5 of the Statute have not been met for the Hrtkovci location to be included in the indictment at all, but the facts have been clarified, not only with regard to the direct commission of alleged crimes against humanity, but also with regard to participation in the JCE. It is really not clear with whom Professor Vojislav Šešelj could have been in a joint criminal enterprise.

[REDACTED]

Šešelj's speech in Hrtkovci in May 1992: [REDACTED]

[REDACTED]. The witness did not attend the rally but could hear people shouting "Ustashas out!" [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Paragraphs: 10d, 15, 17i, 31, and 33.

Counts: 1, 10, and 11.

3. Content of testimony

The witness testified *viva voce* on 24 and 25 September 2008, with protective measures, a new pseudonym, and image and voice distortion.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

The credibility of the witness was called into question during cross-examination, and why, [REDACTED] he did not testify publicly, and his statements given to Prosecution investigators in 2004 and 2006 were compared with regard to the injuries he suffered [REDACTED], of which there was no record [REDACTED] [REDACTED]. The judges then realised that, as of July 1991, there was an influx of hundreds of thousands of refugees from Western Slavonia, where there were no armed clashes at the time, but the Serbs had to leave Croatia under pressure and they came to Hrtkovci and the surrounding villages and Vojvodina. The witness confirmed that many Serbs and Croats had exchanged their property even before the Serbian Radical Party rally in Hrtkovci on 6 May 1992. The witness confirmed that there was no Serbian Radical Party in Hrtkovci before 6 May 1992.

The witness confirmed that the police threw out those Serbian refugees from Croatia who had forcibly moved into other people's houses or empty houses. The witness could not give a single example of deportation, or that of a Croat who left Hrtkovci without exchanging his property. The witness confirmed that a Serb who left Croatia with a Yugoslav passport could not in any way return to Croatia.

[REDACTED]
[REDACTED], the rally and who read out the list of names,
[REDACTED]
[REDACTED], the origin of Croats from Hrtkovci, and all other contentious issues were resolved during cross-examination. This witness testified quite truthfully, but he avoided giving direct answers to questions where Franjo Tudman's official policy would be criticised.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 10d, 15, 17i, 31, and 33, but charges concerning Hrtkovci are contained in paragraphs 5, 6, 10e, 12, 14, 15, 17g, 17i, 17k, 31, and 33.

The witness was planned for counts 1, 10 and 11 of the indictment, and Hrtkovci is mentioned in counts 1, 10 and 11 of the indictment.

Based on his testimony, no causal link can be established between the members of the Serbian Radical Party and the alleged perpetrators of crimes in Hrtkovci, and the question is whether there were any crimes at all.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-035, ALEKSA EJIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-035, Aleksa Ejić, was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's Role as Chief Propagandist of "Greater Serbia"

"Those who are loyal should not be afraid, no one shall touch them, but those who are helping the HDZ have nothing to do in Hrtkovci. We shall expel all of them."
(footnote 43)

Crimes in Serbia – Hrtkovci, May-August 1992:

"The SRS brought Serb refugees in buses to Vojvodina. Refugees were referred to Ostoja Sibinčić, an SRS member and associate of the Accused in Hrtkovci, (footnote 418) who would give them the addresses of houses owned by Croats."

"In some cases, the owners of the houses were abroad and refugees would simply move in. In other cases, Serb refugees used threats and intimidation to pressure

home owners to “swap” their own home in Croatia for the Croat’s home in Vojvodina.” (footnote 421)

“Šešelj’s speech was met with an enthusiastic response accompanied by shouts of ‘Ustashes out!’” (footnote 445)

2. Summary of testimony for VS-035, Aleksa Ejčić

Intimidation and violence for the purpose of expulsion: The witness will testify that, prior to 1991, there were good relations among the ethnic groups in Hrtkovci. In 1991, Serb refugees from Croatia began arriving. Soon thereafter began the intimidation of non-Serbs in order to make them leave to make room for the Serb refugees. This included in particular the unlawful occupation of homes belonging to ethnic Croats by Serb refugees, which was tolerated and even supported by local authorities. There was an atmosphere of fear created by, in particular, Šešelj and his cohorts. The witness will testify that Šešelj was involved in a rally which promoted fear of and hatred against Croats. Prominent Hungarians and Croats were threatened and intimidated to make them leave the area. Šešelj and the SRS promoted the exchange of populations and the exchange of houses, including the use of force. Violence was used against Croats in their homes to speed up their departure. Because of the persecution campaign against them, approximately one half of the Croat and Hungarian population left Hrtkovci, a process greatly accelerated after Šešelj’s speech in Hrtkovci. The witness will testify to specific incidents of intimidation and violence against the non-Serb population in order to make them leave.

Šešelj’s rallies: The witness will testify that Šešelj held a rally in Hrtkovci on 6 May 1992. The rally was well attended and broadcast over the radio. At the rally, names of local residents who should be expelled were read. The purpose of the rally was to instil fear in the Croats and Hungarians to make them leave. The witness will testify that Šešelj held similar rallies in late 1992. These rallies spread the message that any person not loyal to Serbia should leave. The rallies also promoted the ethnic divide. Šešelj’s rallies were conducted in villages where there was a high percentage of Croat inhabitants.

The witness will confirm that he was personally a target of persecution and will describe the actions of the authorities against him.

Paragraphs: 5-11, 15-17 and 27-29.

Counts: 1, 10 and 11.

3. Content of testimony

The witness testified *viva voce* on 7, 8 and 9 October 2008, without protective measures. He testified before the Hague Tribunal for the first time. The witness is important because he was a participant in the events in Hrtkovci and a local official, both in the Local Commune and in the Serbian Renewal Movement in Hrtkovci. He confirmed that there was no branch of the Serbian Radical Party in Hrtkovci before 6 May 1992, but that there were the SPS and the SPO. Before the witness, Ostoja Sibinčić was the president of the SPO Local Board in Hrtkovci, and he was replaced in 1991, when refugees from Croatia started to come.

The witness presented his position that Milošević and Tudman had made an agreement about a population exchange, a secret agreement about which the public was also informed, and that the interest of the Socialist Party was to avoid clashes but for this to be finished anyway. During cross-examination, the witness said that this position was his assumption and his belief. The witness confirmed that at one point there were more refugees than residents of Hrtkovci. As for the alleged illegal activities of refugees, the witness said that they particularly began after the rally in May 1992. The witness said that a branch of the Serbian Radical Party was established after the rally and consisted mostly of the refugees who had arrived.

The witness was a member of the Board at the level of the Hrtkovci Local Commune, who collected aid and gave instructions and advice to refugees. People's assemblies were held concerning the question of safety and the prevention of clashes, and Dobrosav Marković, the president of the MZ and a former policeman, was in contact with the SUP.

The witness was present at the rally on 6 May 1992 and confirmed that the rally was part of a promotion campaign and an election rally for the federal and local elections, that the first speaker was Blagoje Dudić (**not correct**), and the second was Žilić, who read out a list of people whose children were in the ZNG, /and said/ that they were not loyal citizens of Serbia and that there was no place for them in Hrtkovci. Professor Vojislav Šešelj spoke after a woman from Ruma. The problem with the PA system was resolved by his calling on those present to come closer to the stage, noting that there were not many people present anyway. There followed a brief presentation of the party platform. The witness said:

“Since he did not criticise the list that was read out by Žilić, in that way he actually supported the first speaker, along with a remark that he or, rather, his party also knew the names of the children who were in the ZNG, children from Hrtkovci who were members of the ZNG, people who had dodged mobilisation into the Yugoslav Army, in his view, since he stated then that he advocated reciprocity in conduct, as far as the Serb authorities were concerned. He said that all disloyal ethnic Croats and Hungarians whose children were in Croatia, or rather, in the ZNG, there was actually no place for them in Hrtkovci. He also added that they would be more humane; namely, that they would organise bus transportation for them and sandwiches, and so take them to the Croatian border, as opposed to the Tuđman regime and the way it treated the Serb population in Croatia. And then the comment was that they could then continue on foot to their homeland, meaning Croatia. But all of those who were loyal, and then he added that according to his information, there were Hungarian residents who had responded to the call and were loyal citizens of Serbia and were loyal to the authorities of Serbia, that there was no reason for them to fear, that they would even enjoy his protection, and that he expected them to win in the local and federal elections, and that they would thus implement their policies which were announced in their programme.”

The witness read out parts of Professor Vojislav Šešelj's speech from a book, which the judges and the Prosecution considered to be the most important for the charges with regard to the events in Hrtkovci, and these parts read as follows:

“In this village, too, in Hrtkovci, in this place in Serbian Srem, there is no room for Croats. Who are the only Croats for whom there is room among us? Only those Croats and their families who have shed blood together with us on the front lines. They were called Croats in name only, anyway. They have already awakened to the fact that they are, in fact, Catholic Serbs. Some of them even served with our volunteers. They will stay here with us, while all the rest must clear out of Serbia. Including those from here, from Hrtkovci, who locked up their houses and left, reckoning, I suppose, that they would come back one day; but our message to them is: no, you have nowhere to return to. Serbian refugees will move into their houses.

“Serbian brothers and sisters, now that Tuđman has expelled more than two hundred thousand Serbs, a part of them will return to the area of Serbian Krajina, but another part cannot settle there. We have to give those Serbs a roof over their heads and feed the hungry mouths. We have no money to build new housing. We do not

have the capacity to create new jobs for them. Very well, then, if we cannot do that, then we should give every Serbian family of refugees the address of one Croatian family. The police will give it to them, the police will do as the government decides, and **soon we will be the government**. Fine, then. Every Serbian family of refugees will come to a Croatian door and give the Croats they find there their address in Zagreb or other Croatian towns. Oh, they will, they will. There will be enough buses, we will drive them to the border of Serbian territory and they can walk on from there, if they do not leave before of their own accord. Some traitors of the Serbian people in Belgrade....

“I firmly believe that you, Serbs from Hrtkovci and other villages around here, will also know how to preserve your harmony and unity, that you will promptly get rid of the remaining Croats in your village and the surrounding villages, that you will know how to appreciate the fruits of freedom and democracy, that united we shall win, unite all the Serbian lands and overcome the economic and social crisis. To conclude today’s promotional event of the Serbian Radical Party, I salute you with the traditional Serbian greetings: All for the Serb cause – the Serb cause for all. Serbia will live on as long as her children are true to her (cheering). ”

[REDACTED]

The witness testified that he was on bad terms with Ostoja Sibinčić and confirmed that Sibinčić was a member of the SPO, then the SPS, and at present (**in 2008**) he was a member of the Serbian Radical Party. He testified about Rade Čakmak, a refugee from Grubišno Polje, who was the president of the Hrtkovci MZ, saying he was illegally elected president, and about the change of name to Srbislavci.

On the list of people from Hrtkovci who, the Prosecution asserts, were driven out, the witness marked only eight names and it was included in Exhibit P558.

The witness also testified about court proceedings against Ostoja Sibinčić and Rade Čakmak, contacts with Minister Momčilo Grubač, and reports on the activities of the Serbian Guard.

The role of the Serbian Guard was discussed during cross-examination and an interesting detail came out, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED], although, according to the witness, he had allegedly disbanded the SPO Local Board in Hrtkovci, but in December 1992 he was the SPO candidate in the local elections and made it through to the second round with the SPS candidate, and had a narrow defeat. The Serbian Radical Party candidate came in third, with half as many votes as the witness. If he allegedly advocated tolerance in Hrtkovci, [REDACTED]. It is also not clear, if the Serbian Radical Party was so important, why the residents of Hrtkovci elected the SPS candidate and not the Serbian Radical Party candidate as the assemblyman from Hrtkovci.

The judges asked questions about the statements of some witnesses for Hrtkovci concerning black uniforms, buses, weapons, the establishment of the Serbian Renewal Movement, and the formation of the SRS Local Board after the rally of 6 May 1992.

The witness confirmed that there were three waves of refugees from Croatia, and gave the assessment that about 1,000 of the total of 1,500 refugee Serbs who came to Hrtkovci remained, namely those who had exchanged their property and those who were housed in two newly-built refugee colonies. The witness confirmed that those who had fled Western Slavonia in December 1991 came with weapons. The Law on Weapons and Ammunition was passed in the second half of 1992, and it was prescribed as a crime.

The witness remembered the case of Milivoje Vukelja, who was from Bosnia and who was thrown out of the house which he had moved into.

The witness confirmed that he had never heard Professor Vojislav Šešelj say a single bad word about Hungarians. The witness' belief that Professor Vojislav Šešelj had unconsciously been used as a tool by Slobodan Milošević was also discussed.

The witness answered questions about the killing of Mijat Štefanac, and the judges were able to conclude that, after the witness had visited Nenad Čanak, an orchestrated campaign against the Serbian Radical Party and media attacks on the Serbian Radical Party began. Nataša Kandić and Vesna Pešić visited Hrtkovci as part of the campaign. Vesna Pešić convinced Dr Branimir Vuksanić that his name was also on the list that had allegedly been read out by Žilić. The witness said that only eight

people had moved out of Hrtkovci under pressure, and on the list he also circled his own name among the names which he had added to the list. The witness confirmed that he did not know that any member of the Serbian Radical Party put pressure on or threatened the Croats in Hrtkovci. The witness confirmed that nothing was organised, but rather it was random, and he had to agree that the police intervened when called.

The witness quite discredited himself by not admitting that he had stood trial for minor bodily harm inflicted on a Croat.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 27, 28, and 29, but charges concerning Hrtkovci are contained in paragraphs 5, 6, 10e, 12, 14, 15, 17g, 17i, 17k, 31, and 33.

The witness was planned for counts 1, 10 and 11 of the indictment, and Hrtkovci is mentioned in counts 1, 10 and 11 of the indictment.

Based on his testimony, no causal link can be established between the volunteers of the Serbian Radical Party and the alleged perpetrators of crimes in Hrtkovci. Through this witness, dilemmas were also resolved regarding the requirement concerning the scale and systematic nature of the attacks, because about 200,000 Serbs from Croatia sought a safe haven in Serbia, while the number of Croats in Hrtkovci who exchanged their property with them was about 800. One can only talk of individual and isolated cases of violence, which cannot possibly come under persecution, deportation or forcible transfer.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1133, FRANJO BARIČEVIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1133, Franjo Baričević, was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's participation in the JCE:

"First, Šešelj used his power and popularity as a politician to constantly promote the goal of the creation of a Serb dominated 'Greater Serbia' by force in the

media and directly to the public, and to create a climate of ethnic fear and hatred that prepared the ground for the crimes alleged.” (footnote 6)

Second, as the President of the SRS and the leader of the SČP, Šešelj oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of ‘volunteers’ who often participated in crimes that resulted in the permanent forcible removal of non-Serbs from the targeted territories.” (footnote 8)

Šešelj’s intent to participate in the JCE:

“Šešelj personally visited SRS/SČP volunteer units and other Serb forces at the front lines on many occasions, as well as parts of Vojvodina (which borders Croatia) where non-Serbs were being persecuted.” (footnote 98)

Crimes in Serbia – Hrtkovci, May-August 1992:

“As of 1990, Hrtkovci, a village in the Ruma municipality of Vojvodina, Serbia, was comprised of a majority of Croats with significant Hungarian and Serb minorities.” (footnote 408)

“Relations between local Serbs and Croats in Hrtkovci were generally peaceful.” (footnote 409)

“Ethnic tensions in Hrtkovci began to escalate in 1991 when Serb refugees from Croatia started arriving in Hrtkovci.” (footnote 416)

“The SRS brought Serb refugees in buses to Vojvodina. Refugees were referred to Ostoja Sibinčić, an SRS member and associate of the Accused in Hrtkovci, who would give them the addresses of houses owned by Croats.” (footnote 419)

“In some cases, the owners of the houses were abroad and refugees would simply move in.” (footnote 420)

“The SRS prepared the stage where the rally was to be held and played ethnically biased Chetnik music throughout the day.” (footnote 436)

“In front of several thousand people, including SRS/SČP volunteers and local non-Serbs, Šešelj called for a ‘Greater Serbia’ stretching from Virovitica to Karlobag.” (footnote 439)

“He said mixed marriages between Croats and Serbs must be cleansed and children of mixed marriages killed.” (footnote 441)

“Šešelj read out a list of names of prominent non-Serbs who were told that they should leave Hrtkovci.” (footnote 442)

“Šešelj announced that in three days Croats would be given addresses of homes in Croatia, and if they did not move to those homes, they would be placed on buses and driven there through minefields.” (footnote 443)

“Non-Serbs were threatened over the telephone and in person.” (footnote 449)

“These included bomb threats against people’s homes and the brandishing of weapons.” (footnote 450)

“Mobs of Serbs in Hrtkovci confronted Croats, demanding they ‘exchange’ their houses.” (footnote 453)

Legal Analysis

Modes of Criminal Responsibility under Article 7 (1) of the Statute:

“With respect to Šešelj’s *mens rea* for planning the crimes in Hrtkovci, Šešelj’s intent is evident from his statements during meetings with SRS supporters and members prior to and during the persecution campaign in Hrtkovci, as well as the fact that the criminal actions encouraged by Šešelj during those meetings eventually took place in Hrtkovci.” (footnote 487)

“In addition, Šešelj ordered the crimes of persecution, deportation and forcible transfer in Hrtkovci (Counts 1, 10 and 11, paragraphs 15-17, 31-33 of the indictment) during his meetings with associates and supporters in Vojvodina in 1991 and 1992, and, implicitly, in his speech in Hrtkovci on 6 May 1992. The intent of Šešelj to order the crimes in Vukovar and Hrtkovci can be inferred from the content of his speeches and discussions, and from the fact that the crimes subsequently occurred.” (footnote 496)

2. Summary of testimony for VS-1133, Franjo Baričević

Rising tensions: The witness, an ethnic Croat, will describe the ethnic tensions arising in the Hrtkovci region in 1990 after the SPO and the SRS, led by Vuk Drašković and Vojislav Šešelj respectively, opened their branches in Hrtkovci.

“Occupation of homes: Ostoja Sibinčić, a strong Serb nationalist, provided locations of homes owned by ethnic Croats living abroad to Serb refugees so that they could move into them. Usually these houses were not abandoned, they had furniture and appliances, and the owners had entrusted their care to relatives. The newly arrived Serbs occupied the houses against the will of their owners.

About one and a half months prior to Vojislav Šešelj’s visit to Hrtkovci on 6 May 1992, another group of 160 Serb refugees came from Slavonia and the number of

new Serbs in Hrtkovci reached 500. These new refugees had been promised empty houses in Hrtkovci. When they realised that they had been victims of fraud, they asked for a session of the SRS and the arrival of Šešelj. Ostoja Sibinčić organised this event.

Šešelj's speech in Hrtkovci: About two hours prior to Šešelj's arrival in Hrtkovci, a bus of *Beli Orlovi* /White Eagles/, Šešelj's security or paramilitary police, came from Šabac. The White Eagles wore black uniforms and carried automatic rifles. The regular police were in the centre of the village about 800 meters away from where the rally was held, but did not attend the rally. The witness was standing about 30-40 meters from Šešelj at the rally and heard Šešelj's entire speech. The witness had feared that the Croats were to be evicted from their homes, a fear that was confirmed during Šešelj's speech. During the speech, Šešelj referred to the Karlovac-Karlobag-Virovitica line and said that this territory was to be Serb. He claimed that the Serbs in Croatia were endangered while the Croats in Serbia were living well. Šešelj read out a list with about ten names, the witness's name included, and said that they did not need Croats there and that they should leave. Within three days Croats would be given addresses or keys, and if they would not leave, the Serbs would put them on buses and send them to Croatia through the minefields.

The list contained names of prominent Croat and Hungarian inhabitants from Hrtkovci, doctors and directors of companies whom Šešelj wanted to replace with Serbs. It was obvious to the witness that the list had been prepared by local members of the SRS in advance of the rally. Šešelj approved and read out those names. The people mentioned on the list were: Zdenko Barišić – head of the Local Commune, at that time relieved of his duties, Branko Vuksanić – village doctor, Mato Šamo – director of the sawmill in Hrtkovci, Ante Grizelj – director of a Hrtkovci agricultural company, Jure Grdić – whose sons were living in Croatia and of whom Šešelj claimed that they were in the ZNG, Antun Ilić, and the witness, because he was a member of the Municipal Assembly, and some others.

When Šešelj read out the list of names, he also declared that mixed marriages between Croats and Serbs must be cleansed and children of mixed marriages killed. He incited hatred and called for mass expulsion of Croats and Hungarians. He targeted on this occasion only inhabitants of the Catholic faith. He did not mention any other ethnic groups in Hrtkovci.

Life in Hrtkovci after Šešelj's visit: After Šešelj's speech, life became difficult for the Croats and Hungarians in Hrtkovci. They were constantly threatened over the telephone, at work and in person by unknown persons. Groups of Serbs went around the village "requesting" the "exchange" of houses and giving people only a few hours to move out. The witness' daughter was threatened in the street by a person who said that only her or her brother would be allowed to leave with their father. The witness complained to the Ruma police but was told by Slavko Kulundžić, the Chief of State Security in Ruma, that he could do nothing. Following the witness' complaints to Kulundžić, approximately three days after Šešelj's speech, the witness moved his wife and children to Croatia, to his father-in-law's residence in Feričanci, Našice municipality. He feared for the safety of his family.

