

INTERNATIONAL COURT OF JUSTICE

CASE CONCERNING APPLICATION  
OF THE CONVENTION ON  
THE PREVENTION AND PUNISHMENT  
OF THE CRIME OF GENOCIDE

(BOSNIA AND HERZEGOVINA v. YUGOSLAVIA)

REJOINDER

22 FEBRUARY 1999

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## LIST OF ABBREVIATIONS

|              |   |
|--------------|---|
| ADF          | Air Defence Forces  |
| AF           | Air Forces  |
| ASR          | Army of Republic of Srpska  |
| BiH - B&H    | Bosnia and Herzegovina  |
| CDU - HDZ    | Croat Democratic Union  |
| CSCE         | Conference on Security and Cooperation  |
| ECMM         | European Community Monitoring Mission   |
| FBIS         | Foreign Broadcast Information Service   |
| FRY          | Federal Republic of Yugoslavia  |
| GO           | Government Organization   |
| GS           | General Staff   |
| HOS          | Croat Armed Forces  |
| HVO          | Croat Council of Defence  |
| HQ           | Headquarters  |
| ICFY         | International Conference on the Former Yugoslavia   |
| ICMP         | International Commission for Missing Persons  |
| ICTFY - ICTY | International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Former Yugoslavia |
| IHRLI        | Independent Human Rights Law Institute  |
| IKM          | Forward Command Post  |
| JNA          | Yugoslav National Army  |
| KK           | Krajina Corps   |
| KPD - PCI    | Penal-Correctional Institution  |
| LBO          | Liberal Bosniac Organization  |
| MAR          | Mixed Artillery Regiment  |
| MBO          | Muslim Bosniac Organization   |
| MCF          | Muslim-Croat Federation   |

|              |  |
|--------------|--|
| MD           | Military Division                                      |
| MNCS         | Muslim National Council of Sandžak                     |
| MNO          | Ministry of National Defence                           |
| MTD          | Muslim Territorial Defence                             |
| MUP          | Ministry of Internal Affairs                           |
| NCO          | Non-Commissioned Officer                               |
| NDH          | Independent State of Croatia                           |
| NGO          | Non-Governmental Organization                          |
| OIC          | Organization of the Islamic Conference                 |
| PDA - SDA    | Party of Democratic Action                             |
| PKM          | Temporary Command Post                                 |
| PL           | Patriotic League                                       |
| PoW - PoWs   | Prisoners of War                                       |
| RS           | Republic of Srpska                                     |
| RTS          | Radio Television of Serbia                             |
| SAO          | Serb Autonomous Region                                 |
| SDP - SDS    | Serbian Democratic Party                               |
| SFRY         | Socialist Federal Republic of Yugoslavia               |
| SPS          | Socialist Party of Serbia                              |
| SR           | Socialist Republic                                     |
| SR BH        | Socialist Republic of Bosnia and Herzegovina           |
| SRK          | Sarajevo-Romanija Corps                                |
| TANJUG       | Yugoslav News Agency                                   |
| TD - TDF -TO | Territorial Defence Forces                             |
| TG           | Tactical Group   |
| VJ           | Army of Yugoslavia                                     |
| VRS          | Army of the Republic of Srpska                         |
| ZAVNOBiH     | Anti-Fascist Council of the People's Liberation of BiH |
| ZNG          | Croatian National Guard                                |

## PART ONE

### 1. INTRODUCTION

1.1. This Rejoinder of the Government of the Federal Republic of Yugoslavia is filed in accordance with the Orders of the International Court of Justice of 11 December 1998, by which the Court extended to 22 February 1999 the time-limit for the filing of the Rejoinder of Yugoslavia.

1.2. In the Introduction of the Reply (para. 6, p. 2) the Applicant *"is of the opinion that clarifying these issues, will not only serve historical purposes (...), but will also be indispensable in the reconciliation process, which is slowly developing in the region. If the Court establishes, and legally defines, the relevant facts and settles the question of State responsibility, then the fight over these issues can stop, thus enabling the peoples involved to take such a judgment as a firm basis on which to build and rebuild their mutual relations."*

1.3. How *"the peoples involved"* should *"rebuild their mutual relations"*? What is the idea of the Applicant? The Applicant does not hide its intentions and expectations. It makes them quite clear. In the entire text of the Reply, the Applicant places the name of Republika Srpska in inverted commas. On page 789 of the Reply, in para. 82, the Applicant says: *"In the first place, this entity (Republika Srpska) has been created contrary to peremptory norms of international law (jus cogens)... The creation of Republika Srpska has been imposed through the use of force and genocide."*

1.4. So, Republika Srpska *"has been imposed through the use of force and genocide"*, i.e. it *"has been created contrary to peremptory norms of international law"*. According to the

Applicant, if the International Court of Justice, by its Judgment, confirmed this, that would be the basis for "*the peoples involved*" to "*rebuild their mutual relations*", i.e. to cancel Republika Srpska.

1.5. With great regret, the Respondent notes that the Applicant's intentions to build Bosnia and Herzegovina as an Islamic State are very much alive. "*There can be no peace or co-existence between Islamic faith and the "non-Islamic social and political institution."* The Islamic fight continues.

1.6. But, what is the way to the Judgment of the Court? According to the Applicant "*...these declarations* (i.e. declarations of the UN organs and bodies as well as of the European Parliament and the European Commission - the Respondent's remark) *form an authoritative source for the Judgment the Applicant requests from the International Court of Justice in this case. However, these findings cannot replace such a Judgment nor can their existence render such a Judgment superfluous.*"

1.7. There are no declarations producing legal effects that the Applicant ascribes to them. If the mentioned declarations had substantiated the Claim of the Applicant, the Security Council would not have supported by its Resolution 1022 (1995) the General Framework Agreement for Peace in Bosnia and Herzegovina initialled at Dayton (Ohio) on 21 November 1995 and signed at Paris on 14 December 1995, that constituted Bosnia and Herzegovina consisting of two entities: Republika Srpska and the Muslim-Croat Federation.

1.8. It seems the Applicant believes it is not obliged to prove its allegations. In para. 26, p. 962 of the Reply, the Applicant "*fully maintains its conviction that this is not a criminal trial and that therefore the facts need not be proven beyond a reasonable doubt.*"

1.9. Quite the opposite. The Respondent considers that the present proceedings concern the most serious issues of State

responsibility and that a charge of such exceptional gravity against a State requires a proper degree of certainty. The proofs should be such as to leave no room for reasonable doubt.

1.10. As the Counter-Claim of the Respondent has a function to deny the Claim of the Applicant and goes further to establish the responsibility of the Applicant for the breaches of the Genocide Convention, Part One of the Rejoinder refutes the allegations of the Applicant that the Counter-Claim is not based on fact and law and proves that it is. Part Two of the Rejoinder, supplementing the arguments, contained in the Counter-Memorial, negates factual and legal foundation of the Claim of the Applicant. Part Three of the Rejoinder contains the relevant legal consideration.

## 2. COUNTER-CLAIM IS BASED ON FACTS AND LAW

2.0.1. In paragraph 9 of the Conclusions and Submissions, p. 973 of the Reply, the Applicant states:

*"With regard to the Respondent's counter-claims the Applicant comes to the following conclusion. There is no basis in fact and no basis in law for the proposition that the genocidal acts have been committed against Serbs in Bosnia and Herzegovina. There is no basis in fact and no basis in law for the proposition that any such acts, if proven, would have been committed under the responsibility of Bosnia and Herzegovina or that such acts, if proven, would be attributable to Bosnia and Herzegovina. Also, there is no basis in fact and no basis in law for the proposition that Bosnia and Herzegovina has violated any of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide. On the contrary, Bosnia and Herzegovina has continuously done everything within its*

*possibilities to adhere to its obligations under the Convention, and will continue to do so."*

2.0.2. The above allegations of the Applicant are not true. The acts of incitement to genocide as well as other acts punishable under Article III of the Genocide Convention and the crimes of genocide against Serbs in Bosnia and Herzegovina have been committed. The obligations under the Genocide Convention have been violated. According to the rules of international law, these violations are considered to be the acts of the Applicant and it is responsible for them. This assertion is based on facts and on law. Adequate evidence has been provided.

2.1. Policy Aiming at the Destruction of Serbs as a Group is an Element of Radical Islamism

2.1.0.1. The Applicant does not deny that crimes against the Serb people in Bosnia and Herzegovina have been committed. What the Applicant does deny is that those crimes are the crimes of genocide, for "*it rejects the allegation about the existence of a policy aiming at their destruction as a group...*". The Applicant says:

*"The Respondent has also failed to prove that the alleged acts were directed against Serbs as a group. It refers to a certain number of documents and testimonies to prove indeed atrocious acts supposedly committed against Serbs, but fails to place them in a larger context and to demonstrate that they did not remain isolated and were the implementation of a larger policy targeting the Serbs as a group. Actually, Bosnia and Herzegovina does not deny and also deeply regrets that crimes have been committed against Serbs, but rejects the allegation about the existence of a policy aiming at their destruction as a group which is devoid of any evidential ground whatsoever." (Reply, p.964, para 29)*

2.1.0.2. The above statement of the Applicant touches upon the essence of the dispute. Regrettably, such a policy did exist. This question may be of relevance both for proving the Counter-Claim and for rejecting the Applicant's Claim. That is why the Respondent starts from this matter. The Respondent pointed to the relevant facts in the Counter-Memorial. This has been done in Chapter II of the Counter-Memorial, pp.134-218, which speaks about the ascendancy of radical Islam in Bosnia and Herzegovina. The Applicant said nothing in connection with the presented facts.

2.1.0.3. The Policy aiming at the destruction of Serbs as a group originates in the ideas of radical Islam. The rejection of all attempts aimed at bringing about a peaceful solution in Bosnia and Herzegovina, on the part of the SDA leadership, confirmed the existence of this policy. The creation of Muslim paramilitary formations was a preparation for a forcible implementation of that policy. The acts of incitement to genocide were the first step in the implementation of that policy. This policy was pursued through the crimes of genocide committed against the Serb people in Bosnia and Herzegovina.

#### 2.1.1. Policy Aiming at the Destruction of Serbs as a Group Originates in the Ideas of Radical Islam

2.1.1.1. The policy aiming at the destruction of Serbs as a group originates in the ideas of radical Islam, which crystallized into the following concept, embodied in the Islamic Declaration. The Respondent quoted this concept in para 2.9.1.2 of the Counter-Memorial, p. 141, which reads as follows:

*"The first and the most important of these conclusions is definitely the one about the incompatibility of Islam and non-Islamic systems. There can be no peace or coexistence between the 'Islamic faith' and the*

*'non-Islamic' social and political institutions. The failure of these institutions to function and the instability of regimes in Muslim countries, manifested in frequent changes and coups d'etat are as a rule the consequence of their a priori opposition to Islam as the fundamental and guiding feeling of the people in these countries. Claiming for itself the right to regulate its own world, Islam clearly rules out any right or possibility of action of any foreign ideology on its turf. Namely, there is no room for the lay principle and the state should be an expression of the moral concepts of religion and supportive of them."*

2.1.1.2. The Respondent refers here to the testimonies of two eminent Muslims from Bosnia and Herzegovina, Dr Nijaz Duraković and Adil Zulfikarpašić. Dr Nijaz Duraković was the President of the League of Communists in the Socialist Republic of Bosnia and Herzegovina. After the introduction of the multi-party system he remained the leader of the reformed party which changed its name and partly its programme. As a political leader, as described above, he was a member of the Presidency of Bosnia and Herzegovina during the civil war. In para 2.11.1.19. of the Counter-Memorial, pp. 158-159, the Respondent pointed to the February 1995 statement of five out of the seven members of the Presidency against Alija Izetbegović because of his attempt to turn Bosnia and Herzegovina into a one-party Islamic state. Dr Nijaz Duraković was one of the signers. Now he is one of the political leaders in the Muslim-Croat Federation.

2.1.1.3. Dr Nijaz Duraković drew the attention to the recurrence of the ideas of radical Islam known as the ideas of the "Young Muslims". He maintains that these ideas are characterized by the use of religion for genocidal purposes. The Respondent will quote in extenso the part of the text made public by Dr Nijaz Duraković in 1987:



*"Old Ideas of the 'Young Muslims'*

*In connection with the escalation of Muslim nationalism and the trial to a group of its most prominent protagonists, (Duraković refers to the 1984 Sarajevo process the trial of the supporters of the radical Islamic faction gathered around Alija Izetbegović; see paragraph 2.8.1.2, p.134 of the Counter-Memorial - the Respondent's remark), the general public were almost confused by the frequent reference to the 'Young Muslims', a terrorist, clerical-nationalist and fascism-inspired organization that was at its height in the 1950s and that - considering the anachronistic ideas with which it was imbued and the obsolescence of its aims - was rightly believed to have left for good the inter-ethnic scene of Bosnia-Herzegovina.*

*Having emerged in a troubled prewar period of time, fraught with nationalist passion (in March 1941), the Young-Muslim organization traded on faith as the basis of getting together, of national security and oneness.*

*In the militant strengthening of religious feelings and organized cultural-educational activities based on Islam and on Bosnian Muslim tradition, the organization of Young Muslims saw the only way of Muslim national survival and realization of concrete political objectives embodied in the autonomy of Bosnia. Against this background the Muslim nationalist collaborators, completely compromised already in the first wartime days, saw the establishment of the so-called Independent State of Croatia under the fold of the Third Reich as a welcome framework for the realization of the old ideas on establishing a separate national state in which, according to the teaching of the ideologists of*

*'the Muslim national renewal', the Muslims are the only autochthonous element.*

*Despite the fact that a considerable segment of the Muslim Fifth-Column intelligentsia accepted Ante Pavelić's ideology that the Muslims are genuine Croats or 'the flower of the Croatian people' who are different only by their Islamic confession, there also existed other forces within the Young-Muslim Movement which, in case Germany and its satellite - the Independent State of Croatia - lost the war, would quickly change sides and stand ready militarily, politically and organizationally for a future, new reshaping of the map of Yugoslavia.*

*That is why the programme of the Young Muslims was changed very quickly. After the apparently naive cultural-educational and strictly religious ambitions within the framework of legality and the rules prescribed by the Royal legal order, the programme began overnight to draw new strength and inspiration from the ideas of Panislamism.*

*In view of the fact that all this was taking place under the protection of the Reich, even with Hitler's own blessing (there are many indications that it was Hitler himself who had given the name to the 13th SS Handžar (Dagger) Division), this Panislamism had an inherent Nazi trait to it. Namely, it was above all in the function of Nazi war conquests; of the Reich's great dream to meet the Japanese militarists in the East and, in that vast space, to ensure the support of the Muslim masses that would allegedly get the chance for their real liberation only within the world Nazi empire.*

*Therefore it is not by accident that the Jerusalem Great Mufti El-Husseini also joined the game soon; after the pompous reception by Hitler in Berlin, he opened the centre, trumpeted with much fuss by Goebbels*

*propaganda, from which to direct militant Panislamism; of course in its German version and in line with the Axis powers' aims.*

*One of the first steps in that direction was the Mufti's visit to Sarajevo, a proving ground by no means chosen accidentally, on which to test the efficiency of the new 'jihad' that this time was not to serve Allah but the maniacal designs of the racist genocidal policy. The more so, as the fascist military machinery began to go to pieces in the Bosnian mountains and as it was precisely in Bosnia that a large Partisan-held liberated territory was formed.*

*A bunch of dignitaries lined up as subjects of a king, chosen from among the ranks of the Ulema and quasi-national representatives, under the watchful eyes of the German military officers and Ustashi captains, with feigned religious humbleness and pompous racist slogans, met the Great Mufti whose chief task was to convey Hitler's wishes and orders: that several SS divisions be formed from the Muslim religiously imbued youth, following the classical model - using the tested brain-washing method and intensive military training, with the camp imams as their religious tutors.*

*The leaders of the Young Muslims were supportive of this profane selling out because, according to them, the blind linking with the Reich meant the chance for establishing an autonomous Islamic Bosnia that was going to flourish like an ethnically pure paradise within the world Islamic state - 'Islamabad'.*

*They embraced obediently the SS method of militarization of the Muslim soldiers because it suited their programmed long-term strategy: to live an ascetic life, devoted to God and in the spirit of the true*

*principles of Islam; to get educated and militarily and politically organized so that, no matter who comes out as the victor in the Second World War in the end, they would be a powerful factor whose say and strength will not be ignored in the expected division of spheres of influence or in the creation of a new state.*

*Their principal motto was that the senile Ulema ready to make compromises, the opportunist intelligentsia and the remaining owners of former bey properties can no longer represent the interests of the Muslim people and sell them out so cheaply as they had done back in 1918.*

*Of course, the interests of the Muslim masses, of their working class and of other progressive segments of the population were of no concern to them; they reckoned without their host.*

*We do not propose to expand on the genesis of this organization although such an account would be welcome to show all the contradictions, inconsistencies and paradoxes of the existence of this organization and to explain where treason, epigone imitation of fascism and religious fanaticism were leading.*

*At this point, suffice it to say that the "Young Muslims" proved to be an extremely reactionary, clerical-fascist organization that attempted to exploit religion for overt nationalist, chauvinist, even genocidal aims. (bold is added)*

*The remnants of the "Young Muslim" philosophy after the war, having become an illegal modern terrorist organization, once again linked their Utopian dreams about the autonomous Muslim state with foreign powers*

*and expectations that the new Yugoslavia was inevitably going to disintegrate. (bold is added)*

*The Panislamic dream about the establishment of 'Hilafet', i.e. of a universal Islamic state, is increasingly giving ground to a new phobia, where traditional nationalism and chauvinism are supplemented by fanatic anti-communism that was going to remain a lasting feature of the recurrent 'Young Muslim' philosophy of this country.*

*The question posed in both the domestic and the foreign press, often with surprise, in connection with the trial in Sarajevo, is how come that these ideas, though in a permuted but not essentially changed form, re-emerged once again. What are the underlying reasons of their recurrence? Foreign commentators refer mainly to external factors. They could be summarized as follows:*

*'In the wake of the Iranian revolution the interest in Panislamism suddenly increased, in particular the interest in Islamic fundamentalism as a social, political and ideological movement that caught the interest of a large part of the masses.*

*Organized movements appeared in various forms in a number of countries advocating a return to the original foundations of Islam which, in their opinion, is the best reply to the obvious economic and cultural domination of the West, against uncritical acceptance of the Western way of thinking and life style.*

*According to those interpreters, the evident social tension, the lack of prospects for finding solutions within the existing, desecrated political systems based on the European model; the ideological and cultural*

*sophistication and unscrupulous neocolonialism on the one hand, and disillusionment with the existing practice of socialism, on the other, along with the advent of large numbers of educated young people aware of the harmful effects of foreign influence and unwilling to reconcile themselves to the wretched subordinated position of their governments and countries, etc.; all these elements resulted in a sudden, growing interest in tradition, in sources of the national spirit, return to one's own cultural roots, in brief, in a fanatic turnabout and orientation towards Islam.*

*In this context, many examples are mentioned, starting with the known developments in Iran; the Sunnite fundamentalist movements in Saudi Arabia; armed actions of the 'Muslim brothers' in Syria and Egypt; the emergence of fundamentalist groups amongst the Shiites and Sunnites in Iraq; the upsurge of fanaticism among the young Sunnites in Kuwait up to the militant, fundamentalist group Al-Jihad-Al Islami in Egypt, etc.*

*It is not fortuitous that many of these movements that surely contain specific national characteristics, are attempting to rehabilitate precisely those principles of the Koran which, according to some interpretations, suggest that action should be taken for a radical change of the existing relations, meaning, in the final analysis, the rehabilitation of 'jihad'.*

*Quite a lot has already been said about the 'Islamic Declaration' as a new Panislamic, religious and political programme. Made under the influence of these ideas which we have only briefly dealt with, the programme - despite the fact that its authors are trying to present it as a universal religious platform - is in essence also a platform for eminent political action. For,*

*how else can be interpreted the propositions about the incompatibility of Islam and other non-Islamic institutions; about the impossibility of peace or coexistence between the Islamic faith and non-Islamic social and political institutions; and the claim that Islam rules out any right and possibility of influence of any foreign ideology on its turf - but as a religious war cry, religious fanaticism and intolerance. (bold is added)*

*In the same way as the "Young Muslims" in their time linked their fate to the expected successes of fascist Germany and its allies, and nurtured their hopes after the war with the expectation that the new Yugoslavia would disintegrate, so the present-day Pan-Islamists probably proceeded from the assumption that the present Yugoslavia, as it is today, would not last long; that in the expected disintegration it is necessary to get organized, have a programme that will meet with the support of some foreign circles and centres that set for themselves the task of spreading the Islamic revolution." (bold is added)*

(Dr Nijaz Duraković, Controversies of the National and the Nationalist, Zenica, 1987, pp.158-165. (Annex No R1. pp. r1-r5/r6-r9).

2.1.1.4. The Respondent quotes below the parts of conversations between Adil Zulfikarpašić, Milovan Djilas (Yugoslav politician, publicist and writer - Respondent's remark) and Nadežda Gaće (Yugoslav journalist - Respondent's remark) published in the book entitled "Bosniac Adil Zulfikarpašić". The book was published by the Bosniac Institute in Zurich in 1994. The Institute is headed by Mr Adil Zulfikarpašić. In paragraph 2.3.1.18, p. 120 of the Counter-Memorial, the Respondent set forth the text of the Agreement about the relations between the Serb and the Muslim Peoples in Bosnia and Herzegovina proposed by Adil Zulfikarpašić, as the President of the Muslim

Bosniac Organization and Radovan Karadžić, as the President of the Serb Democratic Party, that, unfortunately, was not accepted by the radical Muslim group that led the Party of Democratic Action. Adil Zulfikarpašić comes from an old Muslim aristocratic family in Bosnia and Herzegovina. After the Second World War he left Yugoslavia and lives in Zurich, where he founded the Bosniac Institute of which he is the head. In the text below, Adil Zulfikarpašić, who is one of the founders of the Party of Democratic Action, together with Alija Izebegović, explains the reasons for breaking up the alliance with Izetbegović and for founding a new party, the Muslim Bosniac Organization:

*"Zulfikarpašić: At the outset of the Party's activities the press noted that there exists a liberal group headed by me, which was correct; and that, on the other side, there is a religiously-minded group. My intention was to found a middle-class, liberal organization open to all; a party that will not allow faith to be exploited for political purposes, in particular not to be abused; to leave the khojas to their religious duties rather than push them to political tasks. They can be members of the party like everybody else, but to be officials, organizers, to be responsible for organizing gatherings, it simply isn't done. I was against from the very beginning, while Alija Izebegović kept telling me - Careful, Adil, Behmen (Adil Zulfikarpašić has in mind Omer Behmen, Vice-President of the Party of Democratic Action and one of its founders referred to in para 2.8.1.2., p.134-138 of the Counter-Memorial - Respondent's remark) is a man who is in direct contact with five hundred imams; they are going to play a major role in organizing our party, they will be helpful.*



*When we arrived in Novi Pazar<sup>1</sup>, a large crowd of people met us; the authorities were correct, the police as well. They met people all the way, from Sarajevo to Novi Pazar. Everything was organized; we were welcomed in the streets with banners. Patrol cars saw to the arrangements so that everything goes smoothly, without any incident. When we came to the town, the police withdrew from the streets - everywhere were only PDA (Party of Democratic Action - Respondent's remark)guards with badges showing the way and where to make a turn. I came, together with Alija Izebegović and some other people, to the house of Sulejman Ugljanin (Referred to in para 2.13.3.7, p.183 of the Counter-Memorial - Respondent's remark); then something happened at that meeting which rather surprised me.*

*The meeting was organized in a fascist-like manner. There was one Fahira Fejzić, a young divorcee, formerly an announcer on the radio or television. She went to Zagreb, to that Šabić. She used to wear mini skirts in the past, had modern hair-style and then, suddenly, she put a scarf on her head, some extravagant unidentifiable women's uniform, with three shawls of various colours - green, blue, red. But she looked well, read very correctly at these gatherings our proclamation and our Resolution about the Founding Assembly. All of a sudden a group of five people sat down next to each other and chanted: - Alija, 'father of homeland', fighter for Islam, was in prison, did this and that, our only leader ... And then religious banners, hundreds of banners, fluttering over the stadium. This was something new, unexpected. I realized that this was the doing of that young Čengiđ (Adil Zulfikarpašić has in*

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<sup>1</sup> A town in the territory of the Republic of Serbia, in the region of Raška (Sandžak) with the minority Muslim population.

*mind Hasan Čengić (Respondent's remark), one of the founders of the Party of Democratic Action, suspected of having been involved in the illegal supply of arms; referred to in para 2.8.1.2., p.138 of the Counter-Memorial), who is a right-winger in a way and who organized all this. I thought that those were children's diseases of a political party that should not be paid attention. At that time the question of Bosniac orientation was already on the agenda.*

#### *They Refused Bosniac Orientation*

*Prof. Mujagić of the University of Banja Luka<sup>2</sup> made a speech. He began by praising the Bosniac concept as our national orientation. Izetbegović sat next to me. At one moment he said: 'You have a hand in this. You taught him this.' I laughed it off and said: 'You are talking nonsense!'*

*He said: 'God forgive me, but I'm afraid we've come to a parting of the ways'. As soon as we arrived in Sarajevo I asked for an explanation. He apologized saying that he did not mean what he said. Then I warned him that the meeting was a fascist gathering; what was the purpose of singing praises, of all that talk about the father of the homeland; what kind of personality cult is being created. He said that this was indeed a big mistake, that he had no idea about it; that all this was the doing of Hasan Čengić and Omer Behmen and that it would not happen again. I paid no attention to such things; however, I learned subsequently from Kasim Zoranić, in whose house things were discussed and agreed upon (when we parted company, he remained on my side), that a coup had been*

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<sup>2</sup> Administrative centre of the Republic of Srpska situated in north-western Bosnia.

*planned against me with a view to ensuring Alija Izetbegović's prominence in the party at my expense. I didn't even notice it because I didn't attach importance to it.*

*There was a liberal group gathered around me, which, among others, included Prof. Muhamed Filipović, Prof. Fehim Nametak, then Prof. Lamija Hadžiosmanović, Prof. Salih Burek, Prof. Hamza Mujagić, Prof. Kemo Sokolija and many other Muslim liberal intellectuals who supported a modern party. Whenever I attended the meetings of the Main Board of the Party of Democratic Action, there was always full identity of views and opinions between us. Then I began to receive information that they were holding secret meetings - one group of those Young Muslims, the brothers Behmen and a clerical group that determines the course of action of the party at these meetings. I also realized that the party was rapidly heading in the direction of fundamentalism and of the use of faith for political purposes. Unexpectedly, green banners cropped up at our gatherings. Everywhere twenty or thirty green banners, people fluttering them; then speeches are made in which the suras from the Koran are cited no less than ten minutes. Also, wherever they went, there was a large number of imams who were allegedly our hosts, the people who organized it all.*

*So, it was a personnel recruitment board of a sort, whose policy was that exclusively religious functionaries and imams are eligible for membership. I demanded that these banners be removed on a number of occasions. People in garments such as galabi and caftans, never ever worn in Bosnia before by anyone on any occasion, began to appear. I realized that they were provocateurs. For example, suddenly I noticed the flags of Saudi Arabia, Arab garments, things that have*

*nothing to do with Bosnia. It is then quite normal that Belgrade journalists 'rushed' towards that group of people and took shots of them.*

*At that time I had planned and made arrangements for Soares and the President of the Liberal Party of Germany, Count Lambsdorf, to visit Sarajevo; also planned was the visit of a group of bankers from Switzerland and a group of liberals from France. A number of other leading European liberal politicians were also to come. When I saw these flags I cancelled all these arrangements. We had meetings of the PDA with attendances of fifty to one hundred thousand, but I thought: if I bring these people they will be astonished to see hundreds of green banners; the sight looks like some movement in northern Egypt or in Algeria, like a religious manifestation. Things really began to take the shape of extremism. (bold is added)*

*The following day we had a meeting in Kladuša. This was the largest meeting I ever saw and attended in my life. It was claimed that three hundred thousand people were present; some say less than that, but to me it was something unprecedented. I attended large gatherings in Italy at which the questions of republic or monarchy were discussed; there were large crowds of people in Piazza Popolo square; I was at large Tito's gatherings in Belgrade, but I never ever saw a gathering like this one before. When the people were breathing the sound was as if a tank were roaring. There were slogans, green banners, shouting, posters: 'We are going to kill Vuk!' (Reference is made to Vuk Drašković, a Yugoslav writer and leader of the party of the Serbian Renewal Movement - Respondents remark), 'Long Live Saddam Husein!' Which Saddam Husein? The pictures of Saddam Husein, some robes, hundreds of green banners. It was the first time that Fikret Abdić (Founder*

*of the Autonomous Province of Western Bosnia, referred to in para. 2.20.1.3, p.243 of the Counter-Memorial - Respondents remark) spoke at our meeting and announced that he would join the PDA.*

### *Delirium in Kladuša<sup>3</sup> - Parting of the Ways*

*I was to be the last speaker so that the meeting would have been concluded with my speech. I was astounded by the behaviour of the crowd. People screamed, clattered, became delirious after the speech of a crazy professor from Cazin<sup>4</sup>. I thought to myself: this is not what I want. I cannot end up in such a party. A man like myself, who always fought for the choice by the individual, for respect for the human person. Deep down I felt that this was not my party; that this was not what I stood for; that this was not what will help my people tread down the right path. And I made my decision then and there: either I'll get the party transformed into a middle-class, democratic and liberal one or I'll quit.*

*It was rather late; the elections were ahead of us, but it was of no relevance to me. It was a difficult decision. I intended to ask about a dozen people who were politically experienced for advice. I remember, Djido (Adil Zulfikarpašić has in mind Milovan Djilas - Respondents remark), that I came to Belgrade and asked you for your opinion which I highly appreciated. You told me to think twice. You did not recommend that I leave the PDA. And all that you had said was well considered, but it was quite clear to me: if I go there, I will be in the minority; I simply could no longer identify myself, physically or mentally, with a party that has*

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<sup>3</sup> A town in north-western Bosnia

<sup>4</sup> A town in western Bosnia

*become conservative, religious, a party for the masses, in which a small number of hackneyed slogans, religious and nationalist, attempted to mobilize masses surely expecting renewal, some changes, but perhaps harbouring illusions about becoming masters of Bosnia. And, on top of it all, these people! Plots and schemes. Lies and intrigues. Imposing of members of family, ignorance.*

*When I returned to Sarajevo, Izetbegović noticed that I dissociated myself and asked me for a talk at which he confirmed the agreement reached by the top leadership about my candidature for the president, i.e. head of state; that I would organize the government and the state and he would take care exclusively of party matters, so that these duties would be separated. However, all this was irrelevant to me. I did not believe him any more because I had the previous experience with a number of cases where he said or claimed one thing, swore that it was the truth, and then did another.*

*The people making up the Main Board, with the exception of one or two, were complete amateurs, who had no idea of politics or the history of our country; who had a strange outlook on the world, outlining prospects in a curious way, making calculations. It was obvious that these people were surprised at the success of the party and already saw themselves as prime ministers, ministers, as this or that.*

### *Bosnia Cried That Night*

*Consequently, I scheduled a press conference in Sarajevo Holiday Inn hotel at which I explained the reasons for my split up with the fundamentalist faction Izetbegović-Behmen. I must admit that I did not intend to make war with Izetbegović. I thought that we were*

*going to part ways, that one segment of the party would follow him and the rest will follow me.*

*MBO (Muslim Bosniac Organization - Respondents remark) - The Right to a Different Opinion*

*Nadežda: You founded the MBO. As far as I know, that party was well received in some intellectual circles in Bosnia, although there were objections and discussions with regard to its name. Why MBO, why not only the Bosniac Organization, etc. Then you changed its name, after all. It is no longer MBO, but LBO - Liberal Bosniac Organization. Is that correct?*

*Zulfikarpašić: No, the name has not been changed. This was left to be tested in practice and discussed at the first congress. I consider that the question of Bosniac orientation is the question of the Bosnian Muslims, while the Catholics nationally declared themselves as Croats and the members of the Orthodox Church nationally declared themselves as Serbs. The intellectuals who objected to the adjective 'Muslim' could well have founded Serb and Croat Bosniac parties. Since they did not do so, it so happened that a group of Serbs and Croats came to me expressing the wish that the name of the party be changed. I said to them - Excellent, why don't you found a Bosniac democratic or liberal organization, you, this group of yours, then we will unite; you say that you have many followers, why don't you found it? None of them did it. Consequently, it was more or less an excuse, but the fact is that we managed to found a liberal party. Desimir Tošić, (former political emigre, now member of the Democratic Party of Serbia - Respondent's remark) who happened to be in Sarajevo, attended the congress establishing it. He said in Belgrade later on that he had attended for the first time a genuine democratic manifestation, characterized*

*by free discussion and at a dignified level. The fact is that we attracted the majority of the Bosnian intelligentsia; however, the intelligentsia is not numerous among our people. The masses, half-literate people, mostly supported the policy of Alija Izetbegović, so that we remained a small, elitist political party.*

*We had our own newspaper. I started publishing again the newspaper 'Bosanski pogledi' ('Bosnian views'). I had a lot of difficulties, as you know; I did not want to control it as a matter of principle. The newspaper often expressed views which were different from my own. I tolerated this; I was a man who funded and helped his own opposition in his own party, publishing the newspaper more often than not criticizing my own policy and refusing to support some of my actions initiated at the time. Despite all this, it was the best newspaper in Bosnia.*

*The fact is that the MBO managed to attract the Bosnian intelligentsia; this fact had both negative and positive aspects. The negative aspect is that the official institutions of the authorities were bad, that the PDA candidates in Parliament were at a low political and moral level. The various presidents of municipalities, deputies in the municipal assemblies throughout Bosnia were often very shady people, incapable, speculators, black-marketeers, careerists. Thus the structure of the local and republic institutions suffered because the intelligentsia remained outside the PDA and mostly joined our party. Opportunism took its toll, and this changed. We led the opposition. While I was still in the PDA, Mirko Pejanović came up with the idea to create a coalition of the parties which support a sovereign Bosnia, life together, democracy and which could prevent possible excesses. I received him, together with Izetbegović, and we accepted his proposal.*



*After the split in the PDA, Izetbegović gave it up and a coalition was made between PDA, SDP and CDU (Kljuić, Karadžić and Izetbegović). Karadžić and Kljuić claimed that they requested that the MBO join their political alliance, but Izetbegović vetoed it. Had the MBO been acquainted with the principles on which their agreement was based, I doubt it would have wished to enter such a coalition at all. The more so, as it was made without any political agreement that could be made public. At the beginning I had hopes that a serious agreement is involved, which was acceptable to me, because the creation of a coalition of Serbs, Croats and Muslims was in Bosnia's favour.*

*I thought at the time that it was a political success for them, that a step forward was made, although I knew their structures and level and had my doubts. However, it soon turned out that the only point they had agreed about was to defeat the communists together, to vote one another's candidates, so that Serbs would vote Muslims and Croats in the Presidency, the Muslims would vote Serb and Croat candidates and vice versa. This was an agreement on power-sharing and nothing else."*

(Milovan Djilas, Nadežda Gaće, "Bosniac Adil Zulfikarpašić", Bosniac Institute, Zurich, 1994, Annex No R2, pp. r10-r18/r19-r24....).

2.1.1.5. Former Ambassador of the FR of Germany to Egypt Mr. Heinz Fiedler, in an Article published in the German monthly journal "Aussenpolitik", issue No. 1/97, also pointed to the existence of extremist Islamic elements in BiH in the context of the threat presented by the so-called permanent Islamic revolution to the non-Islamic surrounding and Europe. In

this respect, the author pointed out in particular the activities in Lebanon (Hizbollah), in the Palestinian areas (Hamas), in the Sudan, in some Gulf States, and in Bosnia.

#### 2.1.2. The Rejection of All Offers for Peaceful Reorganization of BiH in accordance with the Right to Self-Determination, by the SDA Leadership Confirmed the Policy Aiming at the Destruction of Serbs as a Group

2.1.2.1. There exist convincing facts which demonstrate that the radical Islamic group leading the PDA conducted a policy aiming at the destruction of Serbs as a group. The following facts illustrate this: in the course of 1991 and 1992 Alija Izetbegović rejected all attempts aimed at bringing about a peaceful solution in Bosnia and Herzegovina, even those proposed by the Muslim side. The radical Islamic group proceeded to the organization of its paramilitary formations. The members of this group committed acts of incitement to genocide. During the civil war this group began forcible Islamization of parts of Bosnia and Herzegovina which were under its control.

2.1.2.2. In his discussions with Milovan Djilas and Nadežda Gaće published in the previously mentioned book "Bosniac Adil Zulfikarpašić", its author Adil Zulfikarpašić describes in detail the attempt to reach historical agreement between Serbs and Muslims in Bosnia and Herzegovina, an attempt initiated by himself but which failed because of the opposition of Alija Izetbegović. In view of the importance of this statement of Adil Zulfikarpašić it is carried here in extenso:

#### *"HISTORICAL AGREEMENT*

*Nadežda: In a complex and tense atmosphere in Bosnia, at the beginning of May you brought up the idea of attempting to make agreement with Serbs so as*

*to avert all that which happened in Bosnia later on. It was based precisely on the fact that you were well aware of the situation inside Bosnia; that you knew that the arming of the people was underway; that you were divided between yourselves and that there was a general distrust, indeed that there was fear; that because of fear you were within an ace of open conflict.*

*Zulfikarpašić: Well, even now I firmly believe and think that at that moment my agreement was the only alternative to madness and evil and to that road which, although perfidiously, led so unmistakably towards ethnic and religious conflicts in Bosnia. I think that in Bosnia one must never ever play with the honour and interests of one's neighbour. You must not offend him, you must not ridicule or abuse his situation. It's an unwritten law in Bosnia. Another unwritten law is: you must not offend anyone's religious feelings. This is instilled deep down even in those who are non-believers. Criticism on the part of those of a different faith is not tolerated in Bosnia. A Muslim non-believer, who may even be an atheist, will be offended if a Catholic or a member of the Orthodox Church criticizes or derides Islam. The same is true of Catholicism and Orthodoxy. Nobody in Bosnia plays with these things.*

*It is interesting that all nationalist parties strongly insisted on firm links with their respective confessions. It was to be expected that they would carefully cherish religious feelings - the opposite happened. That is why I always strongly reacted whenever I felt that any of my Bosniacs used abusive language about our neighbours Croats, Serbs, that is, Catholics and Orthodox Christians. Besides, as a liberal and a man who was brought up in this environment, I had sympathies for my neighbours, true sympathies. I do not conceal this. As soon as I reached agreement, I spoke in a number of*

*places saying that Croats are our natural allies. Croats are a minority in Bosnia. They are the most vulnerable; they emigrate more than any other segment of the population; they leave the country in larger numbers than any other people; they change occupation most frequently; they tend to rebuild their life mostly in Europe and, by the nature of things, are looking for support by Bosniacs. Furthermore, there are a number of historical moments in which we had worked together and shown sympathies for one another. Thirdly, I do not know two peoples in Europe, so similar by their mentality but psychologically so divided, which hate and kill one another as Serbs and Croats do. These are two aggressive Balkan nationalisms that have been opposed to each other a hundred years. And this, I'm not going to say hatred, but this aversion to each other has very deep, intertwined and complex reasons, from irrationalism and everyday reality up to fantasy. It is not possible to live in a multi-national and multi-cultural country and underestimate this fact at the same time. I considered that Croats can assume a constructive attitude towards Bosnia if they feel that they are safe in Bosnia. The more so, as in some thinly populated Croat areas, karstic areas, Croats have an absolute majority and it is easy for them to separate from Bosnia, in particular in Western Herzegovina. I considered that our partiality for them should be a genuine support so they should not feel threatened in Bosnia. I considered that in a future Parliament we were going to act often together, that we should have an ally in them and vice versa. All this, but not that we should create a front against Serbs. In view of the fact that we were, I am convinced, a little more democratic in this, more flexible, I tried to get the Bosniacs shape their attitude towards Serbs so it should not go beyond the critical point at which it is possible to offend the other side and arouse a feeling of endangerment. From our point of view it is*

*not dangerous for our survival if Croats feel threatened although it is not politically opportune and wise. But it is vitally dangerous for us if Serbs feel threatened and if Serbs feel that there can be no life together. I cherished a number of inclinations towards Croats that I did not try to conceal. I spoke about this at various gatherings. I had contacts with Croat political structures both in Zagreb and in Bosnia. My attitude towards them was very sincere and cordial. At the same time I fostered with much attention similar contacts both with Serbs and with Belgrade because I respected the fact that we live together.*

#### *Serbs, Croats and Bosniacs Together*

*The problem of Yugoslavia was the problem of life together - life together between Serbs and Croats and, in our case, life together between Serbs, Croats and Bosniacs.*

*Consequently, we had to be of necessity for life together, we had no other alternative. Therefore, it is my firm conviction - I reiterated this a hundred times - that, if we start something here and if we begin to fight here, there will be a terrible bloodshed; but one day, those of us who survive, the few remaining alive will have to sit down and talk about how to live together, after all. I never believed that Bosnia could be divided, that Bosnia could be dismembered and that this could happen on the basis of a deal...*

*When the war broke out in Croatia, Croatia's policy and Croatian politicians attempted in all possible ways to get Bosnia involved in that conflict in order to ease up their fightings with Serbs, to acquire an ally. However, the policy was, not only mine but also that of Alija Izetbegović, not to entangle Bosnia in the conflict*

*between Serbs and Croats. However, when it happened, the danger of Bosnia's being involved in the war was quite obvious and it was not possible to close one's eyes before these facts. I said that we had tried to ease it up and to initiate some kind of dialogue. But these attempts fell on deaf ears as far as the three political parties are concerned; they remained closed in a dark space, where everybody was singing his own song and telling his own story, but no one was listening to anyone else nor was willing to. I realized that the situation is indeed dramatic and extremely dangerous and that it was rapidly worsening. The question of arms came on the agenda, the question of endangerment, throughout that time we were attempting to convince each other as to who is more threatened. Serbs considered themselves threatened, putting forward some examples that were mainly fabricated. However, this is irrelevant in political reasoning. That subjective feeling is one of the dominant feelings because it makes up the basis of the political position and the direction in which a certain collectivity is moving.*

*I wish to emphasize once again: by my political conviction, national sentiment, by all motives of my activity and public work, I was absolutely in favour of finding solutions for a life together. When I realized that we were on the brink of catastrophe I conducted talks with Karadžić, Koljević, Kljuić ... On the basis of these talks I concluded that the intentions of the individuals are no longer important. They began to heap reproaches and insinuations upon each other. There was a feeling of disquiet. I remember meeting Karadžić once. He told me that he had information that weapons were being distributed; he mentioned the places where this was being done, also claiming that there existed arms depots. As I assessed the situation at the time and as far as I was informed, this was not true, but it was*

*important for me that he had such information and that he believed it to be correct..*

*...Once again I wish to reiterate that my conviction was that this was going to be the conflict between Bosniacs and Serbs. I gave a lot of thinking to it; how and is it possible at all to prevent the conflict.*

#### *How to Prevent the Conflict*

*I went to visit Alija Izetbegović, talked with him, asking him openly whether he was aware that we were heading for an open conflict with Serbs. He said that he was. Then I asked him whether he had any guarantees from a world power - I had in mind the United Nations, NATO or the United States - from someone who is capable of honouring those guarantees and prevent conflicts. I asked him whether someone was going to defend us. He said that there were no such guarantees. I asked whether he had some deal with the Army, because he told me that he was on good terms with Kadjević; that he had contacts with the Army, that he meets them. His answer was again in the negative. He said that he had no concrete agreements with the Army.*

*Džilas; He gave a statement at the time: 'I believe the generals.'*

*Zulfikarpašić: That's what he said, that we believe the Army, that it will not allow conflicts. I reminded him of that statement and he answered that this was better than the Četniks. I said: 'All right, but we are heading for a conflict'. He answered: 'Well, do you know something? Why don't you do something?' - 'What can I possibly do?' - 'You can talk' - he says - 'I must not do that'.*

*On one occasion he gave the known statement that Yugoslavia would be organized as a smaller Federation consisting of Serbia, Montenegro, Bosnia and Macedonia, and a broader one consisting also of other countries. The reaction was extremely negative, first by the Muslims, then the reaction of his own party and in Bosnia in general. So that he immediately withdrew it publicly. The next day there were graffiti in the streets that he is a Serb, that he is a lackey, etc. The PDA thought at the time that my party had organized that campaign against him, but we had nothing to do with it.*

*From my point of view this was an imprudent move. He tried to present Bosnia as a gift to Serbia and Montenegro, distancing himself from his natural allies Slovenia and Croatia; in fact, they had no idea of what that Federation was going to look like nor what its powers were going to be. That is not the way to do things in politics. That policy was erroneous, and I am still of the same opinion.*

*He continued: - 'You saw how people reacted when I tried to get closer to Serbs. This will not be accepted.' I said to him: - 'Look, could we do something together, what do you think?' He said there is a chance in that case. - 'But I cannot talk to Serbs, they do not believe me'. He was aware of that. I said: - 'All right, I'm going to talk to Serbs'. I consider that we must demand much more than a rump Federation; that the minimum that we should ask for is equal status for Bosnia vis-a-vis Serbia and Croatia. At that time Serbia had already created a structure that already had all the elements of an autonomous state - it had the ministry of foreign affairs; their Parliament promulgated laws related to questions that were within the competence of the Federal government, questions related to customs*



*procedures and a number of other fields. I drew Izetbegović's attention to this. He said: - 'I can hardly believe that we could succeed under these circumstances, but please try'.*

*It was in the evening, I do not remember the exact date, but it was on 13 or 14 July 1991. I got out of his office, went home and gave a ring to the Vice-President of my party, Prof. Filipović, who was a deputy of MBO in Parliament. I briefly explained the situation to him. He immediately took the same position. I said to him: - 'I spoke with Alija. He asked me to try to do something. What about proposing an agreement acceptable to Bosnia and Bosniacs, what do you think? First, Bosnia with a status equal to that of Serbia and Croatia; Bosnia as a sovereign and autonomous state, indivisible and without ethnically-based cantons.'*

*At that time Serbs had already divided Bosnia into cantons. The idea they had in mind was to unite with Krajina and also annex some areas to Montenegro, so that Bosnia be disintegrated. Filipović answered: 'I consider that this is necessary.' I said: - 'Look, will you please do it (after all, he lived in Sarajevo all the time). Give a ring to Karadžić and ask for an urgent meeting with him, with Koljević and Krajišnik'.*

*After an hour he called me back and said that he had found Karadžić and that he was going on a trip, so he could see us only in three days. I told him that this was too late and that we must resolve this immediately. Then I rang Karadžić personally and said: 'Look, we must see each other at once. The matter is very serious' He said that he had already made an appointment and that he must go. I said: - 'I think that this is a matter of the utmost urgency. It cannot be delayed'.*

*I told him that I, too, had a number of appointments made and already had bought a ticket for a trip abroad. Then he said: - 'All right, but let me first speak with Koljević and Krajišnik.'*

*In half an hour he rang me back and said: - 'All right. We will be waiting for you tomorrow morning at half past seven, in the Presidency, in Koljević's office.'*

*I went with Filipović. I said that I consider that we should talk with them openly; that we should indeed say what we think; that this is a historical moment; the more so, since Alija Izetbegović and the PDA are behind it and since he asked us to do this. I said to Filipović: - 'Please, stick to what we agreed while explaining your views, so there would be no misunderstandings between us'.*

### *The Morning of Agreement*

*When we entered Koljević's office, Krajišnik and Koljević were sitting there. They were a little nervous and this showed, but they were very correct. As we were inquiring about each other's health Karadžić arrived. Speaking in the traditional Montenegrin way he said: - 'What's up? What business brings you here?' I said: - 'We decided to speak with you openly, to make a proposal. We will explain the limits beyond which we cannot go under any circumstances and after discussion we will part as friends or as opponents. We are ready to talk about any point in which concessions are possible, but we wish to set forth some matters that we cannot accept and we would like you to set out things that are unacceptable to you. Before we proceed, I would like to ask a few questions. Are you aware that*

*we are faced with a war and a conflict?' They answered, so to speak, in unison: -'Indeed, we are' - 'Are you aware that what is involved here is a conflict between Bosniacs and Serbs?' They said: -'Yes, brother, but all that you proposed is against us.'*

*- 'Is it clear to you' - I continued - 'that it is high time, that it is the eleventh hour?' And Koljević retorted: - 'I think that it is too late.'*

*I first explained things that we cannot accept. I said that we had evidence, which was made available to me for insight, namely about their talks with Milošević. In short, every point that I put forward was based on that evidence. I said: - 'Listen, we cannot accept the division of Bosnia, some regions, we cannot accept Bosnia's role to be inferior to that of the other republics. We are offering you an agreement and we wish to live together in a joint state, together with Montenegro, Serbia, Croatia, with all the existing six republics. We will be advocates of this and if there are those who do not wish to live together with us, there are ways and means to carry out secession.'*

*We explained our principles and then there was discussion. Krajišnik said that it was too late; that he welcomes this rapprochement, but that they cannot renounce regions because it went too far. I reacted very briefly: - 'In that case, there is nothing to talk about; we insist on this. Any division into regions will give rise to conflicts; and this cannot happen in a peaceful way; it cannot happen without engendering hostilities. We have come to reach an historical agreement so as to avert these conflicts.'*

*In my introductory remarks, I ought to mention this, I said that, in my opinion, the situation between us*

*is clear; that there is no village in Bosnia that is controversial; that it is known what is Serb, what is Bosniac, what is Croat; that these conflicts of ours are rather of an irrational and not of a real character. We missed the chance to set the record straight after the departure of Austria, that is, after the collapse of Turkey, when the first Yugoslavia was created and we must not miss this opportunity. We must make things clear, we must roll up sleeves and work together towards the creation of a Bosnia acceptable to all.*

*Then they mentioned Krajina in Croatia and that they were already negotiating with Croats. I answered that it is the same case with Sandžak..*

#### *Bosnia's Borders Cannot Be Changed*

*- Sandžak is a part of Bosnia; Bosniacs live in Sandžak, but we are not raising the question of borders. Nothing can be added to Bosnia and Herzegovina but nothing can be taken from it either. Before explaining these details, I said: - 'Please, let's make it clear, all that we are talking about goes for Bosniacs and Serbs, but also for Croats as if they were also present here. They are a constitutive people in Bosnia.' I must admit that not for one moment did they hesitate to say: - 'Of course, we consider that Croats as a constitutive people in Bosnia and Herzegovina cannot be called in question in any way'.*

*It came out from our discussion that Koljević and Karadžić agreed with the postponement of the creation of regions and that they accepted our position that we could not but remain a joint state, Bosnia and Herzegovina. We insisted that they, too, should accept that Bosnia is an independent and sovereign state. They said they could accept this only if it remained within the*

*Yugoslav common state. We reiterated that we consider that the status of Bosnia must be equal to that of Croatia and Serbia and that our starting point is the community of six equal republics.*

*At the meeting someone from the Serb side said that it is possible to allow the separation of Western Herzegovina. I refused this with the explanation that we must take the position that the borders of Bosnia and Herzegovina cannot be changed and that we must stand ready to fight for these borders. I supported this view with the following words: - 'If you want Krajina, we want Sandžak! But let's not complicate things; you will solve the question of Krajina in negotiations between Serbia and Croatia, and perhaps in negotiations among all of us' - They said that they were preparing unification with Croatian Krajina and its annexation to Bosnia, thus confirming the information I had. I rose up against it immediately and said that this was out of the question.*

*It was obvious that they had Great Serbia in mind but were hiding it. However, I continued: - 'Look, as far as the language is concerned, this is the Bosniac language for us. In any case we cannot tolerate it any more because of the hegemonistic Great-Serbian and Great-Croatian influences and regulations that this language be called Serbo-Croatian. You may call it Serbian but to us it is Bosniac.'*

*It was clear to Serbs that we will do everything in our power to articulate our national feelings through the Bosniac orientation. I do not remember exactly whether it was Koljević or Krajišnik, who insisted that after our meeting we should be very careful about the way we were going to make public the elements of our agreement. He said that we must be careful with our*

supporters.: - 'This must not look as some kind of capitulation of one side to the other'.