So-called "exchange" of houses: On 19 May 1992, the witness joined his family in Croatia. Three days later, in Požega, the witness signed a contract for the so-called "exchange" of houses at the office of lawyer Mira Primorac, who compiled the document. The document said that the witness exchanged his two houses, including business premises, located at 19 Savska Street in Hrtkovci, for the house of Branko Milosavljević located at 7 Pavla Radića Street, Jakšić, Croatia. A judge from Požega, Stanka Stepanović, who was the daughter of Branko Milosavljević, went to live in the witness' new house in Hrtkovci while her parents moved into his old house. The witness will testify to his motives for this "exchange".

The witness opined that Ostoja Sibinčić had regular contacts with Vojislav Šešelj and reported to him about the situation in Hrtkovci. Sibinčić was the main organiser of the expulsion campaign in Hrtkovci.

Paragraphs: 5-9, 10 (a-d), 14-16, 17 (g) and (i), and 27-30.

Counts: 1, 10 and 11.

3. Content of testimony

The witness testified *viva voce* on 14 and 15 October 2008, without protective measures. The witness testified before the Hague Tribunal for the first time. The witness stated that the Serbian Radical Party had its branch in Hrtkovci in late 1991 and that Ostoja Sibinčić was in charge. He said that Sibinčić had first been in the SPO and that Aleksa Ejić had replaced him as the leader of the SPO in Hrtkovci.

The witness said that a woman from Ruma, a member of the Serbian Radical Party, came to Hrtkovci on (Catholic) Good Friday in 1992 and held a meeting with

Serbian refugees who were dissatisfied and wanted to talk to Professor Vojislav Šešelj. During cross-examination, it was clarified that this was Divna Ičić, the President of Ruma Municipality. The female member of the Serbian Radical Party who spoke at the rally on 6 May 1992 was Marica Pačanin. The witness failed on well-known facts.

They were dissatisfied with Ostoja Sibičić. The Serbian refugees from Slavonia had been deceived that there were empty Croatian houses in Hrtkovci, that the Croats had moved out and left empty houses (gone abroad, children in the ZNG). The witness worked at the MZ and had the keys to the premises, and on 6 May 1992 he gave the PA system of the MZ for use at the Serbian Radical Party rally, because a decision had been made to give space and the PA system to political parties.

The witness asserts that the stage was, in fact, a trailer, that Chetnik music was played, that a bus came with White Eagles, Šešelj's security guard, in black uniforms and with long-barrelled weapons, and that the bus was parked by his house. He did not hear this from them, but heard it when he was beside the stage. The police were one kilometre away and controlling traffic.

The witness went to the rally with his half-brother from abroad, and, according to him, about 2,000 people from Hrtkovci and elsewhere were present. The witness asserts that the first speaker was Žilić, who read out the list of Croats from Hrtkovci who were already in Croatia or abroad. All the details are in the text entitled "The Vital Importance of the May Elections".

The witness testified about Professor Vojislav Šešelj's speech and said that Šešelj had read out names, including his name. Although the witness did not give statements to the media, his case of threats was published in *Večernje Novosti* on 14 May 1992. The witness gave his example of the exchange of property and said that he had been defrauded in the exchange, that 460 households had been moved out of Hrtkovci, and that 300 households had been moved out in the first month after the rally alone.

According to the statement by Slavko Kolundžić, the witness was a DB informer, and the witness was a member of the SKJ /League of Communists of Yugoslavia/ for a long time, not only because of employment, as he maintains, but also because his father, Ivan Baričević, was in Ustasha units during the Second World War.

In May 1992, the witness exchanged his property with a family from Jakšić village in the territory of Slavonska Požega. The property exchange contract was discussed, and the following were included in the full story concerning this witness: Ilija Šutalo, a member of Paraga's military units which drove the Serbs out of Slavonska Požega; Zvonko Paulić, nephew or son of Katica Paulić; Ante Grizelj; Ante Stipić; Nikola Lulić; and Marko Kalić, as witnesses before the court who enabled the witness to take land that was not included in the exchange contract. The examples of the property exchange of the Paulić and Kalić families were also discussed, and some other details /to the effect/ that there was no persecution.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 5, 6, 7, 8, 9, 10a, 10b, 10c, 10d, 14, 15, 16, 17g, 17i, 27, 28, 29, and 30, but charges concerning Hrtkovci are contained in paragraphs 5, 6, 10e, 12, 14, 15, 17g, 17i, 17k, 31, and 33.

The witness was planned for counts 1, 10 and 11 of the indictment, and Hrtkovci is mentioned in counts 1, 10 and 11 of the indictment.

Based on his testimony, no causal link can be established between the members of the Serbian Radical Party and the alleged perpetrators of crimes in Hrtkovci, but, more importantly, this witness has lost his credibility.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1134, ██████████, UNDER RULE 92 *ter*, WITH PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1134, ██████████, was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Serbia – Hrtkovci, May-August 1992:

“As of 1990, Hrtkovci, a village in the Ruma municipality of Vojvodina, Serbia, was comprised of a majority of Croats with significant Hungarian and Serb minorities.” (footnote 408)

“Relations between local Serbs and Croats in Hrtkovci were generally peaceful.” (footnote 409)

“Ethnic tensions in Hrtkovci began to escalate in 1991 when Serb refugees from Croatia started arriving in Hrtkovci.” (footnote 416)

“As a result of Šešelj’s speech, some Croats decided to leave Hrtkovci. In addition, soon after Šešelj spoke, a massive campaign of harassment and intimidation directed at non-Serbs, particularly Croats, took hold in Hrtkovci.” (footnote 448)

“These included bomb threats against people’s homes and the brandishing of weapons.” (footnote 450)

2. Summary of testimony for VS-1134, [REDACTED]

SRS and SČP in Hrtkovci: The witness will testify to the activities of members of the SRS and the SČP before and after 6 May 1992, in particular to their involvement in the expulsion of the Croats from Hrtkovci and other areas of Vojvodina. [REDACTED] The witness will testify to his knowledge of the so-called “exchange” of houses in other regions of Vojvodina.

[REDACTED]

[REDACTED]

Arrival of Serb refugees: During the autumn of 1991 and spring of 1992, a large number of Serb refugees came to Hrtkovci. The arrival of these Serb refugees was organised by the SRS. The local SRS must have had help from persons in higher positions in Belgrade. Ostoja Sibinčić could not have organised this process alone. The refugees were told that there were empty houses for them in Hrtkovci.

[REDACTED]

[REDACTED]

[REDACTED]

Presence of armed “Chetnik” groups: At the beginning of 1992, the witness saw armed “Chetnik” groups meeting at a bar in the centre of Hrtkovci [REDACTED]

[REDACTED] The “Chetniks” carried automatic guns and knives. They had peaked caps with cockades. The local Croats felt intimidated by the presence of these “Chetnik” volunteers in their village.

Šešelj’s arrival in Hrtkovci: Šešelj came to Hrtkovci on 6 May 1992. He read a list of names in public and stated that the Croats would have to leave with only “plastic bags” in their hands. The witness was not present during the speech but was told by other people that Šešelj had read a list of names of prominent Croats who were

Leaving Hrtkovci: As a result of the death of [REDACTED] and the “exchange of houses” by his immediate neighbours, the witness decided to leave Hrtkovci. He and his parents packed their belongings and left for Croatia, finally settling in Jakšić, where the witness “exchanged” his house with a Serb, [REDACTED], who still lives in Hrtkovci.

[REDACTED]
[REDACTED]
[REDACTED].

Sibinčić’s role in house “exchange”: Ostoja Sibinčić organised the so-called “exchange of houses” in Hrtkovci. The Serb refugees who arrived in the village spoke to Sibinčić to get the addresses of houses that they would occupy. Sibinčić would provide these refugees with the necessary information to locate a house and to evict the Croatian occupants. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Paragraphs: 5-9, 10 (a-d), and 14-16.

Counts: 1, 10 and 11.

3. Content of testimony

The witness testified *viva voce* on 15 October 2008, with protective measures, under Rule 92 *ter*. The only relevant part of the testimony of this witness is where he describes how he exchanged property [REDACTED] at his own initiative, after having stated that relations in Hrtkovci had stabilised in July 1992. The witness confirmed that the number of Serbs from Croatia who came to Hrtkovci was much larger than the number of Croats from Serbia who went to Croatia through a property exchange. He confirmed that the property exchange had not been to his detriment, because he also received money, 2,000 DM. The witness decided for the exchange after the killing of [REDACTED], and as for the rally of 6 May 1992, he admitted that everything he said he had heard from others, as he was not present at the rally, because he had farmed his land on that day.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 5, 6, 7, 8, 9, 10a, 10b, 10c, 10d, 14, 15, and 16, but charges concerning Hrtkovci are contained in paragraphs 5, 6, 10e, 12, 14, 15, 17g, 17i, 17k, 31, and 33.

The witness was planned for counts 1, 10 and 11 of the indictment, and Hrtkovci is mentioned in counts 1, 10 and 11 of the indictment.

Based on his testimony, no causal link can be established between the members of the Serbian Radical Party and the alleged perpetrators of crimes in Hrtkovci. This testimony is important because the witness confirmed the exchange of property by his own example, while the facts about everything else that he admitted was hearsay evidence have been clarified through other eyewitnesses.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-1136, KATICA PAULIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-1136, Katica Paulić, was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's participation in the JCE:

Second, as the President of the SRS and the leader of the SČP, Šešelj oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of "volunteers" who often participated in crimes that resulted in the permanent forcible removal of non-Serbs from the targeted territories." (footnote 8)

Crimes in Serbia – Hrtkovci, May-August 1992:

"As of 1990, Hrtkovci, a village in the Ruma municipality of Vojvodina, Serbia, was comprised of a majority of Croats with significant Hungarian and Serb minorities." (footnote 408)

"Relations between local Serbs and Croats in Hrtkovci were generally peaceful." (footnote 409)

"Ethnic tensions in Hrtkovci began to escalate in 1991 when Serb refugees from Croatia started arriving in Hrtkovci." (footnote 416)

“The SRS brought Serb refugees in buses to Vojvodina. Refugees were referred to Ostoja Sibinčić, an SRS member and associate of the Accused in Hrtkovci, (footnote 418) who would give them the addresses of houses owned by Croats.”

“Phone threats were targeted at non-Serbs, particularly those with large houses.” (footnote 429)

“Two hours before the speech, a bus of SRS/SČP volunteers, dressed in black uniforms and carrying rifles, deployed at the rally, around the town, and in the surrounding woods.” (footnote 437)

“In front of several thousand people, including SRS/SČP volunteers and local non-Serbs (footnote 438), Šešelj called for a ‘Greater Serbia,’ stretching from Virovitica to Karlobag.”

“Also on the stage were at least one Serb refugee from Croatia (footnote 444) and Ostoja Sibinčić.”

“As a result of Šešelj’s speech, some Croats decided to leave Hrtkovci.” (footnote 447)

2. Summary of testimony for VS-1136, Katica Paulić

Background; a female ethnic Croat who lived in Hrtkovci, Ruma municipality, Vojvodina, Serbia, until 29 May 1992.

The SRS in Hrtkovci: Around spring 1992, Slavko Miršić, a member of the local branch of the SRS, started talking about ethnic cleansing of Croats from Hrtkovci. However, the witness and other Croats in Hrtkovci did not believe it would ever happen. Before Vojislav Šešelj gave a speech in Hrtkovci, the sympathisers of his party would gather in private houses. Ostoja Sibinčić was the main organiser of the SRS activities in Hrtkovci. Sibinčić was employed in the Municipality in Ruma.

“Exchange” of houses: Around spring 1992, Serbian refugees from Croatia started arriving in Hrtkovci. Every day Jovo (LNU), a Serb, would bring different groups of Serbs to see the witness’ house. Jovo showed these Serbs houses in Hrtkovci and acted as if the refugees had the opportunity to choose the houses in Hrtkovci. The system appeared to be very well organised. On one occasion, a Serb came to the witness’ store and said something to the effect of: “Well, it is not ours but it will do” The witness became very frightened because at this time she was also receiving phone threats stating: “Take care of your child. We will be coming.” The

witness understood these threats to be directed to her younger son. Many other Croats received similar threats.

First the Serbs targeted those with better houses. The owners of smaller houses were initially not subjected to this form of intimidation. Hungarians who lived in the village were also targeted in a similar manner.

Šešelj's speech: On 6 May 1992, Vojislav Šešelj came to Hrtkovci to give a public speech. That was the first time the witness saw groups of armed men in the village. These men were "Chetnik" soldiers wearing black uniforms and hats with cockades and carrying ammunition and rifles. A large number of these "Chetnik" soldiers were present in Hrtkovci that day. Some were present at the rally, while the others were moving around the village and in the woods. Regular police were not present in the area where the rally took place.

During the speech Šešelj said: "Croats must leave. Serbian refugees from Croatia will move into the Croatian houses. The houses of people who live abroad must be opened." Šešelj read a list of more than ten names including Mato Šamu, director of the sawmill, the witness' brother Franjo Baričević, a member of the Local Commune, Anto Grizelj, director of the agricultural company, Zdenko Barišić, member of the Local Commune, Branko Vuksanić, the village doctor, and several others. Šešelj declared that the people on the list had to resign from their positions and leave Hrtkovci and that other people would replace them. Šešelj intended to put his people in the local commune leadership.

Šešelj also stated: "All Croats must go to Croatia. They will be put on buses and taken to the border. From there they can go on foot, they will be put on the buses by the authority, and we will be that authority!" Šešelj placed his right hand on his chest and declared: "We will be the authority!" The audience applauded and yelled, "Ustashas out!" The witness was very frightened hearing this. Even the children who had climbed the trees around the gas station started applauding. Šešelj added that mixed marriages had to be annulled.

The speech was full of hatred, and lasted about an hour. It was attended by around 1,000 people. It caused a lot of fear among non-Serbs, and afterwards Croats started leaving in large numbers. The pressure on the Croats became more intense, and violent incidents against Croats increased during the days following the speech. For example, houses that were temporarily empty would be looted and occupied by

Serb refugees. The owners of these houses were abroad, but the houses were furnished.

Leaving Hrtkovci: Ten days before the witness left for Croatia, a Serb woman moved into the witness' house with her son, actually taking it over against the witness' will. The woman slept in the witness' bedroom while the witness was still there. This refugee woman, like many other Serb refugees, had the complete support of the SUP. The police did not do anything to prevent the Croats from being deprived of their houses. When the witness' husband complained to a policeman about telephone threats, the policeman told him to disconnect their phone.

Under this pressure, on 29 May 1992 the witness moved to Zagreb with her younger son. Her husband joined them on 10 June 1992. They "exchanged" their house in Hrtkovci with a Serbian family that had been living in Zagreb.

Paragraphs: 3-9, 10a-d, f and g, 11, 14-16, 17g, i, and 27-30.

Counts: 1, 10 and 11.

3. Content of testimony

The witness testified, without protective measures, on 19 November 2008. The witness asserts that the problems started with the arrival of refugees from Slavonia after the fall of Vukovar. The witness' neighbour Slavko Miražić (a member of the SPO, not the SRS) said that ethnic cleansing was to follow. The witness spoke about an event when a house whose owners were working abroad was broken into before Professor Vojislav Šešelj's arrival in Hrtkovci. The witness asserts that he /as printed/ attended the rally on 6 May 1992 and that Šešelj's speech lasted one hour. The witness has been totally discredited, because he practically admitted that he was motivated by self-interest and therefore exaggerated in his testimony. The witness gave false testimony in court about the rally and everything that took place.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 3, 4, 5, 6, 7, 8, 9, 10a, 10b, 10c, 10d, 10f, 10g, 11, 14, 15, 16, 17g, 17i, 27, 28, 29, and 30, but charges concerning Hrtkovci are contained in paragraphs 5, 6, 10e, 12, 14, 15, 17g, 17i, 17k, 31, and 33.

The witness was planned for counts 1, 10 and 11 of the indictment, and Hrtkovci is mentioned in counts 1, 10 and 11 of the indictment.

Based on his /as printed/ testimony, no causal link can be established between the members of the Serbian Radical Party and the alleged perpetrators of crimes in Hrtkovci. The witness has been discredited, but it was very useful to establish how the system of accusation was devised.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-067 (formerly [REDACTED]), [REDACTED], WITH PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Crimes in Serbia – Hrtkovci, May-August 1992:

“As of 1990, Hrtkovci, a village in the Ruma municipality of Vojvodina, Serbia, was comprised of a majority of Croats with significant Hungarian and Serb minorities. Relations between local Serbs and Croats in Hrtkovci were generally peaceful.” (footnote 409)

“In some cases, the owners of the houses were abroad and refugees would simply move in. In other cases, Serb refugees used threats and intimidation to pressure home owners to “swap” their own home in Croatia for the Croat's home in Vojvodina.” (footnote 421)

“Šešelj's speech was met with an enthusiastic response accompanied by shouts of 'Ustashas out!' Non-Serbs took Šešelj's threats very seriously” (footnote 446)

“During 1992, seventy percent of local Croats (approximately 900 – 1,000 people) left Hrtkovci, either expelled through direct force or leaving out of fear for their well-being” (footnote 457)

2. Summary of testimony for [REDACTED]

Biography: The witness is a [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] He will speak about the rally in Hrtkovci on 6 May 1992. The witness will testify that he took the fact that a list was read very seriously, because he had no reason to doubt that Šešelj would force the Croats to leave the area. Šešelj came to Hrtkovci in order to speed up the transfer of populations, and his speech and propaganda in Hrtkovci worsened the tensions between ethnic groups in the village. He will testify about violence and intimidation committed against Croats in Hrtkovci, such as threats and beatings. He will also testify about Ostoja Sibinčić, who was one of Šešelj's men in the SRS,

[REDACTED]

[REDACTED]

Paragraphs: 5, 6, 7, 8, 9, 10a, 10d, 14, 15, 16, 17g, 17i, 27, 28, 29, and 30.

Counts: 1, 10 and 11.

3. Content of testimony

The witness testified on 16 and 17 February 2010 as a Chamber witness, with protective measures and via video link.

The witness was not present at the rally in Hrtkovci on 6 May 1992, and in relation to his statements given to Prosecution investigators, he admitted that these statements contain what he thought had happened, what somebody else had told him, and so on, but he also demonstrated that he believed everything Professor Vojislav Šešelj pointed out in his refutation. Considering how sensible and reasonable his manner of discussion was, this witness could also be a Defence witness.

His name was not read out at the rally, and it also turned out that Vesna Pešić has never been in Hrtkovci.

Many statements of people who gave statements to the Defence team were presented through this witness, and they pertain to both the role of Aleksa Ejić and the status of Ostoja Sibinčić, who was not a member of the Serbian Radical Party.

The opportunity also arose to inform the judges through this witness about the historical background of how Albanians became Croats in Hrtkovci, and many details regarding the rally, how people were invited to attend, organisation, police security, the speech, and the speeches of Professor Vojislav Šešelj in the National Assembly on 1 and 2 April 1992.

4. Summary of testimony

Proceeding from the Prosecution's obligation for the witness to repeat everything stated in the provided summary of witness testimony, and the issues proved thereby, the following must be observed.

The witness was asked to confirm paragraphs 5, 6, 7, 8, 9, 10a, 10d, 14, 15, 16, 17g, 17i, 27, 28, 29, and 30, but charges concerning Hrtkovci are contained in paragraphs 5, 6, 10e, 12, 14, 15, 17g, 17i, 17k, 31, and 33.

The witness was planned for counts 1, 10 and 11 of the indictment, and Hrtkovci is mentioned in counts 1, 10 and 11 of the indictment.

Based on his testimony, no causal link can be established between the members of the Serbian Radical Party and the alleged perpetrators of crimes in Hrtkovci. The witness avoided being totally discredited, but it was very useful to establish how the system of accusation was devised.

INSIDER WITNESSES

The Prosecution specifically singled out insider witnesses and gave them the basic role of testifying to the circumstances of Professor Vojislav Šešelj's participation in the JCE, and that is why their testimonies touch on some locations previously analysed. If anything is repeated with these witnesses, it is because the Prosecution did not present evidence in accordance with the scheme set out by the Trial Chamber.

According to the Prosecution's Final Pre-Trial Brief

In the Prosecution's Final Pre-Trial Brief, insider witnesses are practically listed for most of the paragraphs, and they are also planned for locations as a crime base or locations where evidence of a consistent pattern of conduct is presented. These witnesses are to confirm the allegations from the Pre-Trial Brief under: II. The Accused's Participation in the JCE; A. The Accused's Role as Chief Propagandist of "Greater Serbia"; B. The Accused Recruited and Coordinated SRS/SČP Volunteers; and C. The Accused's Intent to Participate in the JCE.

Summary Regarding Insider Witnesses

Witnesses: VS-004 [REDACTED], VS-007 [REDACTED], VS-009 Aleksandar Stefanović, VS-010 Zoran Dražilović, VS-011 Ljubiša Petković, VS-012 Aleksandar Filković, VS-013 Mladen Kulić, VS-014 [REDACTED], VS-015 Goran Stoparić, VS-017 Zoran Rankić, VS-026 [REDACTED], VS-027 [REDACTED],

VS-032 Nenad Jović, VS-034 [REDACTED], VS-043 Milan Babić – deceased, VS-048 Nebojša Stojanović, and VS-1061 Miroslav Deronjić – deceased.

Prosecution's Revised Final Witness List and Summaries of Witness' Evidence

According to the final list, the witnesses are:

VS-004 [REDACTED], VS-007 [REDACTED], VS-009 Aleksandar Stefanović, VS-010 Zoran Dražilović, VS-011 Ljubiša Petković, VS-012 Aleksandar Filković, VS-013 Mladen Kulić, VS-014 [REDACTED], VS-015 Goran Stoparić, VS-017 Zoran Rankić, VS-026 [REDACTED], VS-027 [REDACTED], VS-032 Nenad Jović, VS-034 [REDACTED], VS-043 Milan Babić – deceased, VS-048 Nebojša Stojanović, VS-1061 Miroslav Deronjić – deceased.

Task of the Prosecution

The task of the Prosecution was to establish, through witnesses, the facts submitted in the Prosecution's Pre-Trial Brief, to have the witnesses at least confirm in the courtroom what the Prosecution is referring to in the summaries of witness testimonies, to prove that the general requirements under Articles 3 and 5 of the Statute have been met, and that Professor Vojislav Šešelj is liable for his actions under Article 7(1) of the Statute (complicity, participation in a JCE and direct commission through hate speech).

During the presentation of Prosecution evidence, the following witnesses were heard:

1. Goran Stoparić, VS-015, testified *viva voce* on 15, 16, 17, 22, 23 and 24 January 2008, without protective measures.
2. [REDACTED], VS-004, testified *viva voce* on 7, 12 and 13 February 2008, with protective measures.
3. Mladen Kulić, VS-013, testified *viva voce* on 4 and 5 March 2008, without protective measures.
4. [REDACTED], VS-007, testified *viva voce* on 15, 16 and 17 April 2008, with protective measures.
5. Nebojša Stojanović, VS-048, testified *viva voce* on 22 and 23 July 2008, without protective measures.
6. Aleksandar Stefanović, VS-009, testified *viva voce* on 25 and 26 November 2008, via video link from Belgrade and without protective measures.

7. Jovan Glamočanin, VS-044, testified *viva voce* on 10 and 11 December 2008, via video link from Belgrade and without protective measures.

8. [REDACTED], VS-027, testified on 7 and 8 July 2009, via video link from [REDACTED], with protective measures.

9. [REDACTED], VS-034, planned to testify on 30 March 2010 as a Chamber witness, but his testimony was not heard [REDACTED]
[REDACTED]

10. Zoran Rankić, VS-017, testified on 11 and 12 May 2010 without protective measures.

11. Nenad Jović, VS-032, testified on 6 and 7 July 2010, via video link from [REDACTED] and without protective measures.

Although the criterion for assigning insider witness status to these witnesses is not clear, it must be noted that the so-called insiders could be Glamočanin, Stefanović, and possibly Rankić (until December 1991), while Stoparić, Stojanović, [REDACTED] and [REDACTED] may be witnesses who heard something, but as for all the others, it is not known how they could be insiders and how they could have obtained confidential information at all.

The witnesses who were heard and those who were not heard had to serve as a connection, that is, they had to show a causal link between the Serbian Radical Party, as a political party and an organisation headed by Professor Vojislav Šešelj, and people organised by the Serbian Radical Party who were sent to places of armed conflict and who committed crimes referred to in the indictment or who were close to members of the Serbian forces who were direct perpetrators of the crimes.

The Prosecution failed to prove this argument through these witnesses.

Glamočanin knows nothing about what happened in places of armed conflict, and he has never been in some of the places where the Prosecution alleges he was. Gathering and sending volunteers was as far as they could go, but he is much more important as a witness that the Serbian Radical Party was constantly being persecuted.

Stefanović is almost the same witness as Glamočanin, but he testified even better about attempts after the year 2000 to accuse Professor Vojislav Šešelj at any cost. The situation is similar with Glamočanin.

Stoparić is a special story. However much he tried to cause damage with false testimony about the events in Vojvodina, the Prosecution tried just as much to disprove him with its subsequent submission of documents. Stoparić is very important

for the locations of Mostar and Nevesinje, where he testified quite properly. His testimony about Vukovar is untenable in the extreme, and in some parts he had to deny what the Prosecution said he had allegedly told investigators. As for the Vukovar location, one part of his testimony is important, but as far as Ovčara and the *Ovčara* case in Belgrade are concerned, it is insignificant and inadmissible. He is important because he proved how the Prosecution obtains witnesses through Nataša Kandić.

██████████ was sunk again, ██████████, so there is no point in paying any attention to him.

██████████ testified properly, although it is not clear how key evidence of Professor Vojislav Šešelj's participation in the JCE can be adduced through the Western Slavonia location, where evidence of Professor Vojislav Šešelj's consistent pattern of conduct as part of the JCE is presented. This is even more unusual knowing that ██████████ did not utter a single accusation against Professor Vojislav Šešelj.

It was similar with Mladen Kulić, who was totally discredited as a witness for Western Slavonia.

As for Nebojša Stojanović, it is not clear why the Prosecution called him as a witness at all, when he has no connection with the Serbian Radical Party. But he is important because, through him, trial attorney Daniel Saxon was questioned about how statements are taken from witnesses.

██ is such a discredited witness that it is totally clear that he applied to be a witness for personal gain, and as for any information that he has, it is below the hearsay level.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-015, GORAN STOPARIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-015, Goran Stoparić, was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's role in recruiting and coordinating SRS/SČP volunteers

"Once at the front lines, the SRS/SČP volunteers were normally subordinated to the local command structure, i.e., the local Serb TO and/or JNA/VJ forces and the VRS/SVK forces." (footnote 73)

“More than once Šešelj told his volunteers that their task was to kill ‘Ustashas’ or ‘Turks’.” (footnote 78)

“As the armed conflict progressed, the lack of discipline and violent nature of some SRS/SČP volunteers became well-known, both on the battlefield and among the SRS leadership, including Šešelj.” (footnote 87)

Šešelj’s intent to participate in the JCE

“Šešelj personally visited SRS/SČP volunteer units and other Serb forces at the front lines on many occasions, (footnote 97) as well as parts of Vojvodina, Serbia (which borders Croatia), where non-Serbs were being persecuted.” (footnote 98)

“Kameni and other members of the detachment often visited the headquarters of the JNA’s First Guards Brigade in Vukovar to obtain orders, and First Guards Brigade Captains Radić and Zirojević often visited the detachment headquarters.” (footnote 200)

Crimes in Brčko

“Mile Bolero was President of the SRS party in Brčko.” (footnote 248)

“The SRS/SČP volunteers were involved in the attack on Brčko, and in the operation of the Luka camp. They had a reputation for killing and looting, and participated in rapes of women in the Luka camp.” (footnote 254)

“They received ammunition and other logistical support from the JNA.” (footnote 255)

Crimes in Mostar

“With the arrival of the reservists and volunteers, tensions between the ethnic groups increased and the first incidents of ethnic violence occurred. SRS/SČP volunteers were often involved in such incidents and were particularly prominent in acts of looting.” (footnote 350)

“Throughout the attack and in the time period that followed, all Serb forces acted in full co-ordination. The SRS/SČP volunteers were fully integrated in the local Serb TO, which in turn was subordinated to the JNA command.” (footnote 360)

“The JNA gave full logistical and material support to all of these troops, including the Red Berets.” (footnote 361)

Crimes in Nevesinje

“The SRS/SČP volunteers were fully integrated in the local Serb TO, which in turn was subordinated to the JNA command.” (footnote 384)

“JNA gave full logistical and material support to all of these troops in the region, including the Red Berets.” (footnote 385)

Crimes in Serbia – Hrtkovci

“Many SRS/SČP volunteers were recruited from Vojvodina.” (footnote 411)

“Eventually, Vojvodina would become an SRS stronghold.” (footnote 415)

“SRS members from the Šid municipality, an SRS stronghold, travelled to different towns and villages to harass and intimidate Croats.” (footnote 428)

“SRS members from Šid were organised to travel to other communities in Vojvodina, including Hrtkovci, to intimidate Croats there.” (footnote 452)

Legal Analysis

“With respect to Šešelj’s *mens rea* for planning the crimes in Hrtkovci, Šešelj’s intent is evident from his statements during meetings with SRS supporters and members prior to and during the persecution campaign in Hrtkovci, as well as the fact that the criminal actions encouraged by Šešelj during those meetings eventually took place in Hrtkovci.” (footnote 487)

“In addition, Šešelj ordered the crimes of persecution, deportation and forcible transfer in Hrtkovci during his meetings with associates and supporters in Vojvodina in 1991 and 1992, and, implicitly, in his speech in Hrtkovci on 6 May 1992. The intent of Šešelj to order the crimes in Vukovar and Hrtkovci can be inferred from the content of his speeches and discussions, and from the fact that the crimes subsequently occurred.” (footnote 496)

“Alternatively to the other modes of criminal liability contained in Article 7 (1), Šešelj aided and abetted all of the crimes charged in the indictment by his wilful and knowing contribution to the commission of the crimes. The required *mens rea* of Šešelj is evidenced by:

- his repeated visits to the battlefields and towns in Vojvodina such as Hrtkovci.” (footnote 521)

2. Summary of testimony for VS-015, Goran Stoparić

VS-015 will describe the organisation of the SRS party in his hometown in Serbia and the use of SRS party members from his hometown to harass and intimidate Croats in parts of Vojvodina, including Hrtkovci, during 1992. Witness VS-015 will describe the influence of Vojislav Šešelj on young Serb males. The witness will also describe the events in Vukovar in 1991, the visit of Šešelj to Vukovar, the cooperation

between SRS/SČP volunteers and members of the JNA, and the participation of SRS/SČP volunteers in the massacre at Ovčara farm in November 1991.

VS-015 will testify to the participation of SRS/SČP volunteers in an operation to secure the so-called “corridor” through Bosnia and Herzegovina connecting the Croatian Serb territories with Serbia. Prior to going into action, General Mladić addressed the volunteers and told them *inter alia* that “he didn’t care what we did in terms of the civilians, but we were not to harm civilians in Livno itself”. Mladić instructed SRS volunteers to remove their “Chetnik” insignia saying: “Carry this in your heart, not on your head.”

VS-015 will testify that Žika Cmogorac came to the Brčko area and selected men for training by the Red Berets. VS-015 will describe the relationship of the Red Berets to the other paramilitary and volunteer groups committing crimes in Bosnia and Herzegovina.

Paragraphs: 5-11, 15-18, 20-21, 24-31 (the following was dropped: part of paragraph 24; paragraph 25; part of paragraph 26; three parts of paragraph 27; paragraph 29 (c); paragraph 29 (d); paragraph 29 (f); paragraph 29 (h); paragraph 29 (i)).

Counts: all counts (Counts 2, 3, 5, 6 and 7 were dropped).

3. Content of testimony

The witness testified *viva voce* on 15, 16, 17, 22, 23 and 24 January 2008. Professor Vojislav Šešelj cross-examined him from 22 to 24 January 2008.

The witness was wounded in 1999 in Kosovo and Metohija and had the status of a disabled war veteran, but this status was subject to review, and he lost it when he failed to appear for the review of his status because he had moved abroad. Between 2000 and 2004 he lived on his invalidity benefit, which he says was about 50 euros per month, and the help he received from his two brothers in Šid. In 2004, he went abroad and was in the protection programme of the Hague Tribunal for two years, receiving monthly payment of about 900 euros. Then he got a job, and worked and received a salary for one year, and now, one year before his appearance in court, he has his own company.

The dilemma about the Hitler salute was resolved during cross-examination. The witness denied that he had said it like that, but he admitted that he had read through his statement where this is alleged quickly, because he wanted to leave as

soon as possible, since the interviews with Prosecution investigators were difficult and long.

It was resolved that the first rally of the Serbian Radical Party in Šid was on 15 May 1992, as part of the election campaign, and not in the summer of 1991, as the witness said in his statement. The Municipal Board of the Serbian Radical Party was established on 5 November 1991. This means that the witness could not have gone to the front either as a result of Professor Vojislav Šešelj's speech at the rally in the summer of 1991 or through the Serbian Radical Party.

The witness is proud of his participation in the war and does not think that he is part of a monstrous plan. His decision to go to war was not influenced by Professor Vojislav Šešelj's speech, but rather by his own patriotic feeling.

Asked whether he thought that Professor Vojislav Šešelj had lied to him and to others when he called for the defence of the Serbian Krajina, the defence of Republika Srpska, and the defence of Kosovo and Metohija, the witness said: I consider to this day that had fate made you president, everything might have looked a little different. Asked specifically whether he thought that Professor Vojislav Šešelj had lied, the witness said: I don't think you lied to us. You said what you felt, and it's up to us to believe you or not. I personally did believe you.

The witness clarified that his disappointment at the trial was caused by the allegation in his alleged statement that there was a monstrous plan linked to Slobodan Milošević, and that it was not about this.

The witness confirmed that he joined the Slavonia TO as a volunteer in the offices in Šid, and that these were not Serbian Radical Party offices. He confirmed that the Serbian Radical Party was established in Milenko Petrić's house. It was clarified that only in March 1992 did the Serbian Radical Party obtain premises in a building housing all political parties.

The witness confirmed that the training he received in Lipovača had nothing to do with the Serbian Radical Party and that various people presented themselves as Chetniks, but he had never heard that an organ of the Serbian Chetnik Movement held a session after 23 February 1991, when the Serbian Radical Party was formed. So the Serbian Chetnik Movement as a section never operated and acted independently, but rather the Serbian Radical Party did.

The witness confirmed that Kameni was from Vukovar, that he was a reserve officer of the JNA, that he participated in the fighting around Vukovar even before the

witness joined his unit, and that the Leva Supoderica unit had men from Vukovar, volunteers of the Serbian Radical Party, and various other volunteers.

It was resolved that cockades were not made by the Serbian Radical Party, and that they could be bought on the street, and that there were people who bought cockades and gave them to soldiers at the fronts. The importance of a cockade's design was relativised, especially the one with the skull and crossbones, which was out of fashion, although this was precisely the one that the witness had. It was confirmed that volunteers and reservists, about 90% of them, took the five-pointed stars off their helmets and put on other insignia, and in some units everyone had a cockade of his own choice. It was confirmed that Professor Vojislav Šešelj wore a cockade in his lapel.

The witness confirmed that during his speech in Vukovar Professor Vojislav Šešelj encouraged the soldiers, asked for discipline, and did not call for violence against civilians and prisoners. The witness confirmed that it was not exactly a speech, but rather Professor Vojislav Šešelj's conversation with the soldiers during his visit.

It was clarified that Professor Vojislav Šešelj had not said that bodies should be burned, but rather buried, because there was a risk of epidemics, or animals could tear the bodies apart. The Croatian paramilitaries had been killed in combat, that is, they were not victims of a crime.

Through the question that Professor Vojislav Šešelj was in Vukovar in November 1992 on the anniversary of the liberation of Vukovar, and that Radić, Šljivančanin, Professor Vojislav Šešelj and others met in Stanko Vujanović's café, which the witness confirmed, the dilemma of a witness who claimed that Professor Vojislav Šešelj was at a meeting with officers in Stanko's house in November 1991 was resolved. The witness confirmed that he was not aware of such a meeting taking place in November 1991. The witness remembers very well the throwing of a grenade at the house where Professor Vojislav Šešelj slept in November 1991, which the soldiers talked about.

The witness confirmed that Kameni was a strict commander, that he did not tolerate indiscipline, and that he did not order killings or torture, but he also confirmed that the only measure at his disposal was to remove someone from the unit, which he did with Topola.

The witness confirmed that volunteers returned to Serbia immediately after the liberation of Vukovar, but that he stayed because for him it was about 30 kilometres to Šid. The witness confirmed that some stayed in Vukovar of their own free will: Katić (got married and was in the TO), Mali Džo (opened a bookshop). It was also clarified that even if Katić had suggested that some should advance, this referred to the recommendation of the JNA, which decided on it, and the role of Ljubiša Petković was to communicate with the JNA part for mobilisation.

The witness described Kamení as someone who was against what happened at Ovčara and who always condemned it.

With regard to *Velepromet*, the witness confirmed that this place had nothing to do with the Leva Supoderica detachment, that people went there to get food, because the warehouses were there, and that the Leva Supoderica detachment stood guard on the first line, and never at *Velepromet*. Leva Supoderica was a combat unit. The witness confirmed that they handed prisoners over to the JNA, and then the JNA worked according to some kind of plan.

With regard to prisoners of war, the witness remembered only one incident with Topola, who had stolen a prisoner from *Velepromet* and taken him to a house where a soldier was celebrating St Archangel Day, which was on 21 November 1991, that is, after the liberation of Vukovar. The witness confirmed that he was at this patron saint's day celebration and that Kinež saved the prisoner from Topola. The witness confirmed the truth of the statements of bus drivers who took volunteers, mostly from the Serbian Radical Party, from Vukovar to Serbia. The witness also confirmed the procedure for crossing the borders, with all the checks.

The witness confirmed that he joined the Serbian Radical Party in early 1992 in Šid, in Milenko Petrić's house, but he thinks that he had signed the membership form while he was still in Vukovar. The witness remembers that Kamení joined the party and that he signed the membership form in Vukovar. The witness confirmed that membership was voluntary, and that nobody was required to join.

With regard to the next time that he went with the volunteers, the witness was not sure whether it was first with Branislav Vakić, or whether he had gone to Bihać before that.

The words from a Prosecution internal memorandum used for disclosing a witness statement to the accused were also discussed. The witness confirmed that he did not understand and did not use some newly-coined Croatian words.

The witness also clarified what it means when someone takes the oath, compared to the situation when they give a solemn declaration.

The witness remembered that he was Branislav Vakić's deputy in Trebinje, and that there was rivalry between Vakić and Ljuba Ivanović, who later left the unit. The witness remembered that he was at Ljuba Ivanović's funeral in Niš, and he corrected his previous statement that it was Professor Vojislav Šešelj's telegram of condolence that was read out, and not a message. Posthumous promotion or something similar was also discussed, because Professor Vojislav Šešelj never did that. Also described through this witness was the event that took place at the funeral of Mirko Lavadinović Vučo, who was a volunteer of the Serbian Radical Party and then joined Arkan, and this was the only case that Professor Vojislav Šešelj was at the funeral of someone who was not a volunteer of the Serbian Radical Party, and he met Arkan at the cemetery then.

The witness was of great help in clarifying all the details of the charges for Mostar and Nevesinje.

The witness was also valuable with regard to the multiethnic composition of Serbian Radical Party volunteers.

The witness also clarified that the Serbian Radical Party neither sent nor had volunteers in the territory of Brčko municipality. The only link with the party was humanitarian and other aid in food and cigarettes that came from Šid, but it was intended not only for the army, but also for the hospital and for others. While he was in Brčko in late 1992, the witness and his units provided help to Croatian units in Žepa for a month, pursuant to the order of the VRS in Brčko.

The opportunity was also used to present Professor Vojislav Šešelj's position regarding the fighting that broke out between the Croats and the Muslims. The leadership of Republika Srpska tried to establish cooperation with the Croats, but Professor Vojislav Šešelj criticised that and asked that the Serbs cooperate with the Muslims. This detail is important, because it challenges the allegations about the participants and purpose of the JCE.

The witness confirmed that he trained Muslims in Velika Kladuša for combat against other Muslims, and not against Croats.

In early 1993, the witness was expelled from the Serbian Radical Party for cooperation with State Security. The witness was led to say that the reason for his expulsion was that he did not respect the policy of the party, but he stood by his

answer that it was because there was suspicion that he cooperated with State Security. This part of the testimony of the Prosecution witness is important because it exposes the participants and therefore the purpose of the alleged JCE.

During the questioning of this witness, a story about the events planned to act as the finger on the trigger was introduced: [REDACTED]

[REDACTED]

About the events regarding the Kopic family from Kukujevac, or rather, as it later turned out, from Gibarac, [REDACTED] A property exchange contract from 1995 and a copy of the land register were presented, and it was shown that Kopic and Vujaklija were still on good terms, and that there had been no violence or threats. The Prosecution subsequently submitted documents about checks and refuted Stoparić's statement.

The relationship between the witness and Nataša Kandić since 2003 was specially analysed, particularly the fact that the witness, in addition to his frequent contacts with Nataša Kandić, admitted to the Mounted Police in one country that he brought to Nataša Kandić people who would change their statements for the court. The witness had keys to Nataša Kandić's apartment, and she put him in contact with people from the American Embassy.

Nataša Kandić sent messages to the witness during his testimony in The Hague (how are you, the Radicals are causing chaos).

The question of the Black Troikas and the Black Hand was discussed, and it was concluded that in Vojvodina it was not organised by the Serbian Radical Party. The witness tried to back out of that part of the testimony which he had been prepared for and entrusted with, that is, to make accusations for the area of Vojvodina, and as for all the other locations, to say whatever he knew, because in that part it was not possible to create a perfect lie.

The witness was shown his letter sent to a friend whom Professor Vojislav Šešelj had announced as a Defence witness.

It was also clarified that the rally in Kukujevci village was not held in 1991, but rather in 1993, and that Jovica Stegić, who sent a statement and a photocopy of his military booklet, could not possibly have been a sponsor, because he was in the RSK Army in Knin at the time. It was also clarified that there had been no expulsion, but rather the exchange of property between Serbs and Croats, with the help of the Roman

Catholic church. The witness confirmed that houses had not been set on fire or blown up, or damaged in other ways.