After that I proposed that there should be a protocol to the agreement; that this protocol should not be made public, but that it should clearly state that Krajina cannot be annexed to Bosnia and that, inter alia, we agreed that our language is Bosniac.

Consequently, I demanded that two documents be drawn up - one that will be made public and embody the principles: independent Bosnia, life together, community of peoples, and another for internal use, but clear and legally binding.

#### *Alija Will Deceive You*

They agreed. I immediately raised the question of Milošević's position, because I knew about their liaising with Milošević. I said: - 'I wish to meet with Milošević immediately and to discuss this matter with him. 'Karadžić got up and called Milošević by phone. He told him that I was with them at that very moment and that we had proposed an historical agreement to them; he mentioned the three points: - 'We are of the opinion that this is good and is worth thinking about'.

Then he turned to me and said: - 'Milošević expects you. You may come whenever you wish; tomorrow if it is convenient to you.' - Then we discussed it, whether I should go immediately by plane. I said that I would go tomorrow. They immediately offered help, began to talk, the atmosphere changed; I wouldn't say it was a friendly one, but the tension eased. All of a sudden a normal atmosphere was created between us; they began to talk about the difficulties they had or still have.

*They asked me if Alija knew about this visit. I said that I was speaking also on Izetbegović's behalf. I invited them to go together to Izetbegović, so that he would confirm this, because we were in the Presidency building and his office was, so to speak, next door. I telephoned Alija and he invited us. We went to his office immediately. I explained briefly what we had agreed on. He agreed with everything and asked Koljević and Filipović 'to put it on paper'. He said that he was leaving for America tomorrow and that upon return from America he would sign it.*

*The atmosphere between them was very unpleasant and strange to me. When he said aloud: - 'I will sign this when I come back from America', Koljević turned to me and said: - 'He is going to let us down.'*

*It was strange that he should say this aloud to a colleague, the President of the Republic, that he was lying and that he was going to let us down. As I acted as chairman of the conference I got up and said: - 'Nikola, please, how can you say that!'*

*Knowing that Alija is in the habit of changing his mind, I nevertheless thought that he would not do it at this historical moment because he personally asked me to negotiate - that his changing his mind was out of the question.*

*Then there was argument about the trip. Koljević told him that it was he, and not Izetbegović, who is in charge of foreign policy in the Presidency: - 'How come you are going to America, and I don't know even why you are going or who you are going to meet with?'*

*A quarrel broke out. I interrupted them and said: - 'Look, this is extremely important and please have your accounts settled on some other occasion. This is a very serious matter'. - We concluded the meeting and Izetbegović fully accepted what we had agreed with the Serb side. That evening Koljević had an interview on TV with Dubravka Kenić. He mentioned the agreement by saying: - 'Today I telephoned my wife and it is the first time after several months that I am going with my mind at ease because we did a great job'. He said that he had met with the Muslim leaders - '... with whom we made an agreement on how best to solve the question of Bosnia. There is no danger any more that we could start fighting with our neighbours'.*

*The news made a sensation in Bosnia. Everybody was wondering who were those Bosnian leaders they had met with. There was discussion and already the next day there were rumours that an agreement had been arrived at, that it was reached between Zulfikarpašić and Karadžić, that is, between Muslims and Serbs.*

*When Izetbegović came back from America the journalists asked him: - 'Do you know about the agreement?' - He openly answered: - 'Yes, MBO and Zulfikarpašić are negotiating also in my name. That is all in agreement with us'.*

#### *Open Talks with Milošević*

*Before I visited Milošević, I had already expressed a critical view of him in a number of interviews. In one interview I said that he is unreliable as a partner and condemned his Great-Serbian policy, his tendency of having Bosnia divided, etc. Despite this, the reception was friendly, he was very thoughtful; he said*



*he knew all about me and that he followed my arrival in the country. We talked for about two hours, tete-a-tete. I told him that our partners in Bosnia - Koljević, Karadžić and Krajišnik were a bit hesitant about the question of regions. He said that they had invented these regions against us: - 'Now that we are trying to bring about an agreement, to discuss this matter is beyond the point, there are no regions in Bosnia and Herzegovina'.*

*Milošević was very surprised that we were offering agreement. He knew that we were not doing this under pressure. He spoke immediately about prospects for our economy, how we would be able to work together. Milošević even proposed that the presidents in the reformed state organisation should assume office in alphabetical order: Bosnia, then Montenegro, Croatia, Macedonia, Slovenia and, finally, Serbia: - 'We, Serbia, are surely the last. Let the presidency of the Republic begin in alphabetical order and let a Bosniac be the first to hold the presidency, we will entrust him with powers, to be the commander of the Army, the president will have the greatest competences.' he said.*

*After that I raised the question of Sandžak. Milošević answered that we were going to solve the question of Sandžak together in the future, but that he is ready to accept immediately its cultural and administrative autonomy. I told him that it is very embarrassing for us to quarrel, but that there are reprisals, that war is being waged with Croatia, that Serbia was creating a conflict situation with Albanians. He said: - 'Please negotiate with Croats, act as our mediators, we stand ready to liquidate that war. We cannot allow things that are happening to Serbs in Croatia, that you yourself have seen. But we are ready for a solution that would be in the common interest.*

*Look, you can be our mediators, as MBO, and you personally as Zulfikarpašić, and Izetbegović if he is willing to. As far as Albanians are concerned, I can guarantee that we will set up a commission and immediately send it, in agreement with you, in order to find a reasonable solution also with Albanians.' I said to him: - 'We are Bosniacs-Muslims, they are Muslims, we are linked by religion, and we do not want you to pursue such a repressive policy towards them'.*

*Then I spoke about everything that gives rise to conflicts, misunderstandings between us; I said that Bosnia was half-occupied. He answered that from now on we will pursue a common policy: - 'You want to be open with us, so I'll be quite open with you. Look, we are ready to appoint Muslims as commanders of corps in Banja Luka, Mostar, Sarajevo, Tuzla; there are no problems in this respect, you may rest assured. You may deal with problems of Bosnia the way you think is the best. We only wish to help you there. You wish those structures, we agree. We do not want to be left out of account in Bosnia and Herzegovina but we do want that you be equal there, there is no question about it'. Milošević did not reject any of the points I raised as a problem. To such an extent was he enthusiastic about the fact that now, when he was waging war with Croatia before the eyes of Europe, a people comes to him offering agreement. He did not hide that he saw something very positive in it. He said: - 'You see, we have averted catastrophe, and you showed us that ways and means should be sought in order to solve the problems in Yugoslavia peacefully'. He was a little impatient as to how and when the agreement should be signed. He asked that this be not unduly delayed. He inquired about the possibility of signing it in Sarajevo. I said that this should be agreed with Alija Izetbegović after his return from the United States.*

*I know everything about Milošević and I know what the opposition thinks, but I must admit that he was equal to the occasion, that is, to the historical moment and that he was prepared to take all concrete steps that would completely change the atmosphere of tension. He said to me: - 'Please consider that from now on we can solve any question together.'*

*When I spoke from Belgrade with Filipović about my talk with Milošević I did not know that this telephone conversation was eavesdropped by the Ministry of Internal Affairs and immediately conveyed to Izetbegović. The PDA immediately demanded publicly that Muslims be appointed as military commanders in Bosnia.*

*At a crossroads of peace and war*

*Nadežda: Could you today, from a three-year distance, perceive some rational reasons for which Alija Izetbegović refused your initiative for signing 'the historical agreement with Serbs' which would probably have saved Bosnia from war; or, does it seem to you that his wrongful judgement or even personal vanity and animosity he might have had towards you as the initiator of the idea were behind the refusal?*

*Zulfikarpašić: When Izetbegović returned from America I met with him again and insisted that he should go to negotiate with Milošević who had invited him. As we began this together, I wanted that we equally participate in it together until the end. And he went to talk with Milošević. When he returned, he told me over the phone that Milošević had said nothing new: - 'He promised all these things to me before, with minor differences. He told me that there were things that we*

*cannot get over so easily - we should meet to get this straight.'*

*That evening I was scheduled to be on TV with Ms Kenić, so I told him that I could not see him that evening. Then he said: - 'Look Adil, let's see each other in my office tomorrow morning, so we could definitively take a joint position. We can go together to Milošević again.' I was a little disappointed that he said that there were still problems that need to be discussed, that we shouldn't act rashly. I said to him: - 'Alija, please, the fate of the Bosniac people is at stake, the fate of Bosnia and Herzegovina, we musn't drop the ball.'*

*And there were already too many of my interviews, I was literally being chased by the press; people warned me that the PDA was very nervous because the media put me in the limelight instead of Alija, so I said to him: 'Look, Alija, I wouldn't dream of taking your competences, it is up to you to sign. I am not at all interested in signing this treaty, you are to sign it as the president of the Republic' He said: 'No! You, too, should sign it!' I retorted: 'But I not only don't insist on it, I'm ready to leave Bosnia, return to Switzerland, if you feel that this affects your authority in any way. I'm not interested in either being the president of that republic, the common state, nor am I interested in being an official in Bosnia. I'm interested in bringing about this agreement, because I see it as the only way out; and I wish you to know that I'm ready to get out of this at once and you should continue'. He said: 'No way, what are you talking about ...!'*

*The agreement met with a very positive reaction of the public. It was reached on time, not a drop of blood was shed. There was no serious excess in Bosnia yet. The process of democratization was at the very*

*beginning and the same was true of the country as a whole. Possibilities for the solution of our problem were still in sight. The possibility of stopping the war in Croatia was in the interest of both Serbia and Croatia. The time that had elapsed showed that there could be no victor nor was there a possibility of the war ending with the capitulation of only one side. My impression was that Macedonia would have accepted at that moment the solution offered by the agreement and that it would have joined us. I am convinced that the agreement which was, unfortunately, rejected would have indeed opened the process of agreement-reaching between Croats and Serbs. It turned out later on that agreement between Croats and Serbs is indeed possible. This is, after all, still in the hands of the same people, Tudjman and Milošević. In my judgement, any talk about ending the war should have been extended at that time to include clarification of Serbo-Croat problems.*

*At that moment I had a vision of a confederation or a union of states as a solution; it would have a common currency, common finances, possibly even different currencies but convertible; members of the union would have their own armies and some special joint forces vis-a-vis abroad; free flow of people and goods in the area would be preserved. In this way we would avoid dismemberment, the creation of hostile alliances., all this was, in my view, still possible. This war that broke out has only shown, starting with Slovenia's positions, that Yugoslavia cannot be preserved by force, but also that it cannot be destroyed without the use of force; therefore, I believed that the road of talks would open a series of possibilities and solutions that would suit the interests of individual peoples and, nevertheless, make it possible to speed up the process of democratization in a peaceful way, within or outside of Yugoslavia.*

*His refusal was so much against the interests of Bosniacs and Bosnia that even today it is not clear to me why he did it - why he broke his word and gave up. He must have been aware of what that meant for Bosniacs. Well, it did happen and one can only guess with regret.*

*Nadežda: Frankly speaking, there were unclear signals coming from your party, like the one that you were freezing the agreement. What was that about?*

*Zulfikarpašić: It is interesting that the Serb side, even when Izetbegović abandoned the idea, did not give up the agreement, but continued to propose to me that we visit some places in Bosnia together. They organized a large gathering in Trebinje, attended by several thousand Muslims, but also by more than thirty-five thousand Serbs and Montenegrins. It was a large people's get-together and festivity with music, dance. First we had a caucus meeting of SDP representatives and then a press conference; then we had a meeting at the football stadium in Trebinje which - as a university professor from Trebinje told me - attracted more people than gathered during Dučić's Days of Poetry (Jovan Dučić was a Serb poet, born in Trebinje - Respondents remark) or a founding assembly of SDP. This was the largest gathering Trebinje had ever seen. I spoke at that meeting. We agreed to hold a series of such joint meetings. Some groups of Muslim girls sang Bosniac love songs, singers of folk songs also took part, music bands. It was a meeting of Serbs and Bosniacs that proved a great success. After that we held a very interesting joint meeting in Zvornik at which several thousand people were present; many, many more than when we had the founding assembly, or when Serbs had the founding assembly for their party.*

*In addition to myself, Burek, Vice-President of the Liberal Bosniac Organization, also spoke; then Mujo Kafedžić, colonel and Vice-President of MBO, and a number of other speakers. Himzo Tulić, engineer and the president of MBO for Zvornik was also present. The meeting was very important because the chief representative of Serbs, Karadžić, said that Great Serbia is a fine dream but one that cannot come true in Bosnia; that Serbs should be aware of it, that real life is rather different from objectives like this one. He spoke rather reasonably that in those parts of Bosnia where Serbs and Bosniacs live together, in one half of municipalities the majority are Bosniacs, in the other the majority are Serbs; that where Serbs are the majority, Muslims should be protected; where Bosniacs are the majority, they should protect Serbs; that the only future is in a life together. And today, when some of the visitors of the Institute look at the video from that meeting, they say that it is incredible to what extent Serbs had indeed accepted that agreement and abandoned the idea of Great Serbia for the sake of a deal with Bosniacs. (bold is added)*

*I left for Zurich and it happened that the Vice-President of my party, Muhamed Filipović, stated at a press conference that the agreement is frozen - he used precisely the word 'freeze' - in order to give a chance to the PDA to negotiate with Serbs. We had initiated that agreement with the PDA, the PDA had accepted it and that statement about the freezing misrepresented the matter. I was immediately contacted by Belgrade. I gave a statement for TV News Programme broadcast live, in which I said that we stick to the agreement. I called Sarajevo and said to Filipović that the agreement should not be called in question under any circumstances.*

*The PDA indeed continued the talks but they assumed quite another meaning. They were obviously irrelevant for Serbs because they again fell into a psychosis of mutual distrust, back to the atmosphere of conflict which prevailed before the agreement. Many Croat intellectuals condemned the agreement. I tried to explain it to them when they visited me. But they considered that Bosniacs should in no case go along with Serbs. It was obvious that at work was also fear for their own position although I tried to assuage them that there was nothing to worry about for Croats and Croatia nor would we allow it.(...)*

*Nadežda: The process of negotiations on the agreement took about two months. The situation was in a way confusing and, in the end, the document that you drew up is all that's left of it. The blame for the failure to sign the agreement may, after all, be put on Alija Izetbegović. You were, so to speak, lynched at the time. Once again you were described as someone who works against the interests of Muslims. I must say that the agreement was not met with approval by the opposition in Belgrade either, because they thought, or at least that's what the opposition leaders claimed, that you were helping Milošević to survive. You did not meet with understanding of the Croatian authorities and the Croatian opposition either; however, you told me in a conversation later on that it took less than a month for regions, that is, Serb cantons in Bosnia to begin to be created again. You told me at the time that in fact Great Serbia was let in by the side door, through Bosnia. You warned that the failure to sign the historical agreement was leading to bloodshed and your forecast proved correct. Thus, in the 1960s in the 'Bosanski pogledi' ('The Bosnian Views') in your first text, you welcomed the creation of the United Nations forces with the thesis that it is good because after the collapse of*



*communism in East-European countries, you meant above all in Yugoslavia, religious and nationalist conflicts are likely and you said that the blue helmets are welcome; that they might come in handy. It looks as if you have the ability to forecast things. How do you feel as a person who knows that something may happen, invests a lot of effort to prevent it in some way, and then it nonetheless happens; how do you feel and how do you view the situation at this particular moment?*

*Zulfikarpašić: That agreement stood great chances. Even today it is not quite clear to me how Izetbegović, as a Bosniac, as a Muslim, as the president of the Republic of Bosnia, who knew how strong the Yugoslav Army was, what is Serbia's potential, what was Europe's attitude - who must have known all this, and if he didn't, he must have been able to judge it - how could he have so rashly refused this agreement and how easily he broke his word, leaving me, so to speak, out on a limb and involving his people in a conflict.*

*When, after the talk, I appeared on TV to defend the agreement, saying that we were entering a period of peaceful agreement-reaching and prospects for the development of the democratic process, in the middle of the programme a fax message arrived, signed by the Main Board of the PDA, stating: 'We are against any idea of agreement-reaching with Serbs'. This is, in my view, a monstrous formulation, that someone should be against the idea of agreement-reaching. Alija told me later on that he had no idea of such a fax and asked me to send it to him. I said: 'Please, with due respect, you are the president of the party, you sent it to me and now you are telling me that you know nothing about it.' (bold is added)*

*After that Izetbegović, Karadžić, Duraković, Kecmanović, Ključić and I appeared jointly on TV. After the programme, Karadžić, Alija and I came out of the building together and talked. Then Karadžić said: 'Listen, folks, don't play with this, let's try and reach agreement!' (bold is added)*

*There are frequent situations in history when it is possible to take this or that course, when you have the chance to change the situation or remain on the wrong track, heading for disaster. It was clear to me that the signing of the agreement and its implementation would be conducive to peaceful life and that it offered a chance. That chance was real, it was feasible, the same as the possibility of conflict was real and hovering over. Well, this is where the element of political leadership comes in, the moment when a political party and the leaders called upon to pursue an active policy should stand a test of maturity, perceive that historical moment, comprehend it and do all in their power to prevent catastrophe, to find a peaceful solution. You see, such moments do not happen often. If a certain course is taken, then there is no return; if that is the road to catastrophe, it is irretrievable". (Annex No. R3, pp. r25-r35/r36-r50..)*

2.1.2.3. The next big chance for a peaceful solution in Bosnia and Herzegovina was missed once again because of Alija Izetbegović's opposition, on 26 January 1992. The opportunity presented itself at the session of the Assembly of the Socialist Republic of Bosnia and Herzegovina which was held from 25-26 January 1992 and at which decision was to be made about the holding of a referendum in connection with the independence of Bosnia and Herzegovina. The Sarajevo daily "Oslobodjenje" ("Liberation"), which was under the control of the Muslim side, informed of the event as follows:

*The referendum of the citizens of Bosnia and Herzegovina on the future status of this Republic will be held on 29 February and 1 March 1992. The decision on referendum was adopted unanimously early yesterday morning, after seventeen hours of discussion, by the Parliament of the Socialist Republic of Bosnia and Herzegovina, but without the presence of the MPs of the Serb Democratic Party and the Serb Renewal Movement. All the 130 present MPs voted: the MPs of the Party of Democratic Action and the Croatian Democratic Union, as well as the MPs of the opposition bloc, except the Liberal Party.*

*The decision on referendum in Bosnia and Herzegovina was adopted at the extended session of the Parliament presided over by the Vice-President of the Parliament of Bosnia and Herzegovina, Mariofil Ljubić. He was entrusted with this task at the request of the Club of the MPs of the Party of Democratic Action which all MPs present in the conference room supported by voting. Before that, the President of the Parliament of the SR of Bosnia and Herzegovina, Momčilo Krajišnik, adjourned the session for the following day after the last interruption of the session he had presided over (stating that, according to the Rules of Procedure, the conditions for the continuation of the work had not concurred).*

*This turnabout was due to the failure of the three ruling parliamentary parties to agree on the agenda supplement, i.e. the introduction of the proposal of the Presidency of the SR of Bosnia and Herzegovina to adopt at this session the decision on a referendum of citizens. Many consultations were held because of which the session was frequently interrupted and each time when the session was resumed it seemed that a solution was in sight. Particularly so in midnight hours when the Deputy Prime Minister of Bosnia and*

*Herzegovina, Muhamed Čengić, proposed that first a detailed plan of the regionalization of the Republic be worked out and that only then a referendum be organized, but within a fixed period, to which the leader of the Serb Democratic Party, Radovan Karadžić, who at one moment found himself at the rostrum together with Čengić, also agreed.*

*'We have never been closer to an agreement than this time', said Karadžić to the applause of the MPs. The next interruption brought about another turnaround. Vlado Pandžić, Chairman of the Club of the Representatives of the Croatian Democratic Union, also said that he was glad that the agreement on a referendum was about to be reached. Only when Radovan Karadžić requested that the regionalization obligation be defined in a new constitution act (first regionalization, and then referendum), the President of the Party of Democratic Action, Alija Izetbegović, rejected any conditions regarding the referendum and said: "We stick to what we have already proposed, and as far as discussion is concerned, we can accept it'. Leaving the rostrum he criticized Krajišnik for the way in which he conducted the session.*

*At that moment it was obvious that all hopes for a successful outcome of the Karadžić-Čengić agreement had failed. Vojislav Maksimović, Chairman of the Club of the MPs of the Serb Democratic Party, said that any further discussion was purposeless and proposed, on behalf of all the MPs of the Serb Democratic Party, that the proposal to take a decision on the referendum of the citizens be forwarded to the Council for Inter-Ethnic Equality. At this point this session of the Parliament was concluded for the MPs of the Serb Democratic Party who, together with President Krajišnik, left the*

*conference room. It was exactly 3.30 a.m." (Annex No. R4, pp.r51-r52/r53-54..)*

By refusing to respect the request of the Serb MPs to have the said Council declare itself on the question of the referendum on independence, the Assembly of Bosnia and Herzegovina grossly violated the constitutional provisions contained in Amendment LXX to the Constitution of the SRBiH.

2.1.2.4. The last major opportunity to preserve peace in Bosnia and Herzegovina was the Coutilhero plan at the beginning of 1992, which provided for cantonization of Bosnia and Herzegovina. This plan was accepted by the leaders of the three leading national parties, consequently, also by Alija Izetbegović. However, Alija Izetbegović withdrew his consent later on.

2.1.2.5. There was only one reason why the radical Islamic group headed by Izetbegović refused the agreement arrived at between Dr Radovan Karadžić and Adil Zulfikarpašić, an agreement that was about to be reached at the session of the Parliament of the Socialist Republic of Bosnia and Herzegovina held on 25 and 26 January 1992 and the Coutilhero plan. That reason was the creation of independent Bosnia and Herzegovina as an Islamic state. Precisely the idea of an Islamic state is in contradiction with any cantonization of Bosnia and Herzegovina and calls for unitary Bosnia and Herzegovina with the Muslim majority. Consequently, the civil war was necessary in order to radicalize the Islamic religious feelings of the Muslim population and to create the absolute majority of the Muslim population in Bosnia and Herzegovina. To realize this objective it was necessary to destroy Serbs as an ethnic group in Bosnia and Herzegovina. To that end an interim alliance between the radical Islamic forces and the radical nationalist Croat forces in Bosnia and Herzegovina was made.

2.1.2.6. Although the radical Islamic group formally consented to the Dayton structure of Bosnia and Herzegovina, consequently, to the existence of two equal entities - Republic of Srpska and the Muslim-Croat Federation - it seems that even now the radical group has not reconciled itself to such a Bosnia and Herzegovina, i.e. it has not abandoned its objective of creating an Islamic state. The Respondent notes with regret that they abuse also these proceedings before the International Court of Justice for the purposes of the realization of that goal. Thus, on p.789 of the Reply, in para 82, the Applicant says: *"In the first place, this entity has been created contrary to peremptory norms of international law (jus cogens) and, in the second place ... The creation of 'Republika Srpska' has been imposed through the use of force and genocide."* In the entire text of the Reply, the Applicant places the name of the Republic of Srpska in inverted commas. It is obvious that the Applicant does not recognize the legality and legitimacy of Republika Srpska. It is also evident that the Applicant does not consider Alija Izetbegović's signature on the General Framework Agreement for Peace in Bosnia and Herzegovina as binding. Consequently, the Applicant is consistent in the implementation of its policy which is proclaimed in the key position from the Islamic Declaration: *"There can be no peace or coexistence between the 'Islamic faith' and the 'non-Islamic' social and political institutions."*

From the beginning of the crisis, consequently, from 1991, the radical Islamic group denies the right of the Serb people to self-determination, even within the framework of Bosnia and Herzegovina. The negation is a consistent realization of the position from the Islamic Declaration: *"Claiming for itself the right to regulate its own world, Islam clearly rules out any right or possibility of action of any foreign ideology on its turf."*

### 2.1.3. The Creation of Muslim Paramilitary Formations Was the Preparation for a Forcible Implementation of the Policy Aiming at the Destruction of Serbs as a Group

2.1.3.1. Another fact confirming the policy aiming at the destruction of Serbs as a group is the creation of the Muslim paramilitary formations and the preparation for a forcible realization of that policy.

2.1.3.2. General Sefer Halilović, (Former JNA officer and Chief of General Staff of the BiH Army during the civil war - Respondent's remark) in his book entitled "Shrewd Strategy", published in Sarajevo in 1997, describes his engagement in organizing Muslim paramilitary formations of the "Patriotic League" in the following way:

*"We got off lightly after all, I concluded then and here is why: when I began to work in the PL, I first met the late Safet Hadžić and Mirsad Čaušević. It was necessary to prepare the project of the organization and the plan of defence of the Sarajevo region, which was going to serve as a model for the Republic of Bosnia and Herzegovina as a whole. I was very disappointed when I realized (the second half of October 1991) that there is a huge people's energy unorganized militarily. I also learned that there is a group headed by Meho Karišik but concerned more with political than with military questions. At the same time, the entire military organization consists of unconnected groups supervised mainly by unprofessional co-ordinators, and only in a few places in B&H at that: Sarajevo, Bihać, Tuzla and Gorazde.*

*We did not sleep the whole night. We analysed the development of the war in Slovenia and Croatia thinking how best to organize ourselves in B&H. The*

*police force and the Territorial Defence were the mainstay of the defence in Slovenia. Both systems were well trained and armed, well co-ordinated. Croatia was something different, by national structure but also by the intentions of Belgrade. The backbone of the system of defence in Croatia was the police force combined with the National Guard formed subsequently. They did not count on TD because they were disarmed. 'What is the situation in the police force in B&H?' I asked. Safet and Mirsad answered in unison: 'One cannot count on them. We have not yet taken control there and minister Delimustafić was appointed by the SDP and Abdić, because his appointment was made conditional on some important political decision in the Parliament. There are individual members there on whom we rely and will continue to rely but not on the police as a whole'.*

*Thus, we decided that I should prepare a project of military organization and a plan of defence that will be completely autonomous, but broad and flexible enough to include all segments of defence that we expected to join us in case of aggression. After a short time the Regional Military Headquarters of the "Patriotic League" for the Sarajevo region, the municipal military headquarters, territorial, manoeuvre, special, sabotage and counter-sabotage units, units of branches of service, logistic bases were created ... Already at that time (October 1991) certain things were clear to patriots, things that, to many, are not clear even today. The situation would be far better for us if the newly formed authorities, drawing on the experience of Croatia, had first have dealt with the personnel question in the police force and then made it the pillar of defence. With the personnel proposed and appointed by the SDP that was not possible." (Annex No.R5., pp r55-r57/r58.)*



2.1.3.3. In Annex 120 to the Reply the Applicant presented the Conclusions contained in the appraisal of the situation in the territory of Bosnia and Herzegovina in the area of responsibility of the Second Military District. This document was drawn up in March 1992 and the commander of the Second Military District, Col.General Milutin Kukanjac, sent it to the Chief of General Staff of the JNA. It is a confidential document classified as "military secret". On page four of this document paramilitary organization in Bosnia and Herzegovina is described. The document states: "*Reliable data, as well as statements of the leading personalities of the Police in B&H on TV in the past few days, indicate that the peoples of this Republic are well armed on a party basis (Muslims have about 60 000, Croats about 35 000 and Serbs about 20 000 men).*" (Reply of Bosnia and Herzegovina, Annexes, Volume II, Annex No. 120)

2.1.3.4. Alija Izetbegović ordered mobilization of the armed forces on 4 April 1992. The Serbs in Bosnia and Herzegovina demanded, as an ultimatum, the annulment of this order for mobilization as illegal and illegitimate, but the Muslim-Croat authorities refused. This fact is also confirmed by the Applicant in para 109, p.538 of the Reply.

#### 2.1.4. The Acts of Incitement to Genocide Were the First Step in the Implementation of the Policy Aiming at the Destruction of Serbs as a Group

2.1.4.1. The fact pointing to the existence of the policy aiming at the destruction of Serbs as a group was the incitement to genocide. In its Counter-Claim the Respondent stated on p.349, paragraph 7.0.1.2. the verses of a "Patriotic poem" published in issue No.3 of the "Novi Vox" ("The New Vox") from October 1991 as an act of incitement to genocide. The verses read as follows:

*"Dear mother, I'm going to plant willows,  
We'll hang Serbs from them.  
Dear mother, I'm going to sharpen knives  
We'll soon fill pits again.  
Dear mother, chop some salad,  
And invite our Croat brothers.  
When our banners unite,  
All the Serbs will end in graves."*

2.1.4.2. In Annex 301 to its Reply the Applicant enclosed the text from the daily "Oslobodjenje" of 2 October 1991. The "Oslobodjenje" informs that, at the session of the Chamber of Citizens of the Socialist Republic of Bosnia and Herzegovina, Jovo Mijatović, member of the Serb Democratic Party, protested because the "Novi Vox" insulted the representatives of the Serb people in an extremely rude way (he probably had in mind the obituaries published in the same issue of the "Novi Vox", announcing the alleged death of the leader of the Serb Democratic Party - The Respondent drew attention to this in paragraph 2.12.1.3. of the Counter-Memorial, p. 163). Jovo Mijatović protested in particular because the owner of the newspaper, Senad Šahinpašić, instigates to the genocide of the Serb people and sits as an MP in the Parliament of Bosnia and Herzegovina. At the same session Momčilo Krajišnik said that it was incredible that a newspaper should call to genocide of a people and to fratricidal war. The Ministry for Information submitted a request to the Public Prosecutor's Office in Sarajevo asking for its judgement as to whether there are grounds for instituting criminal proceedings against the founder and publisher of the newspaper "Novi Vox".

2.1.4.3. Of course not all members of the Party of Democratic Action and the Islamic Religious Community shared the same ideas with the radical Islamic group around Izetbegović. At the same session of the Assembly of the SR of Bosnia and Herzegovina, Abdulah Konjicija, member of the Party of Democratic Action, dissociated himself from the writing of the

"Novi Vox" saying that it "resembles a morbid mind and indicates that there is the seed of fascism in society". He proposed that the public prosecutor be charged with the task of prohibiting the publication of the "Novi Vox" which was supported by the Assembly.

## 2.2. Incitement to Genocide

2.2.1. The Applicant does not deny that the acts mentioned on pp.349 and 350 of the Counter-Memorial and qualified by the Respondent as incitement to genocide have been committed. In paragraph 36, p.907 of the Reply, the Applicant points out that those were not the acts of the organs of Bosnia and Herzegovina. Indeed, those were not the acts of the organs of Bosnia and Herzegovina, but Bosnia and Herzegovina was bound to prevent the commission of these acts and to punish the perpetrators. It failed to do so, consequently, it violated its international obligations under the Convention on the Prevention and Punishment of the Crime of Genocide and therefore it is responsible for them.

2.2.2. The Applicant does not deny the existence of the "Islamic Declaration" nor that it contains the text quoted by the Respondent and qualified as incitement to genocide. The Applicant claims that "*the Islamic Declaration has not been raised to the level of Government policy*". The facts stated above speak to the contrary.

2.2.3. As far as the "Patriotic poem" published in the "Novi Vox" is concerned, in paragraph 38, p.908 of the Reply the Applicant says "*that there has been no relationship between the views and the policies of the Bosnian Government and the conduct of the editors of Novi Vox*". However, this relationship did exist. The Applicant has enclosed as Annex to the Reply issue No.301 the article from the Sarajevo newspaper "Oslobodjenje" of 2 October 1991 entitled "Agreed in the condemnation of the 'Vox'". It can be seen from this text that

the owner of the magazine is Senad Šahinpašić, who used to be a deputy of the SDA party in the Assembly of Bosnia and Herzegovina. Hence, its owner was a prominent SDA party member and as such, he was a deputy to the BiH Assembly.

2.2.4. The article published in the "Novi Vox" was qualified at the very session of the BiH Assembly as a call to genocide of the Serb people. In the same article, the "Oslobodjenje" daily newspaper made public that the Ministry of Information had requested the Senior Public Prosecutor of Sarajevo to ascertain whether there existed elements to institute criminal proceedings against the founder and publisher of the "Novi Vox". The Applicant has not substantiated its assertion that criminal proceedings were instituted against the Editor of the magazine. However, the Applicant says itself that these proceedings have not been completed.

2.2.5. Indeed, during the war a great number of Serbs were murdered in Sarajevo and dumped into the Kazani pit. This was confirmed also by the Applicant in paragraph 55, p. 916 of the Reply. In other words, the crime of genocide was perpetrated in much the same way as it was incited to in the "Novi Vox".

2.2.6. The Applicant does not deny that the article was printed in the "Zmaj od Bosne" paper on 1 April 1993, in Tuzla. The Applicant reiterates that the text does not reflect either the positions or the policy of the BiH authorities. It says that Bosnia and Herzegovina "*deplores and refutes the author's calling for Muslims to kill Serbs*". In brief, the Applicant concedes that the author of the text has called Muslims to kill Serbs, which effectively represents incitement to commit genocide.

2.2.7. In paragraph 42, page 911 of its Reply, "*Bosnia and Herzegovina acknowledges that a radio broadcast of the sort described by the Respondent took place*". The Applicant states, however, that the reproduction of the broadcast as annexed by the Respondent to the Counter-Memorial (Annex 78) is

incorrect. The Applicant fails to say what was incorrect about the reproduction of it. On the other hand, it says that the BiH authorities explicitly and publicly denounced the calls for revenge and that they criticized this programme. Allegedly, representatives of Radio Hajat were invited to the Interior Ministry to be informed about this position of the Government. These assertions are not supported by the evidence presented by the Applicant.

2.2.8. Under the Convention on the Prevention and Punishment of the Crime of Genocide, the Applicant was obliged to prevent the commission of the above-mentioned acts of incitement to genocide and to punish the perpetrators of these acts. The Applicant failed to comply with these international obligations and, therefore, is responsible.

2.2.9. Two separate acts of incitement to genocide - the Islamic Declaration and the "Novi Vox" - were, in fact, perpetrated before the Republic of Bosnia and Herzegovina was internationally recognized as an independent and sovereign state. Nevertheless, these are criminal offences which are prosecuted regardless of the Statute of limitations (prescription). The international obligation to punish such offences, based on the Genocide Convention, is not limited in time. Thus, the Republic of Bosnia and Herzegovina as a successor State, by becoming party to the Genocide Convention, has taken up an international obligation to punish the acts of incitement to genocide perpetrated on its territory. It failed to do so, for which it is responsible.

### 2.3. Killing

2.3.1. The Applicant stated the view (para. 44, p. 912 of the Reply) that it *"does not deem it necessary nor practically possible to go into any of the allegations which are not supported by any material or only by material which supposedly is to be found in Belgrade"*. The position of the Applicant that it

*"does not deem it necessary"* to go into unsubstantiated allegations contradicts the statement contained in paragraph 23 concerning the readiness of the "government authorities" to prosecute perpetrators of crimes even in time of war (and the more so in peace time). It is, therefore, unclear why the Applicant has not elaborated on whether or not their military and police killed Serb civilians and prisoners in the events specifically indicated, when the names of the victims have been provided in almost all the cases. Also, unclear is the "practical impossibility" for the Applicant to go into details of the killing of Serbs, at least in so far as the crimes committed in the territory of the Muslim-Croat Federation are concerned. (Any government has the "practical possibility" to determine whether or not crimes have been committed in the territory controlled by it.)

2.3.2. As will be demonstrated further on, the Applicant fundamentally has the same attitude towards the details of the Counter-Memorial supported by evidence: in such instances it denies the validity of the evidence presented. Consequently, the Applicant refuses to admit to the crimes described in the Counter-Memorial, although it is plain to see that such mass crimes against victims having specific names could not have been invented. The facts of these crimes do exist; they cannot be obliterated simply by the Applicant's denial.

2.3.3. The Applicant calls "appalling" (para. 45, p. 912 of the Reply) that the listings of the crimes against Serb civilians, as contained in the Counter-Memorial, began with Srebrenica. The Respondent does not consider important the order in which the Respondent listed the crimes committed against the Serb people in Bosnia and Herzegovina. The language used by the Applicant speaks more of itself than of the Respondent. The crimes against Serbs in the Srebrenica region were committed in May, June and July 1992 and only one in August of that year, which places them chronologically at the beginning of the Counter-Memorial. Beside, extensive abuse of the safe zone

should be have in minde, as publicle referred to by representatives of the Netherlands battalion.

2.3.4. The Applicant denies any importance to the annexed photographs of crimes (para. 46, p. 912 of the Reply), "*let alone that it would provide for any objective indication that the perpetrator of these atrocities, whoever that may have been, did commit these as part of a campaign directed by the Applicant's Government and aimed at the destruction of a specific ethnic group*". The photographs of victims are proof of the atrocities committed and they indirectly (by showing the way in which these were committed) indicate also the nature of the crimes. The genocidal nature and the responsibility of the Applicant for the commission of these crimes is inferred from the overall circumstances: the crimes against Serb civilians were committed the Applicant's armed forces (in two instances under 7.1.1.1. and 7.1.1.7 of the Counter-Memorial, by the military unit commanded by Naser Orić, which committed a series of crimes in other territories); they were committed burning down Serb villages and neighbourhoods and by killing all Serbs rounded up, regardless of their age or gender (in one instance, as many as 38 Serb villagers were murdered). In short, people were killed just because they were Serbs and the perpetrators were the soldiers of the Applicant's army. The troops of the Applicant, by their very nature, could not have acted independently of the Applicant; they were under its control. The crimes against the Serbs of Srebrenica referred to, were all committed within a space of four months and the Applicant did nothing to stop the criminal actions of its military in this community (nor in the territory of other communities). Similarly, the Applicant did not take any action against the perpetrators, including against Naser Orić as the most notorious figure. Instead, Naser Orić rose in the Applicant's military ranks and was decorated with the Golden Fleur de Lis by President Alija Izetbegović "*for extraordinary military successes in Kamenica*" (where Muslim armed forces brutally killed and mutilated at least 11 Serb prisoners, Counter-Memorial 7.1.22.9).

The final conclusion about the responsibility of the Applicant with regard to the genocide of the Serb people in Bosnia and Herzegovina can be drawn with even more certainty from the overall circumstances surrounding the crimes against Serbs, which will be dealt with separately.

2.3.5. Even as far as the crimes perpetrated in the territory of the Bratunac community are concerned, the Applicant denies the "relevance" of the submitted material (para. 47, p. 913 of the Reply) and for one of the victims, the Chief of Police in Bratunac says that he allegedly died in function and concludes that the autopsy report "*does not provide any objective indication that the perpetrator, whoever that may have been, did commit these acts as part of a campaign, directed by the Applicant's Government and aimed at the destruction of a specific ethnic group*". As regards the "relevance" of evidence, the Respondent believes that all evidence is judged on its individual merits and on its interconnection. Milutin Milošević, chief of Police in Bratunac, was not killed in line of duty but together with nine other Serb civilians, including two women (paragraph 7.1.2.11 of the Counter-Memorial). As in the case of the Srebrenica region, crimes against Serb villagers were committed Muslim armed forces. Again, in two instances (described under 7.1.2.2. and 7.1.2.9 of the Counter-Memorial) the crimes were perpetrated by Naser Orić's unit. It is understandable that the autopsy report did not provide "an objective indication", nor can it do so, that the crimes were committed "as part of a campaign, directed by the Applicant's Government". That such a campaign existed can be deduced from all the circumstances. The Counter-Memorial cited the report made on 26 January 1993 by Richard Boucher, spokesman for the US State Department, as additional evidence. The cited report says that Bosnian Muslim forces from Srebrenica killed at least 60 Serbs, mainly civilians in the villages around Bratunac. The Applicant said nothing about this. If the victims of crimes are Serbs, then even reports by



"independent observers" (as the Applicant calls them) are not regarded by the Applicant as "relevant material". (To substantiate its own claims, the Applicant refers to similar reports as its main evidence.)