The witness was shown criminal records revealing that, between 1990 and 1999, he was sentenced 17 times in misdemeanour proceedings and several times in criminal proceedings for illegal possession of weapons. The witness was shown Ceca's statement from prison in Belgrade, where he accuses the witness of lying about their meeting in 2003, because Ceca had been arrested before that and he could not have possibly met the witness.

The witness admitted that he had been prepared as a witness in the *Milošević* case and that Judge May did not accept him.

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-004, [REDACTED]
[REDACTED], WITH PROTECTIVE MEASURES**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-004, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's role in recruiting and coordinating SRS/SČP volunteers

"The support, coordination and direction of these volunteers required that Šešelj be in contact with other members of the 'JCE', such as leading politicians and officials in the targeted territories and in Belgrade, including Milošević." (footnote 52)

Šešelj's intent to participate in the JCE

"Šešelj was aware of public accusations that SRS/SČP volunteers were committing crimes." (footnote 96)

Implementation of the JCE in Croatia – 4. SAO Western Slavonia

"Soldiers from Vojvodina, Serbia and BiH fought in Western Slavonia under the JNA. During 1991, Šešelj visited SRS/SČP volunteers as well as Serb military and political leaders in Western Slavonia and provided encouragement to the volunteers. During the last months of 1991, Serb control over territory in Western Slavonia gradually diminished in the face of counter-attacks by Croat forces. During this period, Serb forces in Western Slavonia, including SRS/SČP volunteers, committed crimes against civilians and destroyed Croatian property and religious objects." (footnotes 124, 125, 126 and 127)

Implementation of the JCE in Croatia – 5. Croatian Serb police and military structures

“By August 1991, local Serb TO, volunteer and police forces in these regions were being supplied, trained and partly led by the JNA and officials of the Serbian MUP, such as Jovica Stanišić, Franko Simatović, Radovan Stojičić, also known as 'Badža,' Željko Ražnatović, also known as 'Arkan,' and Radmilo Bogdanović.” (footnote 133)

Crimes in Voćin, August – December 1991

“Groups of SRS/SČP volunteers arrived by bus in Voćin during September, October, and November 1991 (many of them travelled through Banja Luka in BiH where the JNA Corps active in Western Slavonia was stationed) to reinforce the local Serb TO, and remained there.” (footnote 217)

“Šešelj came to Voćin and the Sekulinci camp and inspected his volunteer units.” (footnote 226)

“On 13 December as they withdrew, Serb forces, including SRS/SČP volunteers, assaulted the civilian non-Serb population, killing civilians in Hum and Voćin, burning homes, and blowing up buildings.” (footnote 232)

“For example, SRS/SČP volunteers massacred a group of civilians in Hum, executed a Croatian prisoner of war, planted explosives in the police station in Voćin, and blew up the Catholic church.” (footnote 233)

2. Summary of testimony

Promoting Greater Serbia: The witness will testify to Šešelj's public appearances and his notion of a homogeneous Greater Serbia. Greater Serbia would include all the so-called Serbian lands. Croats living within Greater Serbia would have to leave.

Killings in Voćin: The witness will describe the presence of paramilitary formations in Okučani and Voćin. He will provide the information he received about the killings committed in Voćin and the neighbouring villages and about the perpetrators. He was told by residents that “Šešelj's men” were responsible for the killing of civilians in Voćin in December 1991 and that Croat houses were pointed out to “Šešelj's men”. The witness himself observed the arrival of SRS/SČP volunteers in Western Slavonia, and was aware that Šešelj visited his volunteers in Voćin and that Šešelj's volunteer units were present in the area during the events.

Relationship between the SRS and the SDS: The witness will state that there were close contacts between the Serbian Democratic Party (SDS), the Socialist Party of Serbia (SPS), and the Radical Party of Serbia (SRS).

Arrival of Šešelj in Zvečevo: The witness will testify that Šešelj came to Western Slavonia in late October or early November 1991, specifically to Zvečevo and the region of Podravska Slatina. Šešelj was accompanied by Veljko Vukelić, the then commander of the Western Slavonia TO, who organised the deployment of Šešelj's volunteers. When Šešelj arrived in Zvečevo, he was with an entourage of 8 to 10 of his men. They were all wearing camouflage uniforms and Šešelj was armed with a pistol. Šešelj stated that he was going towards Podravska Slatina the following day to visit his men. The witness understood that Šešelj had come to the region to provide moral support to his people.

Activities of Šešelj and "Šešelj's men" in Western Slavonia: The witness will testify that in Western Slavonia, there were extreme Serb nationalists who appreciated Šešelj's radical nationalist stance and were influenced by what he said. Šešelj encouraged the use of the military option in his speeches. The people in Western Slavonia were promised that the army would come to protect them, but when "Šešelj's men" arrived many people, including Croats and Serbs, began leaving the area out of fear of "Šešelj's men". The witness describes the conduct of "Šešelj's men" as reflecting the attitude exhibited by Šešelj in his speeches: extremely negative, without tolerance and very arrogant. In addition, the witness will testify that he constantly saw Šešelj on television giving emotional speeches in which he routinely mentioned the Karlobag-Karlovac-Ogulin-Virovitica line as the western borders of Greater Serbia.

Paragraphs: 5-9, 10 b, c, d, e, g, 11, 12, 14-16, 17 a, j, 18, 19, and 31.

Counts: 1, 2-4, and 12-14.

3. Content of testimony

██████████ testified on 7, 12 and 13 February 2008, with protective measures. ██████████ is not a crime base witness, because Western Slavonia has been dropped from the indictment, but he can testify about the consistent pattern of conduct and, as part of that, about aspects of the JCE.

Important details from the testimony of 12 February 2008:

- Šešelj did not make derogatory comments about minorities, and his views were criticised in Serbia,

- rivalry and mutual recrimination between him and Arkan,

- the conflict between the police forces and the TO,

- volunteers started arriving in early October 1991, and they were all called SRS volunteers,

- the killing in Četekovac in September 1991, that is, one month before the arrival of the volunteers,

- the Prosecutor insisted on this with regard to the JCE, although there were no volunteers?

- 19 December 1991, the White Eagles and the killing in Hum, they were all referred to as "Šešelj's men", probably because Šešelj was the only politician from Serbia who came to Western Slavonia,

- the Serbs who had been driven out went via Banjaluka to Vojvodina, and there were cases of people coming to Hrtkovci,

- Professor Vojislav Šešelj has no connection with Lukić and Radosavljević,

- in the list of 78 suspects there are local Serbs, and the Croatian authorities assert that they are Chetniks, and it all relates to a period before the arrival of SRS volunteers,

- Croats from Vojvodina came to Croatia as volunteers or they exchanged their property,

- they could not exchange in the territory of Western Slavonia, because all the Serbian houses had been demolished or burned down,

- the question about Branko Popović, who later went to Zvornik.

Important details from the testimony of 13 February 2008:

- Radmilo Bogdanović was included in the story about arming to cover up for Dušan Pekić,

- ██████████ admitted that he had never told investigators that Professor Vojislav Šešelj was responsible for the killings in Voćin, or that he had ordered the killing,

- he never told investigators that the volunteers would have killed him if he had by any chance visited them, and if he spoke about this it related to Jovo Vezmar's threats,

- Šešelj did not present himself as the commander of the volunteers,

- there is not a single volunteer of the Serbian Radical Party in the list of 68 suspects of the crimes in Voćin,

- Šešelj never called for expulsion from Western Slavonia.

The Prosecution cannot use a single word from the testimony of this witness to support its charges against Professor Vojislav Šešelj. This is a good opportunity to repeat that virtually none of the witnesses confirmed in court the story which the Prosecution had commissioned and presented in the preliminary statements of these witnesses allegedly given to Prosecution investigators. Another submission is probably needed to list the parts of witness statements given to Prosecution investigators and cited in the Prosecution's Final Pre-Trial Brief which the witnesses did not repeat in court or which, during cross-examination, they denied ever having said to the Prosecution.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-013, MLADEN KULIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-013, Mladen Kulić, was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's intent to participate in the JCE:

"Šešelj personally visited SRS/SČP volunteer units and other Serb forces at the front lines on many occasions, (footnote 97) as well as parts of Vojvodina, Serbia (which borders Croatia) where non-Serbs were being persecuted."

Crimes in Croatia - Voćin, August – December 1991

"Groups of SRS/SČP volunteers arrived by bus in Voćin during September, October, and November 1991 (many of them travelled through Banja Luka in BiH where the JNA Corps active in Western Slavonia was stationed), to reinforce the local Serb TO, and remained there." (footnote 217)

"Šešelj came to Voćin and the Sekulinci camp and inspected his volunteer units." (footnote 226)

"He was accompanied by Veljko Vukelić and Ilija Sašić, local Serb TO commanders in Voćin, and Rajko Bojčić, who was associated with the local Serb TO in Voćin." (footnote 227)

"As they withdrew on 13 December 1991, Serb forces, including SRS/SČP volunteers, assaulted the civilian non-Serb population, killing civilians in Hum and Voćin, burning homes, and blowing up buildings." (footnote 232)

“For example, SRS/SČP volunteers massacred a group of civilians in Hum, executed a Croatian prisoner of war, planted explosives in the police station in Voćin, and blew up the Catholic church.” (footnote 233)

“Following the withdrawal, bodies of civilians were found strewn across Voćin. Victims were primarily elderly.” (footnote 234)

2. Summary of testimony for VS-013, Mladen Kulić

Nationalism: The witness will testify about the political situation in the former Yugoslavia in 1990 and 1991. He will explain how Milošević used the build-up of nationalism in other republics (Slovenia and Croatia) in order to strengthen Serbian nationalism.

SDS: The witness will testify to the rise of the SDS in Croatia and the role of its main players.

SAO Western Slavonia: The witness will speak about the formation of the SAO Western Slavonia on 31 October 1991 and its organs. He will specify its territory, including about 200 villages in ten municipalities, among them Pakrac, Slatina and Virovitica. He will speak about the relations between the SAO Western Slavonia, and later the RSK, and the SFRY.

Western Slavonia TO: The witness will testify that the Western Slavonia TO Main Staff was located in Zvečevo. The commanders of the Main Staff were: Veljko Vukelić, Milan Lončar and Colonel Jovan Trbojević (from the Novi Sad Corps). There was a TO HQ near Voćin (Sekulinci) which Boro Lukić led until 30 September 1991 when he was promoted to the Main Staff in Zvečevo and replaced by Boro Radosavljević. The witness will testify to the composition and operations of the Western Slavonia TO. At the end of 1991 about 3,000 TO soldiers and volunteers were deployed in the territory of Western Slavonia. The witness will describe the links between the Western Slavonia TO and the JNA. The JNA coordinated the supply of weapons, ammunitions and logistics. TO Main Staff and the Banja Luka JNA Corps commanders met constantly throughout 1991 and especially between September and December 1991.

JNA: The witness will testify to the role and composition of the JNA Banja Luka Corps in Western Slavonia, the location of its garrisons and its confrontations with the Croatian forces in 1991.

Ilija Sašić: Ilija Sašić was the representative of the RSK Government in Belgrade from the end of 1991 or beginning of 1992. The RSK offices in Belgrade were not diplomatic representations but acted more like liaison offices (“as if the RSK was part of Serbia”).

The witness will speak about the relationship between Ilija Sašić and Professor Vojislav Šešelj. When Šešelj came to visit Western Slavonia Sašić accompanied him. He will testify how Sašić received military support from the SFRY.

Presence of volunteers: The witness will testify that, in October 1991, the first volunteers arrived in Western Slavonia. Some wore “Chetnik” insignia. The TO commander in charge of them boasted about the arrival of these volunteers. The TO commander was in possession of a paper stating that these men were recruited in Belgrade and that Šešelj’s Serbian Radical Party (SRS) carried out the recruitment through the RSK Belgrade Office. Another five or six groups of volunteers of 40 to 50 people each arrived in Western Slavonia in October and November 1991. They had their own agenda and tended to operate independently from their TO commanders.

The witness will testify that, in November 1991, in a place called Miokovićevo (now Đulovac), located in the vicinity of Voćin, about 20 to 25 volunteers arrived from Ruma (Vojvodina) and were accommodated in the local motel. JNA Colonel Jovan Trbojević approved the arrival of these volunteers. It was common knowledge that volunteer groups had committed crimes previously.

The volunteers wore different kinds of uniforms and looked unkempt. They had long beards and hair and wore woollen caps bearing an insignia that was not familiar to the witness but was referred to as a “Chetnik” insignia. These soldiers came with their own weaponry and ammunition that were the same as the JNA ones such as *Zolja* and *Osa*. They also had private weapons, such as sniper rifles or hunting rifles.

The witness will testify that Serbian companies, political parties and the Orthodox Church financed the volunteers in Western Slavonia. Political parties like Šešelj’s Serbian Radical Party and the SDS distributed money to the volunteer groups and the JNA. The salary of the TO members came from the JNA.

Šešelj’s visit: The witness will testify to Šešelj’s visit to Voćin, Okučani and Đulovci in or around November 1991. He was in the company of Veljko Vukelić, Ilija Sašić and Rajko Bojčić. Šešelj took part in a meeting that the witness believes was held to discuss the deployment of volunteers in the territory.

Crimes in Western Slavonia: The witness will testify about his knowledge of crimes committed in Western Slavonia. He will speak of the killings of Croatian civilians in Četekovac, Balinci and Čojluk in September 1991 and the units involved in this. The witness saw one house in Voćin burned and saw a group of volunteers near the house that he believes were responsible. The witness will testify to the killing of four young Croatian civilians in Voćin on or around 4 December 1991. The victims were part of the "Working Brigade" formed and supervised by the TO.

The witness will describe that the local Serb population withdrew with the retreating Serb forces as a consequence of information reported by Serbian media that described the action of the Croatian forces and created panic amongst local Serbs.

The witness will testify to the killing of Croatian civilians in Voćin during the withdrawal of the Serb forces on 13 December 1991. The witness heard that "Chetniks" came to inquire if there were houses in the villages inhabited by Croats. Local Serbs pointed the Croatian houses out to the volunteers so they could enter and kill people.

Paragraphs 6-12, 14-19, 24-28, 31-32.

Counts: all counts.

3. Content of testimony

The witness testified *viva voce* on 4, 5 and 6 March 2008.

The witness was absolutely demolished and destroyed, with practically nothing of his testimony remaining, i.e. none of the allegations and claims that the Prosecution counted on can be accepted as having been corroborated by him.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-007, [REDACTED], [REDACTED], WITH PROTECTIVE MEASURES

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-007, [REDACTED], was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's participation in the JCE:

"Second, as the President of the SRS and the leader of the SČP, Šešelj oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of volunteers who often participated in crimes that resulted in the permanent forcible removal of non-Serbs from the targeted territories."
(footnote 8)

Šešelj's role in the recruitment and coordination of SRS/SČP volunteers:

"The primary goal of SRS/SČP volunteers operating in Vukovar, a town in Eastern Slavonia in Croatia, during 1991 was to "cleanse the area of Ustashas". The prevailing atmosphere, not surprisingly, was that every Croat was an "Ustasha" and any "Ustasha" who tried to surrender was immediately shot." (footnote 81)

"SRS/SČP volunteers agreed with the goal of creating Greater Serbia by using all necessary means, including violence, because they fervently believed in Šešelj." (footnote 84)

Šešelj's intent to participate in the JCE:

"Šešelj personally visited SRS/SČP volunteer units and other Serb forces at the front lines on many occasions, (footnote 97) as well as parts of Vojvodina, Serbia (which borders Croatia) where non-Serbs were being persecuted."

"As discussed below, while visiting Vukovar in November 1991, shortly before the city fell to Serb forces, Šešelj told an assembled group of SRS/SČP volunteers, members of the Serb TO, and the JNA: 'Not a single Ustasha must leave Vukovar alive.'" (footnote 103)

Crimes in Croatia – Voćin, August – December 1991:

"One SRS/SČP volunteer marched around Voćin holding the head of a Croatian victim." (footnote 224)

Crimes in Serbia – Hrtkovci, May – August 1992:

"As of 1990, Hrtkovci, a village in the Ruma municipality of Vojvodina, Serbia, was comprised of a majority of Croats with significant Hungarian and Serb minorities." (footnote 408)

"The SRS brought Serb refugees in buses to Vojvodina. These refugees were referred to Ostoja Sibinčić, an SRS member and associate of the Accused in Hrtkovci, (footnote 418) who would give them the addresses of houses owned by Croats."

"Non-Serbs were threatened over the telephone and in person. These included bomb threats against people's homes and the brandishing of weapons." (footnote 450)

"Groups of Serbs in Hrtkovci confronted Croats, demanding they "exchange" their houses. Bombs were thrown at their homes" (footnote 454).

Legal analysis:

"Alternatively to the other modes of criminal liability contained in Article 7(1), Šešelj aided and abetted all of the crimes charged in the indictment by his wilful

[REDACTED]

[REDACTED]

[REDACTED]

Paragraphs: 5-7, 10 a-e, g, 11, 15, 16, 17 a, e, h, j, 18-21, 27-29, 31.

Counts: 1, 2-4, 10, 11, 12-14.

3. Content of testimony

Witness VS-007, [REDACTED], testified with protective measures on 15, 16 and 17 April 2008, in closed session. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

**ANALYSIS OF THE TESTIMONY OF WITNESS VS-048, NEBOJŠA
STOJANOVIĆ**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, it is not known if VS-048, Nebojša Stojanović, is planned to be a Prosecution witness.

2. Summary of testimony for VS-048, Nebojša Stojanović

Recruitment: The witness will testify that in 1991 the Serbian media constantly reported on alleged incidents in Croatia, permanently sending the message that the Serbs in Croatia were endangered. He will describe how these reports worked in favour of Šešelj's political intentions, whereby the SRS was growing stronger and stronger. A lot of people were under the influence of Šešelj at the time. In spring 1991, Šešelj participated in a rally during which he boasted in his speech that his radicals had killed the Ustashas in Borovo Selo, he propagated the creation of a Greater Serbia along the Karlovac-Karlobag-Virovitica line and said that everyone who cherished Serb patriotism should go to Croatia and help their Serb brothers in the defence of Serbian land. As a result of that speech, the witness and other people subsequently enrolled as SRS volunteers.

Training Centre in Erdut: The witness will testify that in summer 1991 he got call-up letters for a military exercise. He was supposed to appear fully armed in Bujanj Potok. There he noticed a great number of volunteers waiting to be issued with uniforms from the JNA and he observed the departure of SRS volunteers to the front. From Bujanj Potok the witness was sent to the Erdut Training Centre. Shortly after his arrival the centre was taken over by Željko Ražnatović aka Arkan and his men. In August 1991, Šešelj, accompanied by three buses full of volunteers, arrived at the centre. Šešelj introduced himself to Arkan, they shook hands. Also Goran Hadžić was present. Šešelj had his volunteers lined up and gave a short speech, mentioning Greater Serbia and its boundaries, Karlovac-Karlobag-Virovitica, and called upon the audience to kill all Ustashas, because it was Serbian territory. Šešelj did not make any difference between Croatian civilians and armed Croatian forces, for him all Croats were Ustashas. The volunteers who had accompanied Šešelj looked scruffy, they wore

long beards and cockades. *Arkan* ordered that volunteers who wanted to stay had to shave and tidy up, otherwise they would be returned to Serbia.

Events in Vukovar, killing of Croats: The witness will testify about the events in Vukovar and the involvement of volunteers in them. He will speak about a TO unit commanded by *Kameni*. He will describe how members of this unit looted the houses in the area they controlled. For most of them, looting was the main reason to enrol as a volunteer. The witness will testify that *Kameni* was the first to issue an order for every Croat bearing arms to be killed on the spot and later he ordered that every Croat should be killed on the spot. Volunteers engaged in the cleansing openly claimed that they had killed Croats, armed or not, on the spot, because there was no time to take them to the collection centre at *Velepromet*. These Croats had surrendered and laid down their arms. They were literally slaughtered, the Chetniks first beat them up and then slit their throats.

Velepromet: The witness will testify that at the end of the fighting in Vukovar every day between 1,000 and 2,000 people had to undergo a check at *Velepromet*. All valuables and documents were seized from the Croats. Often Croats were maltreated by their former Serb neighbours. The witness observed a big man from *Kameni*'s unit who maltreated the Croatian detainees being taken for interrogation. The witness does not remember the name of that "Chetnik", whom he describes as a big man with a dark complexion, a beard, scruffy hair and a big knife. The witness will state that members of the Vukovar TO took Croat detainees out of *Velepromet* and then disappeared somewhere. The witness was present when two twin brothers disappeared overnight. Later the witness learned that they were killed. He observed a member of *Kameni*'s group taking out one Croat detainee and killing him on the spot. Another detainee, suspected of being a sniper, was beaten so badly with a rifle butt that the butt broke from the blows to his head. Then a "Chetnik" nicknamed "Kinez" killed him with a shot to the head.

Šešelj's visit to Vukovar: The witness will testify that he personally saw Šešelj when he visited Vukovar. Šešelj was accompanied by *Branislav Vakić* and *Kameni* and his men. Among *Kameni*'s men was also *Kinez*.

Vukovar hospital: The witness saw when Major Šljivančanin and his entire command had a meeting in the Vukovar hospital. The witness will testify who participated in that meeting.

Ovčara massacre: The witness was not at Ovčara; he learned about the massacre only a few days after the event. He learned that Kameni boasted “that the Croats from the hospital were taken to a place where they listen to the grass grow”, which means that they had been executed.

Paragraphs: 5-10, 15, 16, 17, a-d, h-j, 18, 20, 21, 24-26, 27, 28, 31.

Counts: all counts.

3. Content of testimony

The witness testified *viva voce* on 22 and 23 July 2008. He had been registered as a witness for the Defence as well, but appeared as a witness for the Prosecution in order to avoid problems. With regard to the Prosecution, he buried their case and caused a veritable scandal, so that Daniel Saxon of the Office of the Prosecutor also had to be questioned. He was a witness for the Defence to the end, and more or less refuted by valid arguments many of the allegations that the Prosecution had counted on this witness to corroborate.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-009, ALEKSANDAR STEFANOVIĆ

1. According to the Prosecution’s Final Pre-Trial Brief of 25 July 2007, VS-009, Aleksandar Stefanović, was planned as a Prosecution witness through whom the following was to be proven:

The creation and structure of the SRS:

“On 23 February 1991, Šešelj was elected President of the newly founded Serbian Radical Party.”(footnote 182)

2. Summary of testimony for VS-009, Aleksandar Stefanović

The witness will testify about the establishment and structure of the SRS and the organisation of the SČP. Many SRS members were also members of the SČP. Šešelj was the leader of both organisations and was the *vojvoda*, which means the military leader of all the “Chetniks”. The witness will testify to the close relationship between Šešelj and Milošević. He will describe Šešelj’s close relations with the State Security Service of Serbia. According to the witness, Šešelj used his propaganda linked to the idea of a “Greater Serbia” as a tool for achieving his political aims. His propaganda influenced thousands of people to volunteer to go to the front. The witness will testify to the involvement of the War Staff of the SRS in the recruitment and transfer of volunteers to the battlefields from April 1991 onwards. Šešelj often

gave a speech, before volunteers set out for the front, reminding them that 30 years earlier “Ustaša” had killed Serbs just because they were Serbs, and exhorted the volunteers not to let the story be repeated.

Paragraphs: 5-9, 10 a, b, c, e, f, g, 11-16, 17 a.

Counts: 1.

3. Content of testimony

The witness testified *viva voce* on 25 and 26 November 2008, via video link from Belgrade. He had been planned as a witness for the Prosecution but got in touch with the Expert Team for Preparation of the Defence and volunteered as a witness for the Defence, as he indeed demonstrated during his testimony. The witness seriously accused the Prosecution and the DOS /Democratic Opposition of Serbia/ authorities in Serbia which had forced him to get in touch with Prosecution investigators. He denied almost everything from his alleged statements given to the Prosecution, so that it is not clear whether the indictment still stands.

ANALYSIS OF THE PUBLIC TESTIMONY OF WITNESS VS-044, JOVAN GLAMOČANIN, VIA VIDEO LINK

1. According to the Prosecution’s Final Pre-Trial Brief of 25 July 2007, VS-044, Jovan Glamočanin, was not planned as a Prosecution witness.

2. There is no summary of evidence for VS-044, Jovan Glamočanin, as the Prosecution first decided not to call him as a witness and subsequently changed its mind.

3. Content of testimony

The witness testified on 10 and 11 December 2008, via video link from Belgrade. He volunteered to be a witness for the Defence, of which the Prosecution and the Trial Chamber were informed. His testimony was honest, inspired and served the Defence to prove that no JCE existed. The witness destroyed the Prosecution to such an extent that nothing remained of the charges the Prosecution had counted on.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-027, ██████████ ██████████, WITH PROTECTIVE MEASURES, IN CLOSED SESSION AND VIA VIDEO LINK

1. According to the Prosecution’s Final Pre-Trial Brief of 25 July 2007, VS-027, ██████████, was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's participation in the JCE:

“Second, as the President of the SRS and the leader of the SČP, Šešelj oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of volunteers who often participated in crimes that resulted in the permanent forcible removal of non-Serbs from the targeted territories.” (footnote 8)

Šešelj's role in the recruitment and coordination of SRS/SČP volunteers:

“The support, coordination and direction of these volunteers required that Šešelj be in contact with other members of the JCE, such as leading politicians and officials in the targeted territories and in Belgrade, including Milošević.” (footnote 51)

“In addition, Šešelj, directly and with the assistance of his subordinates in the SRS and SČP, coordinated the efforts and activities of SRS/SČP volunteers with other individuals and groups within the JCE, such as Radmilo Bogdanović, one-time Minister of the MUP of Serbia, Jovica Stanišić and Franko Simatović of the DB of the Serbian MUP, a high-ranking officer of the JNA, the VRS and the SVK, Milan Babić, the President of the SAO Krajina and subsequently RSK, Goran Hadžić, the President of the SAO SBWS and subsequently the President of the RSK, Milan Martić, the Minister of Internal Affairs of the RSK, Colonel Jovan Trbojević, commander of the TO for Western Slavonia, Radovan Karadžić, the President of the SDS of BiH and the President of Republika Srpska, and representatives of Serbia's Ministry of Defence and Ministry for Liaison with Serbs Outside of Serbia.” (footnote 58)

“The prevailing atmosphere, not surprisingly, was that every Croat was an “Ustasha” (footnote 80) and any “Ustasha” who tried to surrender was immediately shot.

Šešelj's intent to participate in the JCE:

“Šešelj personally visited SRS/SČP volunteer units and other Serb forces at the front lines on many occasions, (footnote 97) as well as parts of Vojvodina, Serbia (which borders Croatia) where non-Serbs were being persecuted.”

“As discussed below, while visiting Vukovar in November 1991, shortly before the city fell to Serb forces, Šešelj told an assembled group of SRS/SČP volunteers, members of the Serb TO and the JNA: “Not a single Ustasha must leave Vukovar alive.”(footnote 103)

Croatian Serb police and military structures:

“A large portion of the non-Serb population was eventually killed or forced from the occupied areas.” (footnote 140)

“When the Serb forces occupied the city, they (including SRS/SČP volunteers) killed hundreds of Croats.” (footnote 142)

Crimes in Croatia – Vukovar, November 1991:

“Šešelj told the gathering: “We are all one army. This war is a great test for Serbs. Those who pass the test will become winners. Deserters cannot go unpunished. Not one Ustasha must leave Vukovar alive. We have accepted the concept of a federal army so that there is no legal basis for interference of foreign powers in our conflict. The army is fighting rebel Croats. The army has shown that it was able to cleanse its ranks. We have a unified command consisting of military experts who know what they’re doing.”(footnote 202)

“When the buses containing the victims arrived at the JNA barracks near the *Velepromet* facility, heavily armed members of the local Serb TO, including the Leva Supoderica SRS/SČP detachment, ran around the buses and cursed the detainees inside. Kameni approached an officer of the JNA military police, who were guarding the buses, and demanded that the JNA “release these Ustashes”. The officer refused, but shortly thereafter, the buses left for the Ovčara farm. Major Šljivančanin, who was in charge, was present at the barracks, and reportedly organised their transfer there.”(footnote 206)

“The killings of at least two hundred and fifty-five Croats and other non-Serbs from the Vukovar hospital continued until 0100 hours on 21 November. Members of the local Serb TO, including the SRS/SČP volunteers (including members of Kameni’s detachment) participated in the killings.” (footnote 208)

Crimes in BH – Zvornik, April 1992 – September 1993:

“Over the coming weeks other municipalities also were taken over by Serb forces including Arkan’s men, the JNA and SRS/SČP volunteers.” (footnote 293)

“There is evidence of mass killings of non-Serb civilians in Zvornik – the bodies of 200 Muslims were recovered from the streets of Zvornik following the takeover and 750 men were massacred at the Karakaj Technical School in the second biggest massacre in BiH after Srebrenica.” (footnote 299)

“Throughout this time period, Šešelj was regularly provided with information by SRS officials around Zvornik. For example, Miroslav Vuković, also known as

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

“In addition, Šešelj, directly and with the assistance of his subordinates in the SRS and SČP, coordinated the efforts and activities of SRS/SČP volunteers with other individuals and groups within the JCE, such as Radmilo Bogdanović, one-time Minister of the MUP of Serbia, Jovica Stanišić and Franko Simatović of the DB of the Serbian MUP, (footnote 56) a high-ranking officer of the JNA, (footnote 57) the VRS and the SVK, Milan Babić, the President of the SAO Krajina and subsequently RSK, Goran Hadžić, the President of the SAO SBWS and subsequently the President of the RSK, Milan Martić, the Minister of Internal Affairs of the RSK, Colonel Jovan Trbojević, commander of the TO for Western Slavonia, Radovan Karadžić, the President of the SDS of BiH and the President of Republika Srpska, and representatives of Serbia’s Ministry of Defence and Ministry for Liaison with Serbs Outside of Serbia.”

“While at the front lines, volunteers received the same benefits as regular soldiers.” (footnote 70)

“Šešelj also used his special position of political and “moral” authority and hate speech to indoctrinate those who responded to his call to fight for “Greater Serbia.” (footnote 77)

Šešelj’s intent to participate in the JCE:

“In mid-1991, a written report about the undisciplined behaviour of SRS/SČP volunteers was made to the SRS Volunteer Detachment Staff, which was overseen by Šešelj.” (footnote 92)

“Commanders of SRS/SČP volunteer units and TO commanders often reported directly to Šešelj about events at the front lines and told him about crimes committed by volunteers.” (footnote 93)

“On other occasions, commanders of SRS/SČP volunteer units and TO commanders reported to the War Staff, who in turn informed Šešelj, in great detail, about events and the activities of the volunteers.” (footnote 94)

Parallel structures of Croatian Serbs in SAO Krajina:

“By August 1991, local Serb TO, volunteer and police forces in these regions were being supplied, trained and partly led by the JNA and officials of the Serbian MUP, such as Jovica Stanišić, Franko Simatović, Radovan Stojičić, also known as Badža, Željko Ražnatović, also known as Arkan, and Radmilo Bogdanović.” (footnote 133)

Crimes in BH – the general area of Sarajevo:

[REDACTED]

Paragraphs: 5-9, 10 a-g, 15, 16, 17 a, i, 18, 22, 24, 28, 29 b, e, 31-33.

Counts: 1-11.

3. Content of testimony

The witness was scheduled to testify on 30 March 2010. He appeared in the courtroom, but he did not testify [REDACTED] [REDACTED] the Trial Chamber [REDACTED] decided not to hear this witness, which certainly is an unheard-of scandal.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-017, ZORAN RANKIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, VS-017, Zoran Rankić, was planned as a Prosecution witness through whom the following was to be proven:

Šešelj's participation in the JCE:

"Second, as the President of the SRS and the leader of the SČP, Šešelj oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of volunteers who often participated in crimes that resulted in the permanent forcible removal of non-Serbs from the targeted territories." (footnote 8)

Šešelj's role in recruiting and coordinating SRS/SČP volunteers:

"Under the direction of Šešelj, the SRS War Staff dispatched thousands of volunteers to fight for Serb control over areas in Croatia and BH." (footnote 50)

"The support, coordination and direction of these volunteers required that Šešelj be in contact with other members of the Joint Criminal Enterprise, such as leading politicians and officials in the targeted territories and in Belgrade, including Milošević." (footnote 51)

"In addition, Šešelj, directly and with the assistance of his subordinates in the SRS and SČP, coordinated the efforts and activities of SRS/SČP volunteers with other individuals and groups within the JCE, such as Radmilo Bogdanović, one-time Minister of the MUP of Serbia, Jovica Stanišić and Franko Simatović of the DB of the Serbian MUP, a high-ranking officer of the JNA, the VRS and the SVK, Milan Babić, the President of the SAO Krajina and subsequently RSK, Goran Hadžić, the President of the SAO SBWS and subsequently the President of the RSK, (footnote 60) Milan Martić, the Minister of Internal Affairs of the RSK, (footnote 61) Colonel Jovan Trbojević, commander of the TO for Western Slavonia, Radovan Karadžić, the President of the SDS of BiH and the President of Republika Srpska, and

representatives of Serbia's Ministry of Defence (footnote 64) and Ministry for Liaison with Serbs Outside of Serbia."

"Once at the front lines, the SRS/SČP volunteers were normally subordinated to the local command structure, i.e., the local Serb TO and/or JNA/VJ forces and the VRS/SVK forces." (footnote 73)

"The volunteers, however, considered Šešelj to be their supreme commander." (footnote 74)

"More than once Šešelj told his volunteers that their task was to kill 'Ustashas' or 'Turks'." (footnote 78)

"When Šešelj was informed of the atrocities committed in Vukovar by one of the SRS/SČP volunteers, a man called Topola, Šešelj responded: 'What can I do now? Disarm the man and send him home. He is tired.'" (footnote 88)

Šešelj's intent to participate in the JCE:

"Šešelj knew or must have known that his inflammatory speeches and public appearances at the battlefield would provoke Serb SRS/SČP soldiers and volunteers to commit violent acts." (footnote 91)

"In mid-1991, a written report about the undisciplined behaviour of SRS/SČP volunteers was made to the Volunteer Detachment Staff, which was overseen by Šešelj." (footnote 92)

"Commanders of SRS/SČP volunteer units and TO commanders often reported directly to Šešelj about events at the front and told him about crimes committed by volunteers." (footnote 93)

"On other occasions, commanders of SRS/SČP volunteer units and TO commanders reported to the War Staff, who in turn informed Šešelj, in great detail, about events and the activities of the volunteers." (footnote 94)

"Šešelj and members of the War Staff exchanged information with the Serbian DB, the JNA/VJ, Serbia's MOD and Serbia's Ministry for Liaison with Serbs Outside of Serbia." (footnote 95)

"Šešelj personally visited SRS/SČP volunteer units and other Serb forces at the front on many occasions, (footnote 97) as well as parts of Vojvodina, Serbia (which borders Croatia) where non-Serbs were being persecuted."

"Šešelj did not take steps to correct these problems or condemn them. He never directed the members of the SRS or the SČP to respect the Geneva

Conventions or other rules of international humanitarian law, and never distanced himself from the ongoing persecution of non-Serbs in any way.” (footnote 101)

“As discussed below, while visiting Vukovar in November 1991, shortly before the city fell to Serb forces, Šešelj told an assembled group of SRS/SČP volunteers, members of the Serb TO and the JNA, ‘Not a single Ustasha must leave Vukovar alive.’” (footnote 103)

The creation and structure of the SRS:

“On 23 February 1991, Šešelj was elected President of the newly founded Serbian Radical Party.”(footnote 182)

“Šešelj served as the leader of both organisations and made all important decisions concerning the policies and operations of the SRS and the SČP.” (footnote 186)

“The War Staff met daily or weekly to discuss the organisation of volunteer units and their dispatch to the front lines.” (footnote 189)

“Šešelj either attended the meetings of the War Staff or was informed of them.” (footnote 190)

Crimes in Croatia

Vukovar, November 1991:

“On or about 12 November 1991, Šešelj came to Vukovar in order to visit the volunteers and boost their morale. A meeting took place that evening in a house at Ulica Nova 81, which was used as a command post by members of the JNA and the local Serb TO. Present were Šešelj and other leaders of the SRS, JNA officers such as Major Veselin Šljivančanin, Captain Miroslav Radić and Captain Bojkovski, Stanko Vujanović, the commander of the 1st TO Detachment, Miroљjub Vujović, a member of the Vukovar TO Staff, and a number of SRS/SČP volunteers, including Kameni.” (footnote 201)

Šešelj told the gathering:

“We are all one army. This war is a great test for Serbs. Those who pass the test will become winners. Deserters cannot go unpunished. Not one Ustasha must leave Vukovar alive. We have accepted the concept of a federal army so that there is no legal basis for interference of foreign powers in our conflict. The army is fighting rebel Croats. The army has shown that it was able to cleanse its ranks. We have a

unified command consisting of military experts who know what they're doing.”
(footnote 202)

Crimes in BH

Bosanski Šamac, April 1992 – September 1993:

“On 11 April 1992, a group of DB-trained and armed SRS/SČP volunteers led by “Debeli” arrived by JNA helicopter in Batkuša, near Bosanski Šamac, to spearhead the takeover of the municipality. Their commanders were Dragan Đorđević (aka Crni), Debeli, and Slobodan Miljković (aka Lugar) of the Serbian DB.” (footnote 263)

Zvornik, April 1992 – September 1993:

“In early April 1992, the Accused approved a request to send SRS/SČP volunteers to Zvornik, (footnote 283), and SRS leaders brought SRS/SČP volunteers from Loznica, Serbia, to Zvornik.” (footnote 284)

“Soon after the takeover, Šešelj went to Zvornik or Mali Zvornik where he spoke at an SRS rally.” (footnote 292)

“Šešelj and the SRS War Staff were informed of developments on the battlefield and the performance of SRS/SČP volunteers.” (footnote 295)

“Throughout this time period, Šešelj was regularly provided with information by SRS officials around Zvornik. For example, Miroslav Vuković, also known as Čele, a leader of SRS/SČP volunteers in Zvornik, would call Šešelj from the front lines or send messages through intermediaries.” (footnote 308)

The general area of Sarajevo:

“Gavrilović also discussed with Aleksić the recruitment of more SRS/SČP volunteers.” (footnote 342)

“While in Sarajevo in 1991, Gavrilović received his orders from the main SRS office in Belgrade, and on several occasions he met directly with Šešelj in Belgrade.” (footnote 343)

Crimes in Serbia

Hrtkovci, May – August 1992:

“Eventually, Vojvodina would become an SRS stronghold.” (footnote 415)

Legal analysis

“Alternatively to the other modes of criminal liability contained in Article 7(1), Šešelj aided and abetted all of the crimes charged in the indictment by his

wilful and knowing contribution to the commission of the crimes. The required *mens rea* of Šešelj is evidenced by:

- his repeated visits to the battlefields and towns in Vojvodina such as Hrtkovci, (footnote 521)

- his continuing to dispatch volunteers to the front lines even while knowing they committed crimes, (footnote 522)

- his failure to discipline volunteers for the commission of crimes.”(footnote 524)

3. Content of testimony

Zoran Rankić testified *viva voce* on 11 and 12 May 2010. During his testimony the witness denied all the allegations from the statements which the Prosecution represented as his statements given to Prosecution investigators. He did not confirm a single fact for which the Prosecution had counted on this witness, and he refuted everything with sensible answers which corresponded to well-known facts. Everything that the Prosecution intended to do with its witnesses, i.e. to pressure and threaten witnesses into repeating in the courtroom the text of previously commissioned statements, was proved by the example of this witness. This witness is also interesting because of the sort of torture he was subjected to in contacts with Prosecution investigators, and this will be the subject of special contempt of court proceedings conducted against the most responsible persons from the Office of the Prosecutor.

ANALYSIS OF THE TESTIMONY OF WITNESS VS-032, NENAD JOVIĆ

1. According to the Prosecution’s Final Pre-Trial Brief of 25 July 2007, VS-032, Nenad Jović, was planned as a Prosecution witness through whom the following was to be proven:

Šešelj’s role in the recruitment and coordination of SRS/SČP volunteers:

“The volunteers, however, considered Šešelj to be their supreme commander.”
(footnote 74)

Šešelj’s intent to participate in the JCE:

“Commanders of SRS/SČP volunteer units and TO commanders often reported directly to Šešelj about events at the front lines and told him about crimes committed by volunteers.” (footnote 93)

Crimes in BH

Zvornik, April 1992 – September 1993:

“The takeover of Zvornik town occurred between 8 and 9 April 1992 when Serb forces, including Arkan’s men, SRS/SČP volunteers, local Serb TO and police attacked and took over the town. The attack was supported by JNA shelling the town from Serbia and the Serbian TO from Loznica. Many non-Serb civilians were killed during the takeover.” (footnote 291)

“There is evidence of mass killings of non-Serb civilians in Zvornik – the bodies of 200 Muslims were recovered from the streets of Zvornik following the takeover, (footnote 297) and 750 men were massacred at the Karakaj Technical School in the second biggest massacre in BiH after Srebrenica.”

“Around 30 May 1992, a group of SRS/SČP volunteers took charge of the detainees in the *Ciglana* factory and forced them to plunder and loot houses in Zvornik. Throughout this time period, Šešelj was regularly provided with information by SRS officials around Zvornik.” (footnote 307)

2. Witness Nenad Jović testified on 6 and 7 July 2010. The witness had informed earlier that he wished to be a witness for the Defence, and his entire testimony consisted of refuting or explaining the claims of the Prosecution which are represented in Prosecution materials as the witness’ statements or testimony.

EXPERT WITNESSES

The Prosecution counted on the following expert witnesses:

1. Colonel Ivan Grujić (Croatian refugees),
2. Professor Anthony Oberschall (hate speech),
3. Dr Andras Riedlmayer (destruction of religious facilities),
4. Dr Zoran Stanković (forensic medicine),
5. Dr Davor Strinović (forensic pathologist),
6. Osman Kadić (forensic pathologist),
7. Dr Ewa Tabeau (demographer),
8. Reynaud Theunens (military analyst),
9. Yves Tomić (historian),
10. VS-1112, ██████████ (intercepted conversations).