2.3.6. The Annexes to the Counter-Memorial relating to the crimes committed in the territory of the Skelane community, are said in the Reply (para. 49, p. 913) *"to contain anonymous, mainly hear-say witness statements"* and that none of the statements *"provides any proof of the identity of the perpetrators of the atrocities described, let alone any material showing that the mentioned atrocities took place as part of a well-organized campaign or pattern of conduct"*. The Reply has taken out of the Counter-Memorial the statement that Skelane was predominantly Muslim, although it failed to mention or deny the assertion contained in the Counter-Memorial that a large number of villages in the Skelani area were inhabited by Serbs. The Reply then goes on to say that the testimony of the witness concerned *"does not provide any basis for the assumption that Muslim forces deliberately targeted Serbs living in this town"* (Skelane). Witness statements are not hear-say, but direct or indirect testimony on the crimes. Even indirect testimony, especially in connection with the main facts of the event, is valid, such as that the Muslim forces launched attacks against some villages and that they left bodies of dead Serb civilians in their wake. The exact data about the perpetrators are not of key importance; the essential fact is that the perpetrators were Muslim troops. In its Reply, the Applicant also resorted to a distorted interpretation of the contents of the Counter-Memorial. According to the Counter-Memorial, only two Serb civilians (namely two children) were killed in Skelane village itself and the rest of the 35 Serbs were murdered in the villages in the Skelane area, where they happened to be at the time of the commission of these atrocities. The Counter-Memorial does not assert, either, that Muslim forces "deliberately targeted" Serbs living in Skelane, except for the

two children concerned. However, they "deliberately targeted" Serb villagers around Skelane.

2.3.7. Concerning the section of the Counter-Memorial dealing with the atrocities in Srbinje (Foča), the Applicant first states (para. 50, p. 914 of the Reply) that the Respondent renamed the city of Foča into Srbinje and adds that this section "is not supported by any accessible material whatsoever", nor does it further discuss it in the Reply. The assertion that the Respondent renamed Foča or any other city in Bosnia and Herzegovina is not true. This city was renamed by Bosnian Serbs. The cities and towns in Bosnia and Herzegovina were not renamed only by Serbs. Thus, Bosnian Croats renamed Duvno town into Tomislavgrad, and Bosnian Muslims renamed Bosanski Petrovac into Muratovo (after Emperor Murat who led the Turkish invaders in the Battle of Kosovo against the Serbian Mediaeval State in 1389). The Respondent recalls that the Counter-Memorial, in its section on Srbinje (para. 7.1.5.22), inter alia, states that on 19 December 1992, on the date of Serbian religious festival - St. Nicholas, Muslim forces killed at least 51 Serb civilians in Serb villages in the Jošanica valley. Among those killed, there were 14 women, three children and 13 people over 60. The Counter-Memorial (paragraph 7.1.5.23) goes on to cite the report from The Times of 23 September 1993 regarding the incident. This report is cited once again:

*"The Bosnian Serbs asked the UN Commission on War Crimes to investigate the massacre, which they say was one of the worst crimes committed by the Muslims against the Serbs. They say that 57 people were massacred in a surprise attack last Christmas on 10 villages situated in a valley near Foča in eastern Bosnia. They also say that all the victims, except two, were civilians. In Bosnia crimes like these are seldom confirmed by the alleged perpetrators, but a captured Muslim soldier confirmed the larger part of this story to the BBC.*

*The attack about which there have been no previous reports outside the former Yugoslavia was launched in the morning of December 19 last year in Jošanica valley. The local Serbs, who have put together files with photographs as evidence for the UN, say that as many as 600 Muslims surrounded the ten hamlets during the night.*

*According to the accounts of survivors, a signal flare was fired at 7.00 a.m. which, the Serbs say, marked the beginning of a two-hour orgy of shooting, burning and killing. They say that when it was over only 13 of the 70 inhabitants of the valley were still alive.*

*The BBC reporter interviewed in Foča prison Šaban Kurtović, a Muslim soldier who admitted taking part in the attack. This former security guard insisted that no one had forced him to speak and that he had been offered no deal by the Serbs. He was a member of the Third Battalion of the First Drina Brigade stationed at Mravinjci, a village near Gorazde, and was captured last June.*

*...He said that up to 350 men had taken part in the attack and added: 'We knew that we were going against civilians. No one even tried to tell us that we were going against the Serb army or that we were going to take some important portion of territory'.*

*He said that the Muslim soldiers had drunk great quantities of alcohol en route to Jošanica, where they then split into 10 groups, each with its own target village. During the attack the Serbs did not fire and the Muslims had no casualties".*

From the circumstances described above, it is abundantly clear that this was a typical act of genocide against the Serbian nation. However, the Applicant has not found it appropriate to say a word about the atrocity and about the reports on it in foreign press (based on eyewitness accounts and testimony of a prisoner). It did not comment, either, the fact that once again a Serbian religious festival was chosen to attack the 'Serb occupier' for 'military tactic' reasons, considering that 'Serbian soldiers would have lowered their guard' (para. 35 of the Reply). In this way, the Applicant has demonstrated to what extent it ignored facts and evidence insofar as genocidal crimes against Serbs are concerned. Muslim armed forces killed Serbs in other villages in the same manner and with the same genocidal intent.

2.3.8. The Applicant paid no attention whatsoever (para. 51. p. 914 of the Reply) to the assertions regarding mass killings of Serbs in and around Konjic (the names of victims were fully identified). It refers to a witness statement describing "extensively the situation in, presumably the Čelebići camp". The witness is said not to have provided "*any, let alone independent, material indicating that the atrocities he describes -if true - form part of any well-organized campaign or pattern of conduct*". The Applicant again clouds things when it comes to proving and identifying facts. The witness, prisoner at the camp, may - on the basis of his observations - testify on the crimes which occurred in it or on the persons directly responsible, whereas the "*organized campaign and pattern of conduct*" may be inferred from the systematic nature of the crimes committed in all detention camps controlled by the Applicant.

2.3.9. The Applicant is not specific either (para. 52, p. 915 of the Reply) regarding the crimes committed against Serbs in and around Rogatica. The submitted evidence, as in all other cases, is said not to contain "*any material indicating that these*

*atrocities took place as part of a well-organized campaign or pattern of conduct".* The Respondent continues to hold its view on the importance of photographic evidence and testimony as proof of individual crimes committed. The Applicant's claim contained in the Reply that the Serb forces returned civilians that they took with them along the road where they had laid mines, bears no relation to the specific crimes committed by Muslim armed forces. In one case in point (para. 7.1.7.15. of the Counter-Memorial), Muslim forces attacked a convoy of Serb refugees killing 10 Serb civilians.

2.3.10. The Applicant's claim that the Annexes to the section of the Counter-Memorial relating to the murders of Serbs in Sarajevo "*contain anonymous, mostly hear-say witness statements*" (para. 54, p. 915 of the Reply). Several eyewitnesses (whose statements were attached thereto) testified to the killing of Serb civilians in Čemerno and Pofalići neighbourhoods and to other murders. Thus, witness 718/96-5 (Annex C 2618) saw the killing of Serbs in Čemerno village (identifying 21 victims by full name). Nevertheless, the Applicant paid no attention to the testimony of this witness or to those of other witnesses. Some witnesses have given even the names of the perpetrators, but they all specifically said that the perpetrators were soldiers of the Applicant's army, its police officers or the guards in the detention camps and prisons run for Serbs. The Applicant maintains (para. 55, p. 916 of the Reply) that "the Kazani case proves the exact opposite of what the Respondent claims: during the years of the siege of Sarajevo, the Bosnian authorities made every effort to prevent the commission of atrocities by individuals on the territory under their control". It is claimed that the Muslim military unit ("9th Mountain Brigade"), which committed the atrocities, "acted completely independently of the Bosnian armed forces and continuously ignored the orders given by Sarajevo". The Applicant's position that the Kazani case demonstrates quite the opposite of what is claimed by the Respondent, is totally unfounded. On sites at the foot of Mt. Trebević, Muslim armed

forces massively killed Sarajevo Serb civilians, which is an act of genocide. The principal role in these crimes was played by the military unit of Mušan Topalović, alias Caco, but this unit was not the only one. It acted within the Applicant's armed forces and not independently of them. The Counter-Memorial (para. 7.2.6.38.6.) states the fact that Topalović' military unit was visited by Alija Izetbegović and by Mrs. Biserka Turković. Both before TV cameras praised Mušan Topalović as a commander. This fact, which was not refuted by the Applicant, directly contradicts the above Applicant's claim contained in its Reply that Topalović's unit "continuously ignored the orders given by Sarajevo". Praises sung to Topalović by "Sarajevo" imply approval of what he and his unit did. That Topalović lost his life in a clash with the Applicant's police does not mean at all that he acted on his own and that the Applicant is not responsible for genocidal crimes committed by his military unit. The mass killings of Serbs by Topalović' men were so obvious and could not be concealed. However, the actual trial covered only a small number of murders of Serbs on locations at the foot of Mt. Trebević. For the sake of illustration, the Respondent mentioned in the Counter-Memorial (para. 7.2.6.39.2.) the first-instance judgment on the Kazani crimes, passed on 23 December 1994, under which the most severe penalties (imposed only on four of the accused) were six-year imprisonment sentences, although the victims were killed most brutally and were mutilated. What kind of justice it is, may be seen if it is compared to the case of Borislav Herak who had been sentenced to death penalty. (See the Application, paras. 44H to 44N). Besides Mušan Topalović, some other Muslim commandants, who had committed crimes against Serbs, were also eliminated by the end of the war. Thus, Jusuf Prazina, who, inter alia, commanded an Applicant's unit that by deception (after giving assurances of a safe passage) intercepted the JNA convoy in Dobrovoljačka Street, killing soldiers on site and later on after taking them prisoner - was gunned down in a foreign country. This perfidious pre-war criminal mind was also responsible for many other atrocities

described in the Counter-Memorial. According to a TV Sarajevo report on a news briefing, he showed to the camera a piece of paper purporting to be a decision signed by President Alija Izetbegović, naming him a general and commandant of Sarajevo (para. 7.2.6.38.4, Counter-Memorial). The Applicant's assertions that the "Bosnian authorities made every effort to prevent the commission of atrocities by individuals on the territory under their control" is not a reply to the claims contained in the Counter-Memorial: The Counter-Memorial asserts that the Applicant's military and police as well as guards in detention camps committed mass crimes against Serbs, which means the structures controlled by the Applicant, rather than individuals. Even the Applicant's assertion the way it is put, is untrue because on the territories controlled by the Applicant, individuals too could kill Serbs with impunity. Crimes were also committed by incursions of the Applicant's military into the territories controlled by it.

2.3.11. The assertion contained in the Reply (para. 58, p. 917) that the section on Višegrad is not supported by "any accessible material" is untrue. Annexed to the Counter-Memorial (C 2735) was the minutes of the testimony of a witness who saw Muslim soldiers kill his two sons and set fire to his home, where there were two women inside, one of them managed to get out but was killed on the spot and the other was burned to death. The Muslim soldiers failed to spot the witness and he lived to tell the story.

2.3.12. In the section of the Reply on Brod (paras. 59 and 60, pp. 917-918), the Applicant states that the Croatian armed forces in Bosnia and Herzegovina (HVO and HOS) were not controlled by the Applicant and it invokes the opinion of the United Nations Commission of Experts as expressed in the opening argument by the Prosecutor of ICTY in the Blaškić case. The statements made by the Prosecutor of the Tribunal are not proof either in a case before ICTY or before any other court. In the same vein, the opinion expressed by the UN

Commission of Experts is not, either, proof in the proceedings before a court of law. The Applicant's assertion that Croatian armed units in BiH were not under its control, i.e. that it was not responsible for the crimes committed by these units, is baseless. Bosnian Muslims and Croats jointly prepared for their secession from the Socialist Federal Republic of Yugoslavia, both politically and militarily; they jointly voted "yes" for the secession in a referendum and thus went against Serbs who were hostile to the idea of separation from the existing state. In the ensuing war, they emerged as one joint party and Bosnian Serbs as the other. They even established a common entity in BiH: the Muslim-Croat Federation. At the outbreak of war, Muslims and Croats, in conjunction and in a coordinated fashion, committed crimes against Serbs, in particular in the communities where all the three nations lived, such as Mostar, Konjic, Čapljina, Livno, Kupres, etc.

2.3.13. The Applicant also denies (para. 61, p. 920 of the Reply) the atrocities described in the section of the Counter-Memorial on Kupres by claiming that there is no evidence to support that these atrocities were ever committed and that the Applicant is not responsible for the crimes which HVO and HOS forces might have committed. It is precisely the crimes visited upon the Serb civilian population of Kupres that show that the Muslim and Croatian forces acted in conjunction. The information on perpetrators, particularly Counter-Memorial paragraphs 7.1.13.1. and 7.1.13.2., thus indicate that both Muslim and Croat soldiers committed crimes together.

2.3.14. The Applicant's assertion (para. 62, p. 921 of the Reply) that the person on which the post mortem was carried out "died as soldier in the Army of the Republika Srpska" is untrue. The person concerned was taken prisoner as a Bosnian Serb soldier and, along with three other PoWs, was shot by Bosnian Muslim soldiers in Jablanica (para. 7.1.14.1. of the Counter-Memorial).



2.3.15. By denying that the killing of Serbs occurred in the territory of the Goražde county, the Applicant claims (para. 64, p. 922 of the Reply) that none of the witness statements "provides any proof of the identity of the perpetrators of the atrocities described, let alone any material showing that the mentioned atrocities took place as part of a well-organized campaign or pattern of conduct". The Applicant goes on to say: "*Without acknowledging that any of the testimonies given in this section are true, the testimonies in the latter Annex show that there was presumably opposition against the alleged atrocities from, inter alia, the new head of the Goražde police ... and from former Muslim JNA officers, who opposed the liquidation of Serbs*" (Annex C 116, pp. 1178 and 1180). The Respondent points out that the minutes of witness testimonies, as annexed to the Counter-Memorial, section 2 on Goražde (para. 7.2.5.0), by and large relate to Serb killings rather than to torture and abuse only. It is unclear what proof of identity of the perpetrators is required by the Applicant, when it transpires from all these testimonies that the perpetrators were Bosnian Muslim soldiers and policemen and that many of them were named by name. The Applicant does not deny that at the time when the atrocities took place, Ibro Merkez was chief of police and Hadžo Efendić Chair of the Goražde War-Time Presidency. It is not of the essence whether the names of all the perpetrators were fully correct, but it is important that the perpetrators all belonged to the Bosnian Muslim military and police and that they committed the crimes in an organized manner, on orders from their superiors. An organized nature of the crimes is particularly evident in regard to the Serbs taken away by police from their homes in Goražde and shot. The same pattern was used for killing PoWs and Serb villagers. The Applicant clearly believes only one witness (Annex C -1176 - 1189) and only in respect of a particular detail - that there was opposition to the commission of atrocities and therefore concludes that "there was presumably opposition against the alleged atrocities..." So, according to the Applicant, there was opposition to something which was not obvious but presumed at

that. The Applicant has taken a small part out of the whole testimony of the witness. The witness detailed the massive round-ups and killing of Serb civilians, giving names of both victims and perpetrators. The testimony of the witness concerned reveals some Bosnian Muslim commanders opposed the execution of Serbs, which was done on a large scale and extra-judicially, and that in the wake of this opposition Hadžo Efendić, Chair of the War-Time Presidency in Goražde, set up an alleged Court Martial to cover up, by alleged judgments, the murders of Serbs already committed. According to this witness testimony, the transfer of Serbs into camps ("isolation centres") and their executions were decided by Chair of the War-Time Presidency Efendić. When the witness was taken to the "isolation centre", the leader of the police patrol read out to him the decision of the War-Time Presidency signed by H. Efendić, while chief of Police I. Merkez, who is responsible for the murders of a great many Serbs, told the witness that he was only carrying out the decisions of the Presidency. It is true that the witness said that the new chief of police protected Serbs, but he also said that even under the new chief of police the killing of Serbs resumed. For instance, the witness stated that immediately before UNPROFOR personnel came to Goražde (on 24 April 1994), a number of Serb civilians were killed, mentioning some by name. These crimes were committed by a Bosnian Muslim military unit. That the witness mentioned that there was opposition to the killing of Serb non-combatants is precisely proof of the truthfulness of his testimony as a whole. The number of crimes against Serb non-combatants and PoWs in the Goražde area (where at least 189 Serbs were killed and their names were stated in the Counter-Memorial), the structures (Bosnian Muslim military and police) to which the perpetrators belonged, as well as the circumstances in which the crimes were committed (killing of villagers who did not manage to flee; taking away of people from their homes in Goražde and shooting them; execution of prisoners after having been subjected to brutal torture) all clearly indicate that the crimes were committed in an organized manner, i.e. "as part of

a well-organized campaign or pattern of conduct". This point is additionally supported by the fact that the Applicant did not take any action against the perpetrators and that the one principally responsible among them, Hadžo Efendić, upon his transfer to Sarajevo, was first appointed as Deputy Prime Minister and then Ambassador to the Republic of Austria. Like in other cases involving deaths of Serbs, the Applicant pays no attention whatsoever to the documents also referred to in its own Application. The Applicant, thus, ignores the submission of the US Administration regarding the murders of Serb civilians in Goražde (para. 7.1.16.4. of the Counter-Memorial).

2.3.16. In the Reply (para. 65, p. 922 and para. 67, p. 923), the Applicant asserts that sections of the Counter-Memorial on the atrocities committed in Kotor Varoš (para. 7.1.17.) and Čajniče (para. 7.1.19.0.) do not contain proof of the identity of perpetrators, let alone that the crimes were committed "as part of an organized campaign or pattern of conduct". The Respondent points out that the evidence presented indicates that the crimes were committed by the Applicant's armed forces, whereas the organized nature of these crimes is inferred from the same circumstances as in all other instances.

2.3.17. With regard to the section on Tuzla, the Applicant (para. 68, p. 923 of the Reply) states that the crimes referred to in para. 7.1.20.2. of the Counter-Memorial were tried in 1995 (the crimes concerned were committed in 1993). Even these atrocities are referred to by the Applicant as "alleged" ones. Not even these trials or the statement of the mayor of Tuzla to the effect that the Applicant's government authorities were allegedly bent on preserving the multi-cultural character of Bosnia and Herzegovina are of the essence in making the final conclusion about the massive nature and character of the crimes committed by the structures controlled by the Applicant (military, police, detention camp and prison personnel).

2.3.18. The Applicant says nothing (para. 70, p. 924 of the Reply) about whether or not countless crimes against Serbs were committed in the Zvornik area (para. 7.1.22.0. of the Counter-Memorial). It simply limits itself to challenge the validity of the evidence submitted, in ways used in similar instances.

2.3.19. In the Reply concerning the section of the Counter-Memorial on Kladanj, the Applicant, not answering the question of whether these atrocities were committed or not, refutes the evidence given and says that the fact that forensic findings were made by an expert of the Military Medical Academy in Belgrade shows that "local commanders of the Bosnian Serb Army effectively disposed of direct lines of communication with the Yugoslav military in Belgrade". The Respondent continues to maintain that the engagement of a forensic scientist to gather evidence on the crimes committed, does not have the kind of importance that the Applicant wishes to attribute to it.

2.3.20. In the Reply (para 75, p. 925) concerning the section on Visoko in the Counter Memorial, the Applicant does not broach, either, the subject whether or not these atrocities took place. It only challenges the validity of the evidence submitted. The report by Richard Boucher (paras. 7.1.27.9. and 7.1.27.10. of the Counter-Memorial), which said that Serbs Milivoje Samardžić and Boško Raković of Visoko were beaten to death by Bosnian Muslims in the detention camp in Visoko and that Bosnian Muslim territorial defence forces beat to death Serb Slobodan Gogić, did not merit the Applicant's attention, either.

2.3.21. As regards the section on Prijedor, the Applicant (para 82, p. 927 of the Reply) recalls Chapter 5, section 8 of its own Reply and attributes to the Respondent "utter disdain" for non-Serb victims and "arrogance towards the Applicant and eventually its contempt of this Court". The Counter-Memorial gave all available information on the crimes against Serbs of Prijedor and the Respondent replied to the above-mentioned chapter of the Reply. By persistently ignoring thousands of Serb

victims identified by name, the Applicant is in a position to reflect upon its own disdain for the victims of crimes committed by its military and police as well as by prison camp personnel controlled by it.

2.3.22. Not even the arrest of some leading criminals in Zenica (para. 83, p. 927 of the Reply) has the importance that the Applicant wishes to attach to it. This one-off action, even if it took place alongside some other rare ones that were highly disproportionate to the crimes against the Serb people in Bosnia and Herzegovina, serves only to cover up the true nature of the crimes and the responsibility of the Applicant for them.

2.3.23. The Applicant refused to consider in the Reply (para. 90, p. 929) the section on Vlasenica as contained in the Counter-Memorial, since it "is not supported by any accessible material". Paragraph 7.1.42.4. of the Counter-Memorial states that Bosnian Muslim armed forces most brutally murdered 28 Serbs captured by them during the attack on Rogosije village (the victims were identified by name). The Counter-Memorial also referred to the third submission by the US Administration, dated 10 November 1992, in which they noted that an American free-lance writer reported he had seen the mutilated and tortured bodies of Serbs, which were displayed in a Serb Orthodox church. *"Some bodies were incinerated, others had fingers cut off from the right arm that is used by Orthodox Christians to make a sign of cross; some were circumcised in total humiliation; some had their eyes gouged out; they all bore stab wounds; their heads were so beaten that they were beyond recognition; their arms and legs were broken and cut off."* Nevertheless, even this submission on the signs of horrible deaths at the hands of the Applicant's armed units means nothing to the Applicant. In so doing, the Applicant does not consider its ignoring of facts about the crimes committed as its disdain for the victims.

2.3.24. Commenting on the section on Han Pijesak from the Counter-Memorial, the Applicant (para. 100, p. 930 of the Reply) challenges, cumulatively and in typified fashion, the validity of the evidence without adopting a position regarding facts as such and drawing the attention of the Court to Han Pijesak as the seat of the headquarters of Gen. Ratko Mladić, the Bosnian Serb commander indicted by the Hague Tribunal and wondering why neither the witness nor the examining judge "*deemed it necessary to mention this as a relevant circumstance*". It is, therefore, odd to the Applicant that the witnesses to the crimes committed by the Applicant's armed forces did not mention "*as a relevant circumstance*" that Han Pijesak was the seat of Gen. Mladić's headquarters. By the manner in which the Applicant alludes to the indictment issued against Gen. Mladić, it seems that it is tantamount to a judgment which went into effect.

2.3.25. With regard to the section on Mrkonjić Grad (para. 7.1.54.0. of the Counter-Memorial), the Applicant (para. 107, p. 932 of the Reply) says that it "*fails to see the relevance of all this to this case*" and that due to the unsubstantiated nature of the material provided the "*Respondent further demonstrates that it rather uses this case as an opportunity to continue its usual propaganda campaign than as serious litigation*". The crimes which occurred in Mrkonjić Grad, of which the Applicant is, no doubt, aware, will be corroborated by evidence, and the "relevance" of the material on these crimes stems from the simple fact that combined Croat army forces and the Applicant's units took part in the operations in BiH in 1995, and that those forces committed massive crimes. The Croatian regular army, as a foreign army, entered deep into BiH territory without any protests from, and in cooperation with, the Applicant. The Applicant not only disregards facts about the most serious crimes involving Serb victims, but it shows cynicism when alleging that the Respondent uses the victims of the Mrkonjić Grad mass crimes for propaganda. (At least 274 prisoners and civilians, including many women, were murdered. As of

submission of the Counter-Memorial 227 victims were identified.) The Mrkonjić Grad killings are typical acts of genocide: PoWs and non-combatants were murdered in large numbers simply because they were Serbs. Among those killed, 23 persons were over 75. (The oldest man, Ili Prolo, was 100 years old and the oldest woman, Andja Bunjac, was 93 years old.)

2.3.26. In para. 3, page 891 of its Reply, the Applicant points to the UNHCR map of 1 March 1994 showing BiH territories controlled by each of the three warring parties. The Applicant stresses that the map shows that most of the territory to which the Counter-Memorial refers was Bosnian Serb-held. This was so at that point, on 1 March 1994. By far the largest number of crimes against Bosnian Serbs were committed prior to that date, in particular during 1992, when the territories controlled by the three parties did not coincide with those held by them on 1 March 1994. In the first months of the war, there were no clear demarcation lines between the units controlled by the three warring parties. It was the crimes committed against Serb non-combatants that were the reason for drawing clear military lines of demarcation between the parties, in order to protect Serb inhabitants in some regions of BiH. Accordingly, many of the Serb villages that came under attack and where acts of genocide were perpetrated, at the time of the attack were not protected by the Republika Srpska Army. Additionally, many of the crimes against Serbs took place in Bosnian Muslim- or Bosnian Croat-controlled areas (Sarajevo, Goražde, Mostar, Tuzla, Zenica and other towns, as well as in all camps for Serbs). Lastly, part of the genocidal crimes against Serbs were perpetrated in non-Muslim or non-Croat controlled areas by hit and run attacks of the Bosnian Muslim and Croat military against towns and villages and by shooting Serb civilians.

2.3.27. In the concluding part of the Reply relating to para. 7.1. of the Counter-Memorial (deliberate killing), the Applicant states (para. 118, p. 934, Reply) that "the Federal Republic of Yugoslavia has not even begun to formulate a sufficiently

supported factual basis for its counter-claims. The approach of the Respondent apparently is just to overwhelm the Court with hundreds of pages of listings of alleged events, not with true and independently supported facts, neither with any beginning of analysis. For these reasons alone, the Respondent's conclusions, based on this particular way of proceeding, cannot sustain its far-reaching submissions." The Respondent formulated the factual basis for its Counter-Memorial relying on facts of concrete crimes on which it provided evidence. Considering that facts of reality take concrete form, the Respondent believes that they should be presented to the Court in a concrete form, too. This means that the names of victims must be given in full and at least the structures to which the perpetrators belonged and, if possible, also their identity and details about the events, as well as other circumstances on which the determination of the responsibility for crimes hinges. In cases where survivors are witnesses or potential witnesses, for the sake of their protection, their full names are not stated, just initials. Only facts presented in such a concrete way may be proved or disproved. For logical and practical reasons, the Respondent resorted to this method of presentation of facts, constituting the basis of the Counter-Memorial, even though it is aware that the numbers of Bosnian Serb victims are much higher than those cited by the Respondent, on the basis of the information and evidence gathered. Therefore, the Respondent's approach is not to "overwhelm" the Court with "*hundreds of pages of listings of alleged events*" but simply to state mere facts of the crimes committed. The scale of the crimes has decided the number of pages on which these facts will be presented (in a summary fashion). By contrast, the approach espoused by the Applicant is unacceptable to the Respondent. The victims are mostly referred to in terms of numbers rather than names, which is indispensable in proving any case. It is actually the Applicant which overwhelms the Court with piles of material that, more often than not, cannot be admitted in court as evidence.



2.3.28. The Applicant's Reply in relation to specific sections or paragraphs in the Counter-Memorial regularly repeats the assertion that "witness statements do not provide any proof of the identity of the perpetrators of alleged atrocities". In conclusion, the Respondent once again points out that in some instances witnesses gave information on the identity of perpetrators and that in all instances testimonies clearly indicate the structures to which the perpetrators belonged - the Applicant's military, its police or the personnel of the prison camps controlled by the Applicant. Because of the nature of crimes and the responsibility involved, it is essential that the perpetrators belonged to these structures rather than who they really were.

2.3.29. The Applicant also repeatedly asserts in the Reply that the evidence submitted in connection with some paragraphs in the Counter-Memorial does not provide any material to prove that the crimes were committed "as part of a well-organized campaign or pattern of conduct". In summing up on this point, the Respondent reiterates that the evidence on individual crimes is not supposed to be direct proof of an organized nature of crimes, or to prove that the crimes occurred "as part of a well-organized campaign or pattern of conduct". The conclusion as to an organized "campaign" or "pattern of conduct" may be drawn from the overall circumstances of all the crimes committed - from the number of crimes committed in the wider region, from the typical method used (the Applicant's forces entering Serb villages and killing residents; killing prisoners after subjecting them to torture; police taking Serbs away from their homes in towns and their subsequent death; killing of those detained in many camps), from the structures the perpetrators belonged to (the Applicant's military and police as well as the personnel of the camps and prisons controlled by the Applicant), and from the nationality of victims (Serbs). In repeating so often the denial of the existence of "*an organized campaign or pattern of conduct*", the Applicant might as well have asked itself what it is that is repeated so often and "*is not*

*part of a well-organized campaign or pattern of conduct*'. Moreover, had the Applicant commented on all Counter-Memorial sections and on all paragraphs thereof, the repetition of its assertion that there was no "campaign" of crimes would have been much more frequent.

2.4. Deliberate Infliction on Serbs Conditions of Life  
Calculated to Bring about Their Physical Destruction and  
Causing Serious Bodily or Mental Harm (Counter-Memorial,  
Section 7.2.).

2.4.0.1. Regarding the section on Čelebići, the Applicant (para. 120, 934 of the Reply) does not acknowledge any individual claim made by the Respondent and of the medical reports and the submitted photographs it says that they "do not provide any proof whatsoever of an organized campaign, directed by the Applicant's Government and aimed at the Serbs as such". Because of the regular repetition by the Applicant that the submitted evidence is no proof of an organized campaign of crimes, in its comments on the sections contained in this part of the Counter-Memorial, the Respondent will present its view on this at the end of the Chapter. Whatever evidence is provided by the Respondent, the Applicant refutes any Respondent's claim. The Applicant does not, either, comment on Richard Boucher's statement and on the third submission made by the US Administration of 10 November 1992 (Counter-Memorial 7.2.1.17-19) that in the Čelebići camp, 15 to 16 Serbs "were so savagely beaten they died". The Counter-Memorial gave evidence that 18 Serbs, all named by name, were beaten to death in this detention camp.

2.4.0.2. In response to the Ljubuški section, the Applicant (para. 122, p. 935 of the Reply) assert that "even if the alleged facts were true", it is "not responsible for the deeds of the HVO forces which were not controlled by the Bosnian Government". The Respondent again points out that Bosnian Muslims and

Croats acted jointly against Bosnian Serbs. For example, the information on the perpetrators from the camp of Čelebići, as contained in the Counter-Memorial, reveals that crimes in this camp were committed by Muslims and Croats together.

2.4.0.3. On the Dretelj camp section, the Applicant (para. 123, p. 935; Reply) only says that witness statements, medical findings and the submitted photos "do not provide any proof whatsoever of the existence of an organized campaign, directed by the Applicant's Government and aimed at the Serbs as such". The Applicant once again totally disregards the statement made by Richard Boucher as spokesman for the State Department, who said that the Croatian armed forces arrested a Serb doctor and took her to the camp of Dretelj, where she witnessed the torture of many male and female prisoners (Counter-Memorial 7.2.4.25), although the Applicant itself took such statements or reports as its main evidence contained in the Application.

2.4.0.4. In connection with the Sarajevo section in the Counter-Memorial, the Applicant (para. 125, p. 937 of the Reply) denies the existence of evidence proving "that the alleged acts were directed against victims because of their Serb origin as such". Here again, the Applicant takes no notice of reports which it once treated as evidence in the Application. Paragraph 7.2.6.12. of the Counter-Memorial states that according to the fourth report of the State Department, dated 28 December 1992, an American surgeon from California spent some time in the Koševo Hospital in Sarajevo, where he performed reconstructive urological surgery. He disclosed that Muslim and Mujahedin armed units (coming from Afghanistan and Saudi Arabia) forcibly circumcised captured Bosnian Serb soldiers by using primitive and non-medical means. He treated an 18-year old Bosnian Serb who was so brutally circumcised that his whole penis had to be removed. In August 1992, Bosnian Serb policemen were treated in the same Hospital after the Bosnian Muslim forces and Mujahedin from abroad had savagely

mutilated their organs by so-called circumcision which actually represented maiming and caused irreversible and untreatable injury to their body and mental scars (Counter-Memorial 7.2.6.36). This is borne out by the report of doctor Kenneth MacNamara of the United States who, as a member of an Irish medical organization, recorded 29 such cases of mutilation.

2.4.0.5. In response to the Counter-Memorial section on Hadžići, the Applicant (para. 136, p. 941 of the Reply) claims that the witnesses are "two reserve soldiers of the Yugoslav People's Army captured ... on 25 May 1992", while in para. 147, on page 943 of the Reply (section on Srebrenica), it says that the two victims mentioned in medical reports were "soldiers at the time of their capture but, even more importantly, the first victim was captured on BiH territory while serving as a reservist in the Yugoslav People's Army". The victims concerned were not JNA reservists at the time they were taken prisoner because by that time, JNA had no units of its own in BiH. Many Bosnian Serbs who served in the JNA, became soldiers of the Bosnian Serb Army after JNA withdrew from Bosnia and Herzegovina.

2.4.0.6. The Reply (para. 165, p. 946) referring to the Counter-Memorial section on rapes causing serious bodily or mental harm (7.2.46.0), the Applicant maintains that the Respondent's allegations "are not supported by independent evidence", that the medical findings provided "contain legally irrelevant material" and that the enclosed photographs "do not provide any evidence whatsoever regarding the identity of the perpetrators". The Applicant's position on "independent evidence", in itself, lacks clarity and is aimed at devaluing the evidence contained in the Counter-Memorial. If victims of rape testify as witnesses and if their testimony is supported by doctor's findings and opinion on the gravity of bodily or mental harm, why would this be "non-independent" evidence? There is no single reason to challenge the legal validity of such evidence. The victims have spoken about the perpetrators. These perpetrators belong to the

Applicant's structures (the military, police, prison camp personnel).

2.4.0.7. The Applicant (para. 166, p. 947 of the Reply) further dismisses the forensic medical documentation contained in the Counter-Memorial (para. 7.2.47.0.) as exhibits, saying that "*none of the findings contain material regarding the identity of the alleged perpetrators or any evidence that the reported injuries were inflicted on the victims as part of an organized campaign...*" It is said also that in most cases "*the ethnicity of the victims is not even mentioned*". Thus, in this case again, the Applicant requires that the individual evidence annexed to the Counter-Memorial also contains what they, by nature of things, cannot contain. Forensic pathology reports contain evidence on bodily harm done to the victims, whereas the victims of crimes have testified as witnesses to the circumstances and perpetrators of the crimes (mentioning also their own ethnic origin). In ascertaining facts, all evidence is judged both individually and in its inter-connection.

2.4.0.8. At the end of the Reply (para. 167, p. 947), relating to the Counter-Memorial, Section 7.2., the Applicant invokes the conclusions made at the end of the previous section. The Respondent, too, basically invokes the views stated by it in the above-mentioned paragraphs drawing attention to some other circumstances. In replying to some of the sections contained in this part of the Counter-Memorial (7.2.), the Applicant repeatedly asserts that the submitted evidence (witness testimonies, medical reports, photographic documentation, etc.) "*do not provide any proof whatsoever of the existence of an organized campaign, directed by the Applicant's Government and aimed at the Serbs as such*". As regards its Reply to the Counter-Memorial 7.1., the Applicant has toughened the requirements concerning the validity and admissibility of Counter-Memorial evidence: Here, the Applicant demands that evidence on individual crimes be at the same time evidence that the Applicant's Government directed an organized campaign of

commission of crimes against Serbs, whereas in its Reply relating to Counter-Memorial, Section 7.1. it demanded that individual evidence indicates that crimes were committed "*as part of a well-organized campaign or pattern of conduct*". This is required, because some witnesses, who were detained in camps or prisons, spoke also of the systematic mass torture of Serbs in the camps. In other words, they spoke not only of individual crimes but also of an organized commission of these crimes, and in some instances of the professed genocidal intent. To expect the surviving camp inmates to witness that the systematic torture to which they were subjected was directed by the Applicant's Government, is a bit over the top. The conclusion as to the responsibility of the Applicant is drawn from the circumstance that such massive crimes against the Serb people were systematically perpetrated by the elements of the Applicant's structures - the military, police and the prison camp personnel controlled by the Applicant - rather than by individuals outside the Applicant's control.

2.4.0.9. Massive cruel treatment, abuse and humiliation of Serb prisoners in many camps controlled by the Applicant were all aimed at physical extermination of Serbs as such or at causing serious harm to their physical or mental health. Many of the camp victims were literally beaten to death and some died of injuries suffered at the hand of their torturers or sustained irreversible injury to their health. These camps had elaborate systems of physical and mental torture and humiliation, ranging from various forms of ill-treatment, verbal abuse, hurting of the physical and mental integrity of a person to inflicting such bodily harm resulting in death. Sometimes, callous brutalization of innocent people took depraved forms. Great many witnesses testified to this and there is an extensive medical documentation on injuries inflicted on some of the victims. The number of camps controlled by the Applicant as well as the massive character of the crimes committed there by the guards (including the camp commanders) clearly indicate that what was involved there, was an organized commission of crimes against

Serbs as such, i.e. that these crimes were genocidal. A genocidal nature of these crimes and the responsibility of the Applicant for them become even more apparent when these crimes are viewed in the context of the crimes described in Counter-Memorial, Section 7.1. (deliberate killing of civilians and prisoners).

2.4.0.10. A specific form of physical and mental torture and humiliation was the rape of Serb women. Serb women, little girls and elderly women included, were raped in massive numbers, either by individuals or by groups, in the camps or prisons under Bosnian Muslim or Croat control. They were even taken to the frontlines (e.g. in Bosanski Brod) to be gangraped there by soldiers. Rapes were particularly frequent in the camps in Dretelj, Čelebići, Sarajevo and throughout Posavina. Not only was the kind of force commonly used in rape as a criminal sexual act used against these women but also the kind of force (beating up and seriously injuring victims) which is associated with various depraved acts representing additional physical or mental torture and humiliation for victims, leaving them with permanent serious consequences. Brutal, merciless torture of victims, especially when women were gangraped, along with the humiliation and demonstration of intense ethnic hatred, prevailed over the forcible satisfaction of the sex instinct. Rape has thus become a way of torture, serving the purpose of the destruction of a group to which victims belong.

#### 2.4.1. The Annex to the Final Report of the United Nations Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), the So-Called Bassiouni's Commission

2.4.1.1. In the text below the Respondent will quote parts from the Annex VIII (Prison Camps) to the Final Report of the United Nations Commission of Experts Established Pursuant to Security Council Resolution 780 (1992). Quoted paragraphs and pages are indicated in brackets *near* names of cities. In these parts Bassiouni's Commission discusses the camps in Bosnia and Herzegovina in which Serbs suffered. The Respondent does not consider these parts of the Annex to be relevant proofs. The Respondent quotes them for two reasons. First, to point to the partiality of Bassiouni's Commission in the presentation of information on camps under Muslim-Croat control. Bassiouni's Commission registered a large number of camps, but gave relatively scarce information about what was happening in them; in any case, it offers far less information about them compared to the description of developments in the camps in which Muslims and Croats were held. Second, in spite of this, Bassiouni's Commission noted the existence of a great number of camps where Serbs were victimized, which could have served as a point of departure for the Prosecutor of the International Criminal Tribunal in The Hague. The Prosecutor did not proceed to the verification of the information. He/she failed to take further action and bring in indictments except in the case of the Čelebići camp. This is a clear indication of the Prosecutor's biased attitude.

##### 2.4.1.2. BIHAĆ (pp.58-61, paras. 438-442, 448-453)

*"Jedinstvo Soccer Stadium: There are a few reports that the Bosnian Government held Serbs at the Jedinstvo Stadium. Apparently, as many as 900 prisoners were detained."*

*"BiH Government-run camp in Bihać: There are also reports from the ICRC that its representatives visited a BiH Government-run camp in Bihać. Representatives visited this*



*camp on 4 and 5 July, 15 August, 20 November 1992, and 5 June 1993. In July, they saw two prisoners, in August they saw 13, in November they saw seven, and finally, in June 1993 they saw three."*

*"Unidentified Camp: Thomson Mission representatives visited a detention facility in Bihać on 30 August 1992. The facility was reportedly controlled by unidentified Muslim forces. On the occasion of their visit, the Mission identified 30 Serbian detainees."*

*"Croatian and Muslim 'Bordellos': Finally, there are reports of bordellos operated by Muslim units. Here, Serbian women and girls were raped by members of Muslim and Croat forces who visited the camps in late 1991 and 1992. Detainees who became pregnant were not permitted to leave to get abortions."*

*"According to the Serbian News Agency, there were 15 bordellos in Bihać. Among them were those owned or operated by the following individuals: Mustafa Vuković, Abdulah Alijagić, Senad Hadliabdić, Rizvan Zujkić or Zjakić, Husein Lipovača, Hasan Zirić, Alija Djeferović, Ala Besić, Smajo Murtić, Jasmin Harbas, Ekrem Abazij, Huković, Civić, Deganović, and Murtić."*

*"The only specific information regarding these bordellos is that 30 women were estimated to be housed at the Vuković bordello. Also, according to the Information Service of the 2nd Krajiški Corps, UN Peace-keeping forces were aware of the activities at the Lipovača camp."*

*"Barracks, Bihać: According to representatives of the ICRC, a detention facility was established at the barracks in Bihać. ICRC representatives visited this facility on 16 November 1992. No information was provided regarding the ethnicity of the inmates or controlling parties nor the conditions or duration of the facility at this location."*

*"Hospital, Bihać: According to representatives of the ICRC, a detention facility was established at the hospital in Bihać. ICRC representatives visited this facility on 26 November 1992. No information was provided regarding the ethnicity of the inmates or controlling parties nor the conditions or duration of the facility at this location."*

*"Military Prison, Bihać: According to representatives of the ICRC, a detention facility was established at the military prison in Bihać. ICRC representatives visited this facility on 15 August 1992. No information was provided regarding the ethnicity of the inmates or controlling parties nor the conditions or duration of the facility's existence at this location."*

*"Prison/Penitentiary, Bihać: According to representatives of the ICRC, a detention facility was established at the local penitentiary in Bihać. ICRC representatives visited this facility on 7 December 1993. No information was provided regarding the ethnicity of the inmates or controlling parties nor the conditions or duration of the facility's existence at this location."*

*"Police Station, Bihać: According to representatives of the ICRC, a detention facility was established at the local police station in Bihać. ICRC representatives visited this facility on 14 December 1993. No information was provided regarding the ethnicity of the inmates or controlling parties nor the conditions or duration of the facility's existence at this location."*

2.4.1.3. BROD (BOSANSKI) (pp. 77-79, paras. 606-608, 612-616, 623, 624, 626-628)

The Commission of Experts Established Pursuant to Security Council Resolution 780 (1992) refers to camps some of which are also listed in the Counter-Memorial (paras 7.2.0.1. and 7.2.11.0.)

*"Bosanski Brod Camp: This facility is reportedly a Croatian-run camp with a sizeable containment capacity. Sources suggest that, at one time, as many as 1,000 Serbs from the surrounding area were contained here. The detainees were reportedly beaten every day and some had broken arms and legs as a result. The guards reportedly moved the severely beaten detainees from this location when the ICRC and UN Peacekeepers visited the camp. The ICRC visited this facility on 20 July 1992. No additional information regarding the conditions or duration of the camp's existence was provided." (S/1994/674, Add2 (Vol. IV), 28 Dec. 1994, p. 77)*

*The crimes committed against Serbs held by the Muslim-Croat forces at the Soccer Stadium in Brod, including rapes, are described in more detail.*

*Reportedly one incident involved the shooting death of 12 male detainees and the disposing of their bodies in nylon bags and dumping them into the Sava River.*

*About 13 women were placed in the ladies' room at the stadium. The women were reportedly raped. Muslim and Croatians raped the women in a bathroom where the women were allowed to shower. The women were raped by as many as six or seven men in the same night. The older women were forced to perform fellatio on the soldiers. The younger women were reportedly taken off-site and raped. The victims were returned to the camp the following morning.*

*When UNPROFOR representatives came to Bosanski Brod, the women were reportedly taken to a kayak club on the Sava River for three days until the representatives departed.*

*The detainees from the Bosanski Brod stadium were transferred to the Tulek Warehouse in August and later exchanged.*

*The rape of Serb women in Bosanski Brod is also mentioned in para 626 of the Report under the title "Forced Bordels", which states that they were physically abused and raped between January and April 1992. (Ibid., p.79). A certain number of camps visited by representatives of the ICRC is also mentioned in the Report.*

*"School Bosanski Brod: According to the list of detention places visited by ICRC in the former Yugoslavia, a detention facility was established at an unidentified school in Bosanski Brod. Representatives of the ICRC visited this facility on 12 August 1992. No information regarding conditions, duration, the ethnicity of detainees nor the identities of the controlling parties was provided."*

*"Prison/Penitentiary, Bosanski Brod: According to the list of detention places visited by ICRC in the former Yugoslavia, a detention facility was established at an unidentified prison in Bosanski Brod. Representatives of the ICRC visited this facility on 9 July 1992. No information regarding conditions, duration, ethnicity of detainees nor the identities of the controlling party was provided."*

*"Hospital, Bosanski Brod: According to the list of detention places visited by ICRC in the former Yugoslavia, a detention facility was established at an unidentified prison in Bosanski Brod. Representatives of the ICRC visited this facility on 9 July 1992. No information regarding conditions, duration, ethnicity of detainees nor the identities of the controlling party was provided."*

It is very symptomatic, however, that the Commission was unable to establish the controlling parties of these camps and who were the inmates having in mind the generally known fact that, in the period April-August 1992 when they were visited by the ICRC, Bosanski Brod was under the control of Muslim-Croat

forces; therefore, it is obvious that the camps in question were held by these forces and that the prisoners were Serbs. It is also strange, although it is a pattern repeated throughout the Report, that there is no information about the conditions in which these Serb prisoners were held or other information which is otherwise available and very detailed when the allegedly Serb-run camps are involved.

The same pattern is applied by the Commission in its description of the Tulek camp: *"This detention camp was located in a warehouse at the Tulek housing estate. Detainees interned at this location were from Novi Grad, Donja Dubica, Trnjak and Lipik. Most of the detainees were transferred from other camps in the area to this facility. The detainees slept on planks under the eaves of a shed containing lime and cement."*

*"The male detainees were sent to the front to dig trenches and many died. The women held in the camp were taken to the warehouse offices and were raped. The detainees were beaten, burned with cigarettes and brutalized. At least one, Milan Jagodić from Donja Dubica, died from his injuries."*

#### 2.4.1.4. BREZA (pp. 107-108, paras. 866-877)

*"This county is located in the centre of BiH, just north-west of Sarajevo. According to the 1991 Yugoslavian census, the population of this municipality was 17,266, of which 75.6 per cent were Muslims, 12.3 per cent were Serbs, 7.1 per cent were described as "other", and 5 per cent were Croatians."*

*"Breza Camp: According to one report three young women from Ilijas and Visoko were captured by 10 Bosnian Muslims on 26 May 1992, and taken to an unspecified location in Breza. Initially, they were detained in a basement room of a facility containing small windows. It was reportedly cold, damp,*

*and dirty. According to the report, upon the women's arrival their captors began to rape them. The women were repeatedly raped at this location where their detention lasted two days. The victims were then transferred to another room in a different building, apparently a part of the same camp, wherein five other women were interned. Conditions in the new location were almost as bleak. There was a bathroom, but the women were not permitted to shower or bathe. They were permitted to use the washbasin, on occasion, but only for very brief periods. They were fed pieces of moldy bread or macaroni, some leftovers and soup. The women were never able to speak to one another as there was always a guard present. In the new location, the women were reportedly raped by as many as 20 men at a time, one after another. When the women fainted from the abuse, their captors simply doused them with water to revive them and continued the raping. The women remained in the room the majority of the time except on those occasions when they were taken out to watch the male prisoners being beaten or killed. According to the report, the mistreatment of the men consisted of beatings, drowning, or the 'tearing' of their bodies 'bit by bit'.*

*"On one occasion, they tried to make a father rape his 17 year old daughter. Both father and daughter were beaten when they refused to obey. When the Muslims put a knife to the father's throat, he relented".*

*"According to the witness, the male Serb inmates were subjected to forced labour. They were frequently taken to construction sites and made to dig. The male workers were of all ages, there were even children among them, some as young as five. When the men were beaten, the women were brought to watch. When the women were raped, the men were reportedly also made to watch."*

*"Factory: The ICRC reported the existence of a camp in a factory in Breza. The ICRC first visited the camp on 11*

*November 1993. Information regarding the operation or control of the facility was not provided.*

*"Military Prison: The ICRC reported the existence of a camp in the military prison in Breza. The ICRC first visited the camp on 27 November 1992. Information regarding the operation or control of the facility was not provided."*

*"Police Station: The ICRC reported the existence of a camp in the military prison in Breza. The ICRC first visited the camp on 3 March 1993. Information regarding the operation or control of the facility was not provided."*

2.4.1.5. BUGOJNO (pp. 108-110, paras. 878,881,882, 892-896)

*"The municipality of Bugojno is located in the west-central section of BiH. According to the 1991 census, it had a population of 46,843 prior to the war. Muslims comprised the majority of the population at 47.1 per cent, Croats comprised 44.1 per cent, Serbs were 18.9 per cent, and 4.9 per cent were described as "other". One source reported that 10,000 eastern BiH refugees and several thousand refugees from Jajce arrived in Bugojno before the summer of 1993, the majority of which were Bosnian Muslims. Between 18 July and 22 July 1993, the BiH Army established control over the city of Bugojno. All HVO (Bosnian Croatian Defence Council) troops were disarmed at that time.*

*"Bugojno Bordel: One report indicated that a Muslim and Croat controlled bordel exists in the town of Bugojno, but did not specify the location within the city. According to this source, Serbian women are being forcibly held and subjected to repeated sexual abuse. Those who become pregnant as a result of the rapes are held captive at the bordel until they are five months pregnant, and if released, are prohibited from leaving their homes to prevent them from getting an abortion.*

*According to this source, members of Muslim and Croatian units who are infected with the AIDS virus or other communicable diseases are deliberately brought to the bordels to rape the Serbian women. It was reported that 12 year-old girls have been raped at this bordel."*

*"The 1st Krajina Corps in Banja Luka reported that Serbian women of all ages were imprisoned and subjected to rape in private prisons belonging to several Bosnian Muslims."*

*"Rostovo Ski Centre: According to a report compiled in 1992, 150 Serbian prisoners were held at the ski centre, and 30 of those prisoners were reportedly Serbian women. This camp may be the same as the Kalin motel brothel located at Ravno Rostovo."*

*"House of Relja Lukić: According to one source, the home of Relja Lukić, a Serb allegedly killed by Muslim or Croat forces, was used as a concentration camp for 50 Serbian prisoners. One report estimated that 15 Serbian women were being held at this house. The exact location of the camp within Bugojno was not provided. The report indicated that either the Army of BiH or the Army of the Republic of Croatia was in control of the camp."*

*"Slavko Rodić Factory: The Commission has received a report of a concentration camp controlled by the Army of the BiH or the Army of the Republic of Croatia, located in the Slavko Rodić Factory. There are reportedly 700 Serbian prisoners being held at the factory. According to one report, the ICRC visited a detention facility established at a factory in Bugojno on 28 September 1993. No information was provided regarding numbers of detainees or the conditions then existing at the prison."*



*"Bugojno Gymnasium: According to a report compiled in 1992, approximately 200 Serbians are being held prisoner in the Bugojno Gymnasium building."*

*"Coal Mine-Village of Bračenica: According to a report compiled in 1992, 250 Serbian prisoners were reportedly being held in coal mine in Bračenica."*

2.4.1.6. ČAPLJINA (pp. 113-117, paras. 914,915,919, 922-932,939-940,942)

*In the section related to the camps in the municipality of Čapljina the Commission describes six camps, which are also listed by the Respondent in the Counter-Memorial (paras 7.2.0.1. and 7.2.4.0.), describing in detail the suffering of Serbs in the camps Gabela and Dretelj. In the Report of the Commission the situation in Gabela is described, invoking neutral sources, in the following way:*

*"Reports indicated that the camp was overcrowded and the inmates were physically abused and mistreated. Additionally food was scarce and facilities for personal hygiene were lacking. Many inmates reportedly suffered from malnutrition. Bosnian Croat authorities who allegedly ran the camps admitted to Helsinki Watch representatives that conditions at the camps were substandard. They blamed overcrowding as the reason for the substandard conditions. Conflicting reports of the physical description of the camp were received. There are reports that at any one time between 1,500 and 3,000 men were held in two hangars. However, there also are reports that the prisoners were housed in three large storage sheds and that approximately 650 prisoners were housed in at least one of the sheds."*

The situation in the Dretelj camp was even more difficult for imprisoned Serbs, many of whom were killed. The Report of the Commission, invoking neutral sources, describes the situation as follows:

*"Reports indicated that as many as 1,500 Serbs were detained here. Both men and women were imprisoned at this camp. Several women initially were housed in a two by three metre cell. After a month at the camp, all prisoners, both male and female, were placed in five separate hangars where they slept on concrete floors. Available reports suggest that one of the hangars housed approximately 400 people and another hangar which was approximately 260 square metres-housed approximately 540 people. Some 70 women of different ages were reportedly housed in at least one other hangar.*

*The camp's physical plant was contained under tin roofs, which became extremely hot in the warm weather months. Several prisoners died from dehydration brought on by the heat. Others were forced to drink urine to avoid dehydration.*

*Allegedly prisoners were also detained in four tunnels, in complete darkness. The only light seen, crept in when the prisoners were fed the slice of bread and the few spoonfuls of soup that they received each day. Up to 600 people were reported to be in each of these tunnels which were only big enough to accommodate 170 people.*

*It is possible that the treatment of the inmates was not uniform throughout the facility. Conflicting testimony concerning whether the prisoners were fed once or twice a day was received. For some, the meals consisted of rice, beans or macaroni, and one slice of bread. In some cases, the inmates' families were permitted to bring them food. Deprivation of food was reportedly also used as a form of control and punishment (...). There are reports that the inmates were regularly beaten and subjected to torture. All men were reportedly beaten with*

*sticks, wood, rifle butts and fists upon their arrival at the camp and also during interrogations. Beatings usually occurred at night. Additionally, the prisoners were forced to engage in fisticuffs, and if the beatings were not to the guards satisfaction, the guards would intercede, imposing severe beatings.*

*The inmates were reportedly subjected to various forms of torture including having needles pushed under their finger and toe nails, being burned with candles and cigarettes, having their tongues impaled with knives, being forced to give guards rides on their backs, and being forced to eat grass and drink their own urine. Other prisoners were forced to lick the toilets clean. At least two prisoners were reported to have been scalped. Several others were reportedly made to wear JNA uniforms when western reporters were given access to the camp, although witnesses report that none of the inmates were combatants. During this visit, any prisoner with visible signs of abuse were hidden in separate rooms. The soldiers reportedly threatened to kill any inmate who refused to confess to foreign reporters that the reason for his imprisonment was because he was a combatant.*

*Reports indicated that the women were also interrogated and tortured. They were allegedly beaten during interrogations. The torture included needles stuck under their finger nails and cuts to their breasts. They were reportedly raped and forced to watch the soldiers beat the men.*

*The inmates were also subjected to a variety of sexual abuses. Women, at least for a period of time, were raped daily by groups of men and were also forced to engage in same-sex sexual intercourse. The rapes were committed in front of the other prisoners, including their relatives. Reportedly, the rapes of the female detainees stopped after approximately 10 days, although the physical mistreatment of all inmates continued throughout their detention at the facility. Male detainees were forced to perform same-sex sexual acts upon one another while*

*other prisoners watched, as well as being forced to engage in acts of necrophilia.*

*According to one report, several prisoners managed to survive detention at this facility, although an undetermined number of prisoners were tortured and killed at Dretelj."*

*"Tobacco Warehouse: Serbian women and some men were arrested and allegedly taken to a tobacco processing station in Čapljina, reportedly the headquarters of the HOS. The prisoners were subjected to torture. Reports indicated that women were raped at this camp and subjected to daily abuse. The guards placed a hot iron on at least one woman's bare flesh. The women were forced to walk naked in the street where they were called 'četnik prostitutes'. Several women tried to kill themselves. The guards told one woman that she would not die until she gave birth to an 'Ustaša'".*

*Several male prisoners were put in a hermetically sealed cell that was filled with tobacco dust. After a period of time, the guards entered the room and beat the men. These men were subsequently transferred to the Poduh tobacco processing plant at Metković and from there to several other camps."*

*"Police Station: According to one report, ICRC representatives visited a detention facility at a police station in Čapljina on 31 July 1992. No information was provided regarding the operation and control of this facility.*

*"Munitions Warehouse: Reports indicated that women were confined in an overheated metal shed that was a former munitions warehouse at an abandoned JNA barracks outside of Čapljina. The camp was allegedly run by a Major of the Croatian Defence Association of the Party of Rights (HOS). Another report stated that a former JNA ammunition warehouse*

*in Gabela, south of Čapljina, was one of the main detention centres in Čapljina.*

2.4.1.7. CAZIN (p. 117, paras. 944-947)

*"Detention Facility, Cazin: There are reports of a Muslim-run detention facility in Cazin, but no information regarding its exact location nor dates of existence. There are simply reports that Team Hotel of the ICRC monitored the release of 25 Serbian prisoners held by "Muslim forces" in Bihać and Cazin on 3 November 1992.*

*"Factory: According to one report, ICRC representatives visited a detention facility at a factory in Cazin on 28 March 1992. No information was provided regarding the operation and control of this facility.*

*"Prison/Penitentiary: According to one report, ICRC representatives visited a detention facility at a prison in Cazin on 13 August 1992. No information was provided regarding the operation and control of this facility.*

2.4.1.8. FOJNICA (p.136, paras. 1111-1115)

In paragraphs 1111-1115 (Vol. IV, p.136) the Commission of Experts confirms the existence of camps under Muslim control in Fojnica. Although the Commission's Report contains a very brief description of these camps, it can nevertheless be assumed that the same camps are involved about the existence of which testimony has been presented in para 7.2.35.0. of the Counter-Memorial.

2.4.1.9. GORAŽDE (p.143, paras. 1158-1161)

*"In Goražde, there allegedly are four camps for detaining mainly Serb civilians, but the evidence only provides names for three of the four detention facilities. BiH Government or Muslim forces reportedly operated the three named facilities. Reports indicate that at least 480 Serbs were detained in these camps. However, the report from the ICRC's visit to Goražde on 2 August 1993 states that the Government of BiH held 24 prisoners. Additionally, previous Red Cross reports from 6 May 1993 and 22 June 1993 indicate that the BiH Government held 29 prisoners in Goražde.*

*"Caves de Ville: Muslim forces allegedly operated a prison for Serbs at Caves de Ville in Goražde. No additional information was provided regarding the location, operation or conditions at this facility".*

*"Šašići Village: Reports indicate that BiH Government forces detained as many as 100 Serbs in the village of Jagići. No additional information was provided regarding the location, operation or conditions at this facility".*

*"Vitkovići: Reports indicate that BiH Government forces detained as many as 380 Serbs in the village of Vitkovići. One report also alleges that Serbs detained at Vitkovići were tortured. Additionally, between 3 and 5 May 1992, Muslim 'Green Berets' from Goražde, a former waiter among them, reportedly killed several Serbs from Vitkovići. The report also alleges that Serbian women were raped and Serbian children were killed".*

2.4.1.10. ODŽAK (pp.180-183, paras. 1479,1498,1500-1506)

*"Odžak Primary School: A primary school in Odžak was turned into a detention centre. The Serbian residents of the villages nearby were rounded up and taken to the school. The men were kept in the gymnasium. The women and children were kept in classrooms and then later interned in Muslim and Croatian houses in Odžak. When the men arrived at the camp, they were forced to run through a gauntlet of non-Serbs who beat the Serb detainees as they entered the gymnasium.*

*The gymnasium was crowded. Approximately 700 men were detained at this camp. The floors were very hard and the detainees had only coats or blankets for comfort. When permitted, the detainees had to line up for the toilet or a bath. Many detainees did not bathe for four months. In at least one instance, prior to an ICRC visit, the guards brought a fire truck in and hosed the detainees down so that they appeared clean. Many of the detainees fell as a result of the force of the water. The food in the camp consisted of one slice of bread and one cup of tea per day. Occasionally, prisoners were fed macaroni. Once, the guards forced all the detainees to eat spoiled, stale macaroni. The detainees were beaten if they raised their heads before they were finished eating the macaroni. The detainees suffered from dysentery as a result.*

*During the day, the detainees were forced to sing Ustaše songs for two or three hours at a time. The detainees had to greet the Croatian army or members of the paramilitary formations with the greeting 'Ready for the Homeland!'*

*Some detainees were taken to the front and forced to dig trenches for the Croatian soldiers in the areas of Bosanski Brod and Orašje. Many detainees were wounded or killed.*

*On 26 May 1992, a group of Croatian National Guards came to the camp, picked out a group of detainees and beat them. This incident triggered the beginning of nightly beatings. The guards beat the detainees with their feet, rifles, truncheons and other solid instruments. The guards would appear in the hall and single out a dozen detainees at random or call out a year from 1962 to 1972 and all those men born in that year would have to suffer. The guards would force the detainees to face a wall and then they would smash the detainees' heads against the wall from behind. In addition, the detainees were forced to run up and hit their own head against the blackboard or wall. If they did not do it hard enough, they were beaten in the head with a gun. After these beatings, the detainees were ordered to lick their own blood from the floor.*

*A member of the National Guards of the Republic of Croatia would usually be the guard to order the detainees to hit their heads against the wall. He also carved the letter 'U' in the detainees' chests.*

*In addition, other specific mistreatment included forcing the detainees to hold up their fingers as if making a cross and then beating those fingers. The guards also left detainees in locked rooms with vicious dogs. The guards also forced the detainees to beat each other, including relatives. Additionally, the guards forced men to kiss each other. The guards beat the detainees until they were too tired to continue. The soldiers and guards who beat the detainees were usually drunk.*

*The guards then turned to torturing with threats. The guards would order the detainees to pull down their trousers and would threaten to remove their genitals. The guards would put guns to detainees' heads and pull the trigger, however, the guns were not loaded.*



*Detainees who were able to give money to one of the captors could buy a night without a beating. This captor later confiscated all the detainees money and jewelry.*

*Approximately 30 women were interned at this camp. These women were taken to adjacent offices and raped. If they resisted, they were beaten. The women were raped by a different man each night. Serbian male detainees of various ages were occasionally brought to the women's area after the rapes and forced to lick the women.*

*In one instance, the guards, including two women from the National Guards of the Republic of Croatia, brought a mentally handicapped girl, to the camp and forced some detainees to rape her. The male detainees who raped her were promised a good dinner in exchange. The guards also forced detainees to rape a girl who had previously worked at a restaurant in Novi Grad.*

*The camp guards also organized a 'wedding'. They took a woman and man, both detainees, and forced a false marriage ceremony. The guards made the detainees who played musical instruments play for the 'wedding'. The detainees were then taken to another room where as "newlyweds" they were forced to perform sexual acts."*

*"A group of pregnant women from another rape camp were sent to Odžak. The women continued to be raped, but when they reached an advanced stage of pregnancy the Croatian men would leave them alone. The men allegedly considered this respect for the growing Croatian child.*

*At least some of the women were allowed to buy their freedom. Members of the 'Black Legion' or 'Black Coats' came to the camp and told the women that if they turned over money or jewelry they would be freed. The women who had money or jewelry sewed in the hems of their clothes were exchanged.*

*The soldiers from the 101st Bosanski Brod Brigade, 106th Osijek Brigade, 108th Slavonski Brod Brigade also mistreated the detainees. One individual from Donji Hasić was infamous at the camp".*

*"House Arrest: The Serb residents of Donja Dubica, Struka, Novi Grad, and Trunjak attempted to negotiate a peaceful departure for Bosanski Šamac. Instead they were taken into custody."*

*"The Serbian women and children from the villages surrounding Odžak were rounded up with the men and taken to the Odžak camp. They were then released and detained in Muslim and Croatian homes in the area of Novi Grad. While detained in these homes, the women's ordeals began. The Serbian women were repeatedly raped. They were raped in the detention homes and taken from the homes and raped at other locations. Many of the women were raped by their neighbours. Paramilitaries soldiers would come at night and order all the women out of the detention home. The soldiers would line them up, shine flashlights on their faces, and choose a few of the women to be taken away and raped. The women would be returned in the morning, some naked. The rapists told the women that they were to give birth to a young Ustaša."*

*"The women were raped by multiple men. A few of the alleged rapists were identified as the guards at the detention facilities at Orašje, Donja mahala and Odžak School. The paramilitaries 'Horses of Fire' were also identified as perpetrators."*

*"Strolit Factory: Strolit Factory was a detention centre in Odžak.*

2.4.1.11. ORAŠJE (pp. 183-185, paras. 1510-1528)

As it can be seen from the Counter-Memorial (paragraphs 7.2.12.0. and 7.2.9.0.) some of the most monstrous torture of Serb inmates took place in the camps in the Orašje area. The crimes committed in the Donja Mahala camp are also described in the Report of the Commission of Experts:

*"Donja Mahala: Donja Mahala was a Croatian run camp located in the Bosanska Posavina region near Orašje. The camp was a school before the hostilities. Detainees were Serbian men from the surrounding regions and captured Serbian militia. Many of the detainees had been previously interned in camps located in Odžak, Bosanski Brod, and Slavonski Brod. Donja Mahala has been described as 'the death camp'. The camp operated from at least May 1992. On 9 December 1992, ICRC delegates found 161 detainees at the camp. The detainees were fed the same food as the guards, however, they got only one meal every one or two days.*

*The detainees were kept in groups of approximately 15 people in different rooms at the camp. The detainees designated one room as the 'solitary confinement cell'. Detainees that were moved into this room were killed. In the solitary cell, the detainees received only a cup of tea and a slice of bread a day.*

*The detainees at Donja Mahala were routinely tortured and executed. To muffle the screams of those beaten, the guards would stuff rags in their mouths. An inmate at the camp described various instances of torture that he endured. One perpetrator burned the inmates beard off his face and drove screwdrivers through his hands onto a board. Another perpetrator beat him with a heated rod, a wooden oar, stabbed him in the back, and drove a power drill into his head. Still another tied the inmate's testicles with wire and then beat his genital region. Yet a fourth crushed his fingers so that the*

*inmate would not be able to make a cross in religious services. The inmate considered himself fortunate compared to other detainees at Donja Mahala.*

*In another account, the guards removed skin from one detainee's head every day so that he had only bloody wounds instead of hair. This detainee also had his right hand broken.*

*The detainees were forced to clean up the blood from the floors, tables and walls after the beatings. The guards further punished the detainees if any blood was found.*

*While in the camp, some detainees were forced to dig trenches at the front for the regular army of the Republic of Croatia and for paramilitary Ustaše formations. Fifteen men were killed while digging trenches at the front. At the front, the detainees were forced to climb out of the trenches and shout abuse at the Serb soldiers. In addition, the detainees pulled out dead and injured members of both armies. The Serb trench diggers were forced to watch as the Serb soldiers' bodies were mutilated. In one report, the guards killed a PoW when he was too weak to dig a trench; he had been denied food for 13 days.*

*Detainees were also beaten on the head, knifed in the legs, arms, and back, and burned with cigarettes. On occasion, one of the perpetrators allowed a detainee to see a doctor concerning injuries sustained from a harsh beating, however, the guards would confiscate the medicine given to the detainee.*

*Among those particularly brutalized were Serbian militia from Vukovar, including their commander and deputy commander. The deputy commander died on the torture table. Only eight of the Vukovar militiamen survived the camp. The guards pulled wire through the PoWs earlobes and hung heavy wooden boards on the ends of the wires. The guards also*

*slashed the tongue of one PoW. While the men were tortured, the guards laughed.*

*Some of the detainees were moved to Donja Mahala when the Croatians pulled out of an area. Approximately 100 men were moved to the camp when the Serbs took over Bosanski Brod. When the detainees arrived, they were met by one of the captors and then taken to the yard where they were beaten all day. These detainees were not allowed water or toilet facilities. Some of the men were beaten in the genitals. The guards told them they looked best as corpses floating along the Sava River.*

*To further humiliate the detainees, the guards relieved themselves on the detainees' boots and refused to allow the detainees to remove the boots. As a result, at least one detainee had open wounds on his feet that subsequently turned into gangrene."*

*"On the Orthodox Christmas, six or seven members of the Croatian National Guard arrived at Donja Mahala to further victimize the detainees. The Croatian soldiers lined up the detainees and beat them. The soldiers forced 'the detainees to admit to killings and rapes of Croatian and Muslim people'. The soldiers had the detainees repeat the forced confessions to German reporters."*

The Respondent singles out in particular the part of the Report from which it can be seen how the media were manipulated and how a distorted picture of the real developments during the war in BiH was created. As it can be seen from the part of the Report quoted below - and it is only one of the many similar examples - Serb civilians imprisoned in the Donja Mahala camp were forced by the camp authorities to confess before the reporters to the alleged crimes which they had not committed.

*"The guards also coerced some detainees to confess to certain crimes to reporters from Globus and Reuters and to English, Australian, and German reporters by offering an exchange for the confession."*

Further in the text of the same part of the Report there is a description of another two out of several camps in Orašje, in which Serbs were held, tortured and killed while women were raped on a mass scale.

*"Orašje School: Civilians were detained in a school in Orašje while they waited for prisoner exchanges. Some of the detainees had been previously interned in different camps."*

*"Rape Camp: From at least April to October 1992, a detention centre housed women in Orašje. The women interned in this camp were repeatedly raped by Muslim militiamen. Many women who were raped became pregnant and suffered further as a result of their experiences. Women sought abortions or adoptions at a number of hospitals and women's clinics."*

2.4.1.12. SARAJEVO (pp.281-291, paras 2382-2421, 2423-2426,2428,2435-2440)

*"There were reportedly many humanitarian law violations at the-private detention facilities. Some of these small facilities were allegedly 'bordellos', or sites where women were kept and raped and sexually assaulted for the gratification of the soldiers. Many of these allegations were very general, though some sources identified specific sites which were reportedly used for such purposes."*

*"Premises at Danila Ozme Street: The BiH Government allegedly detained Serb women here for the purpose of rape. There is no information on when the site was opened, how many detainees were there, or what the conditions were, but the site was closed at the end of August 1992."*

*"Premises at Čengiće Vila: The BiH Government allegedly detained Serb women here for the purpose of rape. There is no information on when the site was opened or closed, how many detainees were there or what the conditions were".*

*"Railway Station: Serbian girls were reportedly held here and raped. The submitting source stated that Muslims ran the site as part of a plan to get rid of all Serbs. There is no information on when the site was opened or closed, how many detainees were there, or what the conditions were".*

*"Primary School Petar Djokić: Serbian girls were allegedly held here and raped. The source stated that Muslims ran the site as part of a plan to get rid of all Serbs. There is no information on when the site was opened or closed, how many detainees were there, or what the conditions were".*

*"Sports Centre Skenderija: Serbian girls were allegedly detained here and raped. The source stated that Muslims ran the site as part of a plan to get rid of all Serbs. There is no information on when the site was opened or closed, how many detainees were there, or what the conditions were".*

*"The Hotel Zagreb: The BiH Territorial Defence allegedly ran a 'bordello' for Serbian girls and women here. In a separate submission the same source stated that Muslims ran the site as part of a plan to get rid of all Serbs. There is no information on when the site was opened or closed, how many detainees were there, or what the conditions were."*

*"The Hotel Evropa: The BiH Territorial Defence allegedly ran a 'bordello' for Serbian girls and women here. Muslims reportedly took one identified girl here in July 1992 from Breka after they killed her mother and father. There is no information on when the site was opened or closed, how many detainees were there or what the conditions were."*

*"The Mladen Stojanović Dormitory or Youth Hostel on Radićeva Street: This site was located near the Sarajka department store. It was allegedly converted into the Security Service Centre Department in Sarajevo and was the first step for prisoners on the way to either the Viktor Bubanj barracks or the Central Prison. BiH Government forces reportedly operated the facility, where Serb women were allegedly detained and raped. According to one source, the Muslims strategic plan was to rid the area of all Serbs. There is no information on when the site was opened or closed, how many detainees were there, or what the conditions were."*

*"School of Civil Engineering: The Republika Srpska identified a man who ran a camp here where 100 Serb women were allegedly detained and raped."*

*"Aerodrom: Women were allegedly detained, raped, and killed here. No additional information regarding control or length of the facility's existence was made available."*

*"Student Hostel in Vraca: Women were allegedly detained and raped here. No additional information regarding control or length of the facility's existence was made available."*

*"Houses in Sokolac: Women were allegedly detained and raped here."*

*"Other small prisons housed both men and women. In these, the detainees were allegedly beaten, some killed, and some women were raped. There is little information on many of these sites."*

*"Premises on Oktobarske Revolucije Street: According to a statement by two named witnesses, Serbian men were held here, one identified Serbian man was beaten to death with a mallet, and prisoners were used as live shields"*



*"Basement of Apartment Building at Trg Zavnobih-a: A named Bosnian Serb witness stated that there were prison cells at this location two metres wide by 20 metres long. In one cell were 57 prisoners, 17 of whom were women. They lay on wooden pallets along the wall. Some reportedly had broken limbs and ribs, broken teeth, or head wounds. The witness stated that he was beaten because he was from Pale. During the day, he stated that dogs were brought in and forced to bite the prisoners. The witness identified two of the men who beat the prisoners as Senad and 'Kruško'."*

*"Mladost, Trg Zavnobih-bb: According to a witness, in April, about 20 Serbs allegedly were arrested, mistreated, and tortured at a detention facility established in this public building. Two identified men were allegedly killed. The witness stated that the commander of the Territorial Defence in Sarajevo, was one of the perpetrators."*

*"Cafe Borsalino: According to one source, a detention facility was established in this Sarajevo cafe. This facility was reportedly run by the Bosnian Muslim commander of the Territorial Defence in Sarajevo. Individuals detained here were allegedly tortured and denied food and water."*

*"School of Electrical Engineering: A witness stated that after being brought here, the guards confiscated his documents and all of his money. He reportedly later learned that Green Berets were found on Žuč mountain with all of his personal documents."*

*"Unidentified basement prison: A named witness reported that he was arrested 6 May 1992 by Muslim Green Berets. He recalled witnessing the torture and forced confession of a fellow detainee. The witness stated that the prisoner was, thereafter, killed by an identified man. There were reportedly other Serbs present, who were also physically abused."*

*"Unidentified facility on Tetovska Street: In October 1992, a woman was allegedly taken from her home to a basement, which had been transformed into a containment area, in Tetovska street. During her detention, the woman was reportedly interrogated and raped by members of the Muslim army. She became pregnant and received an abortion in March 1993, in her 22nd week of pregnancy."*

*"Unidentified military prison: According to Francois Didier of Paris' 'Daily Liberation', Serbian prisoners, who appeared to be civilians, were kept at a military prison for exchange. They reportedly had visible injuries. Another account involved a Serb man who saved a Muslim Imam during an attack on Dobroševići and Ahatovići in June of 1992. This man stated that he was arrested by Territorial Defence Forces on 29 June 1992, and taken to this prison. He stated that he told the people who arrested him that he had saved the Imam, but he was taken to the military prison anyway. He gave no further details."*

*"Unidentified School: A witness reported that her son's school in Sarajevo was now a prison and a bordello. She said that she never saw women, and could not say if Serb or Muslim women were held there. She stated that she saw members of the Muslim army enter the school and heard screams of women and men."*

*"Ramiz Salčin: According to one report, representatives of the ICRC visited a detention facility in Ramiz Salčin. The facility was established in a local prison/penitentiary and was in existence on 27 December 1993. No information was provided regarding the operation and control of this facility."*

*"Alipašino Polje: There was at least one site of detention in this area in Sarajevo. Three Bosnian Serb male witnesses describe events occurring at 'the prison at Alipašino Polje', indicating that there may have been only one. The fourth*

*report states merely that Serbian women were raped by BiH Government forces on premises in this area. Because the other witnesses do not allege that women were raped at the prison where they were held, this may be another site."*

*"The three witnesses each state that they were held in a prison run by the Muslim Territorial Defence Forces of BiH. The facility was reportedly used primarily for housing Bosnian Serbs. They also reported that both women and men were held there. One stated that there were 72 inmates. The witnesses did not describe conditions at the prison, but all three described beatings and killings. One man stated that he witnessed Muslim guards kill three men and saw guards interrogate another young man about weapons. When the young man replied he knew nothing about weapons, the guards allegedly tied him to a table and worked his anus over with a rasp. The witness stated that he saw the young man later in a pool of his own blood, still alive."*

*"The most detailed testimony was from a Serb man who said he was detained in a basement prison called 'block B' for eight days. He claimed he was imprisoned for being a Serb. He said he was interrogated and beaten. The prison inspector questioned the witness about the names of other 'Četniks'. When the witness stated that he knew a man with a particular name, he was beaten for 12 hours. The prison inspector reportedly watched the beating from a bed, rising from time to time to participate in the beating. The witness stated that he was put in a straight jacket twice and beaten with boards and a wooden stick. When he lost consciousness, the guards threw water over him. The witness also reported that the prison inspector urinated on his head and tried to force the witness to perform fellatio on him. When the witness refused, the prison inspector threatened him and took a stick, forcing it in and out of the witness' mouth, saying that this was what he did to Serb women with his penis. The witness stated that he was beaten again, and when returned to the other prisoners, was unable to*

*move for three days. The witness was called two days later to sign a written statement. He wrote his original story and was beaten again. The prison inspector reportedly came to him, saying that he would be released if he would tell who collaborated with the 'Četniks'. The prison inspector also said that many people were interceding on behalf of the witness including the management of the firm where he was employed. After eight days, the commander of the Territorial Defence came to the prison. He called out the names of each of the 72 detainees, one by one, and released them. The witness identified five guards who beat prisoners, and two guards he said did not beat prisoners."*

*"Electrotechnical School, Buča Potok: This prison was allegedly located at the Electrotechnical school in Buča Potok, on Prvomajska Street. The prison was reportedly run by members of the Bosnian Muslim paramilitary group the Green Berets and the Territorial Defence of BiH. There were eight male detainees, seven of whom were Serb and one of whom was a Muslim, who allegedly intended to give a Serb a list of Muslims who should be killed.*

*The sole account of this detention facility was provided by a Serb male. He stated that he was arrested on 17 May 1992, beaten and taken to the school. He recalled that there were some 30 armed individuals positioned in front of the facility. They reportedly ordered the prisoners to stand facing the wall, after which they were beaten. The witness and the six others arrested with him were taken to the basement. They were reportedly the only detainees there. The detainees were accused of owning radio transmitters and guiding Serb shells. One man, between 75 and 80 years old, died after being beaten for half an hour. Another man, about 75 years old, was brought in and killed by being beaten for an hour. The bodies of these two men were put into a sewer which emptied into the Miljacka river. The witness reported that the perpetrators stated they were from Foča, Gorazde, and Zvornik. The witness also*

*stated that he overheard beatings of other prisoners by what sounded like elderly women. The witness did not describe other conditions at the prison, nor did he describe his release."*

*"Central Prison (National Prison): This prison was allegedly run by an identified man. An actor reportedly helped manage the prison, though he left at the beginning of August 1992. The commander of the fifth floor, where women were allegedly held, was also named. Ten other guards were identified. Finally, one source added that the commander of the Territorial Defence visited the prison. The reports regarding this site state that Serb detainees were held here from May 1992 until at least July 1992. One source stated that part of the prison was opened in September 1992 for inspection by humanitarian organizations. Both men and women were held at this site, and one report stated that even children were detained here. There is no indication of how many civilians and PoWs were held here, or whether the detainees, whose statements were provided, were civilian or military prisoners. However, one report stated that a witness was kept in one room with 30 other Serb prisoners.*

*Hygienic conditions were described as terrible. One report stated that detainees were fed tea, bread and a little bit of pasta. Another report stated that detainees were fed only once per day. Allegedly, detainees were given one litre of water every four days. One witness, who was held in solitary confinement, reported that toilet facilities consisted of an outhouse outside. It was open and had no water. The same witness stated that he received no medical attention for wounds from beatings.*

*Detainees were reportedly beaten and tortured. Several reports state that Green Berets, Mujahedin warriors, police officers, and criminals were allowed to enter the prison and beat the detainees. Women were allegedly raped there. One report alleged that the commander of the women's floor extorted*

*jewelry under the threat of rape. Another report stated that women were raped every night. Some detainees reported that they were forced to sign false confessions saying that they were 'Četnik' sympathizers or snipers, and some said they were forced to testify on Sarajevo television. One report stated that every night five to six Serbs died, and more were brought in to take their place. One man was allegedly abducted and taken to the Central Prison because his brother was willing to exchange 100 Muslim prisoners for him.*

*According to another report, representatives of the ICRC visited a detention facility in a prison in Sarajevo. The report notes the existence of this facility as late as 3 March 1993. No additional information regarding operation or control of the facility was provided in the report."*

*"Ciglane: There were two places in this area of Sarajevo where people were detained. One was allegedly a 'bordello' holding Serb women and girls as young as 10 to 12 years old. The only account of this location came from a Serb woman who was held there. She stated that drunk Croatian and Muslim forces came to the site and raped the girls there. She alleged that many young girls were gang raped, and that none of the detainees were allowed to talk to each other. A former schoolmate of the witness brought her to this location. He had kidnapped her in Livno and brought her along when he was transferred to Sarajevo."*

*"Unidentified Tunnel: Another site in this area where people were allegedly detained was an unidentified tunnel. At this tunnel, Serbs were reportedly detained by Muslims beginning in mid May. The site was run by an identified commander. He is suspected by the Government of FRY to be involved in crimes committed at the camp. The Government does not specify what these crimes were."*

*"Dečić: On 7 July 1992, Muslim and Croat forces allegedly attacked the village of Presjenica. Some were killed, and about 50 were taken prisoner. They were taken to a Muslim-run camp in Dečić and held for two months. A Serb witness alleged that there was malnutrition, beatings, humiliations, and threats to kill. Younger women were allegedly taken away for forced prostitution and rape. The witness was exchanged in Kalinovik, 31 August 1992, through the Yugoslav Red Cross. She stated that five Muslims were exchanged for every Serb."*

*"Dobrinja: There were allegedly several sites of detention in this section of Sarajevo. The Republic of Serbia reported that in mid-June, there were mass arrests of Serbs, beginning with the intellectuals. The prisoners allegedly were first taken to the Territorial Defence Staff or to the Military Police Staff and then put into basement prisons in the area."*

*"Sunce Storehouse, Dobrinja: One of these prisons was Sunce Storehouse, located under Privredna Banka. The site was reportedly run by the Territorial Defence forces and housed Serb men and women. One report described the prison as three cells and a guard room. A witness stated that there were 63 men and women kept there in one room. There was a lack of food and light, and detainees were reportedly heavily beaten. One witness stated that the commander of the prison was a Muslim man, identified by nickname. Some prisoners were reportedly moved from this location to the Viktor Bubanj barracks or Central Prison."*

*"Unidentified Basement Prison, Dobrinja: There may have been another basement prison in this area of Sarajevo. A witness described his detention in a basement prison with about 100 other Serbs. He stated he was arrested on 23 June 1992 by the Territorial Defence and put into an unidentified basement. He was interrogated, beaten, and forced to throw*

*two Molotov cocktails at Serb houses in Nedžarići. He identified the commander at the site, and also identified two guards.*

*"Atomic shelter, Dobrinja: Serbs were also allegedly held at an atomic shelter in the area for three months. The Serbian Government identified a Muslim man named Baraković from Trebinje as an alleged perpetrator at unnamed private prisons."(...)*

*"Unidentified shelter Camp: One report alleged that in August 1992, a Serb woman was taken by members of the Muslim army to a camp in a shelter, set up to detain Serbs. This woman was detained for five days during which she was beaten, humiliated, and raped by three members of the Muslim army. She became pregnant and gave birth to a child in Belgrade in May 1993."*

*"Hadžići Prison: The ICRC visited this place of detention on 11 April 1993. No information was provided regarding conditions, treatment of detainees or length of detention."*

*"Grude Prison, Hadžići: Despite the forced expulsion of Serbs from Čelebici on 22 April 1992, Muslim and Croat forces reportedly found 13 Serbs who refused to leave. The Serbs were imprisoned in Konjic for a period of two days during which they were beaten and mistreated. On 8 May the Serbs were taken to Grude prison. The prison was reportedly a Croatian-run facility. The Serbs were allegedly tortured on arrival, a consequence of which, one Serb was reported to have lost his life."*

*"Bordellos' in Hadžići: In late 1991 and 1992, Muslim and Croat forces allegedly ran 'bordellos', housing Serb women and girls as young as 12. These women were reportedly kept in the 'bordellos' until the fifth month of pregnancy, and they were detained, but apparently not raped, after that to prevent*



*abortions. Additionally, men with infectious diseases including AIDS were allegedly 'deliberately allowed' to rape the women. This source further alleged that over 1,000 Serb women were exposed to this in seven counties."*

*"Hrasnica Prison: According to the Special Rapporteur to the Human Rights Commission, the BiH Interior Minister admitted that this site was controlled by the government and held men of all ages and backgrounds. The men were reportedly forced to do dangerous work like digging trenches on the front line. Bosnian Serbs and Bosnian Croats were allegedly at particular risk of this detention because they could be exchanged for Bosnian Muslim prisoners of war."*

*"Igman, Hotel Famos: This site was described by one witness as a temporary camp. The witness, a Serb man, was arrested in Konjic with 13 friends by members of the Croatian and Muslim army. The witness stated that they were taken to the Hotel Famos at Mount Igman. The soldiers beat the detainees at the hotel entrance. The soldiers ordered the prisoners to lie on the ground and beat them with boots, pistols and feet. The soldiers then took the prisoners to an unlit concrete cellar. Eight soldiers followed the prisoners and beat them again in the cellar. When the prisoners lost consciousness, the soldiers allegedly threw water on them to wake them up. The next day, the prisoners' hands were tied, and they were forced to walk between two lines of soldiers, who beat the prisoners with shovels, blunt objects, iron pipes and rubber truncheons. The prisoners were taken to the Sillos at Tarčin."*

*"Igman Prison: The ICRC reported that it visited this place of detention on 27 May 1993. No information was provided regarding the treatment of inmates, the length of the facility's existence nor its exact location."*

2.4.1.13. SARAJEVO - KOŠEVO (p. 292, paras. 2449-2451)

*"Koševo Hospital: One witness alleged that his father was held by Muslim authorities for nine months in the hospital. There are no other accounts of people held in the hospital. According to another report, ICRC representatives visited a detention facility at a hospital in Sarajevo. No information was provided regarding conditions or prisoner treatment at this facility."*

*"Koševo stadium: The information regarding this camp is somewhat conflicting. Two sources reported that 6,000 Serbs were detained in this camp in 1992. Most were allegedly released, but some may still be held there. One source alleged that the Muslim police responsible for the detention were under orders of the BiH Presidency. Though conditions at the camp were not described, one source alleged that in July, members of the Bosnian Muslim paramilitary group, the Green Berets, threw live Serb children into the cages of wild animals at the zoo."*

2.4.1.14. SARAJEVO - POFALIĆI (p. 292, paras 2449-2451)

*"Pofalići unidentified cellar: An identified 20 year-old Serb woman alleged that she was held in a private prison in a basement in Pofalići for 25 days in the spring or summer of 1992. The private prison was allegedly run by an identified man. The witness stated that she was abducted on the way home from work by four Green Berets. She was taken to a cellar. It was a small hall, partitioned with wood. There were no windows or ventilation. She was placed in a very small room with another woman, 16 years-old. This other woman had been there for two days before the witness, and her father was a colonel. The room held only a blanket and a spotlight on the ceiling. It was only a little larger than the witness was tall. The*

*guards brought in chairs when they needed them, such as for oral sex. The first night the witness was raped by 12 men in black coveralls and the commander. Among the men was a man identified by nickname. The commander raped her first that night, both orally and vaginally. The witness was raped every night. She stated that she heard cries of other women in the adjoining spaces. She was released through the intervention of a Muslim friend. The commander advised her to forget what had happened."*

*"Pofalići House of Correction: Another site where people were allegedly detained was the basement of the House of Correction in Pofalići. A witness testified that he was held there for three days and two nights. He stated that he was interrogated and beaten by two members of Special units. They beat him with their hands, feet, sticks and rifle butts. They also allegedly called him a 'Četnik' and asked how many Muslim women he had raped at Žuč mountain. An identified man was allegedly a guard at this site."*

*"Pofalići Cultural Centre: One report states merely that a great number of Serb women are held at this site."*

#### **2.4.1.15. TARČIN (pp. 298-299, paras. 2490, 2492-2498)**

*There are a number of reports of camps in Tarčin, the largest among them located in the local grain silos. Some reports described only "a camp" or "the camp", in Tarčin. Regardless, the camp or camps were allegedly run by the BiH Government. In the Spring of 1992, armed Muslims from the village of Tarčin attacked their Serbian neighbours. Some of the Serb villagers were taken to the silos. The armed groups were allegedly led by a retired police officer, and a military school student. The arrested villagers were allegedly tortured and beaten before they were taken to the camp. Bradina, Konjic was attacked 25 May 1992. The men were reportedly taken to*

*camps at Tarčin and Čelebići, while women and children were imprisoned in the primary school building or sent to the Sports hall Musala.*

*"Tarčin, Silos: This camp was a concrete grain silos with 11 small compartments 25 to 35 square metres each. Between each compartment were walls about four metres high and about one half metre to one metre wide. Guards walked along these walls. There was a long corridor between the cells, and there were no sanitary facilities, water or light. The camp was encircled by barbed wire. The detainees slept on the concrete floor. The guards called each other only by their last names. Their place of command was a small "premise" within the Silos. The commander was a named Muslim, and four of the guards were identified. Two witnesses were at the camp at about the same time, in early June 1992. One stated that the camp was full and that his cell had 15 other Serb males in it, all from Konjic. This witness also stated that Serbs were brought in every day, after having been beaten at the Health centre nearby. This witness was transferred to Čelebići on 4 June. The other witness stated that his cell contained about seven or eight Serb males from Tarčin. A fourth witness did not state when he was at the camp. He was transferred with 13 others from the Hotel Famos at Mount Igman. He stated there were about 50 Serbs imprisoned there. There were about 15 men in over 12 small, damp filthy cells. The witness stated that three to four Muslim guards took each Serb one by one for interrogation. The Serbs were beaten during this interrogation, especially by the four named guards discussed above. After only a day at this site, the witness and 24 others were taken to Čelebići. In the second half of August, 20 to 25 prisoners from the silos and Krupa were taken out and killed. The prisoners were local Croats and Serbs. The murders were organized by a Bosnian Hill Brigade Commander, a Tarčin HP Commander, and the Konjic Civil Police Commander. The murders were committed by an identified man. The men were killed in the middle of the night at a slaughterhouse owned by Redžo Baćiri, on the*

*Tarčin-Kreševo road. The bodies were disposed of between the slaughter house and the river."*

*"Other reports of the area of Tarčin did not specify to what camp they referred. Several sources just stated that there was a camp at Tarčin. Three reports alleged that women were detained at the camp. One of these alleged that girls and women were raped there. The ICRC allegedly visited a camp in November of 1992, and found it lacking in heat, with insufficient coverings for detainees. Finally, a camp was still allegedly in operation in late 1993."*

*"Health Centre in Tarčin: According to one report Serbs were severely beaten by Muslim soldiers at the health centre which was located some 200 metres from the silos. Many of those mistreated at the health centre were reportedly taken to the grain silos. No additional information was made available regarding the duration of prisoner internment, nor the conditions attendant at the facility."*

#### 2.4.1.16. TRNOVO (pp.299-300, paras 2500-2504)

*"Trnovo: This area was generally used as a point of exchange of prisoners. Two witnesses reported that they were taken to Trnovo for unauthorized exchanges. One witness stated that he had been imprisoned by joint Muslim and Croat forces at Čelebići camp in May 1992 and was transferred to the Sports hall in Konjic in August 1992. He stated that on 6 November 1992, he and about 29 other Serbs were taken to Trnovo for an informal exchange. The detainees were kept in stores next to the police station for two months, during negotiations. The guards did not beat the prisoners, but some prisoners of war were killed. Additionally, the witness alleged that the detainees were required to do physical labour. The site where the witness was kept was a bare space with wooden pallets for sleeping. When the witness was finally exchanged,*

*10 prisoners remained. Three from Konjic were exchanged later, and the witness did not know what happened to the remaining seven from Kalinovik. He stated that there was a constant turnover in Trnovo because prisoners from Konjic were sent there for exchange regularly."*