The Trial Chamber decided that Colonel Ivan Grujić be replaced by:

- Višnja Bilić, who testified *viva voce* on 18 and 19 November 2008, as the 52nd witness, and

- Anamarija Radić, who testified *viva voce* on 20 November 2008, as the 54th witness.

The following testified in the courtroom:

- Professor Anthony Oberschall, hate speech, as the 1st witness, on 11, 12 and 13 December 2007, *viva voce*,

- Andras Riedlmayer, destruction of cultural heritage, as the 21st witness, on 21, 22, 27 and 28 May 2008, *viva voce*,

- Dr Zoran Stanković, forensic pathologist, as the 66th witness, on 15 January 2009, *viva voce*,

- Dr Davor Strinović, forensic pathologist, as the 50th witness, on 11 November 2008, *viva voce*,

- Dr Ewa Tabeau, demographer, as the 44th witness, on 21, 22 and 23 October 2008, *viva voce*,

- Reynaud Theunens, military expert, as the 5th witness, on 14, 19, 20, 21, 26, 27 and 28 February 2008, *viva voce*,

- Yves Tomić, historian, as the 3rd witness, on 29 and 30 January 2008, and 5 and 6 February 2008, *viva voce*,

- VS-1112, ██████████, intercepted conversations, as the 34th witness, on 8, 9, 10, 15 and 16 July 2008, protected witness,

- Osman Kadić, doctor, did not testify.

ANALYSIS OF THE TESTIMONY OF EXPERT WITNESS YVES TOMIĆ

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, Yves Tomić was planned as a Prosecution expert witness through whom the following was to be proven:

Introduction:

Although the process varied from place to place, the takeovers achieved the common goal of establishing Serb control in the targeted territories. Šešelj participated in this process by:

a) publicly and systematically promoting the establishment by force of a unified Serb-dominated state known as "Greater Serbia" with its western borders

along the “Karlobag-Karlovac-Ogulin-Virovitica line”, thereby including wide parts of Croatia and BiH. (footnote 4)

Participation of the Accused in the JCE:

First, the Accused used his power and popularity as a politician to constantly promote the goal of the creation of a Serb dominated “Greater Serbia” by force in the media and directly to the public, and to create a climate of ethnic fear and hatred that prepared the ground for the crimes alleged.

Second, as the President of the SRS and the leader of the SČP, Šešelj oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of volunteers who often participated in crimes that resulted in the permanent forcible removal of non-Serbs from the targeted territories. (footnotes 5, 7 and 8)

On page 5, footnote 12, it is written that the word “Ustasha” is a derogatory term suggestive of the fascist government of Croatia in the Second World War.

The creation and structures of the Serbian Radical Party:

As its leader, Šešelj directed the SČP as a military party organisation that followed the military traditions and the political objectives of the earlier Chetnik movement that was active during the Second World War. (footnote 191)

2. According to the summary of the testimony of 29 March 2007, the Prosecution planned to prove its allegations from the indictment for all counts from 1 to 14 and paragraphs from 1 to 10 through the testimony of expert witness Yves Tomić.

He will testify to the origin, development and nature of Serbian nationalism, especially the “Greater Serbia” ideology and the Serbian Chetnik Movement during the 19th and 20th centuries.

3. Yves Tomić testified *viva voce* on 29 and 30 January 2008 /and/ on 5 and 6 February 2008.

In the cross-examination this witness was demolished, crushed and belittled as a would-be historian to such an extent that nothing remained of his expert report and testimony. He simply demonstrated ignorance. His ignorance was all the more tendentious and simply offensive because he

represented the pearls and pride of the Serb nation as the protagonists of a criminal policy with criminal objectives. Vuk Karadžić, Ilija Garašanin, Stevan Moljević, Slobodan Jovanović, Draža Mihailović and the SANU were criticised by the expert as the architects and followers of national policy.

In point of fact, the expert was unable to list relevant sources of information for his positions.

The only one who advocated positions on a Greater Serbia was Professor Vojislav Šešelj and his Serbian Radical Party. No one else either supported or advocated it, while many objected from the outset and not only criticised but in fact persecuted Professor Vojislav Šešelj on that account.

ANALYSIS OF THE TESTIMONY OF EXPERT WITNESS REYNAUD THEUNENS

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, expert witness Reynaud Theunens was planned as a Prosecution witness through whom the following was to be proven:

Introduction:

Although the process varied from place to place, the takeovers achieved the common goal of establishing Serb control in the targeted territories. Šešelj participated in this process by:

a) publicly and systematically promoting the establishment by force of a unified Serb-dominated state known as "Greater Serbia" with its western borders along the "Karlobag-Karlovac-Ogulin-Virovitica line", thereby including wide parts of Croatia and BiH. (footnote 4)

Participation of the Accused in the JCE:

First, the Accused used his power and popularity as a politician to constantly promote the goal of the creation of a Serb dominated "Greater Serbia" by force in the media and directly to the public, and to create a climate of ethnic fear and hatred that prepared the ground for the crimes alleged.

Second, as the President of the SRS and the leader of the SČP, Šešelj oversaw the recruitment, indoctrination, financing, training, formation, coordination, supply and assignment of units of "volunteers" who often participated in crimes that

resulted in the permanent forcible removal of non-Serbs from the targeted territories.(footnotes 5, 7 and 8)

On page 5, footnote 12, it is written that the word “Ustasha” is a derogatory term suggestive of the fascist government of Croatia in the Second World War.

The creation and structures of the Serbian Radical Party:

As its leader, Šešelj directed the SČP as a military party organisation that followed the military traditions and the political objectives of the earlier “Chetnik” movement that was active during the Second World War. (footnote 191)

2. According to the summary of the testimony of 29 March 2007, the Prosecution planned to prove its allegations from the indictment for all counts from 1 to 14 and paragraphs from 1 to 10 through the testimony of expert witness Reynaud Theunens.

3. Reynaud Theunens testified *viva voce* on 14, 19, 20, 21, 26, 27 and 28 February 2008.

The witness, who is at the same time employed in the Prosecutor’s Office, tried, as some kind of an expert, to portray Professor Vojislav Šešelj’s role in the JCE through the organisation of the Serbian Radical Party and the Serbian Chetnik Movement, as consisting of the following:

- overseeing the recruitment,
 - indoctrination,
 - financing,
 - training,
 - formation,
 - coordination,
 - supply, and
 - assignment of volunteer units,
- which frequently participated in crimes resulting in the permanent forcible removal of non-Serbs from the targeted territories.

Thus, the organisation of the Serbian Radical Party and the Serbian Chetnik Movement was represented as a channel through which volunteer units departed for

the battlefield, where they committed crimes, the objective being the permanent removal of non-Serbs.

As there is no evidence to that effect, that is, since there did not exist a single independent volunteer unit under the control of the Serbian Radical Party, and as not a single piece of evidence exists to show that a Serbian Radical Party volunteer committed a crime, the participation of Serbian Radical Party volunteers in armed actions with members of some other units from the corpus of the Serb forces who committed a crime has been resorted to.

That is obviously the principal theme, and this expert only served to articulate the situation in order for volunteers from some other unit within the corpus of the Serb forces to be possibly accused of a crime, which would be quite sufficient.

In addition to demolishing the credibility of this witness, who publicly demonstrated himself to be ridiculously ignorant, during cross-examination other objectives which touch upon the very essence of the charges for the JCE were accomplished as well.

First of all, we insist that the witness failed to prove any illegality in respect of the regulations on defence and the army. That is, the witness failed to present a single piece of evidence that the Serbian Radical Party or the Serbian Chetnik Movement had done anything in contravention of the regulations on defence and the army. It is difficult to prove and believe that compliance with JNA regulations can give rise to a criminal organisation.

In that sense, it is important that the Crisis Staff, and then also the War Staff of the Serbian Radical Party can on no account be represented as a paramilitary institution, nor even as a military institution. Drawing up lists of persons and sending and transporting them to the responsible JNA command can on no account be a punishable act. If this were unlawful, then the send-off of recruits organised by a municipality, or the organising of farewell parties for sons leaving for their military service, or a party calling upon its members and sympathisers to donate badly needed blood for surgery and taking them to the blood bank would all be unlawful.

Secondly, the lists drawn up by the Serbian Radical Party comprised only persons who had done their military service and had military service booklets. The same is required of other persons during mobilisation. The JNA manned its units according to its plans, which varied depending on numerous circumstances affecting

manning. One of the legal variants for manning was cooperation with other actors in the defence system.

Formerly, in the single-party system, this was the League of Communists, while following its demise its place was filled by all the registered political parties active in the multi-party system. Ergo, nothing unlawful there either.

Every Serbian Radical Party volunteer had his wartime service entered in his military service booklet, and their pay was identical to that of any mobilised reservist.

They were clothed and armed by the JNA or another organisational form within the JNA.

Volunteers of the Serbian Radical Party were almost always deployed on the front lines, and never or seldom in the rear.

Volunteers of the Serbian Radical Party, as members of units, always received orders and commands from the responsible JNA officers or other responsible commands.

The Serbian Radical Party never even sent its volunteers to some of the locations referred to in the indictment, such as Bosanski Šamac, Brčko, Bijeljina and Sarajevo. The fact that someone who was a member of the Serbian Radical Party went to those or some other locations of their own accord has nothing whatsoever to do with the Serbian Radical Party and Professor Vojislav Šešelj.

Not a single piece of evidence has been presented to show that the Serbian Radical Party or Professor Vojislav Šešelj issued any orders or commands. Those who issued orders and commands at each of the locations referred to in the indictment are known, and they were always the responsible commands of the relevant army: the JNA, the VRS, or the VRSK.

The witness also attempted to ascribe responsibility to Professor Vojislav Šešelj in the matter of the discipline and indiscipline of Serbian Radical Party volunteers on the battlefield, without, however, being able to refer to any punishments that the Serbian Radical Party could possibly pronounce, except for expulsion from the party. Topola was cited as an example, with all Prosecution witnesses stating that he had been removed by the unit commander when word reached him of what he had done.

The locations that volunteers of the Serbian Radical Party went to separately from the JNA up until July 1991 are not in the indictment at all, although there were armed conflicts (Borovo Selo). In the second half of 1991 and up until 19 May 1992,

volunteers of the Serbian Radical Party were always part of JNA or TO units under the command of the JNA. Thus, Vukovar and Voćin in Croatia /were/ under the command of the JNA.

In Zvornik, volunteers of the Serbian Radical Party were within the framework of the JNA from 7 April to 26 April 1992, and they withdrew to Serbia together with the JNA.

Volunteers of the Serbian Radical Party were in Mostar until 19 May 1992, and they withdrew from Mostar with the JNA.

After 19 May 1992, volunteers of the Serbian Radical Party were part of units of the Army of Republika Srpska.

In Sarajevo, members of the Serbian Radical Party from Sarajevo were mobilised and assigned to units of the Army of Republika Srpska.

From the standpoint of participation in the JCE, the time frame of the commission of the crimes is also of interest, namely:

- Mostar, crime committed on 13 June 1992, while volunteers of the Serbian Radical Party had left Mostar before 19 May 1992,

- Nevesinje, crimes committed predominantly in villages belonging to Mostar municipality, between Mount Velež and Boračko Lake, while there were no Serbian Radical Party volunteers in Nevesinje. Vakić's group participated in the fighting at Podveležje (35 kilometres away from the scene of the crime), where it sustained heavy losses over several days of fighting,

- Zvornik, alleged crimes committed in May and June 1992, predominantly in detention facilities, while Serbian Radical Party volunteers had withdrawn from Zvornik with the JNA on 26 April 1992.

- Vukovar, the crime at Ovčara took place between 20 and 21 November 1991, while Serbian Radical Party volunteers had returned their weapons and set off in buses towards Belgrade and places in Serbia on 18 and 19 November 1991.

Everybody was said to be a volunteer of the Serbian Radical Party, and the culmination was when Kameni /from/ Vukovar and a JNA reserve officer, was presented as a volunteer even though he was not a member of the Serbian Radical Party. Professor Vojislav Šešelj's attitude towards Arkan and others demonstrates that coordinated action with his units or with the units of Vuk Drašković had in fact never been possible. During the testimony of this witness, voluminous documentation

pertaining to Sarajevo was presented, from which it is easily ascertainable that Vaske's, Brne's and Slavko's units were comprised within the VRS.

**ANALYSIS OF THE TESTIMONY OF EXPERT WITNESS ANDRAS
RIEDLMAYER**

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, expert witness Andras Riedlmayer was planned as a Prosecution witness through whom the following was to be proven:

Crimes in BH

Zvornik, April 1992 – September 1993

“At the Čelopek Cultural Centre, Serb forces, including SRS/SČP volunteers, forced Muslim men to engage in sexual activity. Most, if not all, of the mosques in Zvornik were destroyed.” (footnote 302)

The general area of Sarajevo: “Non-Serb property and cultural monuments were systematically plundered, looted and/or destroyed.” (footnote 310). “Vidović and his men killed non-Serbs and looted. They were also involved in the destruction of the mosques throughout the municipality.” (footnote 330)

Nevesinje: “Seven mosques and all the mesdžids were destroyed in Nevesinje municipality between June and July 1992.” (footnote 393)

2. Summary of testimony for Dr Andras Riedlmayer

The witness directs the Documentation Center of the Aga Khan Program for Islamic Architecture at the Fine Arts Library, Harvard University, and is a recognised expert on the cultural heritage of the Ottoman-era Balkans. The witness will testify as an expert to the destruction of cultural and religious property in specified communities in Croatia and Bosnia and Herzegovina between 1991 and 1993. The religious and cultural sites he surveyed included, but were not limited to, places of worship, libraries, educational buildings and cultural and historical sites. In addition to a careful inspection of each of the sites visited, an effort was made to collect pre-war and post-war photographs and other information from the local community and from other sources.

The witness has prepared a written statement in accordance with Rule 94 *bis*, which will be filed in due course.

Paragraphs: 31 and 32.

Counts: 12-14.

3. Content of testimony

The expert witness testified *viva voce* on 21, 22, 27 and 28 May 2008. He had testified in the Milošević case earlier. His expert report was extremely one-sided. According to its main title, the report referred to the destruction of the cultural heritage in Bosnia and Herzegovina, with the sub-title specifying that it referred to Roman Catholic and Islamic buildings. The explanation that buildings of the Serbian Orthodox Church were not included because Professor Vojislav Šešelj was not charged with the destruction of those buildings, and that he could possibly use this in leading evidence in the defence case, is unacceptable in view of the judicial role of the Prosecution.

The entire report and testimony were based on the travelogue method, making use of a camera and notes on what his collocutors told him during the tour. The intention of the Prosecution and of the witness was to prove that places of worship were in fact destroyed by Serb forces after the fighting, i.e. that these structures were destroyed intentionally as part of a policy to remove traces of buildings attesting to the existence of Muslims and Croats in specific areas. Although allegedly trying to be objective, the witness made entries on the dates of destruction and persons allegedly responsible for it for a large number of buildings as well. He simply represented every building as cultural heritage.

He classified damage to buildings in five categories. The expert witness did not include localities from the indictment for Croatia in his report, because the Prosecution had not in fact charged him with that task.

The status of the expert witness, and in particular his impartiality and objectivity, were contested in the cross-examination, as it was shown that he was biased and had, before his expert testimony, publicly spoken and commented on events not only in a prejudiced manner but also using data established to be incorrect, which he even admitted in the courtroom. No causal link with volunteers of the Serbian Radical Party could be established for a single building, and in respect of almost all the structures it has been established that there were no Serbian Radical Party volunteers on that territory at the time of their destruction.

As the judges were informed, the witness was biased and non-objective in his presentations before a Congressional Committee and he testified in favour of Bosnia

and Herzegovina before the International Court of Justice in The Hague in the case brought against Serbia for genocide, where he deliberately misstated the date on which the mosque in Bijeljina was demolished, and he is also known for his published anti-Serbian texts. The cross-examination of Andras Riedlmayer, expert on the cultural and historical heritage of BH, on 28 May 2008 showed that this expert witness was biased, non-objective, superficial, and motivated by self-interest. Evidence of this is the transcript with the following questions, answers and observations:

Professor Vojislav Šešelj: "Genocide in Bosnia and Herzegovina: Hearing before the Commission for Security and Cooperation in Europe, relevant pages" and then the same thing in English. And I was handed this document yesterday.

So, it's not the OSCE, the international organisation which goes by that acronym, but it's rather a US Congressional Commission on Security and Cooperation in Europe. But perhaps these questions could be asked of Mr. Riedlmayer, since he's in a better position to give a statement in that connection.

Professor Vojislav Šešelj: Mr. Riedlmayer, I read both this document from the US Congress and another article of yours. The title is: "From the Ashes of the Past, the Future of the Cultural Heritage of Bosnia-Herzegovina."

Professor Vojislav Šešelj: And now, before you here and before the public, I want to crush his moral credibility. I have already managed to do so in one segment. I have shown you how he falsely represents different periods of Bosnian history to the world public. I have other evidence here. I have a text which shows that he advocated the arming of the Bosnian Muslims and the lifting of the arms embargo, which also shows that he can in no way be an objective witness, setting aside the fact that he's no expert at all.

Professor Vojislav Šešelj: The witness represented himself here as a historian by his basic education, and I used a detail here, a notorious historical fact which everybody in the Balkans is well aware of, to show how he did not objectively inform the Western public about the events in Bosnia, and now I'm done with it. Now I want to ask him whether it is true that he was actively involved in lobbying and sending requests to the Clinton administration for the embargo on exports of arms to the Muslims to be lifted.

Witness Riedlmayer: I assume you're referring to the document that was disclosed in the Milošević case, more specifically where Bosnia is concerned. This is

a letter I wrote in July of 1995, urging the Clinton administration to consider lifting the arms embargo, and my rationale for that was Article 51 of the United Nations Charter, which says that every state has the right to self-defence until the Security Council takes such measures as to assure the establishment of peace. At that point, the war in Bosnia was already three years old. Srebrenica had just been overrun, and I think I was not alone in being a concerned international citizen, in urging some sort of action. I don't think it speaks to my report, which was done for different purposes and at a different point in time.

Professor Vojislav Šešelj: At the end of this text, Mr. Riedlmayer, to refresh your memory, you say: "The only thing that Karadžić and his brigands are still afraid of is that their victims might find a way to get the means to defend themselves." Do you recall this sentence of yours, "...Karadžić and his brigands..."?

Witness Riedlmayer: I don't recall the phrasing, but in the aftermath of the fall of Srebrenica, that was not phrasing that I consider inappropriate.

Professor Vojislav Šešelj: Did you ever – in any of your public appearances, did you use the term "Izetbegović and his brigands"?

Witness Riedlmayer: No.

Professor Vojislav Šešelj: Do you know that more than 6,000 Serb civilians were killed in Sarajevo that was ruled by Izetbegović?

Witness Riedlmayer: I don't know that for a fact.

Professor Vojislav Šešelj: You don't know that, but these were civilians whose names are all recorded, as opposed to the Srebrenica falsifications where the execution of 1,000 or 1,200 prisoners was built up to a figure of 7,000 - 8,000.

Mr. Riedlmayer, we again have here your text *The Holocaust and the Book*. At a particular point in that text you say, as you describe what happened in Srebrenica, that Serbian Radio Pale played a song, with the following lyrics: "Let the scum die, the Serbs are champions, go out on your balconies and greet the white Serbian race." Is that what you wrote in your text?

Witness Riedlmayer: If you look carefully at the document, that was a direct quote from a news article. Those are not my words.

Professor Vojislav Šešelj: This is not a direct quotation. It is just this verse that is in quotation marks. The rest is your text. So you are quoting a song that was allegedly played on Radio Pale, and in footnote 37 you refer to a book by one Charlotte Eagar, *From Heaven to Hell*, or an article from *The Observer*, it is not a

book but an article from *The Observer* from 1995, is that right? So you took this over from her, right?

Witness Riedlmayer: From a news article in *The London Observer*, yes.

Professor Vojislav Šešelj: Considering it to be true, and you did nothing to check whether something like that was possible at all, although you had numerous contacts with the Balkans and although you travelled there often. You just took it for granted, this fabrication from a newspaper, without double-checking it, and you simply incorporated it in your scholarly paper that was published by the University of Massachusetts Press. Is that right? This shows what kind of a scholar you are and what you resort to. It's as if I were to take over the worst possible texts from tabloids in the US, UK or France, and quote them in my scholarly work as authentic material. That's the kind of scholar you are.

Now let's see what you did as you testified before the International Court of Justice in The Hague. The question was asked, and you answered the question. Mr. Riedlmayer, as you testified before the International Court of Justice, in paragraph 8 of your statement, you said that Islam came to Bosnia-Herzegovina almost six centuries ago. Is that right?

Witness Riedlmayer: Yes.

Professor Vojislav Šešelj: When the army of the Ottoman sultans breezed through the Balkans all the way to Hungary, does that mean that the army of the Ottoman sultans breezed through Bosnia on their way to Hungary?

Witness Riedlmayer: "Breezed" was not the word I used, but in fact that was the sequence of events. Between the end of the 14th century and the middle of the 15th century the Ottoman armies pretty much conquered what is now the Balkans, and at that point they were on the border of Hungary, which at that time was the Sava River.

Professor Vojislav Šešelj: In paragraphs 30 and 31 of your statement, you falsely claimed that the Old Bridge on the Neretva was damaged, that its structure was seriously weakened by JNA soldiers and that the Croats only finished it off, as well as that all the mosques in Mostar were destroyed, that most of the damage was sustained during the JNA siege, and what the Croatian forces could do to the buildings in the old city, most of them were in ruins anyway, was just to raise dust. That's what you stated, right?

So that was a lie too, wasn't it, because all the mosques on the west bank of the Neretva were destroyed by the Croats, whereas the old city is on the eastern bank, and the Croats from the western bank were firing at it while the JNA was there. You lied about this on purpose before the International Court of Justice, and regrettably Serbia was not properly represented there. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Witness Riedlmayer: Well, first of all, both before the International Court of Justice and before this Court, I'm testifying under oath, so I am taking great care to tell the truth to the best of my knowledge. With regard to the Old Bridge, I spoke about it in some detail during the direct examination, the kind of damage that was sustained by it, and indeed it is true it was damaged in the JNA siege and it was the main casualty of the 1993-1994 Croat siege of the old city of Mostar. Secondly, I do not have or know of any credible evidence that the mosque in Mostar was bombarded by Croats during the JNA siege. I would also point out that the mosque which we discussed in great detail, the Mosque of Sevri Hadji Hasan, is indeed on the west bank of the Neretva, and the damage you saw on that – on those photos dates from 1992. It is in the Donja Mahala district of Mostar, on the right bank of the river, right below Hum Hill, just like the Franciscan monastery. Both the monastery and that mosque were, in fact, damaged in the spring of 1992, during the JNA siege of Mostar. So it is, in fact, true, what I asserted. Furthermore, I'm not the only one who has asserted this. The reports from the Council of Europe, i.e. its rapporteur, Dr Kaiser, go into some detail. I quote him in my report. They, namely, speak about the destruction in Mostar. He states that all but one of the mosques in the old city were severely damaged. He describes the damage in considerable detail, so it is not merely my opinion, but also the opinion of another expert who was there in 1992 and had a chance to observe it firsthand and before the Croat siege. So any damage he observed cannot have been sustained during the Croat siege. Does that answer your question?

Professor Vojislav Šešelj: Mr. Riedlmayer, tell me briefly, when were the mosques in Bijeljina destroyed?

Witness Riedlmayer: They were destroyed in the spring of 1993.

Professor Vojislav Šešelj: Is what you stated in this report correct, namely, that they were destroyed in March 1993? That's what it says in your report, that they were destroyed in March 1993.

Witness Riedlmayer: Yes, yes. March is the beginning of spring, so in March of 1993.

Professor Vojislav Šešelj: That they were destroyed in March 1993, but why did you lie, in paragraph 45 of your statement before the International Court of Justice, that they were destroyed on the 13th of May 1993, and that immediately after that, while bulldozers were clearing the rubble, the Assembly of Republika Srpska was in session in Bijeljina? You lied, it says here on page 22 of your statement that they were destroyed on the 13th of May.

Professor Vojislav Šešelj: Mr. President, what I have before me is this transcript. He makes a statement there, a very lengthy statement, and it's marked by paragraphs. He confirmed here what he stated in his expert report, and that is an undeniable fact, that the Bijeljina mosques were destroyed in March 1993. When he testified before the International Court of Justice in The Hague, he misstated that it was on 13 May 1993, so that he would artificially associate this with the session of the National Assembly. And we know who it was that destroyed the Bijeljina mosques. However, I have very little time and cannot patiently wait for his lengthy answers before we move on to the core of the matter. The core of the matter is that before the International Court of Justice he claimed that this happened on the 13th of May, and that's when he lied. However, this is not my question to him, I've finished with that question.

Witness Riedlmayer: Yes, yes, I would like to answer your question. When I testified before the International Court of Justice, I was provided the preliminary transcripts, the rough, uncorrected transcripts, to which I made corrections. This was one of those transcripts where transcription errors occurred. The mosques in Bijeljina were destroyed on the 13th of March, and the transcript said May. I didn't say that. There were a number of other things that were wrong. I handed in my corrections, but unfortunately it is the practice of the International Court of Justice to immediately post the uncorrected transcripts on their web site for the benefit of the press, and they never posted the corrections. So it is all on the Internet with the original mis-transcriptions and misspellings, in its uncorrected form.

Professor Vojislav Šešelj: Mr. President, if that were actually true, he would not refer to the session of the National Assembly of Republika Srpska, which took place either in late May or the beginning of June 1993, after the well-known Pale session when the Vance-Owen Plan was rejected, two or two and a half months after the destruction of the mosques. If you believe him, that this is a mistake in the transcript, that is your own affair, however, I caution you, not a single one of the witnesses here admitted that they lied, except for that one who the Prosecutor caught out during the proofing. Do I really expect him to admit now that he lied on purpose? What I want to show to you and the public is what the transcript says. This is an official transcript. I got it from the Prosecutor. I didn't write this transcript. What do I care why this transcript wasn't corrected? I only have this transcript, which is the official one. Of course, nobody is going to admit that they are that much of a liar and come and say that before you here. I don't really expect a Prosecution witness to do that.

Mr. Riedlmayer, why did you lie that the Serb forces, after the taking of Srebrenica, killed about 8,000 men and boys, when reliable information shows that about 2,500 corpses in all were exhumed, and that only around 1,000 out of that number were really executed and the rest were killed under different circumstances and in fighting? Why did you lie that it was 8,000?

Professor Vojislav Šešelj: Mr. President, probably it is not Mr. Riedlmayer himself who is to be blamed for this lie. This is a lie that has been spread all around. Some Trial Chambers in this Tribunal and some Prosecutors have been spreading this lie. This lie was taken over by all the Western media. This lie was used as a basis for this incredible judgement of the International Court of Justice, stating that genocide was committed in Srebrenica, and serious lawyers all over the world are appalled by that. But, a lie, whoever is to blame, must be branded a lie. But it's not Mr. Riedlmayer who is to be blamed directly for this lie. Many people who are above him on the social ladder are to be blamed for that lie. But it is a lie, because 8,000 people were not executed. And everybody knows now that that's a lie. However, both the International Court of Justice and some Trial Chambers of this Tribunal, and many others accept that lie, and it was falsely established that genocide occurred in Srebrenica and you know that on the basis of the Convention on Genocide what happened in Srebrenica can on no account be termed genocide, even if 8,000 people had been executed, because only men and prisoners of war were executed. One

thousand of them were executed, and that is a generally known fact, and many of those who featured on the lists later on turned out at the polling stations to vote.

Witness Reidlmayer: I would simply remind him of what he said about notorious facts. I think that when the United Nations Criminal Tribunal for the Former Yugoslavia and the International Court of Justice had made certain findings and they had become public knowledge, merely to repeat something that repeats these findings is merely to state what has become a well-known fact. Any rulings that the International Court of Justice made with regard to Srebrenica, they certainly did not make on the basis of my statement.

Professor Vojislav Šešelj: Mr. Riedlmayer, on page 39 of this transcript, I see that you made yet another lie. You say that it is a fact that "As far as I know, Mostar was shelled only by the Yugoslav Army from 1992 onwards." You lied about that, too, because the JNA withdrew from Mostar before 19 May 1992 and the fighting between Croats and Muslims in Mostar went on almost until 1995, isn't that right? It's on page 39, in the first paragraph.

Witness Riedlmayer: I'm sorry, I do not have that transcript in front of me. If I were provided with it, I could see where you took that quote from. I assume it's taken out of context. I'm well aware that there were two distinct sieges of Mostar. I spoke about them both in this courtroom and in the International Court of Justice. The siege of Mostar by the Serb forces and the JNA lasted from April to the beginning of June. This siege by Croat forces took place in 1993-1994. They were two distinct occurrences and occurred in two separate periods, and I do not think that this is a matter that I could have confused or tried to mislead anyone about.

Professor Vojislav Šešelj: What it says here is that from 1992 onwards, Mostar was shelled only by the Yugoslav People's Army. The Prosecution has that, so you discuss it with them later. And now you're taking it back. Okay, fine, better late than never.

Further, Mr. Riedlmayer, do you know of a US agency that is called "Radl and Finn"? Have you heard of this agency? That is an agency for public relations.

Witness Riedlmayer: I've heard it mentioned. I believe the name is "Ruder and Finn", but I've no more than heard it referred to.

Professor Vojislav Šešelj: Do you know that the Muslim government throughout the war engaged this agency in pursuing a propaganda war in their

interests, particularly in relation to the thesis on the destruction of cultural monuments? Do you know about that?

Witness Riedlmayer: No.

Professor Vojislav Šešelj: You do not. All right then if you do not know.

Mr. Riedlmayer, do you know that many mosques in the territory of Bosnia-Herzegovina were built on the foundations of former Orthodox churches?

Witness Riedlmayer: I do not know that for a fact.

Professor Vojislav Šešelj: Have you heard, with regard to the Atik mosque in Bijeljina, and you talked about its destruction, when the renewal of this mosque began, the foundations of an old Orthodox church and Serbian tombstones were found around it, and that is why the reconstruction stopped? Do you know about that?

Witness Riedlmayer: I know there was considerable uproar about that in the press. I followed it to the best of my ability. As far as I recall, the only non-controversial part of that was that indeed some medieval tombstones were found in the vicinity of the mosque. The Commission on Monuments was engaged. They sent out experts, and as far as I know, there was never any confirmation that there was a pre-existing building on the site. But it was reported as such in the press.

Professor Vojislav Šešelj: Judges, I have to turn to you. On page 43 of the transcript of the testimony of Mr. Riedlmayer before the International Court of Justice, he says this: "I am a scholar, and I deal with Ottoman history, and I am conscious of the fact that when the Ottomans took control of towns, they would generally take the main church in the place they came to and turn it into a mosque, leaving the lesser churches to the Christian communities, the ones that were left." That's what he said before the International Court of Justice. And here, before you, in response to your question, he's giving quite a different answer. Now, I'm not asking you to state publicly that this witness is lying, but I can very well assume what's in your minds.

Professor Vojislav Šešelj: When you were in Bijeljina, I see that you spent quite some time there and received information about who destroyed the Bijeljina mosques. Did you hear, Mr. Riedlmayer, that the Serbian Radical Party, which had its branch in Bijeljina, and it had one in very few places in Bosnia-Herzegovina but it did have it first in Bijeljina, sharply protested because of the destruction of the Bijeljina mosques already in 1993? Did you hear about that?

Professor Vojislav Šešelj: One of your financiers is the Aga Khan, is that right? He's financing some of your projects where you work at the university?

Witness Riedlmayer: He's not financing any of my projects, as you put it. He was a graduate of Harvard College, graduated in the late 1950s, and like many of our graduates, he established a chair for the study of architecture. He made an endowment to Harvard University in the 1970s. I've been working there since 1985, and the income from that endowment supports both the professorship and the documentation centre which I direct. So, that money doesn't finance my projects but pays for my salary when I work there. What I do here for the Tribunal is on my own time and with my own resources, with my expenses covered by the Tribunal at its standard rates.

Professor Vojislav Šešelj: Mr. Riedlmayer, when you set out to investigate the destruction of religious buildings in Kosovo and Metohija, you contacted the OTP of The Hague Tribunal and asked whether they were interested. Their answer was, yes, but that they did not wish to finance your research, is that right? That's what you said when you testified in the Milošević case?

Witness Riedlmayer: That is correct.

Professor Vojislav Šešelj: So you had to find your own resources to do your research. However, when you came up with results, they were so pleased that on the basis of that, they expanded the Milošević indictment. Isn't that right, too?

Witness Riedlmayer: Yes.

Professor Vojislav Šešelj: When you undertook your own research into the situation in Kosovo and Metohija, you did research into the destruction of both Muslim and Orthodox religious buildings, right?

Witness Riedlmayer: That's right.

Professor Vojislav Šešelj: After that, the OTP issued you assignments connected to the Milošević indictment for Bosnia-Herzegovina, the Krajišnik indictment, all that and some more municipalities, and so on and so forth, and at that time it was the Prosecution that financed you, right?

Witness Riedlmayer: That is correct.

ANALYSIS OF THE TESTIMONY OF EXPERT WITNESS EWA TABEAU

1. According to the Prosecution's Final Pre-Trial Brief of 25 July 2007, Ewa Tabeau was planned as a Prosecution expert witness through whom the following was to be proven:

Implementation of the JCE in BH: “On 6 April 1992, the European Community recognised BiH as an independent and sovereign state. The United States followed the next day.

This signalled the onset of military attacks and takeovers by Serb forces. By 12 May 1992, when the 16th session of the Serbian Assembly was held in Banja Luka, many municipalities had been taken over, including Bijeljina on 31 March, Zvornik on 9 April, Bosanski Šamac on 17 April, Sanski Most on 21 April and Doboј on 3 May. SRS/SČP volunteers participated in the takeovers of, *inter alia*, Zvornik and Bosanski Šamac, and Šešelј was often present in BiH, where he would meet with the Bosnian Serb leadership and with his volunteers. Over the next few years, hundreds of thousands of non-Serbs were forcibly expelled from their homes. (footnote 172)

Crimes in BH – Zvornik, April 1992 – September 1993: “There was a mass displacement of people in Zvornik along ethnic lines (footnote 303) and non-Serbs were deported to Austria and Hungary.

2. Summary of testimony for Dr Ewa Tabeau, demographer

The witness holds a PhD in statistics and works for the OTP. She will provide expertise on the demographic changes in the province of Vojvodina, Serbia, after 1991. Specifically, the witness will present a report describing changes in the ethnic composition of the population of Vojvodina during the armed conflict in the former Yugoslavia, and the level of migration of the Croat minority from Vojvodina after 1991. The witness will prepare a written statement in accordance with Rule 94 *bis*, which will be filed in due course.

Paragraphs: 15, 16, 17 (i) and 27-30.

Counts: 1, 10 and 11.

3. Content of testimony:

The witness testified *viva voce* on 21, 22 and 23 October 2008. Let there be no confusion, a genuine discrepancy between the Prosecution’s Final Pre-Trial Brief and the summary offered for this witness is in question. The witness also submitted an expert report in respect of Hrtkovci. The testimony was demolished, both in terms of methodology and in terms of virtually all data found in the attachment to the Third Amended Indictment, as the list of victims from Hrtkovci. In addition to statements, the book *The Hrtkovci Affair and the Ustasha Whore Nataša Kandić* was also used.

**ANALYSIS OF THE TESTIMONY OF EXPERT WITNESS DR DAVOR
STRINOVIĆ, forensic pathologist**

1. This expert witness is not even mentioned in the Prosecution's Final Pre-Trial Brief.

2. Summary of testimony

The witness is a forensic expert employed at the Institute for Forensic Medicine of Zagreb University.

The witness will testify to the role of the Croatian Ministry of Health in connection with autopsies and identification of remains found in the territory of the Republic of Croatia. Specifically, the witness will explain the reasons pathologists in Croatia were activated to undertake these tasks. The witness will describe his position as the Chief Medical Examiner in Croatia, the role he played in supervising the pathological and identification processes, and the geographical area under his mandate in Croatia. He will also speak about relations with the Office for Detainees and Missing Persons in Croatia. He will testify to the methods applied at the exhumation sites and during the transport of the remains. The witness will discuss the various methodologies utilised to conduct the autopsies and identify bodies. This will include the identification of bodies at the exhumation site and the treatment of those remains that could not be identified in this way.

In particular, the witness will speak about the use of anthropologists in the process, and the criteria for establishing the cause of death. The witness will also give evidence on the role of dental experts in the identification process. Other methods and means that will be discussed include X-rays employed for the identification of shells or other items found with the remains. The witness will also give evidence on how family members assisted in the identification and indicate the places where bodies were found and the persons present at the time to assist in the identification process, and the use of DNA analysis in the identification process.

Finally, the witness will speak about the review of all pertinent autopsy reports related to the victims detailed in the indictment, and how those reports were retained for future reference.

The witness has prepared a written statement in accordance with Rule 94 *bis*, which will be filed in due course.

Paragraphs: 14, 17 (a) and (d), 18-21.

Counts: 1-4.

3. Content of testimony

The witness testified *viva voce* on 11 November 2008.

The most important thing for the Defence is that the witness was unable to confirm that a single body was that of a victim whose throat had been cut, or that a single body was that of a victim shot in the head from a pistol to make sure that he was dead. These statements of the witness helped discredit witnesses for Ovčara who claimed that people had had their throats cut and that "Kinez" shot people in the head with a pistol to make sure they were dead.

**ANALYSIS OF THE TESTIMONY OF EXPERT WITNESS DR ZORAN
STANKOVIĆ**

1. According to the Prosecution's Final Pre-Trial Brief, this witness had not been planned.

2. Summary of testimony

Basic information: The witness is a forensic pathologist. During the events in question he conducted forensic examinations on behalf of the Belgrade Military Court.

The witness will testify about the forensic examinations he performed on victims of war in Zvornik, Vukovar and elsewhere in Croatia and Bosnia and Herzegovina. He will describe the circumstances in which he performed the examinations and the working conditions, in particular in Zvornik, because for some time the Military Court was not interested in his reports /as printed/. He kept records of his findings. He will testify about his methods of examination of bodies and his procedures for communicating with the families of the victims. He will also testify to his general experience in examining the bodies of victims in other parts of the former Yugoslavia.

His expert witness statement will be filed pursuant to Rule 94 *bis* in due course.

Paragraphs: 5-8, 15-17 a, d, 18 and 22.

Counts: 2-4.

3. Content of testimony

The witness testified *viva voce* on 15 January 2009.

The testimony of this witness was used in order for data on Serbian victims to be heard at last.

**ANALYSIS OF THE TESTIMONIES OF EXPERT WITNESSES VIŠNJA
BILIĆ AND ANAMARIJA RADIĆ**

1. These witnesses are not in the Prosecution's Final Pre-Trial Brief, for the intention of the Prosecution had evidently been to hear Colonel Ivan Grujić in the capacity of an expert witness. As he has been absolutely discredited as an expert witness, he was replaced by Višnja Bilić and Anamarija Radić, members of his staff.

2. The summaries of evidence for expert witnesses Višnja Bilić and Anamarija Radić are identical.

The witnesses will testify about the establishment, structure and responsibilities of the Office for Detainees and Missing Persons in Croatia. They will describe all the changes in the operation of the Office and explain what brought these about, and they will also speak about the scope of activity, basic tasks and autonomy of the Office. The witness /as printed/ will specifically describe the methodology employed to draw up a missing persons questionnaire, and generally how the numbers of missing and killed persons in Croatia during the relevant period were established. This involved dispatching field investigation teams, computer data processing, interviews with victims' family members, collection of data on camp detainees, identification of mass grave locations, finding remains, exchanging remains and cooperating with the Government of Serbia, conducting court-supervised exhumations and identification procedures, and establishing material evidence such as missing persons questionnaires, photo files, official court records and video footage.

The witnesses will testify about concrete methods of exhuming and handling remains, about the final removal of remains and the identification process, including the scientific standards used, the establishment of DNA matches, and laboratory accreditation, as well as the ways in which family members performed identification.

The witnesses will also give evidence about the total number of persons killed, detained in camps or taken from their homes, and people still unaccounted for.

These testimonies will relate to Croatia generally, and the information given will be classified by the so-called Serbian Autonomous Districts to which they refer, namely the SAO Krajina, the SAO Western Slavonia, or the SAO Eastern Slavonia, Baranja and Western Srem, as well as by specific crime base locations. In connection

with the detention camps, the witnesses will provide data on the age, sex and ethnicity of the detainees, as well as whether they were members of the armed forces (where such data is available).

The witnesses will also testify about the number of persons of Croatian ethnicity expelled from their homes in Vojvodina generally, and from the village of Hrtkovci in particular, after which these people settled in Croatia.

Paragraphs: 14, 17 a-d, i, 18-21, 24-28.

Counts: 2-4 (counts 2 and 3 were dropped)

3. Content of testimony

Expert Witness Višnja Bilić testified *viva voce* on 18 and 19 November 2008, and expert witness Anamarija Radić testified *viva voce* on 20 November 2009.

As Colonel Ivan Grujić had been discredited, he was replaced by expert witnesses Višnja Bilić and Anamarija Radić, who are civil servants in the Ministry of the Republic of Croatia /as printed/ and who primarily testified about the organisational structure of the Ministry and the jobs they perform.

The testimony was used in cross-examination to present data about Serbs being victims as well.

The testimony of these witnesses can in no way call into question the data on Serbian refugees from Croatia. Even today (**August 2011**), twenty years later, the following facts, as a consequence of Franjo Tudman's policy, are common knowledge:

1. Official site of the Government of the Republic of Serbia – April 2010: **Refugees in Serbia**

Following the outbreak of the wars in Croatia and Bosnia-Herzegovina there were huge migrations of people of Serbian and/or Montenegrin ethnicity, who found refuge in their motherlands, Serbia and Montenegro.

Depending on the severity of the conflicts and the source of data, the number of refugees and displaced persons varied, ranging from 350,000 to 800,000. Terrorist activities by the so-called Kosovo Liberation Army, the NATO air campaign and the arrival of KFOR troops forced the non-Albanian population to flee the territory of Kosovo and Metohija.

At the beginning of 2000, the registration of displaced persons from Kosovo and Metohija started in the Republic of Serbia, in cooperation with UNHCR. Over 200,000 internally displaced persons had been registered in Serbia by July 2001.