*"Viktor Bujanj Army Barracks: This site was formerly a prison for 5th Army Division soldiers. It was turned into a camp housing both Bosnian Serb men and Bosnian Serb women, all civilians, though some were accused of informing or signalling the Serb army. It was allegedly also called "Juka's Prison". It was run by a local army official. However, another report stated that the camp was run by a man identified by nickname. The population was estimated at over 200, the men housed in 12 cells and the women in seven cells. The main foreman for the women was identified by only one name. Some of the women were allegedly wives of former or current JNA members. One report alleged that four captured Serb soldiers were brought to this camp in September of 1992 and executed in front of other detainees. One part of the prison was allegedly in better condition for visits by journalists and the ICRC. Also, detainees were allegedly forced to make false statements to journalists. Prisoners were beaten, and denied medical assistance, and women prisoners were raped. One witness was arrested by Green Berets and taken to the prison. She was put into a small room with seven other women, some young and some elderly. More women arrived later. The floor was covered with a mattress and blankets. The witness was interrogated, beaten, and raped. She stated that the other women were raped frequently also, but each by the same, Muslim man - one man for each woman. The women were raped in front of each other, and a small room next door was used only for oral sex. The witness was helped by a Muslim woman, who supplied her with contraceptives. Other women became pregnant, and were allegedly told they could receive abortions if they testified that Serbs had raped them. The witness became pregnant when the Muslim woman could no longer supply her with contraceptives.*

*The witness stated that several people were killed, and the guards performed mock executions. The witness escaped in mid-December with the help of an identified person."*

*"The Thomson Mission visited this Muslim-run facility on 1 September 1992. Mission representatives located some 127 Serbian detainees, eight of whom were young to middle aged women. Male detainees ranged in age from early 20's to well over 60 years. The vast majority claimed to be innocent civilians, including an oral surgeon who was arrested as an alleged threat to BiH peace and security. Two among them said they were members of Karadžić's SDS. Health related conditions appeared to have been satisfactory, although there was evidence of head and body lice infection among the inmates. The detainees were reportedly held here for close to three months."*

#### **2.4.1.17. TEŠANJ (p.307, paras 2553,2554)**

*"Military Prison, Tešanj: The ICRC reported that their representatives visited a detention facility at the military prison in Tešanj on 24 November 1992. No information was made available regarding the length of detention or conditions at this facility.*

*"Hospital, Tešanj: The ICRC reported that their representatives visited a detention facility at the military prison in Tešanj on 24 November 1992. No information was made available regarding the length of detention or conditions at this facility."*

2.4.1.18. TRAVNIK (pp.313-314, paras. 2610,2611)

*"Travnik Barracks: The ICRC reported that it visited a place of detention at the Travnik Barracks on 1 December 1992."*

*"Bratstvo' Factory: Serbian prisoners are allegedly held in large tanks at a chemical factory in Novi Travnik. Prisoners must climb to a ladder leading into the tank to avoid falling into the chemicals below. The tanks are covered and locked so as not to be seen by the public."*

2.4.1.19. TUZLA (pp. 315, paras 2617-2633,2635-2643)

The situation in Tuzla, as well as the situation of the Serb population in this town and the municipality of Tuzla are described in the Counter-Memorial (paragraphs 2.13.4., 7.1.20.0., 7.2.19.0. and 7.3.3.0.). In addition to the early preparations of the Tuzla SDA leadership for military operations in this municipality and in the wider territory of BiH, lay-offs of Serbs and murders of Serb civilians, the Counter-Memorial also describes torture and killings of Serbs in the camps in Tuzla which were under the direct control of the Government of BiH. The existence of these camps has also been confirmed in the Report of the Commission of Experts in the following way:

*"According to the ICRC, as of 5 November 1992, 197 prisoners were reportedly held by the Bosnian government. According to another ICRC report, 183 prisoners were held by the BiH government as of 5 April 1992."*

*"Dr. Mustafa Mujbegović' Hospital: A report was received which alleged that wounded members of the JNA were imprisoned in this Tuzla hospital before being transferred to the Tuzla Prison. According to two reports JNA forces leaving the*



*'Husinska Buna' barracks in Tuzla, evacuating soldiers and equipment in accordance with a prior agreement, were ambushed by BiH Territorial Defence Forces on 15 May 1992. A reserve lieutenant was wounded in the leg as he drove one of the JNA trucks. He and two members of the JNA were wounded when the truck veered off the road. They were captured by members of the Territorial Defence. The wounded men were reportedly beaten all the way to the hospital. The report indicated that other members of the retreating JNA forces were captured and beaten by members of the Territorial Defence as they were being transported to the hospital. An identified physician allegedly tortured JNA prisoners at the hospital. JNA prisoners were placed in various departments of the hospitals along with wounded members of the Territorial Defence Forces. This arrangement reportedly gave the Territorial Defence members an opportunity to take out their personal vendettas against the JNA soldiers. The JNA soldiers were later transported to the Tuzla Prison where they were tortured by a named man. He allegedly stated that his greatest pleasure was to "kill Vlach babies in cradles". Another guard identified only by nickname from the eastern part of Tuzla, allegedly tortured the JNA prisoners also."*

*"Military Hospital: ICRC representatives reportedly visited a detention facility at a military hospital on 14 March 1994 in Tuzla. No information regarding treatment of prisoners, identity of prisoners nor length of detention was provided."*

*"Hospital: ICRC representatives reportedly visited a detention facility located in a hospital in Tuzla on 10 August 1993. No additional information regarding treatment of prisoners, identity of prisoners nor length of detention was provided."*

*"Tuzla Prison: A report was received that Serbian prisoners have been detained in the Tuzla prison. Serbians from the village of Stupari were allegedly detained without trial. Two Serbian prisoners interviewed in the Tuzla prison reported*

*that they had been detained in an unidentified building by authorities in Stupari on 28 May 1992. These prisoners stated that they were never informed of the legal justification for their detention. They were reportedly transferred to Tuzla in February 1993 and tried and convicted for illegal possession of weapons. A judge sentenced the prisoners to one year's imprisonment beginning on 17 February 1993. During sentencing, the judge informed them that he was unable to take into consideration the 9 months they had spent in detention because no records existed of their detention."*

*"The Serbian civilians in Tuzla were subjected to forced mobilization into the Bosnian government army. Those who refuse to be drafted were reportedly tried and sentenced to three to 10 years in prison. Serbian civilians from the surrounding areas who refuse to respond to the draft, particularly those from Banovići, were allegedly mobilized by force and taken to the front lines to dig trenches."*

*"Members of the ICRC reportedly visited a detention facility in Tuzla on 28 May 1993. No additional information regarding the operation of this facility nor the duration of its existence was provided."*

*"In an open letter, Serbian orthodox Bishop Vasilije of Tuzla asked the Holy Synod of the Serbian Orthodox Church to protest the treatment of Serbs in Tuzla on 11 March 1993. The letter reported that 300 Serbs were imprisoned in the main prison and that the Tuzla Serbs were subjected to physical abuse and forced conscription into the Bosnian army. The letter also reportedly stated that trials were rigged and that many Serbs had been sentenced to 15 years hard labour. Most prisoners were allegedly executed shortly after imprisonment, and others were so debilitated from physical and psychological torture and starvation that it took them several months to recover."*

*"Barracks: Members of the ICRC reportedly visited a detention facility in a barracks in Tuzla on 15 September 1993. No additional information regarding the operation of this facility nor the duration of its existence was provided."*

*"Military Prison: Members of the ICRC reportedly visited a detention facility at the military prison in Tuzla on 23 September 1992. No additional information regarding the operation of this facility nor the duration of its existence was provided."*

*"Private Muslim Prisons: A report concerning the existence of Muslim prisons in the town of Tuzla was received. The BBC reported that Serbian sources reportedly had information concerning the owner of private prisons for Serbs who is also allegedly in control of a private Muslim militia in Tuzla. According to Vojislav Djurković, head of the State Commission of the Serbian Republic of BiH, another man allegedly ordered the execution of many Serbian families in Tuzla working in conjunction with the man who owned the private prisons. Also according to Djurković, Tuzla's Mayor allegedly organized a training centre for Islamic terrorists in Tojsić near the town. Djurković accused the Bosnian Muslim authorities of blocking the delivery of humanitarian aid."*

*"Tuzla Brothels: A report was received concerning the existence of Muslim and Croatian run brothels in Tuzla. Another source reported that 'bordellos' for Serbian women were reported in Tuzla in late 1991 and 1992. The BBC reported that Serbs who escaped from Tuzla reported that young Serbian women were forcibly taken to brothels by Muslim soldiers. In his letter, Bishop Vasilije stated that the Muslim soldiers had a 'schedule' for kidnapping the Serbian women."*

*"A separate report indicated that members of Croatian and Muslim forces were sexually abusing Serbian women in Tuzla brothels. The women were captured by soldiers and*

*allegedly imprisoned at the brothels until their fifth month of pregnancy. After release, they were reportedly kept under house arrest to prevent them from obtaining abortions. The report estimated that more than 1,000 Serbian women were imprisoned in such brothels. The report also alleged that members of Muslim and Croatian forces that had contracted AIDS or other communicable diseases were purposely sent to the brothels to rape the women."*

*"Tušanj Stadium: A report that 4,000 Serbian civilians were imprisoned at the stadium was received. This rather astounding figure, while cited in several other reports, has not as yet been corroborated."*

*"Sloboda Football Stadium: A report was received which suggested that a detention facility existed at the Sloboda Football stadium in Tuzla where at least 25 to 30 women were held. The women were raped in front of an undetermined number of other prisoners."*

*"Secondary School Brothel: A report was received indicating that 100 Serbian women were held in a brothel in the Tuzla Secondary School. No additional information was made available regarding this facility."*

*"Private House: A report received indicated that 15 Serbian women were imprisoned in a private house located on the road towards Srebrenik, near Previla. The report did not provide the dates that the women were imprisoned or the identity of the owner of the home."*

*"Tunnel Prison: A report was received containing testimony from a Serbian woman held taken to a prison in the city of Tuzla and imprisoned for five months in what she described as a tunnel. The witness was a peasant farmer from the village of Brezje on Mount Majeвица. She stated that Muslim soldiers attacked her village in early June 1992, taking 36*

*Serbian children and dividing the women and girls into groups. During the attack on the village some of the women were reportedly raped outside their homes. The witness reported that one Serbian man committed suicide when his wife and daughter were raped outside their home. The soldiers were reportedly armed and wore green patterned disguise uniforms. The soldiers killed village residents and robbed their homes. The witness reported that the soldiers separated the men and women and then loaded the prisoners into covered trucks that resembled vans. The reporting witness and other female prisoners were transported to a camp in the city of Tuzla where she was confined in a 'dark tunnel' with nine other women. During five months of imprisonment, the witness reported that the women were never taken outside. They were fed and given water in plastic bowls. She stated that none of the female prisoners were allowed to take showers or wash their clothes. She stated that the guards separated the girls from the women and allegedly subjected the women to rape. The guards reportedly concealed their identity while committing the rapes by blindfolding the victims. The women were allegedly subjected to repeated sexual assault and on some occasions were gang raped by the guards. The witness reported being subjected to interrogation concerning the location of her husband and children by guards in camouflage uniforms. She was allegedly told that Serbian women would no longer bear Serbian children, only Muslim and Croatian. The witness was released in late October in a prisoner exchange at Piper."*

*"Cellars in Tuzla: In an interview, a Serbian psychiatrist reported that Serbian women were imprisoned in some type of cellars controlled by Muslims in the town of Tuzla and subjected to repeated rape for the purpose of forced impregnation. The physician worked with Serbian women who had allegedly been imprisoned in a dark room. Three to five men entered the room on a daily basis to rape the women. According to the patients who related their stories of imprisonment to the reporting physician, the Muslim soldiers*

*intended to impregnate the Serb women. The men reportedly told the women that the Koran stated that a child is a Muslim if the father is a Muslim. The women were generally released after the third month of pregnancy and, because of their advanced state, had to obtain the approval of the psychiatric commission for an abortion."*

*"In a separate report, the same Serbian psychiatrist reported examinations of four Serbian women who had allegedly been raped by Muslim and Croatian soldiers while imprisoned in a cellar in Tuzla. According to these reports, the women were raped on a daily basis and later released in advanced stages of pregnancy. JNA prisoners were reportedly beaten about their heads with the vacuum-cleaner hose which was used to clean the sewer daily."*

2.4.1.20. VISOKO (pp. 327-328, paras 2721-2723,2725,2727-2729,2731,2732)

Visoko is another municipality with a majority Muslim population, in which from the very outset of the conflicts mass pogroms of Serb civilian population were carried out by the forces under the BiH Government control (see paragraphs 7.1.27.0, 7.2.29.0. and 7.3.13.0. of the Counter-Memorial). The majority of the Serb population was expelled from the area of this municipality and those who were not killed were imprisoned in camps. Some of these camps are very briefly described also in the Report of Bassiouni's Commission:

*"In one report, a Serb recalls being the first, and for a short time, the only prisoner detained by Muslims at the local barracks. According to the report, the Serb male was captured in the basement of his home by Muslim forces on 6 June 1992. He was taken to the military barracks and placed in a chair with his arms tied behind his back with ropes. He was reportedly beaten and interrogated by soldiers and police for*

four hours. According to his statement, whenever he lost consciousness, the police threw water on him to revive him and then continued the interrogation. He recalled that after some time, the inmate population grew to 150 individuals all of whom were detained in two rooms. The witness recalled watching as two inmates were beaten to death by the camp guards with the participation of the camp commander. The report suggests that in addition to camp guards administering beatings, Muslim civilians from Zenica and Visoko were also permitted to enter the barracks and beat the prisoners."

"According to another report, on the first day of the conflict, six individuals were detained at this facility. Approximately three weeks after the fighting began, the facility's population swelled to more than 150 individuals. Interrogations were initially severe and disorganized. Following the appointment of an investigator, the physical mistreatment was discontinued and the general conditions at the facility improved. All interrogations were conducted in the office of the investigator. Those inmates who were deemed guilty of some crime were transferred to Zenica while the others continued their detention in Visoko. One witness described his containment facility as one measuring approximately 70 square metres. There were some 150 other inmates sharing the same space. The detainees were put on work detail and used as forced labour to dig trenches around the facility. The report suggests that women were detained at other area facilities including a camp in the village of Hlapčevići."

"Kasarna Camp: According to one report, between May and December 1992, Serb men, women and children were taken from their homes by Muslim forces and detained in what was reportedly described as a prison camp. The inmates were subjected to severe physical mistreatment including beatings with mallets, hammers, iron rods, and ax handles. The inmates were reportedly not permitted to bathe or shower for two months. Food was also in rather meagre supply. Two to three

*inmates were forced to share one bowl of soup per day. The report alleges, additionally, that at one point Muslim territorial defence forces had shelled the camp, resulting in the death of two prisoners and the wounding of 14 others."*

*"Various Homes: According to one report, several Visoko residents were detained in their homes behind locked doors. The resident-inmates were subjected to regular shell-fire. The report suggests that the residents' detention appears to have been sanctioned and, perhaps even, instituted by the BiH government."*

*"Veterinarian's Office: According to one report, a young Serb male and his parents were arrested and detained on 20 June after Muslim forces had surrounded their home. They were collected in a group with some 200 similarly situated Serbs, and approximately 30 individuals from among the group (including the witness and his father) were taken to a veterinarian's office. The witness was aggressively interrogated and then shot through both arms. Following the receipt of his injuries, he was transported to the hospital and thereafter transferred to the former JNA barracks."*

*"Hospital: The ICRC reported the existence of a camp in the Visoko hospital. The ICRC reportedly first visited this facility on 4 June 1993."*

*"Prison/Penitentiary: The ICRC reported the existence of a camp - in the Prison/Penitentiary in Visoko. The ICRC reportedly first visited a detention facility at this location on 6 August 1992. No additional information was provided regarding the conditions at this location."*



2.4.1.21. ZENICA (pp. 336-341, paras 2813-2818,2821-2826,2834-2840)

Zenica is a typical example of prison-cities (see paragraph 1.3.5.29. of the Counter-Memorial) in which the Serb population was forcibly held so the BiH Government could demonstrate before the world its alleged wish to preserve a "multi-national BiH". What the fate of Serbs in the municipality of Zenica under the Muslim authorities' and Muslim military forces' control was really like is described in paragraphs 7.1.35.0. and 7.2.31.0. of the Counter-Memorial. The existence of some of the camps in Zenica in which Serbs were tortured and killed was also corroborated by the Commission of Experts' Report.

*"It is reported that several camps or detention facilities are located in the Zenica vicinity. In general, the camps are administered by the BiH Government or Bosnian Muslim forces. Nine locations have been identified as detention centres, and estimates place the total number of persons held over 2,000; although ICRC figures are much lower and some reports claim that there are only five or six detention centres with approximately 450 detainees. All identified detention centres are reportedly under Bosnian Muslim control. The following places have been identified as camps: The Zenica Prison, the Zenica Music School, the Bila Stadium, the Coal Mines in Zenica, as well as unidentified facilities in Bilmišće, Zening, Gračanica, Arnauti, and Begov Han. There is no information regarding the possible relationship between these camps and there is little indication that prisoners are moved between facilities. One thing that is clear, however, is that the Zenica Prison is the largest detention facility and the greatest amount of available information concerns this facility. In fact, in tracking the number of prisoners in Zenica, the Zenica Prison is the only facility identified by the ICRC."*

*"Zenica Prison: The most prominent detention facility in the Zenica area is the Zenica Prison (also referred to as the Correction Centre, KP Dom Prison, KPD and the House of Corrections). The facility is under the control of the Muslim Territorial Defence (MTD) forces. The prison is occupied by Croatian and Serbian civilian and military prisoners. The majority of prisoners are likely Serbs. The prison is divided into five pavilions. Each of these pavilions contains cells measuring five metres by three to four metres. Pavilion five is referred to as the "concentration camp" is used to hold military prisoners and is seemingly the only part of the facility that is visited by the ICRC. The prison also has a hospital where prisoners are treated. Some prisoners claim to have been subjected to 'ill treatment' by prison guards while in the hospital. Prior to the outbreak of war, this facility was used as a maximum security prison for hard core felons. Even during the war, one of the prisons pavilions (Pavilion four) continues to house criminals that were incarcerated before the war. Reports in the Commission's possession indicate that the camp was in operation before the war began as a correctional facility. The prison probably began its operations as a PoW facility in June 1992. Operation seems to have been continuous until at least June 1993; one witness reports that he was released from this facility, in a prisoner exchange on 5 September 1993. It is unclear whether the camp is still in operation."*

*"Estimates of the number of prisoners vary greatly. The ICRC has indicated a fairly consistent population of 200-300 in the prison. But one report states that while the ICRC visited the facility seven times from June-December 1992, the ICRC was only permitted to visit Pavilion 5 (where military prisoners were kept). It has also been estimated that 300 Bosnian Serbs have been detained in Pavilion 5. This figure is consistent with claims that the ICRC was only allowed to visit Pavilion 5. Most of the other prisoners, mainly the civilian non combatants were in the other pavilions. The number of prisoners in the Zenica Prison can be summarized as follows."*

*"On 31 July 1993, Bosnian Serb officials maintained that 270 Serbian were being held in the 'Zenica Special Jail'. It is assumed that this in the same facility as the Zenica Prison discussed herein. Prisoners in the camp are both civilian and military. According to one report, after a group of Serbians was captured, women and children under 10 were not taken to the prison. It is not at all clear whether women and children are detained at this facility. No explicit mention is made of a female detainee."*

*"A Tanjug news agency reporter who was confined in the prison for 80 days reported that the camp conditions were horrible. Cells were generally damp and there was a lack of sheets and blankets. He also noted that the food was poor. Prisoners are given one kilogram of bread every day to be shared by 18 prisoners. Some days the prisoners were given tea, and it is alleged that the guards would put detergent in the tea."*

*"Torture and beatings were routine occurrences at the Zenica Prison. According to a Tanjug news agency reporter who was detained there for over 80 days, almost all of the prisoners (90 per cent) were subjected to torture. He asserts that combatants were subjected to the worst beatings. According to another report, every other day, two or three prisoners would be taken by groups of five to six Muslim men. The men were typically young and were often drunk. The prisoners were handcuffed to metal rings on the floor and were then beaten and kicked. A United States Department of State report contains the allegation of a 29 year old Serbian civilian who claims to have been beaten every 10 minutes for 96 hours; he also claims that the food was deliberately contaminated."*

*"Additional allegations concern mistreatment in the Prison hospital committed by guards. Finally, it has been*

*alleged that an unconfirmed number of Serbian prisoners were taken from the prison to an iron mill factory. These prisoners were allegedly thrown into the furnace at the factory. Very little information is available regarding the individuals who ran the camp and committed violations. The commander of the prison is a named man of the MTD. He is not alleged to have taken part in any beatings or torture, but he was often present and a witness to the beatings. It is also alleged that Muslim refugees in Zenica (from Jajce or Travnik) would come to the prison and verbally harass and physically assault Serbian prisoners."*

*"Bila Stadium: The Association of Serbs from BiH has identified the Bila Stadium as a camp for Serbs. They claim the camp is under the control of the Croatian Armed Forces, the Croatian Army, or paramilitary Muslim forces. No other information is available concerning this facility."*

*"Zenica Coal Mines: One report states that PoWs were moved from Bugojno to Zenica where they are imprisoned in coal mines. No other information is available concerning this facility."*

*"Other Zenica Locations: Other locations in the Zenica area have been identified as places of detention. Apart from this mere identification, no other information is available. The locations are Bilmišće, Zening, Gračanica, Arnauti and Begov Han; the retirement home in Zenica; and the Zening Building and Nemila are both identified as 'possible' locations."*

*"Factory: According to one report, ICRC representatives visited a detention facility at an unidentified factory in Zenica. The existence of the camp was confirmed on 24 September 1992. No additional information was made available regarding the identities of inmates, the conditions of their detainment nor the length of the facility's existence."*

*"Hospital: According to one report, ICRC representatives visited a detention facility at an unidentified hospital in Zenica. The existence of the camp was confirmed on 26 April 1993. No additional information was made available regarding the identities of inmates, the conditions of their detainment nor the length of the facility's existence."*

*"School: According to one report, ICRC representatives visited a detention facility at an unidentified school in Zenica. The existence of the camp was confirmed on 16 May 1993. No additional information was made available regarding the identities of inmates, the conditions of their detainment nor the length of the facility's existence."*

*"Military Prison: According to one report, ICRC representatives visited a detention facility at the military prison in Zenica. The existence of the camp was confirmed on 18 February 1993. No additional information was made available regarding the identities of inmates, the conditions of their detainment nor the length of the facility's existence"*

#### 2.4.1.22. GRUDE (p.145, paras. 1180-1183)

The existence of camps under Muslim-Croat control in the locality of Grude in which Serb civilians were held as described in the Counter-Memorial (paragraphs 7.1.6.0., 7.1.25.2., 7.2.0.1, 7.2.30.26.) is confirmed also in the Report of the Expert Commission as follows:

*"Farm: According to reports, a farm in Grude was used as a camp to detain male and female individuals from the region. No additional information regarding this facility was made available, consequently, the identity of witnesses, victims and perpetrators as well as conditions existing during detention remain unknown."*

*"Garage: The Commission has received reports that approximately 300 Serbs were detained in a garage in Grude. The camp was operated by members of the Croatian-Muslim armed forces. The ICRC visited the Grude camp on 16 September 1993 and reported that no PoWs were found. At least one Serbian man, Aleksa Janjić reportedly died as a result of injuries incurred while detained at this camp."*

#### *2.4.1.23. KLADANJ (p.152, paras. 1239-1241)*

Discussing the camps under Muslim forces' control in the municipality of Kladanj in which Serbs were held, the Report of Bassiouni's Commission refers only to those in the village of Stupari, while the Counter-Memorial contains also others (paragraphs 7.2.0.1. and 7.2.18.0)

*"The Commission received a report that stated that 95 Serbian civilians and one child were imprisoned since May 1992 in the village of Stupari, eight kilometres north of the town of Kladanj. The report quoted the Mayor of Kladanj, stating that the prisoners were being held 'for their own security, to protect them from retaliation by the Muslim population.' A team from the ECMM reported that they visited the three buildings in the town of Stupari where the prisoners were held. According to the report, the prisoner's homes had been burned by Muslim forces. The prisoners were guarded by five armed soldiers who allowed them to go outside for one hour a day. The prisoners sometimes were not given anything to eat for three days. The prisoners reported that guards were frequently violent toward them and that no medical care was provided. The ICRC reported that the prisoners appeared to be 'psychologically worn out and very weak'."*

*"Stupari Elementary School: In early August 1992, Serbian prisoners who had been exchanged in Malinjak, reported that approximately 1,000 Serbs from the villages of*

*Lupoglava, Matijevići, Majdan, and Kočajevići were detained in the Stupari Elementary School. Conditions in the camp were reportedly very poor. According to the report, an identified physician forcibly took blood from the Serbian prisoners for wounded Muslims and Croats."*

2.4.1.24. KONJIC (pp. 154-164, paras. 1266-1293,1297-1306,1307-1308,1311-1315,1317-1324,1334,1335)

In the following accounts, the first 16 camp descriptions detail those locations cooperatively controlled by Croatian and Muslim forces. The subsequent 11 accounts describe facilities controlled solely by Muslims, and the two remaining locations fall under undetermined authority. There are also several reports that allege the existence of a camp or camps in Konjic without supplying enough detail to determine the exact location or by whom they were controlled.

*"Čelebići Camp: In May 1992, following the withdrawal of the JNA from its barracks in the village of Čelebići, Croatian-Muslim forces assumed control of the barracks and transformed them into a detention centre for Serbian prisoners. Immediately after its creation on 4 May 1992 and continuing through to the suspension of operations in December 1992, camp Čelebići interned several hundred citizens from the municipality of Konjic. The number of detainees changed regularly. Men and women were separated, with men interned in several locations including a concrete tunnel called hangar Number 9, a sheet metal hangar called Number 6, a depot called Number 22 and, on occasion, in concrete manholes believed to be oil storage sites. Women were imprisoned either in an administrative building, located at the camp entrance, or in a shaft excavated in the ground next to the tunnel at hangar Number 9."*

*"The detainees were brought to Čelebići from all corners of Konjic. On 22 May 1992, Croatian and Muslim forces*

*allegedly attacked the Serb villages of Bjelovčina, Cerići, and Donje Selo. Reportedly all surviving members of the Serb population in these villages were taken to camp Čelebići. In another report, members of the "TO B-H" invaded the village of Brdjani on 15 June 1992 and ordered all the men to surrender. Forty-eight Serbian prisoners were put on trucks and taken to Čelebići. Some 200 individuals from Bradina were already in residence when they arrived."*

*"In another report, a Serbian resident from the village of Bradina recalled that he and some 50 other men were instructed by Croatian and Muslim forces to report to headquarters in Podorašac. Upon arrival, the witness and others were loaded onto a tarpaulin-covered truck and transported to Čelebići concentration camp."*

*"According to several reports the conditions at the camp were deplorable. Hangar Number 9, which was an abandoned atomic shelter/ventilation tunnel, measured approximately 120 centimetres in width, 30 metres in length and 2.5 metres in height. Air entered through a small glass window in the door, and there was absolutely no illumination. Reportedly, because of the construction of the tunnel, it was impossible for an individual to stand upright."*

*"The 50 or so detainees in the tunnel defecated in a bucket that was emptied infrequently. Human waste accumulated up to 10 centimetres at one end of the tunnel. The detainees were not permitted to wash during the first 20 days of their internment, and for the first three days they were not provided with food. According to one inmate, throughout the first one and a half months of detention, the inmates were fed small pieces of stale bread and some vegetables three times daily. In the two months that followed, they were fed only bread. He recalled that the men had no choice but to perform all bodily functions in one corner inside the hangar. Muslim soldiers often placed the prisoners food in the same locations*



*and often times dropped the plates, spoons, or bread into the excrement."*

*"The several reports detailing the initial acts of mistreatment suffered by the inmates at the hands of their captors appear to be in agreement. Upon arrival at Čelebići, Muslim soldiers were lined up at the entrance in two rows. The detainees were made to pass between the rows of soldiers with their hands clasped behind their necks. As the inmates passed, the soldiers beat them with blunt objects, iron bars, shovels, pickaxes, thick electric cables, and rubber truncheons."*

*"The prisoners were then placed in manholes for several hours at a time. These manholes were formerly oil storage reservoirs. The lids were replaced on the manholes serving to cut off the flow of air. As a consequence, men collapsed from suffocation."*

*"For those inmates assigned to hangar Number 9, once removed from the manholes they were subjected to additional beatings at the entrance to hangar Number 9. In one report, the guards beat 25 inmates with shovels so severely that 12 shovels were broken in the process. After a period of time spent in Number 9, the inmates were then transferred to Number 6. In some cases, due to the space limitations in hangar Number 9, some detainees were sent directly to Number 6."*

*"For those assigned to hangar Number 6, the guards came and collected all the valuables from the inmates. The inmates were then taken in groups of 10 to a nearby building called "the Command" - which was so-called because the JNA command had previously been located there. Once inside the Command, the prisoners were ordered to stand on tip-toe facing the wall with their hands raised high above their heads. Muslim soldiers then conducted interrogations regarding alleged 'Četnik' activity, strategy and weapons locations."*

*"Following the initial, somewhat routine abuses, the specific acts of mistreatment appear from the reports, to some degree, to be haphazard. The variation on the methods of mistreatment included beatings with batons, wooden clubs, truncheons, chains, iron rods; imprisonment in drainage shafts; scorching and cutting by hot knives pressed to the inmates' faces, bodies and chests; spraying with gunpowder and setting alight; binding male genitals with low-burning fuses, the breaking of ribs, arms and legs; and the cutting off of ears and fingers. Some inmates report being detained in manholes filled with water for 24 hour periods. Occasionally, using their feet, the Muslim guards forced the inmates under water and held them there to near suffocation."*

*"The inmates detained in the sheet metal hangar, Number 6, noted that in August 1992, when the day's heat was at its worst, the doors and windows of their containment facility remained closed. Temperatures reportedly reached 50 degrees Celsius or 148 degrees Fahrenheit."*

*In another report, two male detainees had their trouser-legs--below the knee--doused with a flammable liquid and then ignited. As the men's legs began to burn their Muslim captors reportedly forced them to sit down and forbade them to extinguish the flames."*

*"Reports also suggest that all imprisoned women were systematically raped. Women were usually raped by more than one guard. Serbian women were reportedly housed in or near the Command building and ushered to the appropriate locations when required. Male prisoners were also sexually molested by forcing them into same-sex anal intercourse or oral sex."*

*"The entire Čelebići facility was initially controlled by Croatian forces and manned by Muslim guards. Due to shifting political winds, Muslim forces later assumed control. However,*

*before this change, Croatian, 'Š', was the commander of the camp, and 'Č', a Muslim, was his deputy. A number of reports suggest that 'Č' was directly responsible for the mistreatment, torture and murder of a great many of the inmates. Prisoners were abused or killed on the orders of deputy commander 'Č'. 'Č' ordered prisoners to fight each other. If 'Č' did not feel satisfied that the blows were severe enough, he ordered the guards to beat both prisoners. Reportedly, prisoners were forbidden to sleep. 'Č' selected one prisoner to keep the others awake. If 'Č' found anyone asleep the prisoner in charge was severely punished."*

*"In another report, a female prisoner at Čelebići alleged being raped by 'Č'. She alleged that she was beaten and kicked during several interrogations regarding the whereabouts of her son and husband. Additionally, the witness alleged that she was stripped naked by young men who held knives to her throat and held lit cigarettes to her eyelashes, burning her eyelids when she screamed. She was subjected to multiple rapes by a variety of men, many of whom she was unable to recognize because of the dark night. She alleged that she was taken to an office where the rapes lasted from three to four hours at a time. The witness stated that she was detained in a room near hangar Number 9. She recalled that some 39 men were held there, and she witnessed the men being beaten, kicked and tortured. She recalled that the tunnel was poorly lit and poorly ventilated. She stated further that she witnessed 'Č' kill one of the inmates. It was her understanding that 'Č' raped every woman brought into the prison. She alleged that some 120 women were raped by 'Č'. Women were reportedly set aside solely for his pleasure."*

*"Several reports note that although 'Č' was notorious for his cruel actions, a young guard called 'Š' was worse. He was said to have participated in all the murders and a great many of the rapes in the camp. 'Š' reportedly beat prisoners with baseball bats and made them kneel while he beat them about*

*their breasts and stomachs. 'Š' is noted for wrapping slow-burning fuses around the legs or waist of inmates, putting another end between the inmate's legs or in his pants and then lighting the fuse. The burning fuse which was wrapped in plastic, clung to the victim's body as it melted. The victim's family was usually forced to watch this torture."*

*"Another inmate was made to wear a gas mask with the air filter sealed so that he was unable to breathe. 'Š' forced him to wear it for an hour while standing in the hot summer heat. Consequently, the victim collapsed several times."*

*"In still another report, prior to a visit by an Arab TV crew, 'Š' selected three prisoners to tell about their 'crimes' against Muslims. One among them was ordered to say that he had killed Muslims and Croats in Mostar and burned down their homes. When the man refused, 'Š' beat him with a soldier's belt until he bled. 'Š' reportedly doused the prisoners with gas and gunpowder and then set them alight, causing severe burns and wounds."*

*"In another incident, 'Š' subjected two young brothers to severe mistreatment. He reportedly deformed their faces, then put gas masks over their heads and closed the air filters. Thereafter, he compelled the brothers to engage in oral sex with one another and also to strike each other about the genitals."*

*"In one report a detainee from Čelebići witnessed 'Č' and 'Š' beat 15 or 16 Serbs to death. Another witness reported that the two ordered inmates to run away. When the inmates complied and attempted to escape, they were beaten. If an inmate continued running after receiving the beating, he was killed."*

In addition to the crimes against the Serb population at the Celebici camp, described by the Respondent in paragraphs

7.2.0.1.-7.2.1.17. of the Counter-Memorial, the Report also refers to other camps under Muslim control, in which Serbs were victims. The same camps are also referred to by the Respondent in the Counter-Memorial (paragraphs 7.1.6.0.-7.1.6.4., 7.2.0.1., 7.2.2.0.-7.2.2.4., 7.2.43.0.). The Expert Commission collected information on these camps from numerous sources and described them in its Report as follows:

*"Police Station: According to one report, an elderly Bosnian Serb farmer was arrested on 9 May 1992, in his village of Idbar near Konjic. He was taken to the police station in Konjic where he was detained for 21 days. Thereafter, he was removed to the camp at Čelebići, some six kilometres away. No additional information was available regarding his treatment, the facility nor its operation or control.*

*"The ICRC reported the existence of the camp in the Police Station in Konjic. The camp was first visited by the ICRC on 4 November 1992."*

*"Ministry of Internal Affairs (MUP) building: Although all relevant reports agree that this facility was controlled by Muslim forces, there is considerable disagreement regarding the inmate composition. According to one report, all arrested Bosnian Serb civilians from Konjic and Bradina were taken to this location and later transferred to the camp at Čelebići. Another source suggests that only in some cases were detainees brought to this facility, beaten, and then transferred to designated detention facilities. Another report suggests that only women, children, and the elderly were interned at this location."*

*"Village of Donje Selo: Reports suggest that on 22 June 1992, Croat and Muslim authorities transformed the village into a prison camp for Bosnian Serbs. Guards were set up around the periphery of the village to discourage Serb detainees from leaving the area. The reports suggest that although men were resident prisoners at this location, women and children were*

*either interned in greater numbers or abused in greater numbers. While no specific numbers were made available, the vast majority of the documented accounts of atrocities have been offered by or concern women and children. These sources suggest that women were raped on a daily basis."*

*"One report from a male detainee at Donje Selo reveals that men were subjected to considerably less abuse and mistreatment than women. Each night the Muslim soldiers arrived in groups and barged into the homes containing women, raping all the women and girls. According to the witness, during the day the guards did nothing more than walk around 'monitoring' the situation. Quite frequently ex-camp inmates were re-arrested and sent back to one of the camps in Konjic without warning or provocation. Prisoner swapping of some Donje Selo inmates occasionally took place in the village of Trnovo. Other reports also alleged the existence of a detention facility in the village of Donje Selo."*

*"Devetka Tunnel in Bradina: Bradina was reportedly the largest Serbian village in the Konjic area with 750 inhabitants. Following the taking of this village on 25 May 1992 by Croat-Muslim forces, the village was renamed Dorji Repovci and a great many of the Serbs were expelled. Many of the Serbs who steadfastly remained were reportedly either killed by paramilitary forces or interned in various detention camps. One of the largest Serb inhabited detention facilities in the Konjic area was located at the Devetka Tunnel. According to reports, some 3,000 Serbs were detained at this location. The Serbs were reportedly lined up against the wall, made to remove their clothing and then tortured and beaten for several hours at a time. The detainees were reportedly forced to participate in Muslim prayer and song and to learn the Koran. Those who refused were beaten and in some cases killed. Although no dates were provided, several reports suggest that the facility was eventually closed and the prisoners were released. Another report also alleges the existence of this camp."*

*"Musala ("Sportska sala") sports centre: According to several reports, Bosnian Serb and Bosnian Croat prisoners were detained at this facility. Reports suggest that as few as 110 and as many as 170 Serbs were detained at the sports hall beginning in May 1992. On 15 June 1992, 13 Serbs were reportedly killed and 12 wounded when Muslim forces from the hills above Prevalj shelled the sports hall. The attack on these prisoners was reportedly wilful."*

*"Sources suggest that conditions at the sports hall were insufferable. The prisoners were poorly fed, some even went without food for weeks at a time. When they were fed, one report suggests that half the meal of one Muslim guard was used to feed as many as eight inmates. There were no beds. The prisoners were made to sleep on carpets that originally belonged to the gym."*

*"There are also reported incidents of rape at the facility. One report states that on the night of 27 May 1992, Muslim soldiers raped five young women. According to one report on the night of 29 May 1992, 10 girls and women imprisoned in the camp were raped. In other report, on 31 August 1992, a Serb man and woman were forced to engage in sexual intercourse while as many as 15 prison guards looked on. In still another report, a 25 year-old woman was brought to the camp and raped repeatedly by some 15 Muslims. Her captors apparently then led her, naked, up and down the camp, drew 'lillies' on her breasts and stomach with a lit cigar, chopped off her hair, disfigured her and then forced another male inmate to rape her and shove a rifle barrel into her vagina."*

*"Zvonimir Beliša Nono, Elementary School, Bradina: The detention facility at this location primarily housed women, children and the elderly. Several reports allege that female Serbian inmates were regularly subjected to rape. One report states that on 13 July 1992, 15 women were raped by Muslim*

*Green Berets. Reports also state that Muslim and Croatian forces subjected inmates to 'severe mistreatment' and threats of death."*

*"Brothels: Reports suggest that Croat and Muslim-run brothels have been established throughout Konjic. Reports allege the existence of a brothel in Buturović Polje and another at the 'Amadeus' Cafe. Serbian women reportedly were forcibly brought to and detained in these facilities. The women are impregnated and held captive until the fifth month of their pregnancy and then not permitted to leave the area. One report suggests that 'members of Muslim and Croatian units who have contracted AIDS and other communicable diseases are deliberately sent to brothels to sexually abuse Serbian women' and young girls."*

*"House in Džepa: According to one report, a house in the village of Džepa in the municipality of Konjic was turned into a rape camp operated by Muslim Green Berets. Women were reportedly tortured at this facility and forcibly impregnated."*

*"Unidentified facility, Ljuta: Following the attack on the Serb village of Bradina on 25 May 1992 by Muslim forces, a great many Serb citizens were captured. One Serbian male reported that he was taken to Ljuta and that some 50-100 uniformed men came to interrogate him and those detained with him. According to the witness, two or three of the detainees were pushed to the ground and beaten. Thereafter their Muslim captors screamed verbal abuses and insults at them. Next their hands were tied behind their backs with wire and they were made to walk four to five hours to Trnovo. Each prisoner reportedly had one guard, with the remaining 50 to 100 men following. Upon arriving at Bjelašnica mountain, they were put into two trucks and driven to the Muslim village of Šabići."*

*"School in Šabići: According to one report Serb civilians were detained in a school in Šabići. The report alleges that the*



*Serbian inmates were insulted and humiliated by the Muslim guards. From there, they were transferred to Hotel Famos in Bjelas."*

*"Hotel "Famos": According to reports, civilian prisoners from Bradina were transported to the hotel located in Bjelas. They were beaten and interrogated in a room in the basement of the hotel by both uniformed and civilian Muslims and Croats. The detainees were forced to admit that they were 'Četniks', 'registered' and then forced to walk through a path with approximately 20 men on either side. As the detainees passed, the men beat them with rifle butts. The detainees were then placed on trucks with their hands tied behind their backs and transported to Čelebići. They were reportedly interned at this location from June through 31 August 1992. According to another report, upon the arrival of Serb detainees at the hotel, they were made to lie on the floor in a line and beaten and kicked with the soldiers' heavy boots and pistol butts. Some detainees had guns shoved into their mouths and had their lives threatened. Following the beatings, they were taken to some sort of dark concrete cellar, where they were beaten by Muslim and Croat guards. When they lost consciousness they were revived and beaten again. The next day, the prisoners hands were again bound, they were blindfolded, and loaded onto trucks. As they boarded the trucks, they received beatings with shovels, blunt objects, iron pipes, or anything that their captors could find. They were then transported to Tarčin.*

*"Buturović Polje Prison: Serb civilians were reportedly detained by Croat-Muslim forces at this location. The report does not, however, provide additional information regarding either the conditions or the operation of the facility. Other reports alleged the existence of a detention facility in the village of Buturović Polje."*

*"Technical High School in Koniic: According to one report, Serbian civilians were detained in the gymnasium of the*

*high school. The facility was reportedly controlled by Croat-Muslim forces. The report does not provide additional information regarding either the conditions or the operation of the facility."*

*"Hrasnica: Reports of the existence of a Muslim run camp in this village were not supplemented by information regarding the specific location or duration of existence. The camp was reportedly composed of Serbian prisoners."*

*"Konjic Hospital: One report cites the existence of a Muslim-controlled facility at this location as of 11 April 1992. However, no additional information was made available regarding conditions or operations at this facility. This detention facility is also alleged to exist in another ICRC report. The ICRC first visited this place of detention on 4 November 1992."*

*"Koniic Military Police: One report cites the existence of a Muslim-controlled facility at this location as of 11 April 1992. However, no additional information was made available regarding conditions or operations at this facility."*

*"Boračko Jezero: One report alleges the existence of a detention facility at this location. No information regarding operation, duration, prisoner composition, or control was made available. Other reports also alleged the existence of a camp at this location."*

*"New Residential Suburb, Konjic: Reports alleged the existence of a detention facility in the new residential suburb of Konjic holding approximately 1,500 Serbs."*

2.4.1.25. LIŠTICA (p. 168 paras. 1377)

*"Lištica Camp: Reports were received which indicated that a camp was established in Lištica, approximately 20 kilometres west of Mostar. Apparently one of three jails in the town was run by Muslim militia and the HOS."*

2.4.1.26. LIVNO (pp. 168-170, paras. 1382-1387, 1389-1394)

*"Large Luxurious House in Livno: In April 1992, a Bosnian Serb woman was taken from her home to a home in Livno by members of Alija's Warriors. According to the witness she was the exclusive servant of one soldier, who happened to be her former classmate. The witness noted that there were several other women detained at this location. They ranged in age from 18 to 40 and all were Serbian except one, who was Ruthenian. According to the report, very young girls were raped by seven or eight Muslim soldiers at one time. The witness was transferred with her former classmate when he was assigned to new locations. Each time the Muslim front moved, she moved. According to her statement, she was finally sent to a brothel in the Ciglane area where she was again reserved solely for her former classmates purposes".*

*"Police Station: According to one report, Croatian paramilitary forces were in control in the Livno area in April. The forces allegedly forbade Serbian citizens to leave the area. Several citizens were reportedly detained at the police station in three rooms which were overcrowded and lacked heat as well as other basic necessities. The report states that official sources acquired evidence that the detainees at this location were being beaten. The ICRC also reports the existence of a camp in the Livno Police Station. The camp was first visited by the ICRC on 16 May 1992. Evidence of this camp's existence was also corroborated by members of the Thomson Mission who visited this location on 1 September 1992. Mission*

*members found 40 Serbian detainees in this Croatian controlled facility. The detainees had an average age of 55 and most had been detained at this facility for several months. Mission members saw signs of beatings and abuse."*

*"Livno School: According to one report, this location was the site of the military interrogation centre. Some 39 Serbian men and one Serb woman were detained and interrogated here. According to testimony from former detainees at the police station, the conditions at the Livno school were severe. The ICRC also reports the existence of a camp in a school in Livno. The camp was first visited by the ICRC on 9 September 1993. Another ICRC report also mentions the existence of a camp in the Livno school.*

*"In another report, over 500 Serbs including women, children, and the elderly were being mistreated and tortured by Croatian paramilitary units. The report suggests that these paramilitary groups detained the individuals at a camp in Livno and another camp in Tomislavgrad. The ICRC reported that on 16, 19, and 21 July ICRC delegates supervised the simultaneous release in Celebići and near Tuzla of some 800 persons detained in Batković, Kamenica, Livno, Tuzla and elsewhere."*

*"Livno Village: The ICRC reported the existence of a camp in Livno village that was first visited by the ICRC on 4 September 1992. There are no details concerning this camp. Many different reports provide differing numbers of people in detention at various times. These people are said to be 'in assigned residence' or under 'house arrest!'"*

*"Livno Hospital: The ICRC reported the existence of a camp in the Livno Hospital. The camp was first visited by the ICRC on 7 April 1992."*

*"Livno Prison/Penitentiary: The ICRC reported the existence of a camp in the Livno Prison. The camp was first visited by the ICRC on 8 November 1992."*

*"Livno Fortress-old Town: It was reported that about 950 Serbs were held in a fortress in the old town."*

*"Livno Brothel: It was reported that information provided by the 1st Krajina Corps in Banja Luka indicates that a brothel in which Serbian women are held exists in Livno."*

#### 2.4.1.27. LJUBUŠKI (p. 171, paras. 1399-1403, 1405)

*"Ljubuški Police Station: A camp reportedly exists at Ljubuški, approximately 25 kilometres south of Mostar. It is one of three jails run by Muslim militia and the HOS. The detention facility was described in one report as the prison at the Ljubuški police station. Conflicting testimony concerning the camp commander were received. Either a man from Mostar or a Croat was the commander of the jail. It is unclear whether these men were in power at different times or whether one acted as deputy commander to the other. Another source indicated that a man from Čitluk was the warden of the prison as well as other detention facilities in BiH."*

*"Apparently there were 12 cells at Ljubuški camp, and up to 80 Serbs have been detained there allegedly awaiting trial. However, when the ICRC visited the Ljubuški camp on 10 June 1993 only six prisoners remained. Before the arrival of the ICRC, the guards dressed the Serbs in JNA uniforms so that it would appear that only soldiers were imprisoned here. However, many of the detainees were reportedly civilians."*

*"Reports were received indicating that the guards did not abuse the inmates and that medical treatment was available for*

*the prisoners. However, statements from several witnesses indicated that they were subjected to beatings. At least one witness reports that guards would come at night at 10:00 p.m. and 3:00 a.m. and beat the prisoners. Another witness claimed that he was beaten five or six times upon his arrival to the detention facility. The guards made the prisoners lie down on top of one another to form a pyramid and beat the prisoner on top so those under him would feel the weight of those above. The prisoners were also forced to sing 'Ustaše' songs and salute by raising the right hand and shouting 'Ready for the homeland'. The prisoners were exercised almost every day, allegedly in a humiliating manner such as behaving like animals. They were also forced to write statements that they had taken part in massacres and killings. Reportedly inmates were also forced to work. The inmates received food in mess kits that went unwashed for months.*

*"Ljubuški Prison: In may 1992, a witness was captured as a JNA soldier, he and other members of the JNA were taken to the prison at Ljubuški and held for three weeks. The witness was beaten while in custody with truncheons and umbrellas. He also claimed that he was kicked and punched. The prisoners allegedly received no food for several days and were forced to kneel for hours in the sweltering heat. They were reportedly beaten every time they left the cell to go to the toilet."*

2.4.1.28. MOSTAR (pp. 173-178, paras. 1442-1447, 1450,1451,1466,1467)

*"Šantićeva Street Jail: There is a report that at one time the HOS operated a prison on Šantićeva street. This jail previously was used to house common criminals. The HOS soldiers reportedly dress in black uniforms with their own insignia. It is alleged that during the night guards sometimes beat the prisoners. The prisoners were reportedly also mistreated upon arrival at this camp. It was reported that the women kept in the Šantićeva jail were raped and abused by their HOS captors. The prisoners are provided three meals a day but do not receive any meat. According to the source, three female detainees remained incarcerated at the jail in Šantićeva Street at the time the report was prepared."*

*"University: There is at least one account that prisoners were also detained at a university in Mostar. Upon arrival there, they are said to have been beaten. One woman reported that the guards at this facility ordered three male prisoners to rape her. She was almost raped second time but one of the commanders came in and prevented this."*

*"District Prison: According to one source, approximately 300 Serbs were held here in November, 1992."*

*"Aircraft Factory: In May 1993 outside observers allowed into the camp estimated that between 1,500 and 2,000 men and women were imprisoned here. The prisoners for the most part are from Mostar and are Serb civilians. They include university professors, doctors, journalists, and students. However, there also are people from some of the surrounding towns imprisoned here. The camp consists of four buildings. The prisoners are held in a former military prison and two adjacent gymnasium buildings. The women and children are housed separately from the men and no communication between the groups is allowed. The women are kept downstairs*

*and the men are kept upstairs. The conditions at the camp are poor particularly for the male inmates. Up to 60 people are held in one room usually without mattresses or blankets to sleep on. Some rooms in the men's quarters have insufficient space for the men to sleep fully outstretched. There are allegations that some of the detainees are being held underground and tortured. However, no investigation of this has been possible.*

*"Lipno Detention Facility: A detention facility was reported to exist in the village of Lipno and at least one individual was detained between 7 May 1992 and 11 May 1992. A retired JNA soldier was arrested in his apartment, location unknown, in May 1992, by a Muslim and taken to Lipno. There he was detained in an old school and beaten by the same man who arrested him and HOS members. He was punched, kicked, and beaten with truncheons and rifle butts. Cigarettes were extinguished on his body, and he was forced to eat plaster from the wall and cigarette butts. His hair was set on fire and he was forced to perform fellatio on one of his guards."*

*"Former Military Dispensary: A report stated that a Serb female was detained in the former military dispensary in Mostar between 21 July 1992 and 24 July 1992. She was incarcerated in the basement of the building in a three by 3.5 metre room with five or six other women. On the first night of her detention she was taken for interrogation at 2:00 a.m.. The interrogator cursed her and threatened her with a knife. The next night she was taken to the same interrogator and he asked her if she would be his mistress. She declined and was transferred to the Dretelj detention facility."*



## 2.4.2. Forensic Medical Expertise On the Injuries Inflicted on the Prisoners in the Camps throughout Bosnia & Herzegovina

2.4.2.1. On the following pages of the Rejoinder the Respondent will supplement medical evidence annexed to the Counter-Memorial with photographs of injuries

2.4.2.2. The injuries, marked by letter(s) and number(s) have been inflicted by genocidal acts described in related paragraphs of the Counter-Memorial:

B1/B11 7.1.24; 7.3.20  
B7 7.3.20.1  
B8 7.2.9.0; 7.1.46  
B10 7.3.20  
B15 7.1.24.1;7.3.25  
B16 7.3.25; 7.1.46  
B22 7.1.46; 7.3.3.3; 7.1.25  
B19 7.1.20.5; 7.3.25  
B6 7.1.46.3  
B9 7.3.25; 7.3.3.3  
BI15 7.3.19.2.1-4  
Š18 7.2.10.1.1; 7.2.10.1.4  
Š15 7.2.10.1.1; 7.2.10.1.4; 7.1.24  
Š13 7.2.10.1.1; 7.2.10.1.4;  
7.1.12; 7.1.24  
Š11 7.2.10.4; 7.2.10.1.6;  
7.2.10.1; 7.2.10.2.1  
Š6 7.2.10.1.1; 7.2.10.1.4  
Š8/M5 7.2.10.1.5; 7.2.10.1.11;  
7.2.10.2.1;7.2.10.4  
Š2 7.2.10.1.1; 7.2.10.4  
Š7 7.2.10.2.1; 7.2.10.4  
Š4 7.2.10.1.3; 7.2.10.1.9; 7.2.10.2.1  
Š1/B5 7.2.10.1.1; 7.2.10.1.4  
Bg10 7.3.25; 7.1.46.1-6  
Bg22 7.3.19.2.1-4; 7.2.10.1.4

Bg28 7.2.6.38.9  
M1 7.2.10.4; 7.2.10.1.1  
M2 7.2.10.2.1; 7.2.10.4  
M6 7.2.10.2.1; 7.2.10.4  
M7 7.2.10.4; 7.2.10.1.1  
M9 7.2.10.2.1  
M14 7.3.19.0; 7.3.20  
M15 7.3.19.0  
M16 7.3.19.0; 7.2.10.1.4  
M17 7.2.10.1.4  
M30 7.2.10.2.1; 7.2.10.4;  
7.2.10.1.5; 7.2.10.1.15  
M35 7.2.10.2.1; 7.2.10.1.17  
M38 7.2.10.2.1; 7.2.10.4  
M39 7.2.10.2.1  
Der1 7.1.39.2  
Der3 7.1.39.7; 7.1.39.8  
Der4 7.1.39.1-7  
Der5 7.1.39.6  
Der6 7.1.39.8; 7.1.39.6  
Der8 7.1.39.6; 7.1.39.8  
Der10 7.1.39.4; 7.1.39.7  
Der12 7.1.39.1-7  
Der13 7.1.39.7; 7.1.39.6  
Der15 7.1.39.7; 7.1.39.6; 7.3.18  
Der19 7.1.39.6  
Z1 7.1.22.7; 7.3.3.3  
Z6 7.3.25; 7.2.0.3  
B4 7.1.20.5  
KV1 7.1.17.6  
Ts2 7.3.3  
Ts3 7.3.3  
Ts4 7.3.3  
Ts5 7.1.9.14  
Bg2 7.2.6.3; 7.2.6.38.5  
Bg8 7.1.23  
Bg9 7.1.1; 7.3.10; 7.2.0.1.377  
Bg12 7.1.28  
Bg14 7.3.11; 7.1.50.3  
Bg19 7.2.0.3

Bg21 7.3.3.3  
Bg25 7.1.31.2  
Bg27 7.2.6; 7.3.12  
Bg32 7.1.30; 7.2.6.36  
Bg36 7.2.0.1.233; 7.2.0.1.313  
Bg7 7.2.5.1-9  
Z8 7.1.3.3  
Z4 7.1.3.2  
Bl1 7.2.0.1.9; 7.2.0.1.7  
Bg47 7.2.0.1.9  
T1 7.2.7.3; 7.2.3.2  
T3 7.1.25.2; 7.2.0.1.249; 7.2.0.1.248  
T4 7.2.0.3  
T6 7.2.0.1.248  
T7 7.2.0.3  
T8 7.2.4.9; 7.2.0.1.449  
T10 7.2.1.16; 7.2.2.0  
T11 7.2.0.1.257  
T13 7.2.0.1.449; 7.2.3.0  
T18 7.1.25  
Bl14 7.2.1  
Bg33 7.1.25; 7.2.4  
Bg34 7.1.34  
Bg26 7.1.9.4  
Bg16 7.1.62.1

## **B1/B11**

K. M., male, 37 years old when captured. Captured as a civilian on 4 May 1992. Confined in two camps - in Orašje and Donja Mahala, till 4 September 1992. Permanently beaten, either singled out or within a group of camp prisoners. Beaten with fists, truncheons, baseball bats, butts, all over his body, but especially over his head, neck and genitals; cigarettes were extinguished on his hands, his neck was used as a target for shooting with an air rifle; his beard and his toe nails were pulled out with pliers; he was forced to eat cigarette butts and to watch other butts camp prisoners have homosexual intercourse; he was forced to dig trenches on the front line; deprived of water and food; given false information on the death of dear persons; witnessed the torture and murder of other camp prisoners; forced to give false testimonies, forced to fight other camp prisoners. Besides, he was also permanently shouted at, cursed, and insulted in various ways. He fainted several times from the battering, he also vomited and relieved himself in his pants. Prosecuted and sentenced to 8 years of imprisonment "for armed insurrection".

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: deformity of Adam's apple, scars (callus) where the ribs were broken, scars on the skin caused by projectiles fired from an air rifle, and scars from extinguished cigarettes.



Picture No.1 Scar on the neck, injury from air rifle projectiles

**B1/B11**



Picture No. 2 Scars on the hand,  
injury from extinguished cigarettes



Picture No. 3 Scars on the shoulder,  
injury from extinguished cigarettes



Picture No. 4 X-ray - Scars (callus) where ribs were fractured

## **B 7**

M.N., male, 53 years old when captured. Captured as a civilian in his house in Orašje on 11 June 1992. Taken first to the camp in Orašje, and then to the camp Donja Mahala, from which he was exchanged on 17 January 1993. From the very beginning he was beaten with various objects all over his body. He was mostly tortured alone. He weighed 120 kg when captured and was 80 kg when released. Besides being beaten, he also had to stand still in the hot sun for hours, and also suffered by thirst and hunger. He was forced to dig trenches on the front line, and on one occasion, after an explosion of a shell, his hearing was impaired. His right arm was shot at from point blank range, and his forearm had to be amputated. He had surgery in the Croat Military Hospital; however, there had to be a re-amputation because of the wound infection. He now has prosthesis. He lost consciousness several times while being beaten with various blunt weapons, and he bled. He witnessed and also heard others being tortured, and he saw the bodies of dead camp prisoners being taken away from the camp.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: right hand and forearm missing, but he has a phantom pain in the amputated region. Bilateral hearing impairment found, according to the case history most likely the result of many detonations in his vicinity. Since the right hand and forearm have been amputated and because of bilateral hearing impairment there is a severe reduction of general and vocational performance of this examinee.





Picture No.1 Prosthesis of the right hand which was amputated

## B 8

Dj.N., male, 54 years old when captured Captured as a civilian on 9 May 1992. First taken to the camp in Bosanski Brod, and later on transferred to the camp "Rasadnik". He was exchanged on 28 May 1992. He was beaten all over his body with all sorts of things from the moment he had been captured. He was beaten 2-3 times a day, suffered hunger and thirst, and he slept on the concrete floor all the time. He was forced to stand in the hot sun for a long time. He stated that six of his teeth in the maxilla and one in the mandible had been knocked out, and that his right hand finger was fractured with some tool. He experienced "stereo blows" over his ears, and one staged execution. He was often beaten at night to be prevented from sleeping. He was told that several dear persons had been killed. He witnessed the torturing of other camp prisoners. Almost strangled several times, during which he was shouted at, cursed and insulted in various ways. He fainted several times during the torturing. He vomited, urinated, and once defecated in his pants because of the the battering. He often bled from the nose and mouth because of the injuries.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: ankylosis in the right hand fingers and damaged nerve in the elbow; all teeth in the maxilla are missing; overall, this has moderately reduced his vocational and general capacities.



Picture No. 2 A bump in the base of the 3rd right hand finger and ankylosis of the right hand 4th finger last phalanx



Picture No. 1 A bump in the base of the 3rd right hand finger



Picture No. 3 No teeth at all in the maxilla

## B 10

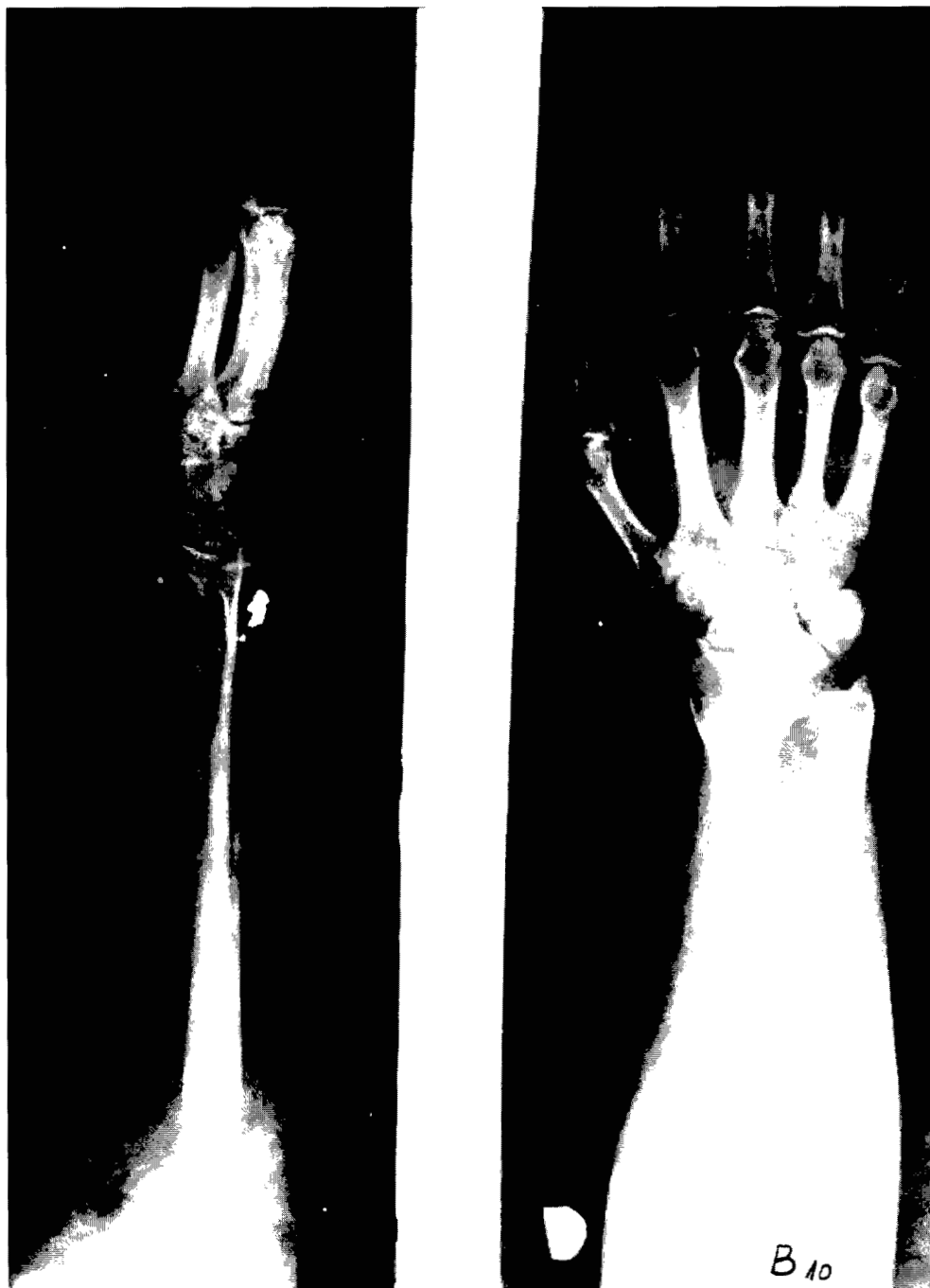
R.S., male, 45 years old when captured. Captured on 4 May 1992 as a civilian in Orašje while he was in a town shelter. He was held in two camps, in Orašje and in Donja Mahala, till 9 January 1993, when he was exchanged. He was mostly mentally tortured. He wasn't beaten because they knew he was a teacher and "they were rather considerate towards him", since there were many of his former pupils among the guards. While in the camps, besides being cursed at, shouted at, and insulted in various ways, they would often wake him up with false news about the death of some dear person. They forced him to witness the torturing of other camp prisoners. They made him dig trenches on the front line, and his arm was injured once by a shell fragment. While in the camp he urinated in his pants once, out of fear, and once there was blood in his stool.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: scars on the right forearm, and scar (callus) on the right elbow bone, with a foreign metal body in the vicinity of this callus, as well as a clinical diagnosis of a medianus defect, the result of an injury by the fragments of an explosive device (shell fragments). The n. medianus in this examinee is permanently damaged which has moderately reduced his general and vocational capacities.



## B 10

Picture No.1 Scar on the right forearm, the result of an injury caused by a shell fragment



Picture No. 2 X-ray showing a foreign metal body in the soft tissue of the right forearm

## **B 15**

S.S., male, 49 years old when captured. He was captured as a civilian on 9 May 1992 in his house in the village of Bukova Greda, near Orašje. The Croats captured him. From there he was taken to the camp in Donja Mahala and was exchanged on 29 January 1993. His two brothers, sister, and two nephews were in the camp, too. His brother was battered to death in the camp, and his sister died in Vinkovci of consequences of the battering in the camp. Immediately after being captured he was beaten with all sorts of things over his whole body, mostly over his chest, and he was also trampled on. He said that a single blow had broken four of his lower jaw teeth with a pistol butt, and that his ribs had been broken. The beating went with cursing, shouting, and with various insults. They would frequently wake him up at night and tell him lies about the death of someone dear to him. He had to witness the torturing of other camp prisoners. Several times he was forced to dig trenches on the front line. They also made him curse his patron saint and his patron saint day. A number of times, because of the beating, he lost consciousness, vomited and urinated in his pants. He bled from the nose, mouth, and anus.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: a scar on the right side of the chest, the result of a surgery after release from the camp, by which the suppurating collections in the right side of the chest were removed.



Picture No. 1 Scar on the right side of the chest, the result of a surgery

V.B., male, 44 years old when captured. Captured on 8 June 1992 as a soldier of the Republic of Srpska Army in the village of Ulice. He was then taken to the camp Maoča, where he was till 9 September 1992. He was tortured both singled out and in a group. He was tied when tortured, no matter whether this took place in the camp or in the streets. He was mostly beaten with blunt weapons over his head and chest, especially at the time when he had been captured. Once, when hit in the face, his tooth was broken. He was suffered thirst and hunger; they didn't let him sleep, and they shouted, cursed, and insulted him in various ways all the time. Several times he was forced to dig trenches on the front line. He lost conscious, vomited, and bled from the nose and mouth several times during the torturing and beating.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: a scar on the left auricle, the result of the skin being ruptured and crushed by a blow with some blunt mechanical weapon.



Picture No.1 Scar on the left auricle

A.S., male, 35 years old when captured. He was captured on 1 February 1993 as a soldier, and was first taken to the camp Ulice, and then to Gornji Rahići. After that he was transferred to the camp in Tuzla, from which he was released on 21 July 1993. From the beginning he was beaten and tortured in various ways. He was kicked and punched with fists, rifle butts, etc. He spent 58 days in the solitary cell in Tuzla. He explained in detail one of the tortures from the camp in Tuzla, called "cat walk": with their hands tied on their backs, and in a squatted position, he and the other camp prisoners had to go about a dozen times from one end to the other of a 100 m long corridor. Not even once were they allowed to stand up, otherwise they would be beaten. During the interrogation he would be kept squatted under the table for about 6 hours. They often brought him false news about the deaths of dear people, and also told him lies about the "situation on the front". They extinguished cigarettes on his body; he lost 6 teeth from blows in the face. All the time he was cursed, shouted at, and insulted in various ways, etc. They cursed his saints and patron saint day. He fainted, urinated, and bled from the nose several times because of the injuries. He was sentenced to 9 years of imprisonment for "the destruction of a mosque and for raping Muslim women".

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: teeth missing, both in the mandible and maxilla, scars on the head and left hand, a chronic post-traumatic stress disorder, psycho-somatic disorder, and severe mental pain, which have altogether caused a severe reduction in his general and vocational performance.





Picture No.1 Scar on the forehead and missing teeth in the upper jaw

**B 22**



Picture No. 2 Missing teeth in the lower jaw



B 22

Picture No. 3 Scars on the left hand, the result of burns,  
caused by lit cigarettes

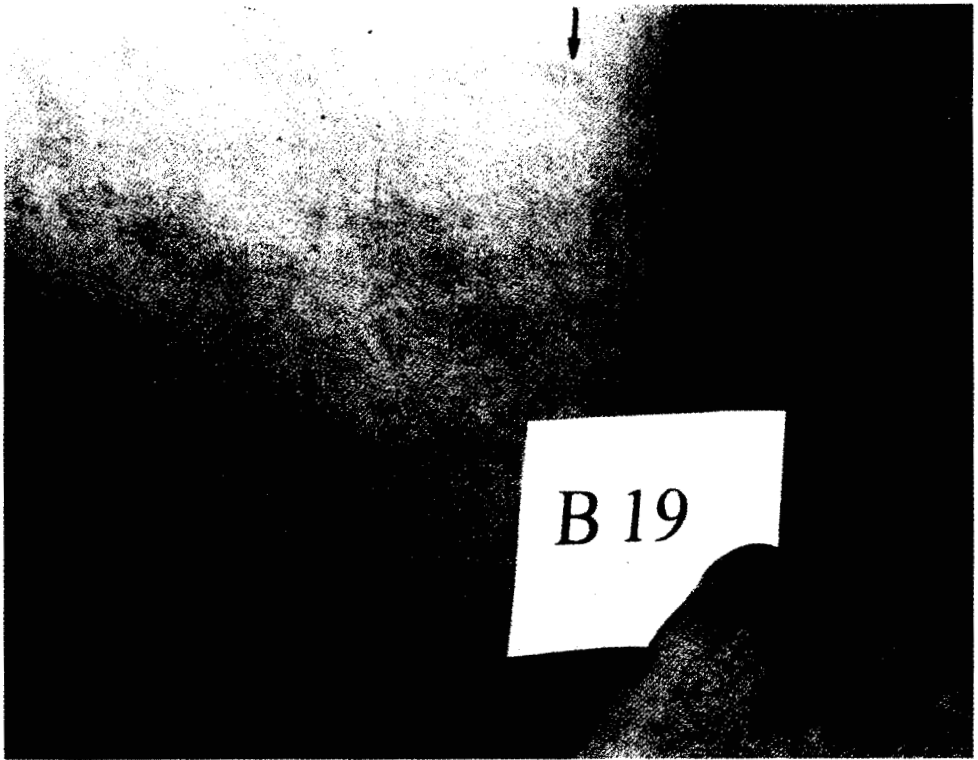
R.M., male, 23 years old when captured. On 13 May 1992 he was captured as a soldier in the village of Donji Rahić and he was first taken to the camp Rasadnik, and then to the camp Maoča, in Tuzla, from which he was released on 21 July 1993. All the time in the camps he was tortured either separately or within a group. He was mostly beaten over his head. He was tortured in many ways: beaten with various objects, kicked, punched, they shot from firearms near his head, extinguished cigarettes on his body, "broke his nose", he underwent the "stereo torturing", he suffered thirst, hunger, cold, he was "cut and poked with a knife", he was several times led out for staged executions, they didn't let him sleep, he witnessed the torturing of other camp prisoners, he was forced to fight other camp prisoners, had to lick the floor smeared with excretion and blood, and all this was accompanied by beating and cursing. He was beaten several times for a whole day and night. On the day when he had been captured he was beaten from 5 a.m. till 2.30 p.m. He fainted, vomited, and he couldn't hold his urine and faeces because of the beating. He stood a trial, but they had no witnesses, so he wasn't sentenced. While in Tuzla he both witnessed and overheard the raping of female camp prisoners.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: deformity of the nasal bone, outgrowth found on the right arm, scars on the chest, back and limbs, which are the result of injuries caused by blows with blunt objects, lit cigarettes, tip and blade of a mechanical weapon; he also has nightmares in the second part of the night, followed by insomnia, which have altogether caused a severe reduction in his general and vocational capacities.

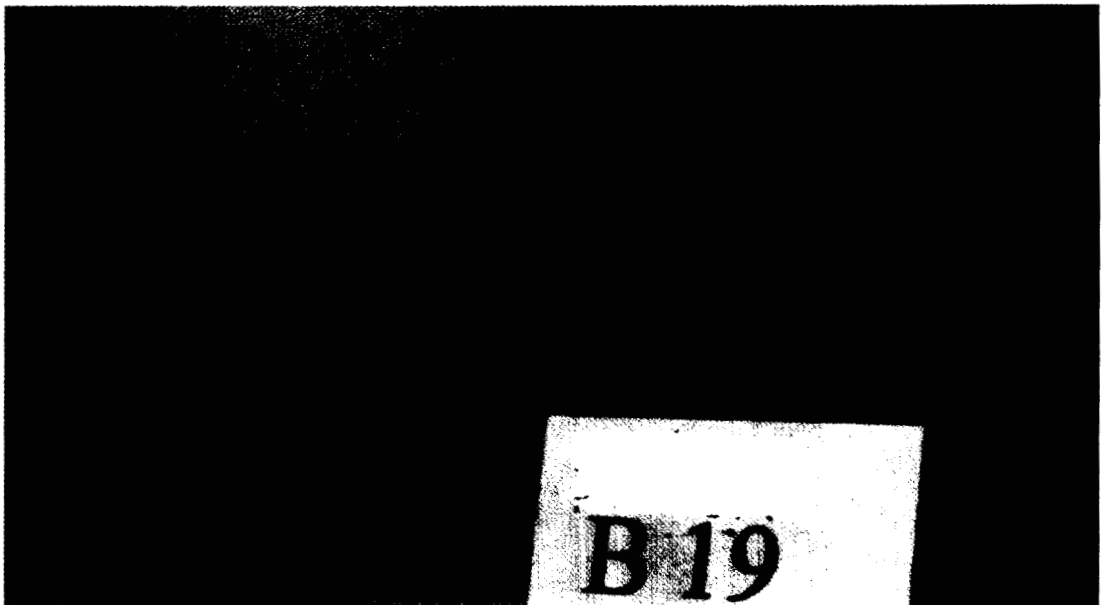


Picture No.1 Bump on the right side of the chest

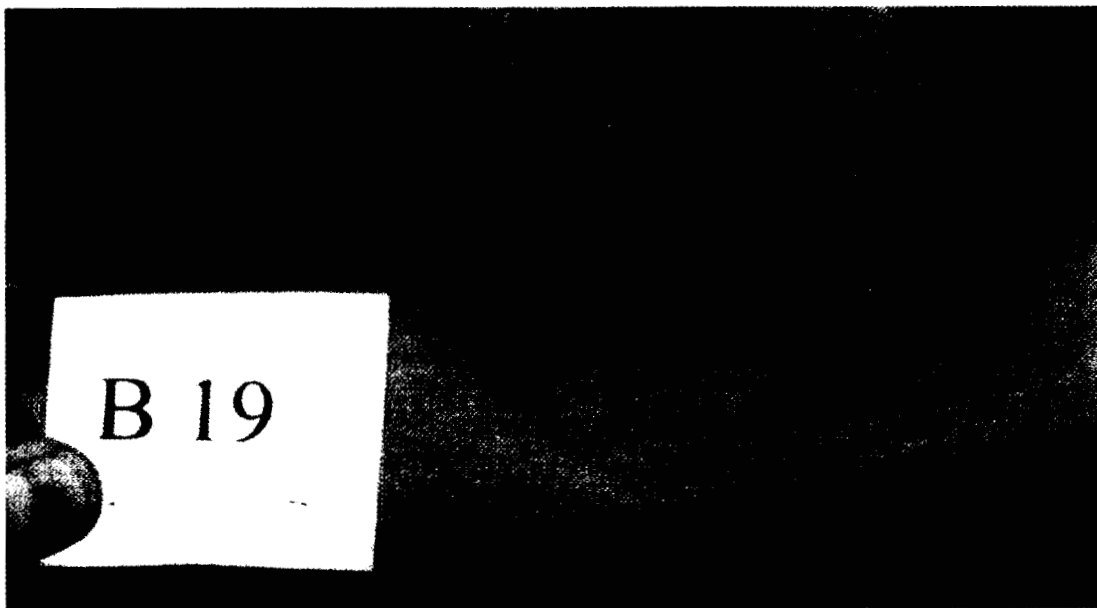
**B 19**



Picture No. 2 Scar on the chest, the result of a cigarette burn



Picture No. 3 Scar on the chest, the result of both a stab and a cigarette burn



Picture No. 4 Scars on the flanks, caused by the tip and blade of a mechanical weapon

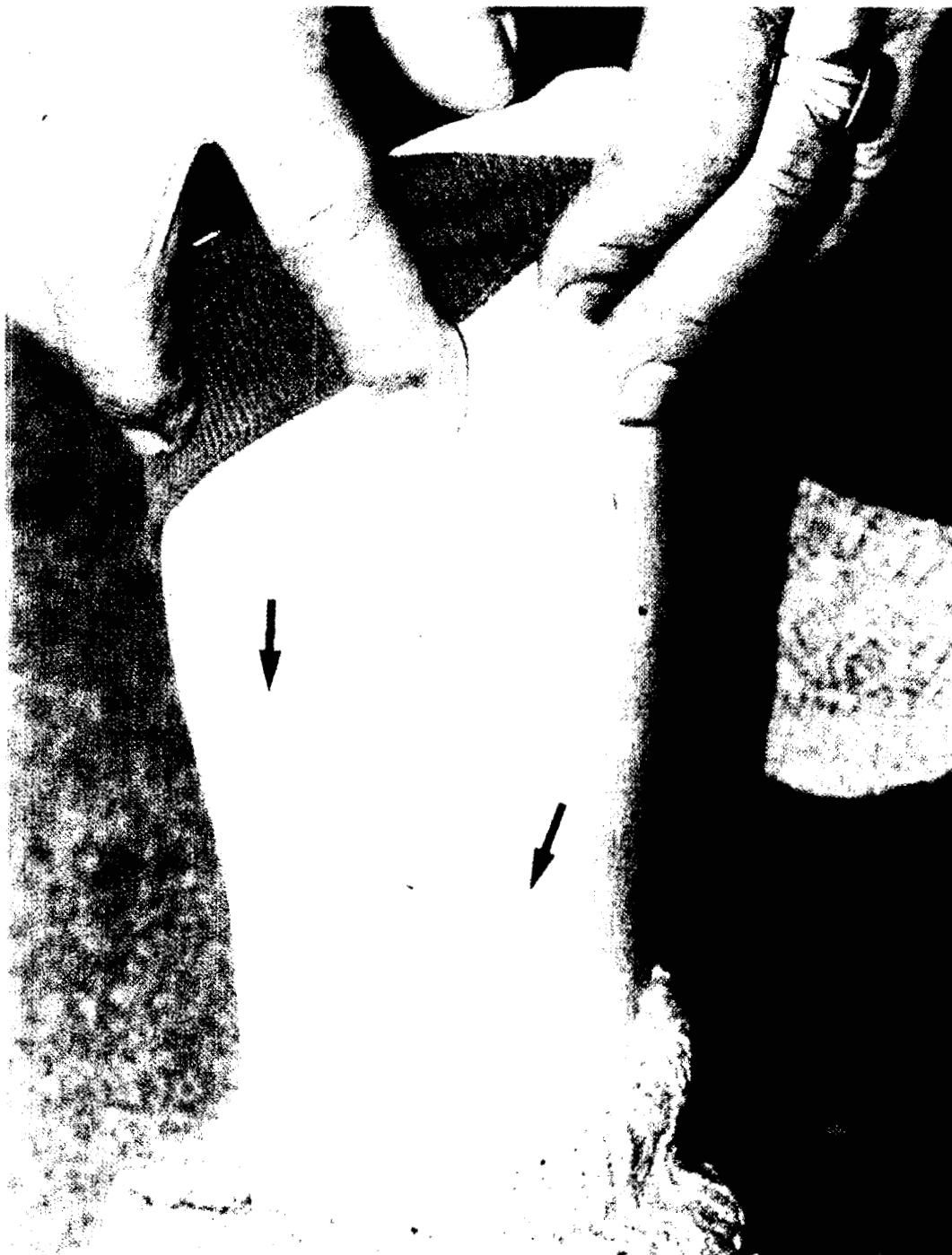


Picture No. 5 Scars on the left foot, caused by the tip and blade of a mechanical weapon

## **B 6**

G.R., male, 59 years old when captured. He was captured as a civilian in his house on 1 May 1992. He was confined both in the camps Maoča and Gornji Rahić and was exchanged on 15 September 1992 in Brčko. His wife and sister were also in the camp. He was beaten from the first day, mostly over the head and kidneys. He suffered thirst and hunger. For some time he was held in a refrigerator truck, with no toilet, water, light or air. His teeth, both in the upper and lower jaw, were broken by the beatings, so he had to have put prosthesis when released. He was led out for staged executions several times. They forced him to stand for hours in the sun or cold; he witnessed the torturing and killing of other camp prisoners. He had to dig trenches on the front line every day. While beaten he fainted several times, vomited, urinated, and relieved himself in his pants. His injuries and wounds would bleed from the blows. On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: scars (callus) of multiple rib fractures, scars on the right shin, the results of blows with blunt objects, and an extensive anxious-depressive reaction, which has severely reduced his general and vocational capacities.



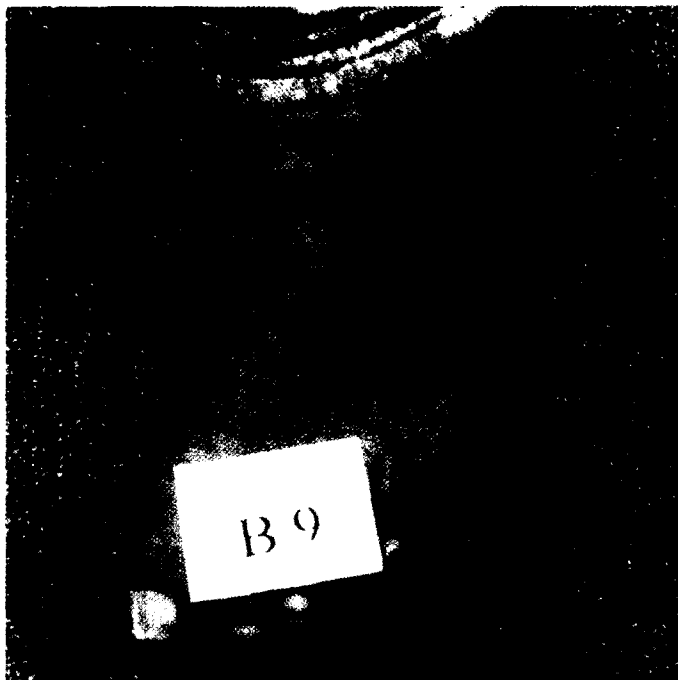


Picture No.1 Scars on the right shin and where the skin was ruptured

## **B 9**

R.B., male, 46 years old when captured. He was captured as a soldier on 3 August 1993 and was first taken to the camp in Maoča, and then to the camp in Tuzla. He had been in the camps till 29 October 1995, when he was exchanged. He was beaten with bats, rifle butts, and other means all over his body, so that he was all bruised. In the first 4 months in the camps he said "he had seen the sunlight only for three hours". He was held for a long time in a solitary cell. They hit him with various things, and forced him to stand still, both in the cold and scorching heat. They would extinguish their cigarettes on his foot soles, feet, hands, and flanks. He was once led for a fake execution. He was often told lies about the death of people dear to him. They made him lick the floor smeared with blood and faeces and he had to do that under permanent beating. The first 15 days he was beaten all the time. The beatings were accompanied with curses, yelling, and with all kinds of insults. He fainted several times while being beaten, and a number of times he vomited and urinated, and once relieved himself in his pants during the beating. The battering almost always resulted in the bleeding from the nose and mouth. He was forced to sign false testimonies, because of which some people from the Hague and Boston visited him, and because he had signed this false testimony he stood trial.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: scars on the head, a post-traumatic stress disorder, and major chronic depression, which have altogether caused a severe reduction in his general and vocational capacities.



Picture No. 1 Scars and atrophic changes on the left foot

L.Lj., woman, 37 years old when captured. She was captured on 8 May 1992. She and the other Serb women from that area were imprisoned in the houses of the Muslims and Croats living in Odžak and in the surrounding villages, while the men were taken to the camps. She had been detained in the Muslim houses until she was released on 15 July 1992. She is not sure about the exact date when the following event took place: A group of Croats, members of the group "Blazing Horses", who had been her neighbours before the war, arrived one night. She was beaten first over her head; then they told her to take off her clothes. Five of them raped her, i.e. she knows about five, because she later fainted. When she regained consciousness they cursed her Četnik mother and said: "Fuck your Četnik mother, you have endured the 15 of us, so we shall let you go". They let her go home. After this event her husband left her. He had been a camp prisoner in Odžak and Slavonski Brod, and people say that he changed mentally, that he "turned nuts" in the camp.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: scars on the head, a post-traumatic stress disorder, and a major chronic depression, which have altogether caused a severe reduction in her general and vocational capacities.



Picture No. 1 Scar on the vertex, the result of a blow with a blunt mechanical object

## Š 18

M.R., male, 51 years old when captured. He was captured on 8 May 1992 and taken to the camp in Odžak (elementary school building), where he was held for two months. He was then transferred to the camp in Bosanski Brod, where he was another two months, after which he was taken to the camp in Orašje. He was beaten daily in the camps in Odžak and Bosanski Brod, mostly kicked with boots, punched and beaten with rifle butts. They had to dig trenches on the front line and he was once injured when a shell "had struck a nearby tree and tore off a branch, which fell on his head". He had been taken, unconscious, to the Slavonski Brod hospital and had a surgery there. The treatment lasted for 40 days, after which he was exchanged on 24 December 1992.

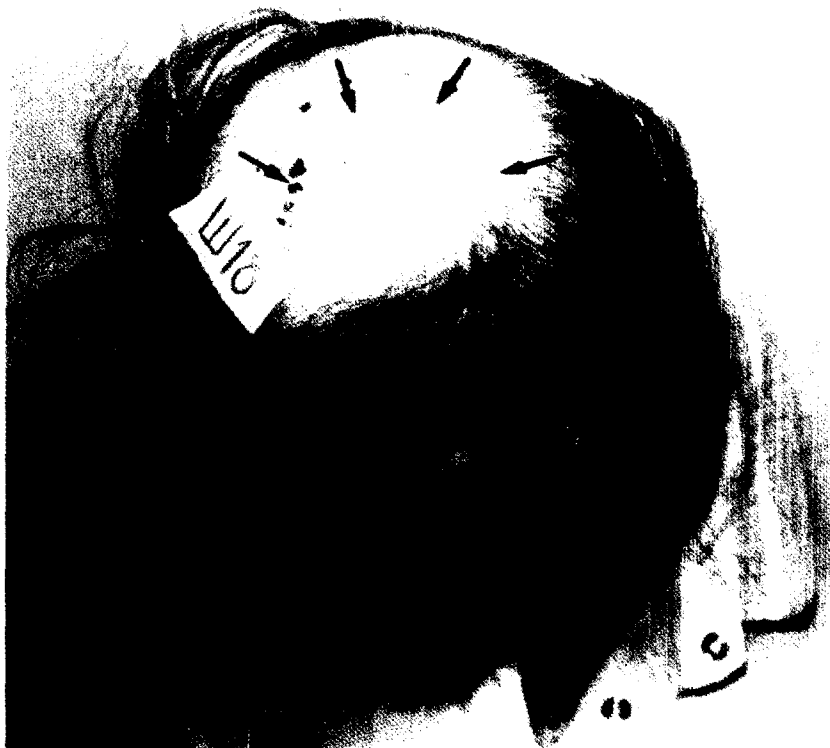
The medical report from the hospital in Slavonski Brod proves that he was admitted "on 13 November 92 because his right side of the body was paralyzed when a heavy branch had fallen on his head. Status: from the nose, oriented, critical condition.



Picture No. 1 Deformation - depression of the parietal bone, left side

Neurological: medium hemiparesis, right, and hyperesthesia. The computerized tomography shows an impressed fracture of the parietal bone left, because of which he was operated on.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, it has been found that this examinee has a deformity on his skull, in the form of a depression on the parietal bone, left side. He cannot move his right foot toes, the whole right leg has reduced sensibility, so he has difficulties in walking, and finally - he is disfigured. All this has caused a severe reduction in his general and vocational capacities.

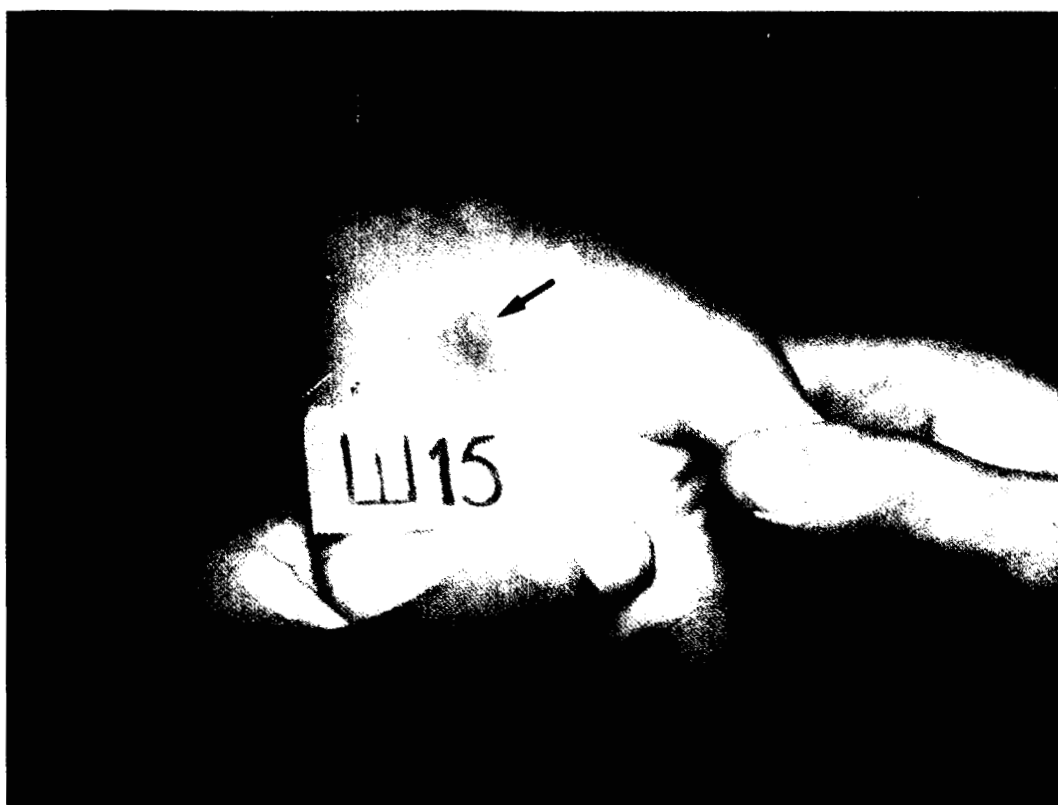


Picture No. 2 Scar on the deformation - depression on the vertex, left side

## Š 15

D.Lj., male, 52 years old when captured. He was captured on 8 May 1992. and taken to the camp in Odžak, where he was kept for 2 months. After that he was transferred to the camps in Bosanski Brod, Slavonski Brod, Donja Mahala and to the camp in Orašje. On 27 October 1992, while digging trenches he was wounded in the right arm by a shell fragment. He was taken to the hospital in Slavonski Brod, from where he was exchanged on 5 November 1992. He was beaten in all the camps and harassed in many ways. He was punched, kicked, and beaten with bats. They "enjoyed" the most in beating the camp prisoners with rubber truncheons over the top of their head. Once, they forced him to put his hand over a protruding nail on a plank, after which a guard hit the camp prisoner's hand with his fist, so that the nail went through the hand. He lost about 10 kg in the camps.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: there is a scar (callus) on the right humerus with impaired sensibility in the right arm, muscle atrophy in the right arm with limited extension of the right arm; there are scars on the right upper arm, and all this has moderately reduced his general and vocational capacities.



Picture No. 1 Scar on the left-hand palm, the result of a stab with a sharp mechanical weapon

## Š 13

K.B., male, 19 years old when captured. He was captured on 8 May 1992 and taken to the camp in Odžak, where he was held for about two months. He was then transferred to the camps in Novi Grad, Bosanski Brod, Slavonski Brod, and to the camp in Donja Mahala. He had been wounded there on 20 October 1992, while digging trenches, and was taken to the Slavonski Brod hospital. He had a surgery of his right leg and left shoulder. From there he was transferred to the Military Hospital in Zagreb, where his whole right leg was amputated. From this hospital he was transferred to the prison Kunešćak, in Zagreb, then to the camp Lora, and from Lora to Ljubuški, where he was released by exchange in mid August 1993. He said that he had been beaten with all sorts of things in all the camps. He can't decide where the beating was the worst. In August 1992 his hip was stabbed with a bayonet in the Bosanski Brod camp, and bled a lot.

On the basis of medical records, forensic medical and neurological-psychiatric examinations the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: amputated whole right leg, scars above the left shoulder blade and on the right thigh - which have greatly disfigured him. Besides, this examinee has developed a depressive - neurotic reaction, and all this has caused a severe reduction in his general and vocational capacities.