In April 2001, the Serbian Commissariat for Refugees, in cooperation with UNHCR, resumed the registration in the Republic of Serbia of refugees, displaced persons and others who had fled the war.

The first analyses of the data from July 2001 showed that 451,980 persons were registered in Serbia, of whom 377,731 had official refugee status, while 74,249 persons affected by the war did not meet the necessary conditions to acquire this status under international law. The largest number of refugees were from Croatia (about 63%), while the percentage of those from Bosnia and Herzegovina dropped to 36%.

Irrespective of the possibilities for their return, the largest number of refugees and displaced persons opted for integration in the former State Union of Serbia and Montenegro, namely, 60.6% of the refugees and displaced persons from Croatia and 59.8% of the refugees from Bosnia and Herzegovina.

In 2001, 408 collection centres were registered in the territory of the Republic of Serbia, accommodating 30,056 people. Of this number, 20,949 were refugees and displaced persons, with 9,107 displaced persons from Kosovo and Metohija. About 10,000 lived in unregistered collection centres, while others were either tenants or lived with their relatives or friends.

The largest concentration of refugees and displaced persons was recorded in Vojvodina, in the territory of Belgrade, and in Loznica and Šabac municipalities.

Displaced persons from Kosovo and Metohija were, for the most part, accommodated in central Serbia, with the largest number in Belgrade, Kraljevo, Kragujevac, Niš, Smederevo, Kruševac, Leskovac, Vranje and Kuršumlija.

In a new process of refugee registration in Serbia, conducted from 27 November 2004 to 25 January 2005, 139,483 persons with refugee and displaced person status were registered, which is 50% less than the number of refugees registered in 2001.

The number of approximately 140,000 refugees does not mean that there are half as many refugees in Serbia today as compared to 2001, but that approximately 100,000 people have acquired citizenship, while a smaller number returned to their countries of origin or went to third countries.

The last registration showed that around 140 collection centres, including 19 in Kosovo and Metohija which housed 1,000 displaced persons, were home to a total of 11,000 of the worst affected refugees and displaced persons.

There are three basic ways to permanently resolve the problem of refugees:

- repatriation to the communities from which the refugees originally came;
- integration into the communities to which the refugees have fled;
- migration to a third country.

Repatriation

Annex 7 of the Dayton Peace Agreement and the Agreement on Normalisation of Relations between the Federal Republic of Yugoslavia and the Republic of Croatia, as part of efforts to permanently resolve the refugee question, reaffirmed the right of refugees to return.

Repatriation, as the long-term and most acceptable solution for refugees, is the priority of our state. Putting into practice such a lasting arrangement requires that prior guarantees be undertaken by the international community and the governments of the countries to which the refugees are returning, to the effect that the participants in this process will be accepted in the local communities and that conditions for a safe and dignified life will be provided for them.

In April 1998, the Governments of the Federal Republic of Yugoslavia and the Republic of Croatia signed the Protocol on the Procedure for the Organised Return of Refugees and Displaced Persons to Croatia. By signing this Protocol, UNHCR's role as the leading international organisation was recognised, one which would, in accordance with its mandate, assist in mutual implementation of the agreed procedures. 7,550 refugees returned to their homes in this way, and a further 7,350 persons returned to Croatia on their own.

On 6 October 2003, the Agreement on the Return of Refugees Located on the Territory of SCG or BH was signed in Belgrade between the former State Union of Serbia and Montenegro and Bosnia and Herzegovina. The Agreement was signed by the Minister for Human and Minority Rights of the former SCG, Rasim Ljajić, and the BH Minister for Human Rights and Refugees, Mirsad Kebo. This document created the legal basis for accelerating the process of the return of refugees and facilitating their exercise of tenancy and other property-related rights.

Integration

Although repatriation is considered to be the principal way of addressing the refugee problem on a lasting basis, our country recognises the fact that a large number of refugees will permanently settle in it.

In 1994, the Government of the Republic of Serbia and the Commissariat for Refugees of the Republic of Serbia started preparing a programme for the permanent settlement of refugees on its territory.

Already in 1997, on the basis of the aforementioned programme, the Government of the Republic of Serbia launched a programme for building settlements for permanent accommodation of refugees on the territory of the Republic of Serbia. Considerable funds were also earmarked from the budget for that purpose. During the same year, a similar programme was also implemented in the FRY by the Office of the UN High Commissioner for Refugees. This programme is almost identical to the programme of the Government of the Republic of Serbia, but in this case the donor is UNHCR, which secured finances for the construction of housing facilities, while the state, that is, the municipalities in which the settlements are being built, provide the infrastructure and a job for one member of each refugee family.

Persons provided for in this way were granted citizenship in what was then the FRY. The municipalities in which the settlements were built provided a job for a family member in non-agricultural households. Large families, disabled persons and single mothers had priority in the provision of permanent housing.

Migration to third countries

Another possible option for permanently solving the refugee issue is migration to third countries. Most of those who decided to emigrate did so through the International Organisation for Migration (IOM) and UNHCR. Most refugees migrate to Canada, Australia and the United States of America.

Within its ability, the Commissariat for Refugees of the Republic of Serbia will continue to work in parallel on the repatriation and integration of refugees, the two most important and completely equal avenues for a lasting solution to the refugee question in this area.

2. The refugee situation in 2007:

Serbia Holds Record in Number of Refugees – 22 October 2007

Belgrade – Rasim Ljajić said that Serbia held the European record for the number of refugees, and announced changes to the Strategy and the Law on Refugees.

The Minister of Labour and Social Policy said that Serbia, the countries of the region and the international community were responsible for the fact that the problem of refugees had not been solved. "Some headway has been made compared to last year, but we have moved two millimetres from the Sarajevo Declaration on the Closing of Refugee Files, signed in January 2005," he said.

Opening the gathering entitled "Local Integration of Refugees in Serbia", Ljajić said that 500,000 people were confronted with problems associated with refugee status, and that 30% of the refugees had returned to their countries of origin.

"Regrettably, most of the people will stay on to live in Serbia. Regrettably, in the sense that for a variety of reasons it will be impossible for them to return to their places of origin, and we have to face that – to provide all the elements for such integration, including addressing their legal status, housing and employment issues, and access to other rights," said Ljajić.

He added that, in resolving the issue of refugees, Serbia expected a more constructive approach by countries in the region and the help of the international community.

The Commissioner for Refugees, Dragiša Dabetić, said that there were 209,579 internally displaced persons from Kosovo in Serbia at the moment, which is 1,500 more than last year, while the number of refugees had decreased due to registration, and at present was 98,104.

Dabetić pointed out that the return of refugees to Croatia was at a "serious standstill" and that the difficulties of refugees in local integration, including the exercise of housing rights, resulted from inadequate legislation.

The Refugee Question in Serbia

The integration of refugees who wish to remain in Serbia would mean a major step forward towards finding permanent solutions for displaced persons throughout the region, international agencies assess.

Representatives of the Office of the High Commissioner for Refugees (UNHCR) and the OSCE mission in Serbia participated in a gathering which presented the results of the study entitled "Local Integration of Refugees in Serbia – Legislation, Practice, Recommendations." The head of the OSCE mission, Hans Ola Urstad, emphasised that "the closing of the so-called refugee chapter in the region was the key task of the OSCE".

He said that this issue “could be solved only at the regional level”, where the OSCE is closely cooperating with the governments signatory of the Sarajevo Declaration (BH, Croatia, Serbia and Montenegro), UNHCR, and the delegations of the European Commission in the region.

“However, in situations of protracted displacement, the great desire (of refugees) to return often changes into a great desire to integrate,” said Ambassador Urstad.

Emphasising that local integration was a two-way street – with aid to refugees going one way, and the state’s restrictions and difficulties in receiving them the other way, he assessed that Serbia had made positive efforts in “the area of citizenship law and the area of naturalisation” of refugees.

The head of UNHCR in Belgrade, Lennart Kotsalainen, pointed out that UNHCR “remained committed to the implementation of the Sarajevo Declaration”, but added that the study had shown that most of the 97,000 citizens whose refugee status had been confirmed would opt for staying in Serbia.

“We are pleased that refugees here have an opportunity to be naturalised without problems, and we call upon the authorities to expedite the issuance of identity cards for former refugees,” said Kotsalainen.

He added that UNHCR was aware that “the greatest responsibility for integration lay with the Government”, in a situation when the poverty and unemployment rates were high and the economy fragile.

3. Refugee Day Marked in Serbia in 2008

Serbia first in Europe in number of refugees – RTS, Friday, 20 June 2008

Serbia ranks first in Europe according to the number of refugees, and thirteenth in the world, the US Committee for Refugees and Immigrants announced on the occasion of World Refugee Day. Today in Serbia there are about 100,000 registered refugees from the areas of Bosnia and Herzegovina and Croatia.

According to data from UNHCR and the Republican Commissariat for Refugees, in Serbia there are also about 206,000 internally displaced persons from Kosovo and Metohija.

UNHCR offices abroad and in Serbia received a total of 75,000 new applications for refugee status last year.

In Serbia there are around 75 refugee collection centres in which some 6,000 people live, while the rest of the refugees have found private accommodation or are housed with relatives.

In 1996, the number of persons with refugee status was 550,000. In the meantime, a large number of them have obtained Serbian citizenship. A special problem in Serbia is the duration of the refugee situation, which has lasted as long as 17 years.

Tadić: Integration in the EU also resolves the problem of refugees

On the occasion of World Refugee Day, the President of the Republic of Serbia, Boris Tadić, stated that the accession of all of the Balkan countries to the European Union would solve the problem of refugees and displaced persons in the best possible way, through their integration and return.

“The grave economic situation and unemployment in countries in the area of the former SFRY greatly aggravate the already difficult position of refugees and displaced persons. A permanent solution to the problem lies in the integration of our countries in the EU,” said Tadić, and added that this would make possible prosperity, equal opportunities for all citizens, economic certainty, jobs and education.

In his statement sent to the media on the occasion of World Refugee Day, the President of Serbia assessed that Belgrade, Sarajevo and Zagreb had to make additional efforts to address the issue of refugees and displaced persons, of whom there are several hundred thousand in Serbia alone.

“Serbia supports the initiative of the UN High Commissioner for Refugees for the Sarajevo Process to be revived, that is, to find permanent solutions for refugees in the region of the former SFRY. Serbia is prepared to fully implement the Sarajevo Declaration, and I hope that the authorities in Croatia and Bosnia and Herzegovina are prepared to do likewise,” added President Tadić.

Ljajić: The refugee problem – far from a solution

The Minister of Labour and Social Policy, Rasim Ljajić, said today on the occasion of World Refugee Day that the “refugee file” is far from being closed soon or successfully.

“Although statistics will show that great progress has indeed been made in resolving this issue, the fact that someone obtained Serbian citizenship and was issued an identity card does not mean that they have overcome all the problems associated

with refugee status,” said Ljajić at the conference “How To Do More: Refugees and Displaced Persons in Poverty Reduction Processes.”

The minister recalled that in 1996 there were over 700 collection centres in Serbia, whereas today there are 77 of them, 17 in Kosovo and 60 in central Serbia, and said that this demonstrated the enormous efforts which the state had made to solve the problem of refugees.

The refugee population in Serbia is one of the most vulnerable, said Ljajić, adding that 60% of the refugees were unemployed and 45% of them were living in rented premises, which illustrates their exceptionally difficult social position.

“Unless the refugee problem is resolved, the process of reconciliation in the region will be difficult and considerably longer,” assessed Ljajić, pointing to the need for the 1992 Law on Refugees to be amended, and emphasising that one of the problems was that the refugee issue is not enough in the public eye, the efforts of the state notwithstanding.

The minister said that, immediately after forming the government, an urgent session would be scheduled with representatives of the international community, in order for the signatories of the Sarajevo Declaration (on resolving the problem of refugees from BH, Croatia and SCG, from 2004) to plan urgent steps for its implementation.

“Representatives of the international community, refugee organisations and associations, and the civil sector must be our partners in this project, and, what is particularly important, this must be an interdepartmental activity. It cannot be the job of just one ministry or state organ; rather, it is a problem that requires the involvement of all structures of society and the state alike,” Ljajić pointed out.

Serbia’s Commissioner for Refugees, Dragiša Dabetić, stated that since 1991 over 750,000 people had arrived in Serbia in several waves, and that today there are about half a million of them.

“In statistical terms, we have about 90,000 refugees, but over 200,000 of them have acquired citizenship and they are here, and in addition there are about 200,000 internally displaced persons from Kosovo and Metohija,” Dabetić specified.

According to Darko Šunderić, head of the Deputy Prime Minister’s poverty reduction team, 15% of displaced persons in Serbia currently live below the poverty line, while the refugee population lives above that line.

Šunderić stated that civil society organisations should be involved in planning by the line ministries, for it is precisely they who are in contact with refugees and displaced persons.

4. New Law on Refugees Passed in Serbia in April 2010

Dačić: The largest number of refugees is in Serbia – 31 March 2010

Belgrade – Minister Ivica Dačić stated that Serbia is offering shelter to the largest number of refugees, and that it is among the first five countries in the world with a protracted refugee situation.

The Minister of the Interior, Ivica Dačić, explaining the amendments to the Law on Refugees in the Assembly of Serbia, recalled that in the 1990's Serbia had been confronted with a number of massive refugee waves from the former SFRY republics and that, at the peak of the refugee crisis, 537,937 registered refugees and about 80,000 war-affected persons had found refuge in Serbia.

He stated that 377,131 refugees had been registered in the 2001 census and 104,246 in the 2005 one, and added that the decreased number of refugees was chiefly the result of their integration in Serbia and, to a lesser extent, of their return or settlement in third countries.

“Today the number of registered refugees in Serbia has decreased to 86,000 persons, and a further reduction of the number of persons with this status is expected,” said Dačić, adding that the objective of the amendments to the law was to create a legal framework for the integration or return of refugees.

Recalling what Serbia had done to help refugees in the preceding period, Dačić stated that through the adoption of that law refugees in Serbia had been granted the right to work and included in all education and health care programmes, and the issue of providing housing for them had been addressed.

According to him, Serbia had earmarked enormous funds to that end, with support also provided through international donations.

Dačić recalled that one of the main elements of the Law on Refugees was accommodation in collection centres, which was realistic at the time of its adoption, and added that the strategy adopted in 2002 envisaged shutting down these centres by giving them assistance to help resolve housing problems.

The conclusion which follows:

1. Tudman managed to reduce the number of Serbs in Croatia from over 12% to under 2%, starting in 1990 and definitively by August 1995. Croatia is on the path towards the European Union as an ethnically pure state, virtually without Serbs, except for those posing as Serbs in the government in Zagreb. The whole world knows it but remains silent, because the expellees are Serbs, while nevertheless Serbs are on trial and Serbia is charged with genocide.

2. Simply put, the number of Serbs who are refugees from Croatia, including the current figure, is incontrovertible proof that these refugees have been permanently expelled from Croatia, because people cannot become refugees of their own accord, like tourists, but only by being expelled by someone from a given territory. Serbia, the alleged aggressor, has the highest number of refugees in Europe. How can that be?

3. Serbs are being persecuted in The Hague in order to conceal these facts /about/ who the real criminals are. There is no expert testimony that could annul these facts. Therefore, the testimony of these expert witnesses, who are actually Croatian civil servants, on how their ministry is organised and what they do should be interpreted only as a ploy by the Prosecution to hide the real substance and try to ascribe guilt to Professor Vojislav Šešelj.

ANALYSIS OF THE TESTIMONY OF EXPERT WITNESS VS-1112,

[REDACTED], WITH PROTECTIVE MEASURES

1. This witness does not appear in the Prosecution's Final Pre-Trial Brief, for it was evidently the Prosecution's intention to tender intercepted conversations through other witnesses, primarily witnesses for the Sarajevo location.

2. Summary of evidence for expert witness VS-1112, [REDACTED]

The witness [REDACTED] a large number of intercepted conversations as specified in the exhibit list which the Prosecution intends to tender. [REDACTED]

[REDACTED] The witness will cover the intercepts obtained from the authorities in Bosnia and Herzegovina.

Paragraphs: 5-8, 10, 11, 15, 16, 24.

Counts: 1.

3. Content of testimony

The witness testified with protective measures on 8, 9, 10, 15 and 16 July 2008.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A large number of the intercepts do not refer to Professor Vojislav Šešelj, but the intention is evidently to tender them so as to shore up the charges alleging the existence of a JCE. Professor Vojislav Šešelj successfully dealt with every intercepted conversation, going into the necessary detail in respect of specific parts.

The relevance and probative value of the intercepted conversations are also problematic because it is not known even now in what sense this expert witness is qualified and what, [REDACTED], he is an expert on.

X. Conclusion

In this Final Trial Brief, Professor Vojislav Šešelj has presented the entire relevant subject matter according to the sections indicated in the text and listed in its table of contents. Professor Vojislav Šešelj has been in detention for nine years, and to this day has not been given a reasonable and logically justified answer to the question of why his right to an expeditious trial is being violated. The pre-trial stage and the first stage of the Prosecution's case have proven that there is, in fact, nothing for Professor Vojislav Šešelj to defend himself against. The question is whether the charges are at all possible, and whether an indictment could be brought against him before the ICTY at all. Apparently the Prosecution counted on pressurising and threatening witnesses into giving statements, and some were blackmailed with indictments if they did not cooperate with the Prosecution, and so then everything came to depend on whether the Prosecution managed to impose a defence counsel on Professor Vojislav Šešelj. That is why the Prosecution actually did nothing else in the case except tenaciously insist for five years, either directly or through the Registry, that a defence counsel be imposed on Professor Vojislav Šešelj, to be paid for by the Registry, in order to deny Professor Vojislav Šešelj the right to defend himself. When he was granted the right to defend himself, the lies and falsifications became obvious,

and it is clear to everybody that, in fact, the indictment against Professor Vojislav Šešelj essentially does not exist.

For a long time already the task of all ICTY structures has been to keep Professor Vojislav Šešelj in detention for as long as possible. The Prosecution and the Registry, with the support of the majority in the Trial Chamber, have sustained this by fabricated trials for contempt of court, by provoking action in respect of privileged communication, contacts and the status of legal associates, by avoiding financing of the Defence's costs, and in every other way.

This Brief is a long one, and for the most part contains systematic citations of the Prosecution's charges and everything that the Prosecution considers proof of guilt. This was done deliberately, as a constant reminder of what it is that the Prosecution contends, what lies it resorts to, and to compare all of it to the results of the Prosecution's presentation of evidence, and first and foremost to the transcripts of the hearing and testimony of the Prosecution's witnesses. Small is the number of witnesses who adhered to the Prosecution's concept and uttered the lies agreed and memorised in advance during their testimony in the courtroom.

Numerous false claims from the preliminary statements of the Prosecution's witnesses have not even been commented upon, except for those which were repeated in the courtroom during the examination of witnesses, when witnesses did not disassociate themselves from them or sought to refrain from commenting on them. Given the constraints imposed on him by the Trial Chamber in respect of his allotted cross-examination time, during cross-examination Professor Vojislav Šešelj only dealt with the details and important facts relevant to the charges. It can be concluded beyond a reasonable doubt that, as a result of cross-examination, the credibility of a large number of witnesses has been destroyed, that the reliability of a number of witnesses and their testimonies have been destroyed, and that a wide array of witnesses and their statements have almost no probative value whatsoever. That is why the question arises: what is it that Professor Vojislav Šešelj is supposed to defend himself against, and could the Prosecution bring an indictment against him at all?

Particularly surprising is the fact that the Prosecution also disclosed to Professor Vojislav Šešelj exculpatory material arising from the testimonies of a number of Prosecution witnesses in other cases before the ICTY or other courts, and, in particular, that many of the testimonies of these Prosecution witnesses were not accepted in cases where a final judgement was rendered.

Even more striking is the fact that most of the witnesses, who in their initial statements to Prosecution investigators or the responsible organs in their home states never even mentioned the name of Professor Vojislav Šešelj nor members of the Serbian Radical Party, allegedly remembered something that had happened 20 years earlier several months or days prior to their appearance in the courtroom, and changed their initial statements by adding the words Vojislav Šešelj.

Professor Vojislav Šešelj has initiated contempt of court proceedings against the most responsible persons in the Office of the Prosecutor, [REDACTED]

[REDACTED] The positions taken by the Trial and Appeals Chambers in several ICTY cases where a final judgement was rendered prove that an indictment could not, in fact, have been brought against Professor Vojislav Šešelj. Therefore, this Brief represents a specific view of Professor Vojislav Šešelj's defence, for actually the Defence has nothing to defend itself against; rather, it mainly calls attention to positions barring an indictment or criminal proceedings against Professor Vojislav Šešelj. This Brief can also serve as a practical course for students and those studying the results of the work of the ICTY, and as a kind of concrete, substantiated critique of the ICTY Manual of Practice that everyone in the ICTY is so proud of, and which they use to lecture others.

XI. Relief Sought

Professor Vojislav Šešelj requests that the Trial Chamber find the Accused Professor Vojislav Šešelj NOT GUILTY on all counts of the indictment and, pursuant to Rule 99(A) of the Rules, order that Professor Vojislav Šešelj be released from the United Nations Detention Unit immediately following completion of the necessary preparations.

“Word count: 188,379 /in original/”

Professor Vojislav Šešelj

/signed/

(Done by Expert Team member Zoran Krasić)