Picture No. 2 Scars above the left shoulder blade, the result of an injury caused by a shell fragment

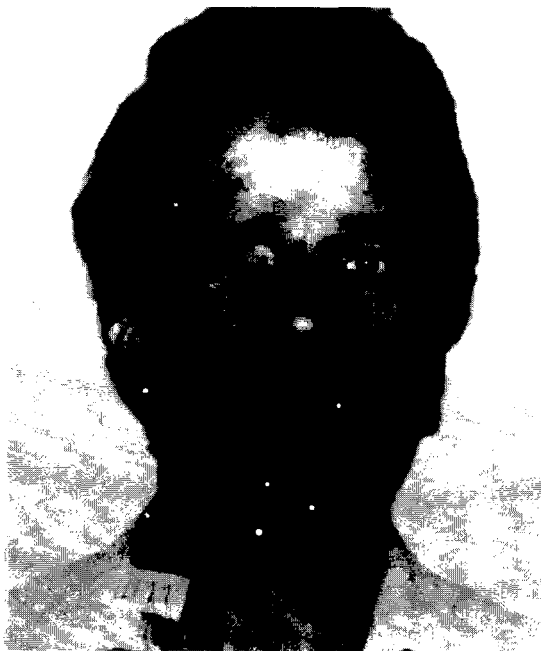




Picture No. 1 Status after a high amputation of the left leg

## Š 11

M.L., male, 29 years old when captured. He was captured on 8 May 1992 and taken to the camp in Odžak from which he was transferred to the camp in Bosanski Brod. In late October he was again transferred, this time to the camp in Donja Mahala, where he was held till 8 November 1992, when he was injured. Because of the injury they sent him to the hospital in Slavonski Brod. He was released by exchange on 12 January 1993. He said that he had been beaten in all the camps with all sorts of things. They had forced him to dig trenches on the front line, during which his head was hit by a shell fragment and he lost consciousness. Three days later he regained it in the hospital when he was told that he had a surgery and that he had lost his right eye. When released he was immediately transferred to the MMA in Belgrade for further treatment. He now has prosthesis instead of the missing eye.

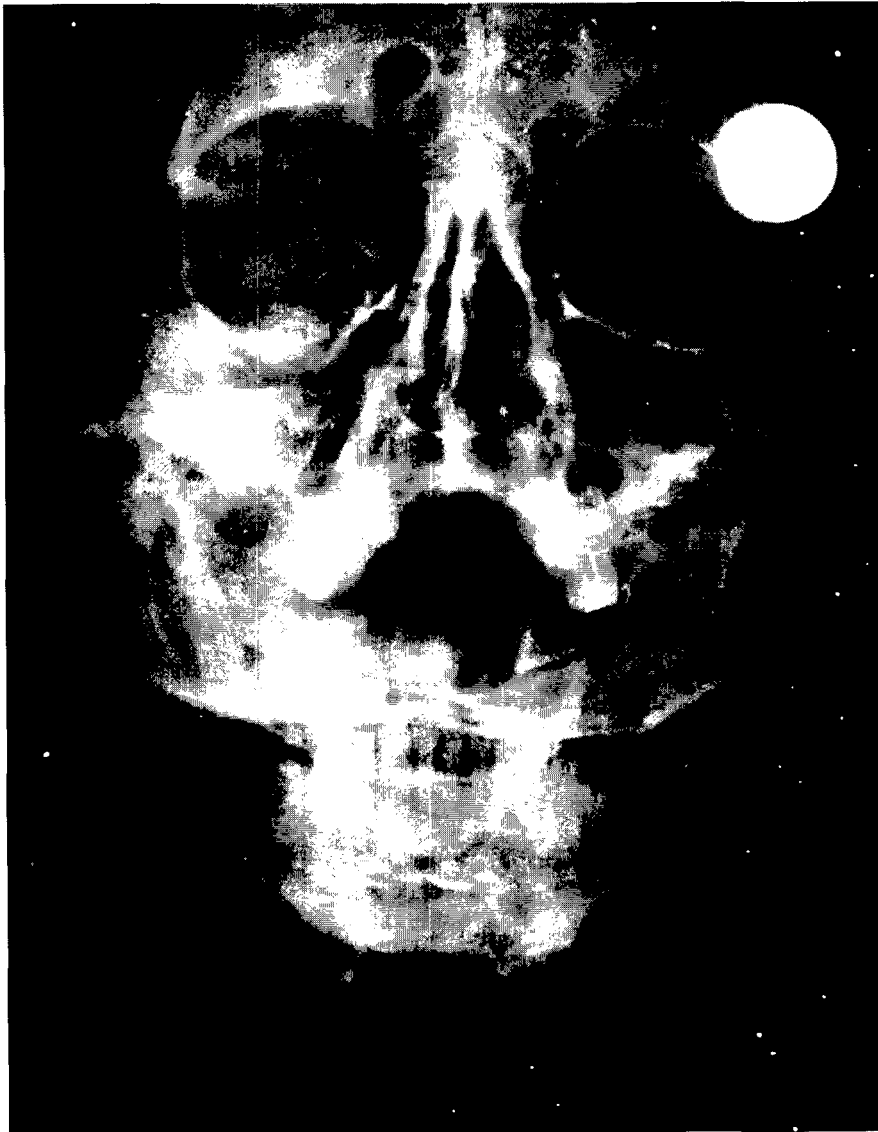


Picture No. 1 Deformation on the right side of the face, the result of an injury by a shell fragment



Picture No. 2 Deformation of the right side of the face, the result of an injury by a shell fragment (semi-profile)

On the basis of medical files, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: major deformation and disfigurement of the face, right side, the loss of the right eye, followed by impaired eyesight. There are also large and ugly scars - which have caused major disfigurement and have developed a chronic depression, a dysthymia; all this has caused a severe reduction in his general and vocational capacities.



Picture No. 3 X-ray - the arrows indicate the fracture of the maxilla, right side, which has healed improperly

## Š 6

C.J., male, 35 years old when captured. On 18 May 1992 he was taken to the camp in Donja Mahala, where he was held till 22 June 1993. He was then transferred to the camp in Ljubuški, where he was till exchanged on 19 July 1993. He was almost daily beaten all over his body: with fists, with boots on, boxers, bats (rubber ones and also with the wooden baseball bats), planks, chains, etc. His genitals were beaten and this was the "favourite sport" of the camp guards. They also forced the camp prisoners to beat each other. Once they stabbed his right knee with a knife; they also stapled his auricle several times. The most terrible experience was when they forced him to beat his own brother with a bat. His skin on the chest was slit with a piece of broken glass.



Picture No. 1 Scars on the left auricle, the result of the stapling

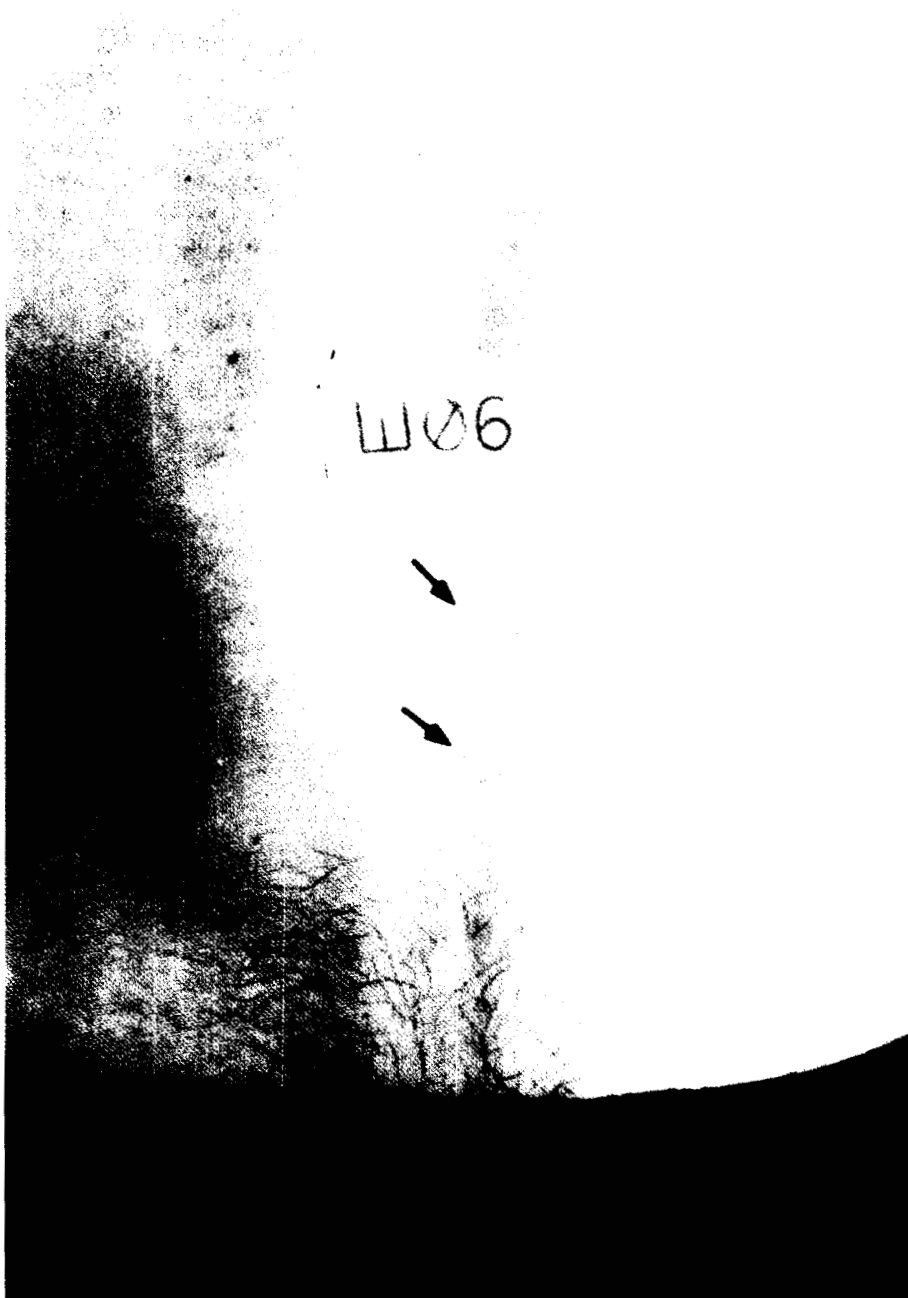
On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) where the ribs were fractured, numerous scars on both auricles, scars on the face, chest, back and right knee. He also has the post- traumatic stress disorder and secondary alcoholism, which altogether have caused a severe reduction in his general and vocational capacities.



Picture No. 2 Scars on the right earlobe, from the stapling



Picture No. 3 Scar on the chin, the result of a blow  
with a mechanical weapon



Picture No. 4 Scars on the back, the result of injuries inflicted by blows with blunt mechanical weapons

## Š 8 / M 5

M.K., male, 30 years old when captured. He was captured on 8 May 1992 and was held in the camps till 20 July 1993, when he was exchanged. He was first held in the camps in Odžak, then in Novi Grad, Bosanski Brod, Slavonski Brod, Zagreb and in Lora. According to his statement the most terrible torturing was in the camp in Odžak, where he spent about 2 and a half months, and where three of his teeth were knocked out, and then next in this range was the camp in Novi Grad, where he was held for 3 days, and the camp in Zagreb. He was beaten almost daily with fists, feet, rifle butts, planks, truncheons; they extinguished lit cigarettes in his ears, on his back and arms. On one occasion his left shoulder was dislocated by a blow with a rifle butt. Several times his genitals were kicked with boots on. His left arm was cut with a knife in the camp in Zagreb (the doctors later put clips on this wound). When he was in the camp in Bosanski Brod the camp prisoners were forced to dig trenches. Once, while forced to do this, he tread on a mine which exploded and ripped away his whole left leg, and fractured his right leg below the knee. After that accident he was transferred to Zagreb, where the doctors treated the wounds, from where he was returned to the prison as an invalid. After this event the camp guards didn't beat him very much.

On the basis of medical records, forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: status after amputation of left leg, scars on the right shin, with difficulties in walking, limited extension in the left arm, with muscular atrophy in the upper arm, many scars on the left forearm and hand - which caused major disfigurement, psychosomatic disorder and generalised anxiety disorder, which altogether have caused a severe reduction in his general and vocational capacities.



Picture No. 1 Scars on the right shin, the result of injuries caused by shell fragments



D.J., male, 52 years old when captured. He was captured on 8 May 1992 and transported to the school in Odžak, where he was kept till 9 July 1992. Then he was transferred to the camp in Bosanski Brod from which he was released by exchange on 7 October 1992. He said that he had been beaten in both camps with all sorts of things: hands, feet, wooden clubs. On 4 October 1992 they even bit off his left auricle.



Picture No. 1 The uvula of the left earlobe, which was bitten off, and is now missing

## Š 7

Č.V., male, 53 years old when captured. He was captured on 8 May 1992 and taken to the school in Odžak. He was later transferred to the camp in Novi Grad and then to the camp in Bosanski Brod, from where he was exchanged on 24 August 1992. After the exchange he joined the Republic of Srpska Army units and was once again captured on 20 October 1992 and deported to the camp in Orašje. He was there till exchanged on 10 May 1993. He was mostly beaten in the camp in Orašje. He was beaten every day all over his body with fists, boots, bats, etc. They pulled some wires through his auricles and then hung planks onto the wires. On one occasion he was stabbed in his back. They pushed lit cigarette butts into his nostrils and ear canals. They tied his genitals and testicles with wire and then pulled the wire. He often urinated blood after the beatings. His ribs were broken, as well as several of his teeth. They sprayed something in his eyes, after which he would be "blind" for some time. They burnt his beard with the flame of a lighter. He lost about 40 kg in the Orašje camp. Once they "nailed" his hands with a screwdriver.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) where the ribs were broken, scars on the skin, on the left auricle lobule, on the back and limbs, as well as post traumatic stress disorder and psychosomatic disorder, which have altogether severely reduced his general and vocational capacities.



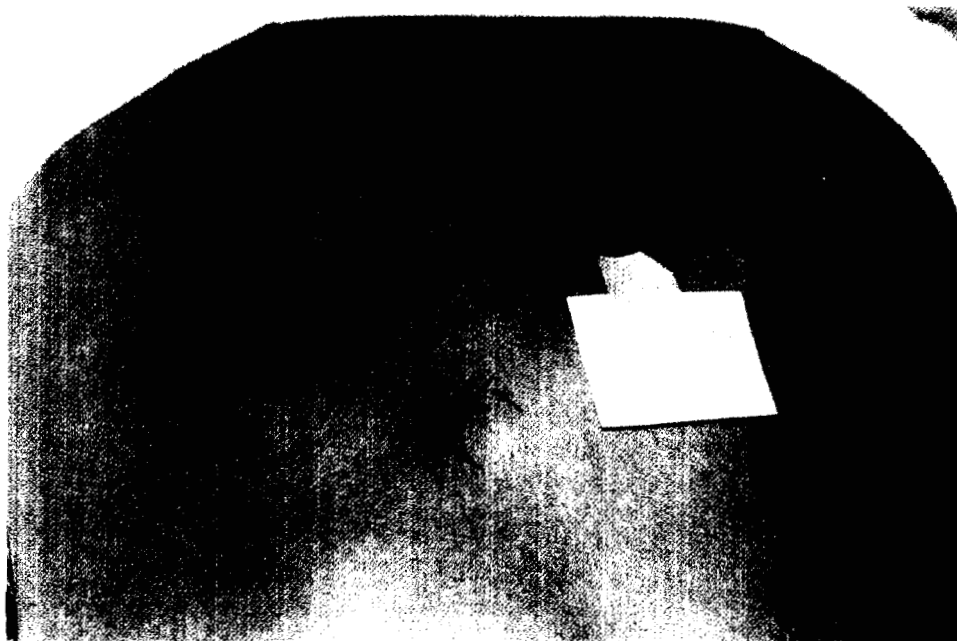
Picture No. 1 Scar on the right cheekbone, the result of a blow with a blunt mechanical weapon



Picture No. 2 Scar on the left cheekbone, the result of a blow with a blunt mechanical weapon



Picture No. 3 Scar on the left shoulder blade region, the result of a stab with some pick or blade of a mechanical weapon

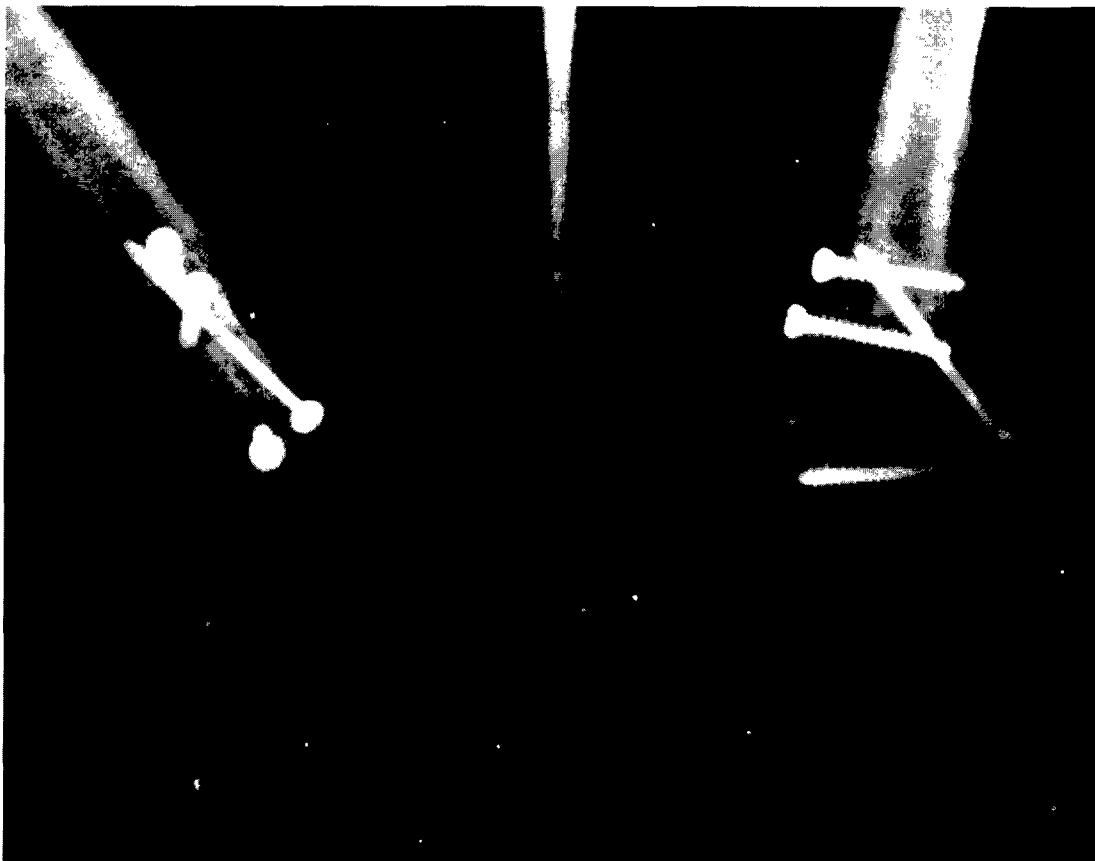


Picture No. 4 Scar on the back, the result of an injury inflicted by a blunt mechanical weapon

## Š 4

T.N., male, 52 years old when captured. He was captured on 8 May 1992 and deported to the camp in the school in Odžak, where he was held till 9 July 1992. Then he was transferred to the camp in Bosanski Brod, from which he was released by exchange on 25 August 1992. He was beaten in the camps all over his body with all sorts of things. One of his teeth was broken; his ribs, right humerus and left elbow were broken when he was beaten with a rifle butt. They didn't want to take him to a doctor when they broke his arms. However, when the Red Cross representatives from Geneva had arrived, they sent him to a hospital and his arms were put in cast. Immediately after being released he visited the Military Medical Academy in Belgrade, where he was treated for two months and had a surgery of his right arm. In March 1993 he had a surgery of his left elbow.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following has been found in this examinee: there is limited mobility in the left arm elbow and scars (callus) on the right humerus, which have caused a severe reduction in general and vocational capacities.



Picture No. 2 X-ray showing the scar (callus) on the left humerus, superior, after surgery of the fracture



Picture No. 1 X-ray showing the scar (callus) on the right humerus after surgery of the fracture

## Š1/B5

P.B., male, 38 years old when captured. He was captured as a civilian in the village of Bukova Greda on 9 May 1992, and was transported to the camp in Donja Mahala. He was held there till 22 June 1993. After that he was transferred to the camp in Ljubuški, from which he was released by exchange on 20 July 1993. In the first six to seven months of confinement in the camp in Donja Mahala he was beaten all over his body "with everything one can imagine": with planks, chairs, baseball bats, fists, feet, etc. His entire body was swollen and "black". The worst was when they pushed the baseball bats into his larynx, after which he was incapable of speaking or swallowing anything for a long time. He was also stabbed with a bayonet in his right elbow. Seven of his teeth were broken. His ribs on the right side, his left humerus, and the left-hand bones were broken. During the beating with a bat some of his skin was torn away, and today there is no hair growing where that skin had been.

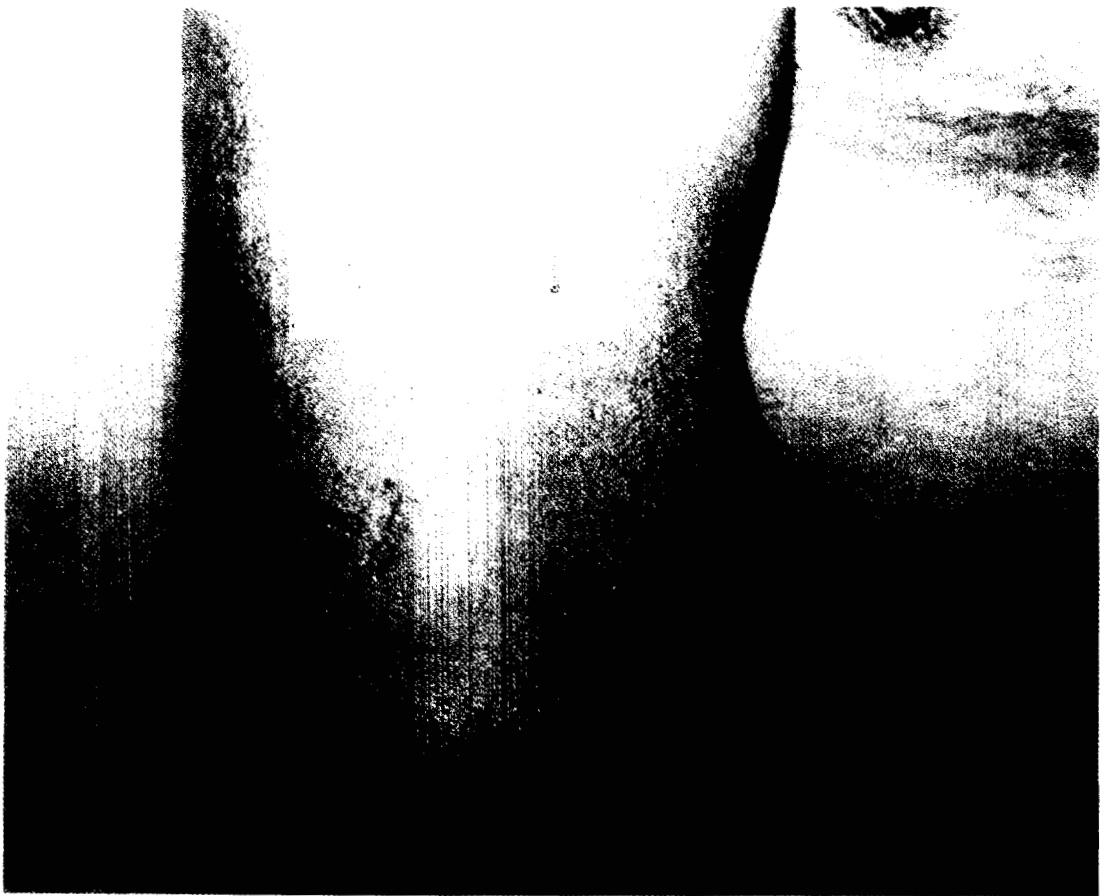
On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: deformation of the left upper arm with limited mobility in left shoulder joint because of improper healing of the humerus, scars (callus) where the ribs and left hand bones were broken, scars on the head and right arm, as well as post traumatic stress disorder, which altogether have caused a severe reduction in his general and vocational capacities.





Picture No. 1 Scar on the top of the head, the result of an injury caused by a blow with a blunt mechanical weapon

Š1/B5



Picture No. 2 Linear scar on the right elbow, the result of a stab with a pointed and sharp mechanical weapon



Picture No. 3 X-ray of a scar on the bone (callus) where the left humerus was fractured, whereby the vertical axis of this bone is distorted

## BG 10

T.V., male, 36 years old when captured. He was captured on 3 June 1992 as a soldier. After being captured they were taking him from one village to another and showing him to the Muslims as a "Četnik". All this time they were kicking him and beating him with clubs, mostly over his neck and the back of his head. They also poked him with picks and needles between his fingers and toes, and on his head. On one occasion they fractured his left humerus. His hands and legs had been tied those first four days, and when he was later untied he was crucified to a shelf. After some time he fainted from the beating, and when he came through he saw he had been lying on some concrete. He found a piece of glass there, with which he tried to cut the veins on his left forearm. A guard noticed this, called the doctor, who later on sewed up the wound. When captured he was also forced to drink a solution of water and soap powder. After that he was taken to the camp in Donji Rahić, where he and 10 other camp prisoners were shut for 31 days in a chamber used for the ripening of fruit - an air tight premise without any windows. In



Picture No. 1 Scar on the middle finger of the right hand, the result of a cut with the blade of a mechanical weapon

the first month he lost about 40 kg. Then they transferred him to the camp in the village of Maoča, where he was held till exchanged on 22 August 1992. He was beaten in the camps with all sorts of things, but mostly with some wooden clubs and kicked with boots. His ankles were beaten most of all, because of which they were very swollen and black. One Muslim cut a piece of his flesh from his left thigh, posterior, and then forced him to eat his own flesh. They extinguished cigarettes on his flanks. They also made cuts on his stomach and buttocks with the tip of a knife.

On the basis of medical records, forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: many scars on the face, abdomen, back and limbs, there is a hemiparesis on the left side, hearing disorder in right ear, organic disorder of personality, post traumatic stress disorder, which have altogether caused a severe reduction in the general and vocational capacities.



Picture No. 2 Scar on the right elbow, interior, which is the result of a suicide attempt with a sharp mechanical weapon

## BG 22

N.H., woman, 47 years old when captured. She is not married. She was captured on 29 June 1992 in the village of Kobaš, Croatia, where she had been working as a cleaning lady, while on her way to work. Croats had captured her and they took her to the camp in the sports hall in Bosanski Brod. She was held there till 8 October 1992, when she was transferred with the other camp prisoners to the camp in Slavonski Brod. She was held there till exchanged on 5 November 1992. The first three days and nights of detention in the camp in Bosanski Brod she was constantly beaten until she accepted to sign some statement, which they had dictated. They were beating her with bats and rifle butts, and they kicked her with their boots on; they also cut and poked her with a knife on her left foot big toe and the right foot small toe. After she had signed the testimony they stopped beating her, but then the period of frequent rape began. She was raped almost every night in the camp in Bosanski Brod. She and the other women were always raped as a group, 4-5 men at a time, and she remembered that there were sometimes even 9 soldiers that raped her in one night. They sometimes forced male camp prisoners to rape her and the other female prisoners, during which the guards would watch and do to them whatever they wished.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on the face, chronic post traumatic stress disorder, and major depression, which have altogether caused a severe reduction in her general and vocational capacities.



Picture No. 1 Scars on the nose and upper lip, the result of an injury inflicted with a blunt mechanical weapon

## BG 28

K.L., male, 53 years old when captured. He was captured as a civilian in his house on 29 May 1992 and taken first to the camp in the Silo, and then transferred to the camp in Tarčin. He was exchanged on 13 December 1992 through mediation of the International Red Cross. He hadn't been beaten in the camp till 4 June 1992, after which they beat him regularly. He had received a blow with a rifle butt in the back of his head, and this wound later festered and had worms in it. There was a dispensary in the camp but they didn't treat him there - they only bandaged his head once. When he had received the blow in his head he fainted, after which his left hand and chest were injured. In the first 45 days their daily meals consisted of a slice of bread (a 750 gr. loaf was shared by 12 camp prisoners) and some cooked meal (each camp prisoner could take 5 spoonfuls of it). When the camp prisoners started dying of the starvation the quantities were redoubled. The camp prisoners were usually beaten at night, and the screaming of those that were beaten was terrible to listen to. This is his most vivid memory. There was a bucket in the cell for them to urinate, and another for them to defecate. The guards used the former bucket to "wash the camp prisoner's faces" and to splash the camp prisoners. Once they splashed his head too, as well as the injury on it, with the urine from the bucket. They would force 2-3 camp prisoners to take off their clothes and to fellate each other or to have anal sex. He was forced to do this 4 times, while some others had been forced to do this even more times than he. They forced them to do this until they had all faded and "turned skin and bones". The strongest camp prisoner would be given a club with which he was to beat the other camp prisoners. Not once in the 6 and a half months was he allowed to wash, shave, or change clothes. When he left the camp he weighed 58 kg. When captured he weighed 95 kg.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: deformity of the right hand middle finger and post traumatic stress disorder, which have altogether caused a severe reduction in his general and vocational capacities.





Picture No. 1 Scar on the back of the head, left side. The result of an injury caused by a blow with a mechanical weapon

## M 1

K.M., male, 40 years old when captured. He was captured as a wounded soldier in Novi Grad on 8 May 1992. They immediately took him to the camp in Odžak, after which he was transferred to the camps in Slavonski Brod and Orašje, where he was held till exchanged on 5 November 1992. He was beaten with rifle butts, bats, chains, poles, kicked, and punched. They beat his whole body, but especially the elbows and knees. He suffered hunger and thirst. His teeth were knocked out. They forced him to lick the blood off the floor of the room where he had been beaten; they tied his legs and sank him into water, leaving only his head above its surface; they forced him to graze grass and eat paper. He was forced to fellate the genitals of the other camp prisoners and to rape his relatives.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: bilateral scars (callus) where the ribs were fractured, scars on the head, face, trunk and limbs, as well as traumatic enduring paralysis in the right leg and Raynaud's syndrome, which have altogether caused a severe reduction in his general and vocational capacities.



Picture No. 1 Scar on the right side of the forehead, the result of an injury caused by a blow with a blunt mechanical weapon

**M 1**



Picture No. 2 Deformation in the region of the right rib arch, the result of improper healing of the fractured ribs

M 1

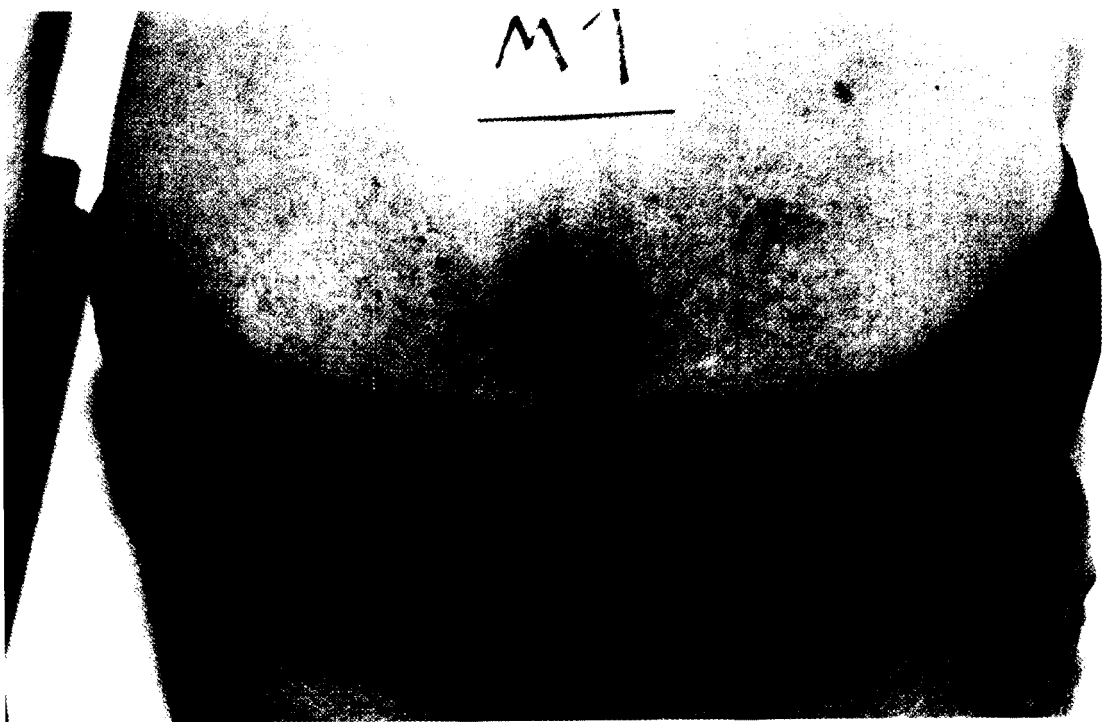


Picture No. 3 Scar on the right knee, the result of an injury caused by a blow with a blunt mechanical weapon

M 1



Picture No. 4 Scar on the left knee, the result of an injury caused by a blow with a blunt mechanical weapon



Picture No. 5 A bump in the region of the coccyx bone, the result of an injury caused by a blow with a blunt mechanical weapon

## M 2

J.V., male, 32 years old when captured. He was captured as a soldier in Modriča on 29 May 1992. They first held him for two days in the camp located in the Silo, after which they transferred him to the camp in Slavonski Brod, where he was only for one day, and then to the camp in Odžak, where he was till 28 June 1992 when he was exchanged. He was beaten with all sorts of things from the moment he had been captured. They beat his head every two hours with electric truncheons, they "washed" him with the fire engine water jet, they beat his whole body, because of which he fainted several times. They broke his nasal bone. He had huge bruises on his body, especially when he was given blows with bags filled with sand.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: a deformation of the nose, many scars on the body and limbs, as well as a post-traumatic stress disorder, which have altogether caused a severe reduction in his general and vocational capacities.



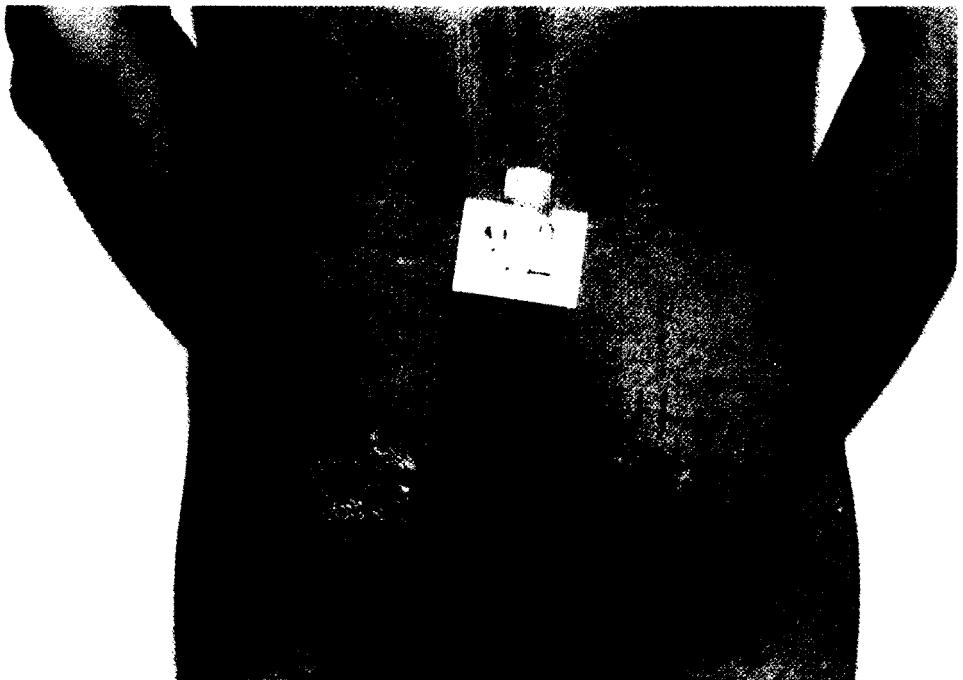


Picture No. 1 Nose deformation because the nasal bone fracture, which was caused by a blow with a blunt mechanical weapon, healed improperly

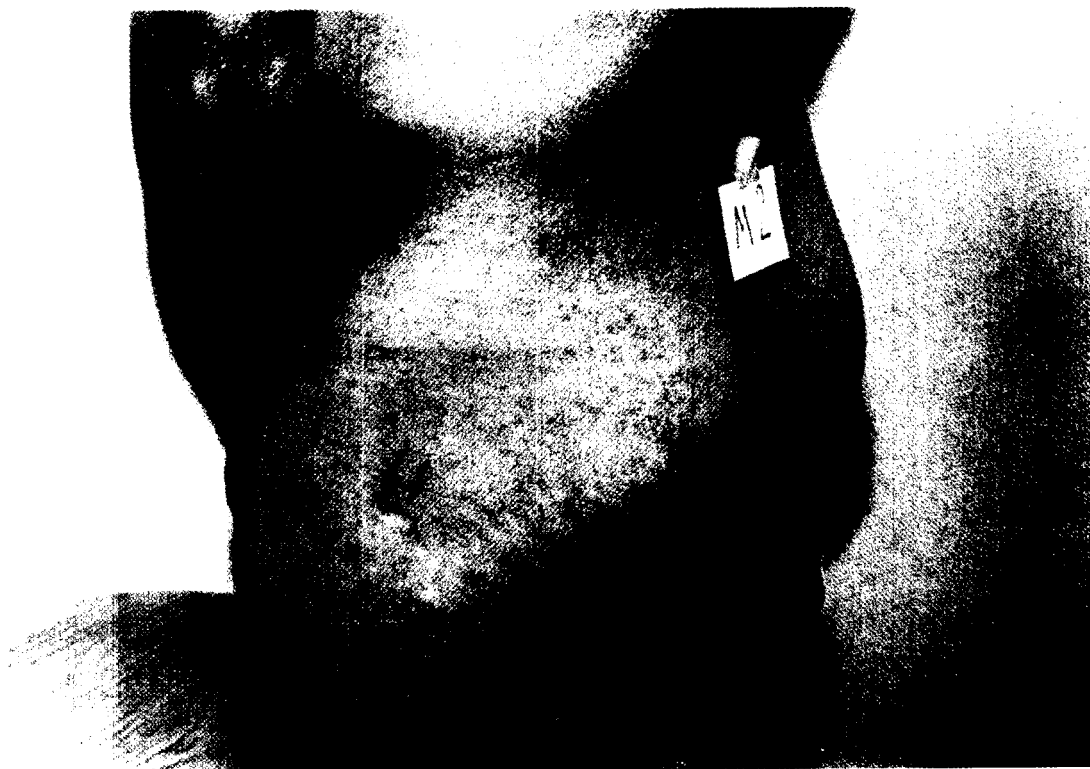
M 2



Picture No. 2 Scars on the right shoulder, the result of injuries caused by blows with a blunt mechanical weapon

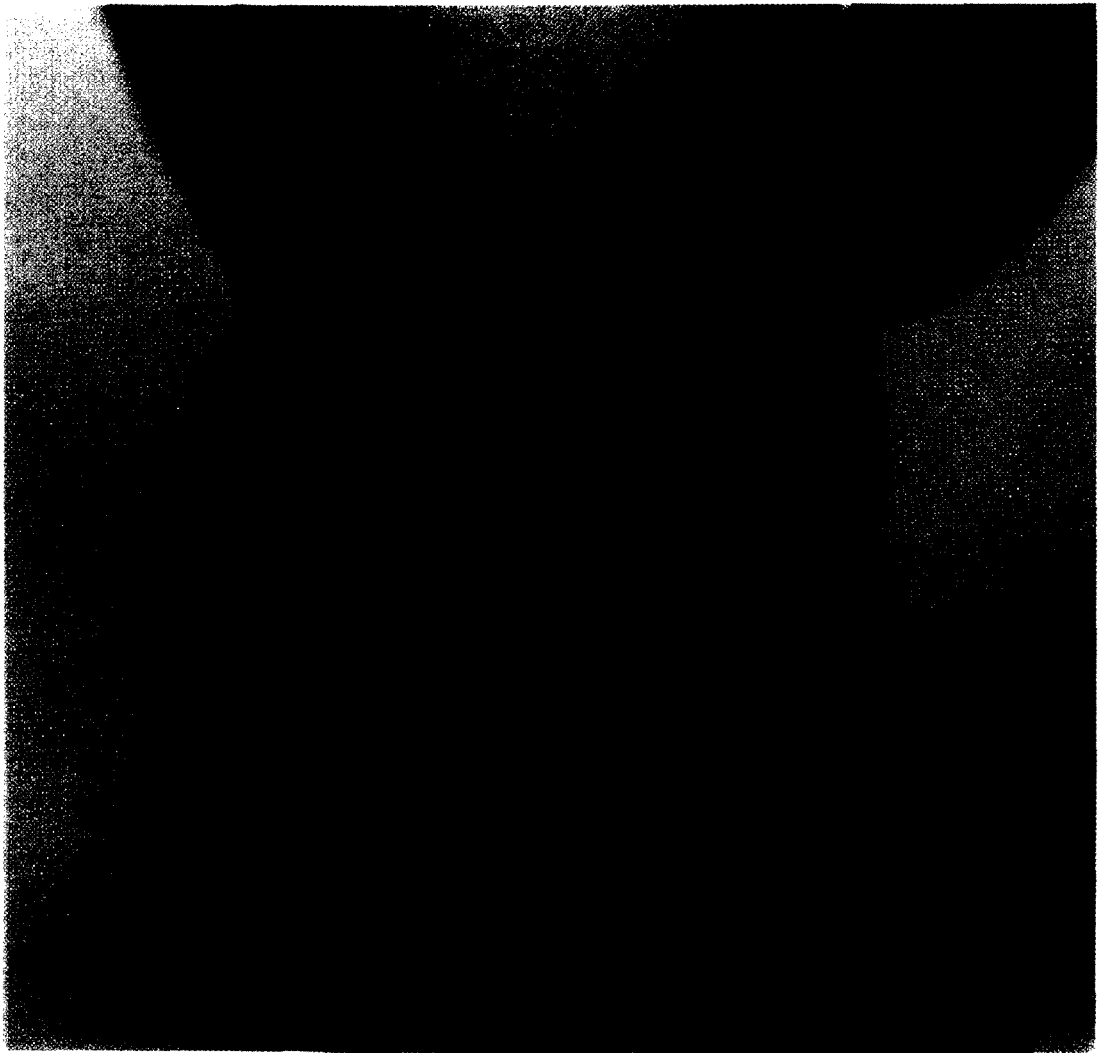


Picture No. 3 Scars in the buttocks region, the result of injuries caused by blows with a blunt mechanical weapon



Picture No. 4 Scar on the left thigh, the result of an injury caused by a blow with a blunt mechanical weapon

**M 2**



Picture No. 5 Scar on the right thigh, the result of an injury caused by a blow with a blunt mechanical weapon



Picture No. 6 Scars on the left knee, the result of injuries caused by blows with a blunt mechanical weapon

## M 6

T.Ž., male, 24 years old when captured. He was captured as a soldier on 8 May 1992 in Odžak, and was taken first to the camp in Odžak, where they held him for two months, after which he was transferred to the camp in Bosanski Brod, and then to the camp in Orašje, from which he was exchanged on 24 December 1992. From the moment he had been captured he was beaten with bats, planks, and he was kicked with boots on, because of which his whole body was bruised. They especially beat his hands. He was forced to dig trenches on the front line near Orašje, during which he was injured in the left thigh, because of which he had a surgery and was treated in the hospital in Odžak.

The original medical records (discharge note from the hospital "Tolisa") prove that he was treated in the period from 27 November 1992 to 1 December 1992, because his left thigh had been injured and his left femur bone fractured. It is also stated in it that he was wounded while digging trenches as a camp prisoner.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: limited mobility in the left knee, scar (callus) on the left femur, inferior, with metal particles in the surrounding tissue, and scars on the left thigh, which have altogether caused a severe reduction in his general and vocational capacities.



Picture No. 1 X-ray showing a scar (callus) on the left femur bone, inferior, with metal particles in the surrounding soft tissue

## M 7

T.B., male, 27 years old when captured. He was captured as a soldier in Novi Grad on 8 May 1992 and taken first to the camp in Odžak, where he spent 58 days. After that he was transferred to the camp in Novi Grad, where he spent 3 days, then to the camp in Bosanski Brod, where he was till 6 October 1992. After that he was taken to the camp in Slavonski Brod for two days and then to the camp in Orašje, from which he was exchanged on 5 November 1992. He was beaten all over his body with "all sorts of things" from the moment he had been captured. When he was in the camp in Orašje he was stabbed with a knife on the right side of his back. While digging trenches on the front

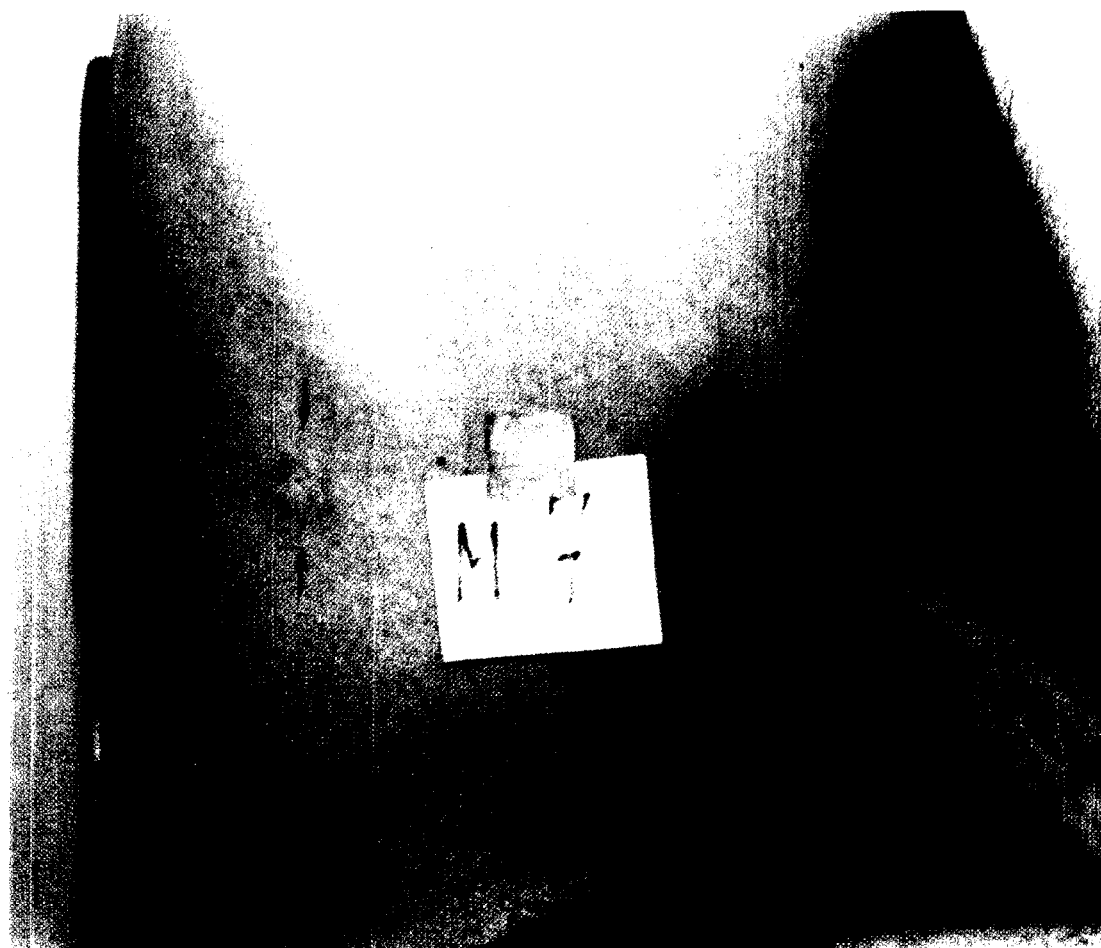


Picture No. 1 Scars on the right shoulder, the result of injuries inflicted by shell fragments



line, as a camp prisoner of the Bosanski Brod camp, he was wounded in the head, right arm and in both legs by shell fragments. They had taken him to the hospital in Bosanski Brod, where the shrapnels were taken out, and he was returned to the camp only 3 days later.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: many scars on the head, body and limbs, enduring arthropathy in the left knee, which affects gait, and paralysis of muscles in the region of the right peroneal nerve, which have altogether caused a severe reduction in his general and vocational capacities.



Picture No. 2 Scars on the right side of the chest, the result of injuries inflicted by shell fragments

M 7



Picture No. 3 Scars on the right shin, the result of injuries inflicted by shell fragments

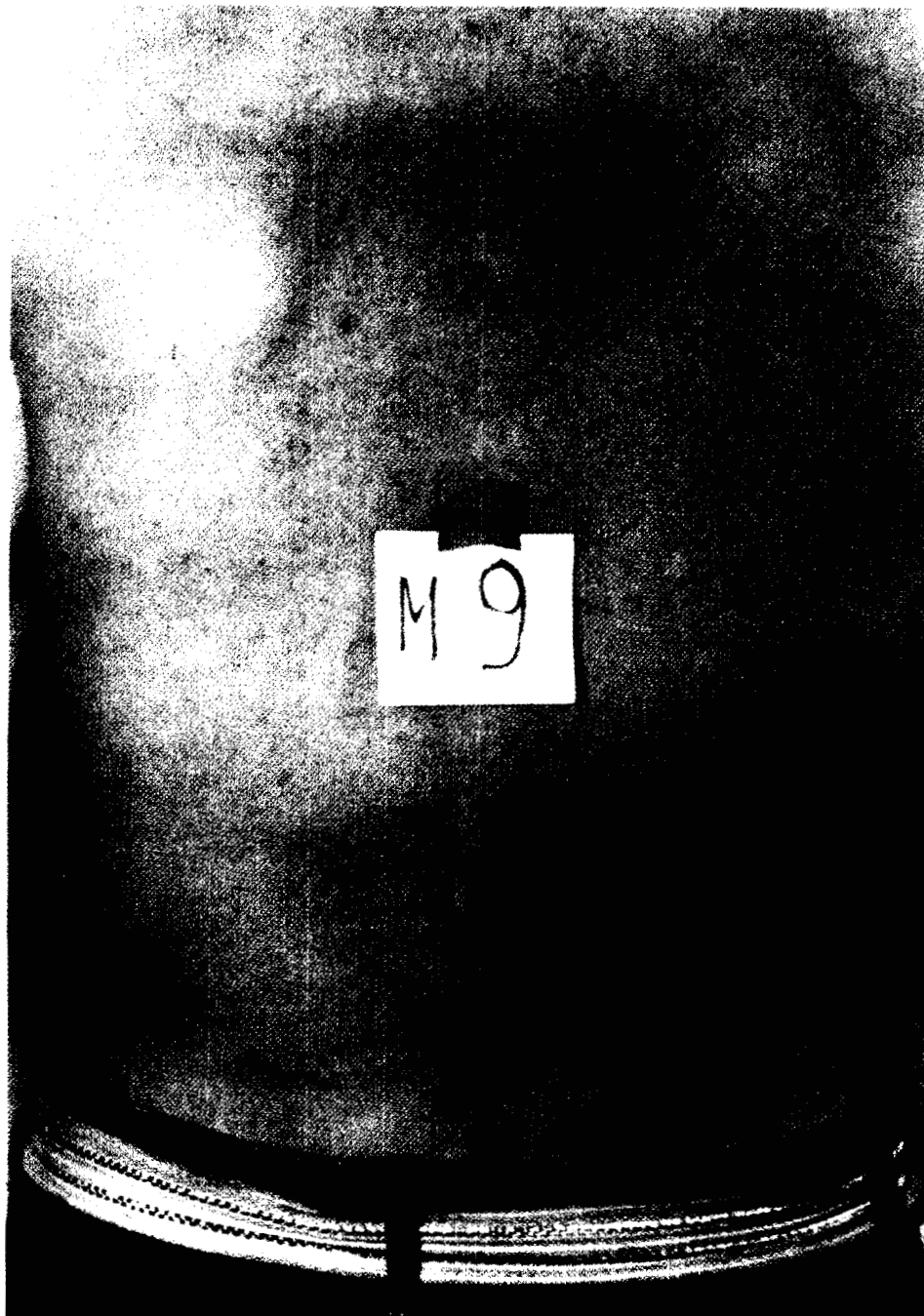


Picture No. 4 Scars on the left shin, the result of injuries inflicted by shell fragments

## M 9

L.D., male, 28 years old when captured. He was captured as a soldier on 8 May 1992 and exchanged on 19 July 1993 from the camp in Ljubuški. As soon as he had been captured he was taken to the camp in Odžak, where they held him for two months. From there he was transferred to the camp in Bosanski Brod, where he spent 10 days, from there to the camp in Slavonski Brod, where he spent 2 days, then he was sent to the camp in Osijek, for 4 days, from where he was sent to the prison hospital in Zagreb, to be treated for 6 and a half months for tuberculosis of lungs. From there he was transferred to the prison in Kunišćak, where he spent 4 months; from there he was sent to the camp Lora, where he was 1 and a half months, and from there to the camp in Ljubuški, where he waited 19 days to be exchanged. His whole body was beaten with bars, truncheons, kicked and punched, from the moment he had been captured. He also suffered thirst and hunger. They forced him to fellate the genitals of other camp prisoners. He got tuberculosis in the camp, and as soon as the disease partly healed he was sent back to the camps and was beaten again.

On the basis of forensic medical and neurological-psychiatric examinations numerous scars have been found in this examinee.

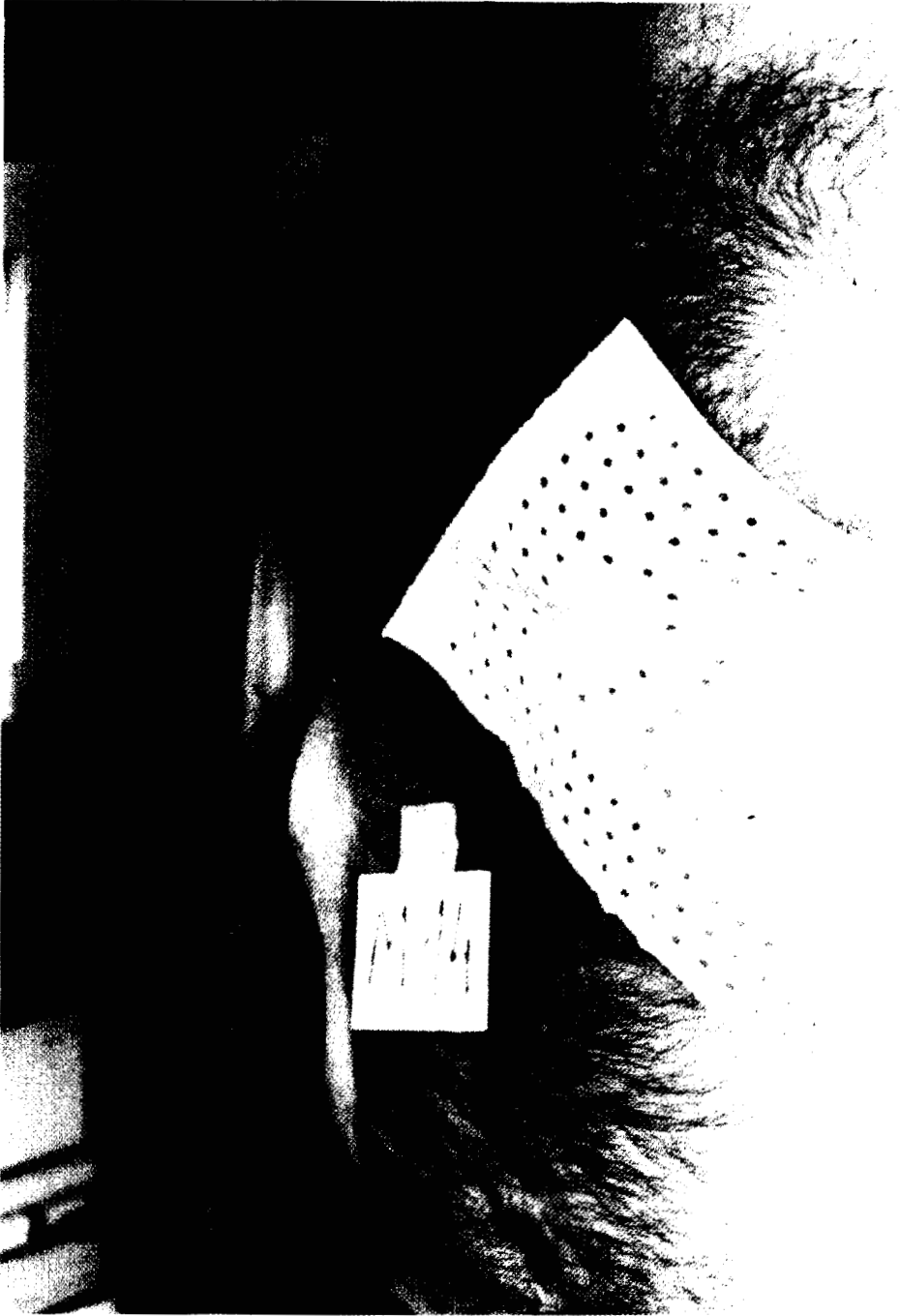


Picture No. 1 Scar on the flanks, the result of injuries inflicted by a blunt mechanical weapon

## M 14

P.S., male, 38 years old when captured. He was captured on 12 May 1992 and taken to the camp in Odžak, where he was held for 2 months. He was transferred from there to the camp in Bosanski Brod, where he spent about 2 months, and from there to the camp in Orašje, where he was held for 4 and a half months and from which he was exchanged on 5 February 1993. He was beaten in all the camps but he remembers the most the battering in Bosanski Brod, during which they hanged him by his left leg and then beat his whole body with all sorts of things. While he was in Bosanski Brod his whole body was "non-stop as black as coal" from the battering. He fainted many times while being beaten and he later discovered that his ribs had been broken too.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) on many ribs, the results of them being fractured, deformation of the rib cage, traumatic gonarthrosis in the left knee, scars on the back, and post-traumatic stress disorder, which have altogether caused a severe reduction in his general and vocational capacities.



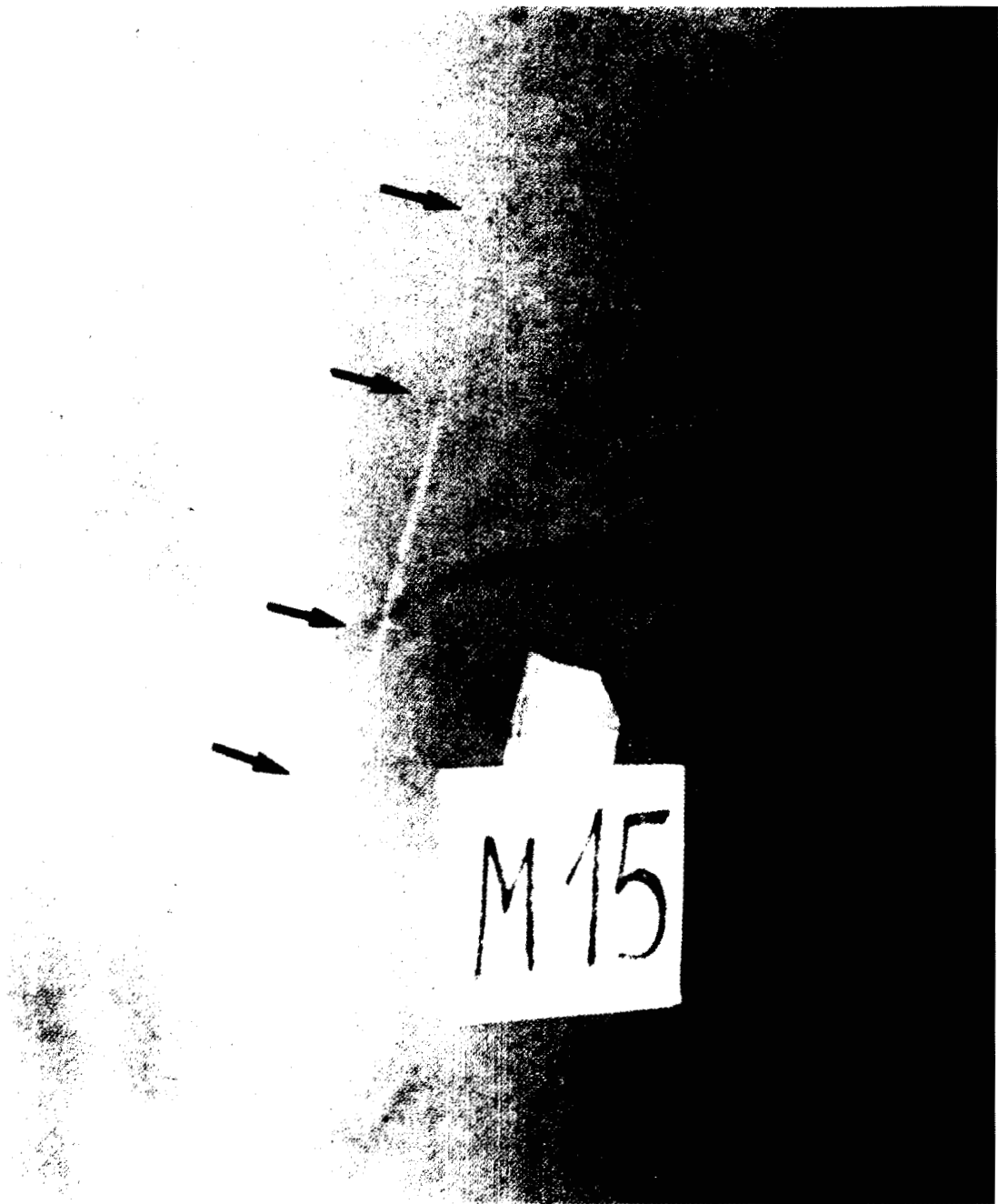
Picture No. 1 Deformity of the rib cage, right side, the result of improper healing of fractures

## M 15

B.S., male, 39 years old when captured. He was captured on 8 May 1992 in Novi Grad and taken first to the school/camp in Odžak, where he was held for two months, from which he was transferred to the camp in Novi Grad, where he was held for 3 days, and from there they took him to the camp in Bosanski Brod. While being in this camp he was forced to dig trenches, during which he was wounded by shell fragments on 2 September 1992. They took him to the hospital in Slavonski Brod, where he had surgery, but he was transferred the following day to the hospital in Bosanski Brod, from which he was sent to the camp in Slavonski Brod on 4 October 1992, and was exchanged on 7 October 1992. He was beaten with all sorts of things from the moment he had been captured. They even smashed school benches on him, and he remembers in particular the battering with wooden clubs, during which he fainted several times. He used to faint more often in the second stage of his imprisonment when he was exhausted by hunger and the beatings. He suffered hunger, and he lost 30 kg in the camps. They also cut his back with knives.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: many scars on the back and lower limbs because of which he is disfigured.





Picture No. 1 Scar on the back, the result of a cut  
with the blade of a mechanical weapon

**M 15**



Picture No. 2 Many irregular scars on the lower limbs skin, the result of injuries inflicted by shell fragments



M15 03

Picture No. 3 X-ray showing metal particles in the soft tissue of the thigh

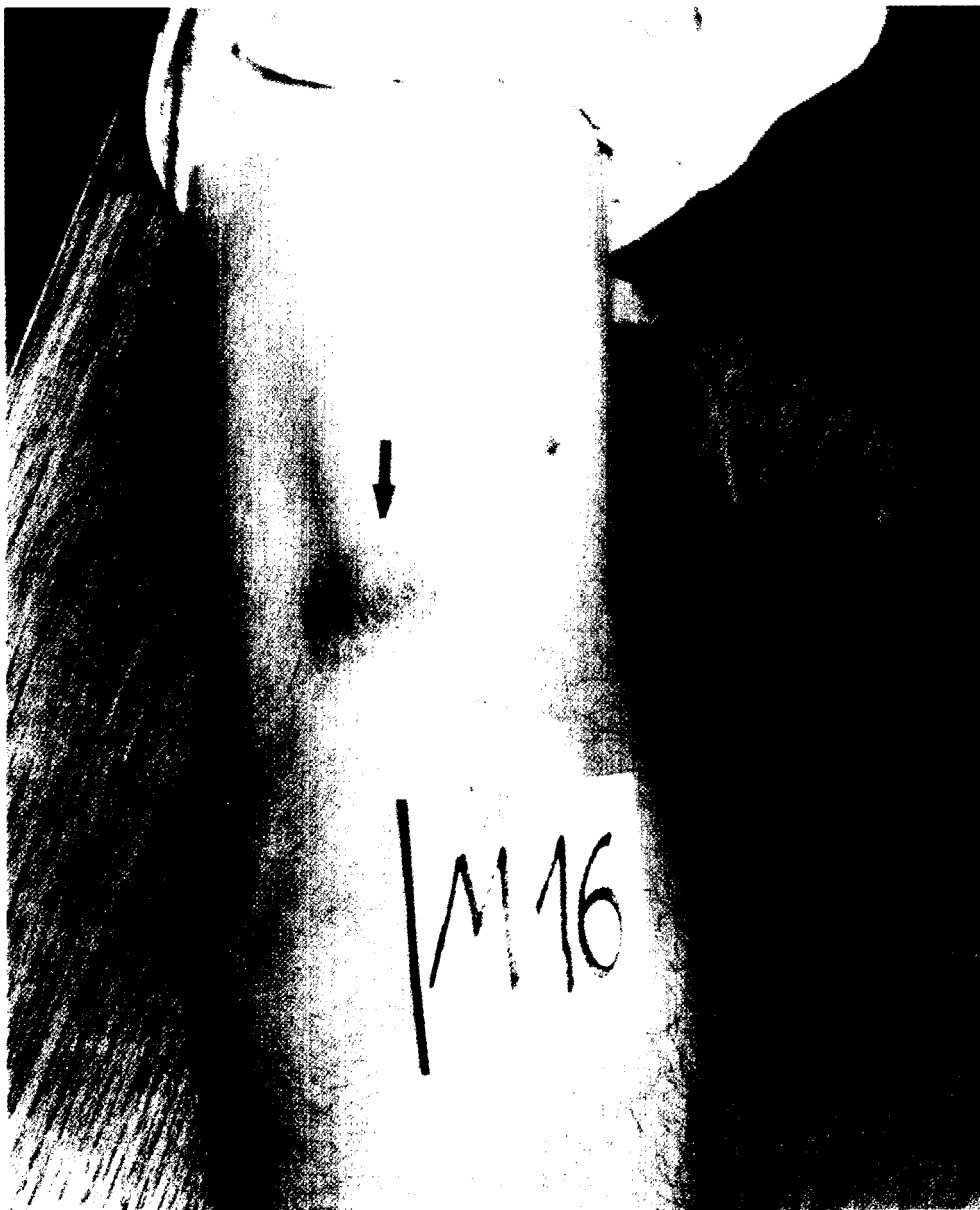
## M 16

T.M., male, 21 years old when captured. He was captured on 8 May 1992, after which he was taken to the camp in Odžak. He was held there till 10 July 1992, when he was transferred to the camp in Bosanski Brod, where he was held for 2 months; and from there he was sent to the hospital in Slavonski Brod, because he had been wounded by a shell explosion while digging trenches on the front line. He spent about a month in the hospital and states that they had operated on him without giving him any anaesthetics. He was exchanged on 7 October 1992. While he was a camp prisoner he was beaten all the time.



Picture No. 1 Scars on the left thigh, the result of injuries inflicted by shell fragments

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: reduced mobility in the left hip joint, scars on the left forearm, left thigh and left flank, which have altogether caused a severe reduction in his general and vocational capacities.



Picture No. 2 Scar on the left forearm, the result of injuries inflicted by shell fragments

## M 17

P.P., male, 39 years old when captured. He was captured on 8 May 1992 in Novi Grad and first taken to the camp in Odžak, where he was held for about 2 months. From there he was taken to Novi Grad, for 3 days, and then to the camp in Bosanski Brod. He was wounded on 8 August 1992 and taken to the hospital in Slavonski Brod, but after two weeks they sent him back to the camp in Bosanski Brod. On 8 October 1992 he was wounded again and again sent to the hospital in Slavonski Brod. He had surgery the following day, after which he was transferred, two days later, to the prison hospital in Zagreb. From there he was transferred on 7 January 1993 to the hospital in Kerestinac, where he remained till May 1993. From there they sent him to the camp Lora, and from there to the camp in Ljubuški, where he was held for 2 weeks to be returned back to Lora. He was exchanged on 28 July 1993. He was beaten with all sorts of things from the moment he was captured, and this was the case in all the camps. Even while he was in the military hospital in Zagreb he was beaten. The most severe battering was in the camp Lora. Both times he was wounded while forced to dig trenches on the front line. The first time his legs were wounded by shell fragments, and the second time the fragments struck his back and left arm. Although he had been wounded, the guards that were escorting him from the hospitals to the camps used to beat him "having no mercy to him". He lost 40 kg in the camps.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: irregular scar (callus) on the left humerus, total immobility of the left arm and left shoulder joint, followed with muscle atrophy in the left arm, signs of traumatic damage of brachial plexus, as well as many ugly scars on the head, back, and limbs, which have altogether caused a severe reduction in his general and vocational capacities.



Picture No. 1 Deformity of left upper arm, the result of a wound and of improper healing of the humerus fracture and of the skin

**M 17**



Picture No. 2 Scar on the back, the result of injuries inflicted by shell fragments





Picture No. 3 Scars on the right knee, the result of injuries inflicted by shell fragments

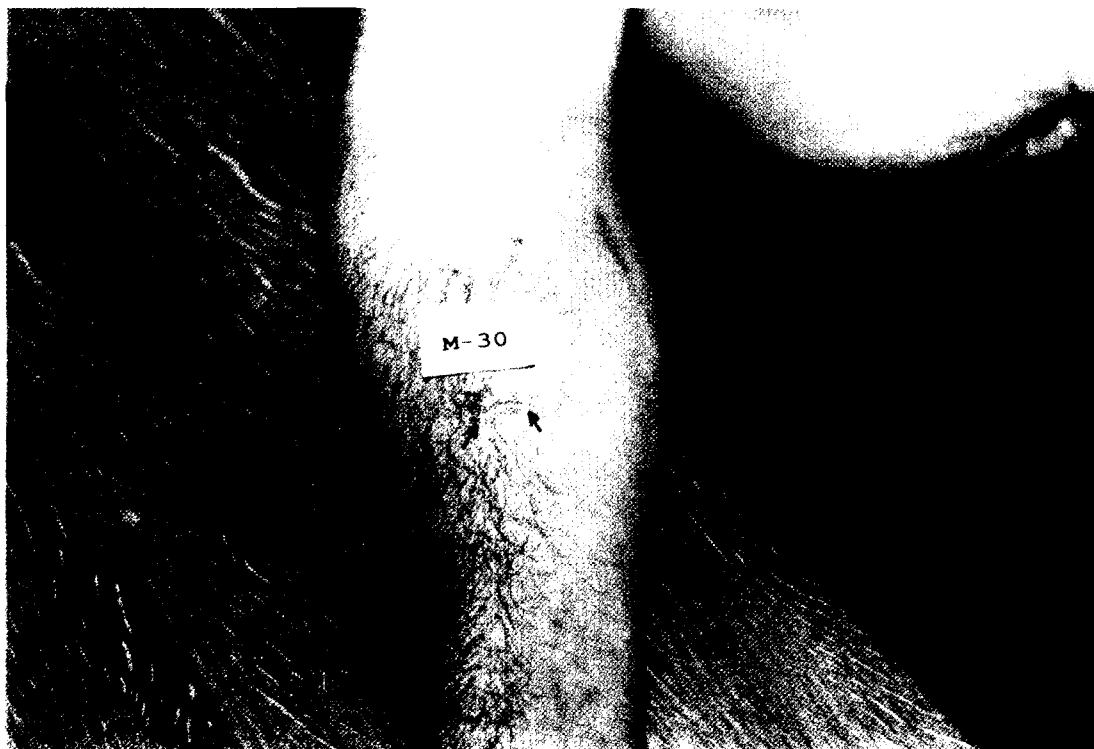
M 17



Picture No. 4 Scar on the left thigh, the result of injuries inflicted by shell fragments

## M 30

G.Ž., male, 24 years old when captured. He was captured on 8 May 1992 in Novi Grad and was taken to the camp in the school in Odžak, where he was held for 58 days. He was released by exchange on 5 July 1992 in Šid. He was beaten with all sorts of things from the very first day, but mostly with rifle butts and school table legs. He frequently fainted during the beatings. They also slit his neck, chest, and arms with a knife.



Picture No. 1 Scar on the right forearm, the result of a slit made with the blade of a mechanical weapon

On the basis of medical records, forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: many scars on the head, chest, back and limbs, and a chronic otitis in the right ear, with hearing disorder, which have altogether caused a mild reduction in his general and vocational capacities.

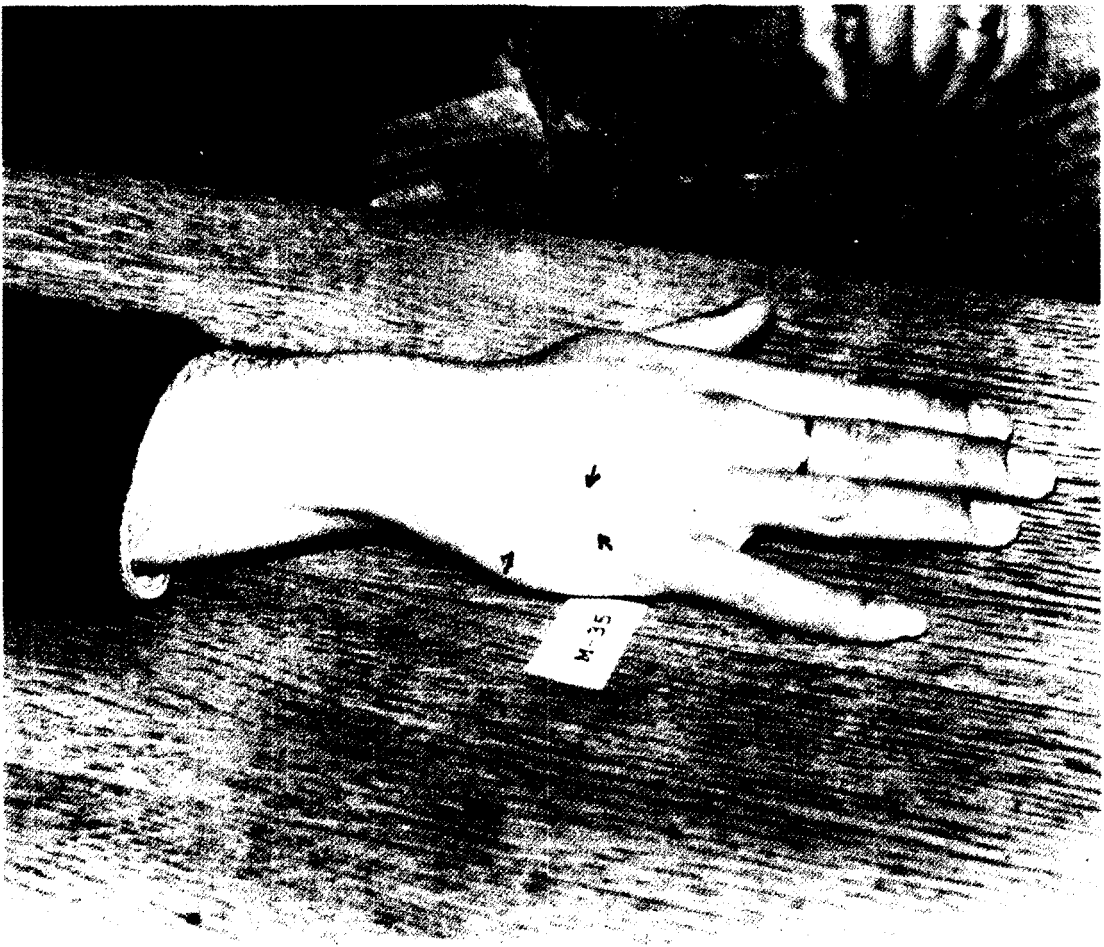


Picture No. 2 Scar on the right thigh, the result of an injury inflicted with a blunt mechanical weapon

## M 35

M.L.J., male, 27 years old when captured. He was captured on 8 May 1992 in Novi Grad. They took him to the school in Odžak where he was held till 12 July 1992. He was then transferred to Slavonski Brod, from where he was exchanged on 7 October 1992. He was beaten with all kinds of things from the very first day, so that he was all bruised and black. He was mostly beaten with bats and boots. They broke several of his teeth in the upper jaw right, and his lower jaw was dislocated by a blow in the chin. They once slit the skin on his right arm with a knife.

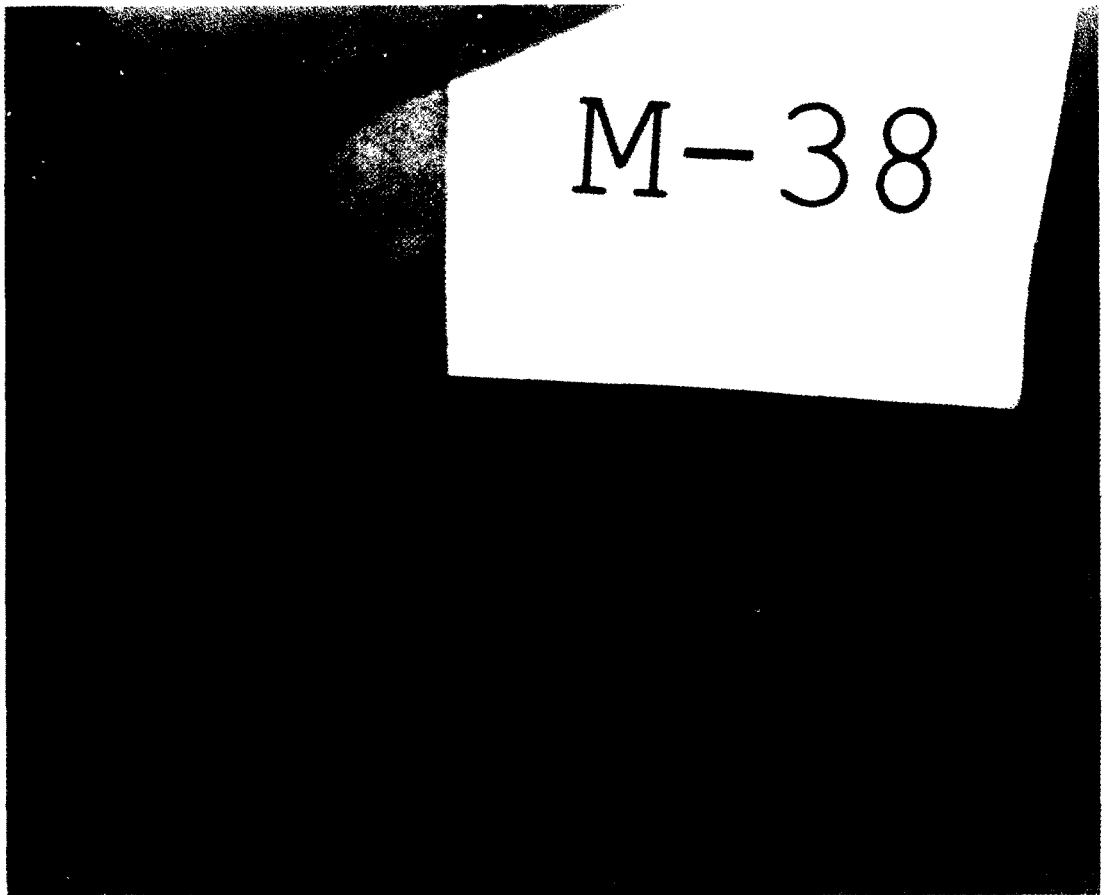
On the basis of forensic medical and neurological-psychiatric examinations it has been established that the examinee now has scars on his right hand.



Picture No. 1 Scar on the right hand, the result of a cut made by the blade of a mechanical weapon

## M 38

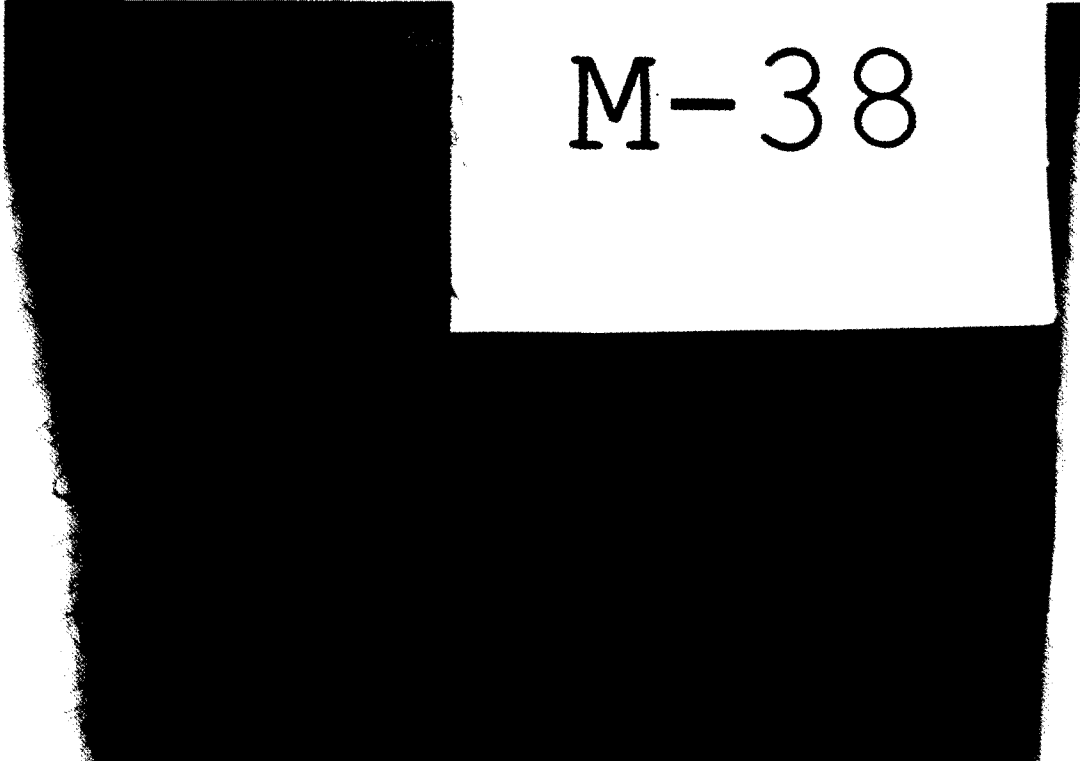
D.B., male, 22 years old when captured. He was captured in Novi Grad on 8 May 1992. They first took him to Odžak for a day, then to the camp in Novi Grad, then to the camp in Bosanski Brod, and in the end to the camp in Slavonski Brod. After that he was transferred to the camp in Donja Mahala, from where he was exchanged on 29 January 1993. Immediately after being captured he was beaten with bats, feet, shovels, rifle butts, and truncheons. He was forced to dig trenches on the front line, during which he was injured in his right thigh by shell fragments (on 17 December 1992). He fell ill of lung tuberculosis in the camps. Because of the leg injury he had surgery in Slavonski Brod. In the initial period he lost consciousness several times because of the beating.



Picture No. 1 Scar on the right buttock, the result of an injury inflicted by shell fragments

**M 38**

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: X-ray shows shell fragments in the soft tissue of the right leg, half of the right foot big toe is missing, and scars on the lower limbs. As a result of the severe physical trauma experienced in the camps there is hypertrophy and weakness in the right thigh, both thighs and shins are disfigured by scars, and he has developed major and enduring mental suffering. All this has moderately reduced his general and vocational performance.



M-38

Picture No. 2 Scar on the right thigh, the result of an injury  
inflicted by shell fragments



M 38



Picture No. 3 Scar on the left buttock, the result of an injury inflicted by shell fragments



Picture No. 4 Amputated right foot toe, the result of an injury inflicted by shell fragments



Picture No. 5 Scars on the thighs, the result of surgery after an injury inflicted by shell fragments

UJRAVI BOLNICE

Odjel

LEŽN. N.H.L. 1)

Republika HRVATSKA  
Ministarstvo Zdravstva  
M. broj 3857

Šifra za analizu

Zdravstvena radna organizacija

Zajednica zdravstvenog osiguranja

| A  | B  | C   | D                                     | E                              | F                              | G                              | H                              | I                              | J                              |
|--|--|---|---------------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|
| Osobe u radnom odnosu i s njima izjednačene osobe          | Članovi obitelji osiguranika navedenih rad A | Učesnici mirovine i članovi njihovih obitelji | Zastupnici sindikata i odbora radnika | Učesnici u drugim aktivnostima | Učesnici u drugim aktivnostima | Učesnici u drugim aktivnostima | Učesnici u drugim aktivnostima | Učesnici u drugim aktivnostima | Učesnici u drugim aktivnostima |
| <p><i>[Handwritten names and numbers in the table]</i></p> |  |   |                                       |                                |                                |                                |                                |                                |                                |

Prezime i ime

*[Handwritten name]*

*[Large handwritten notes, possibly a list of names and dates]*

Liječnik je u ovom umjestu od *[Handwritten name]* 20. 12. 1992.

Stanje pri izlasku

Preporučio liječnik

Priloga liječnika

*[Handwritten signature]*

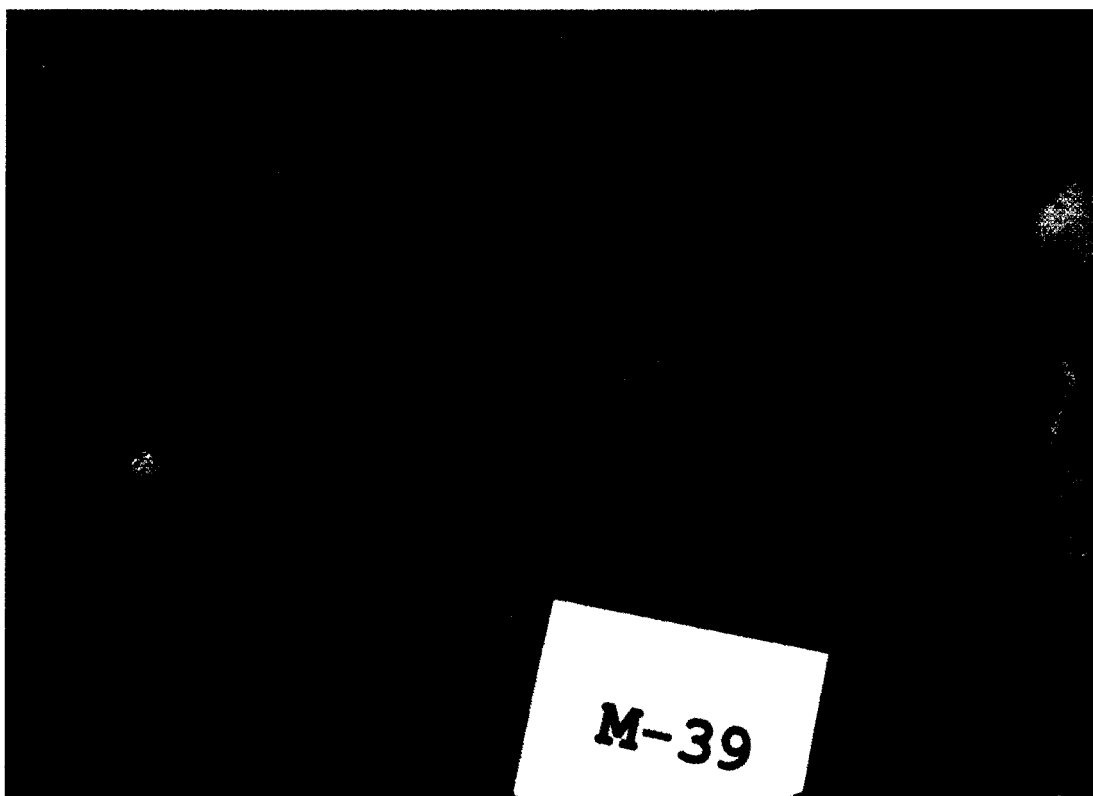
*[Handwritten initials]*

Set liječa

Picture No. 6 Original medical records from the wartime hospital "Tolisa"

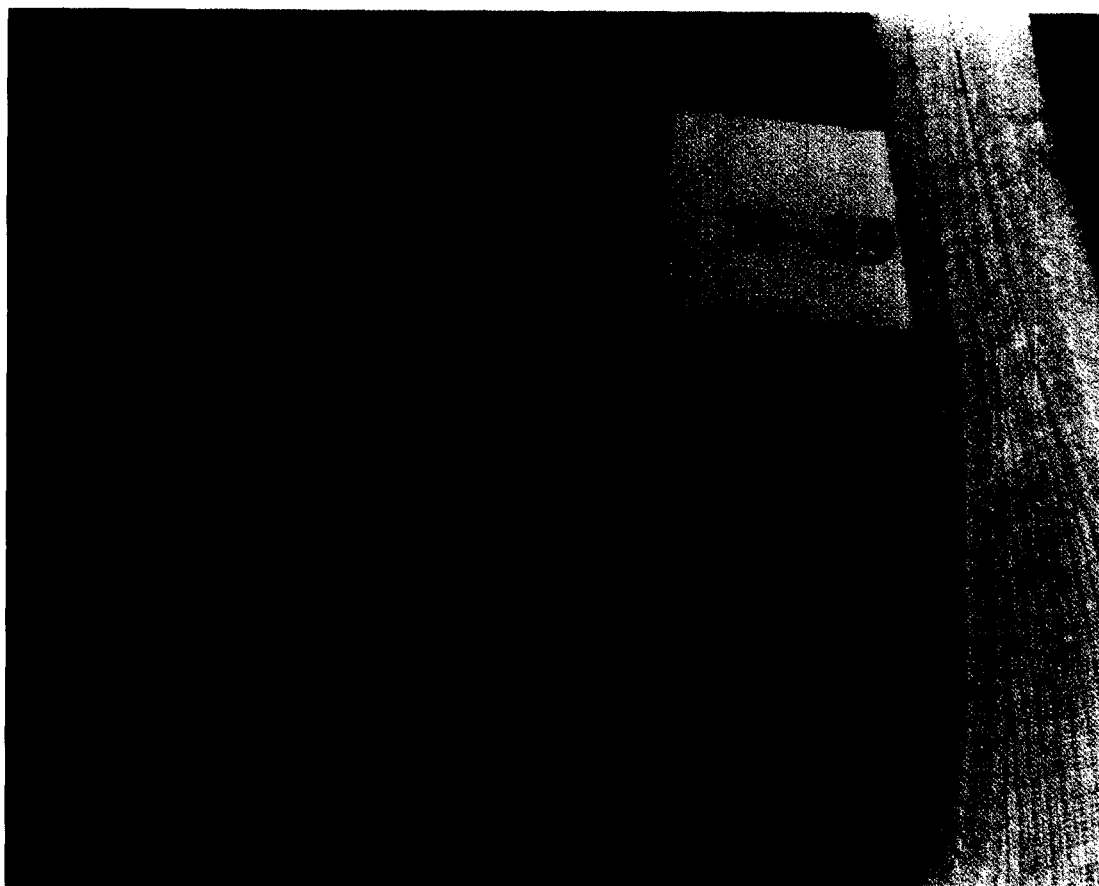
## **M 39**

L.M., male, 32 years old when captured. He was captured in Novi Grad on 8 May 1992. They took him to the school in Odžak, where he was held for about 2 months, and then transferred him first to the camp in Novi Grad, for 2-3 days, and then to the camp in Bosanski Brod. He was there till 25 August 1992 when he was exchanged. He was beaten with all sorts of things from the day when he had been captured: with bars, clubs, chairs, rifle butts, boots. He was all bruised and black. On 8 August 1992 he was injured by shell fragments while forced to dig trenches on the front line; his face, right shoulder and left leg were wounded on that occasion. After the injury they sent him to Slavonski Brod, where he had surgery, after which he was sent to the Bosanski Brod dispensary. He remained there till exchanged. They didn't beat him after the blast injury.



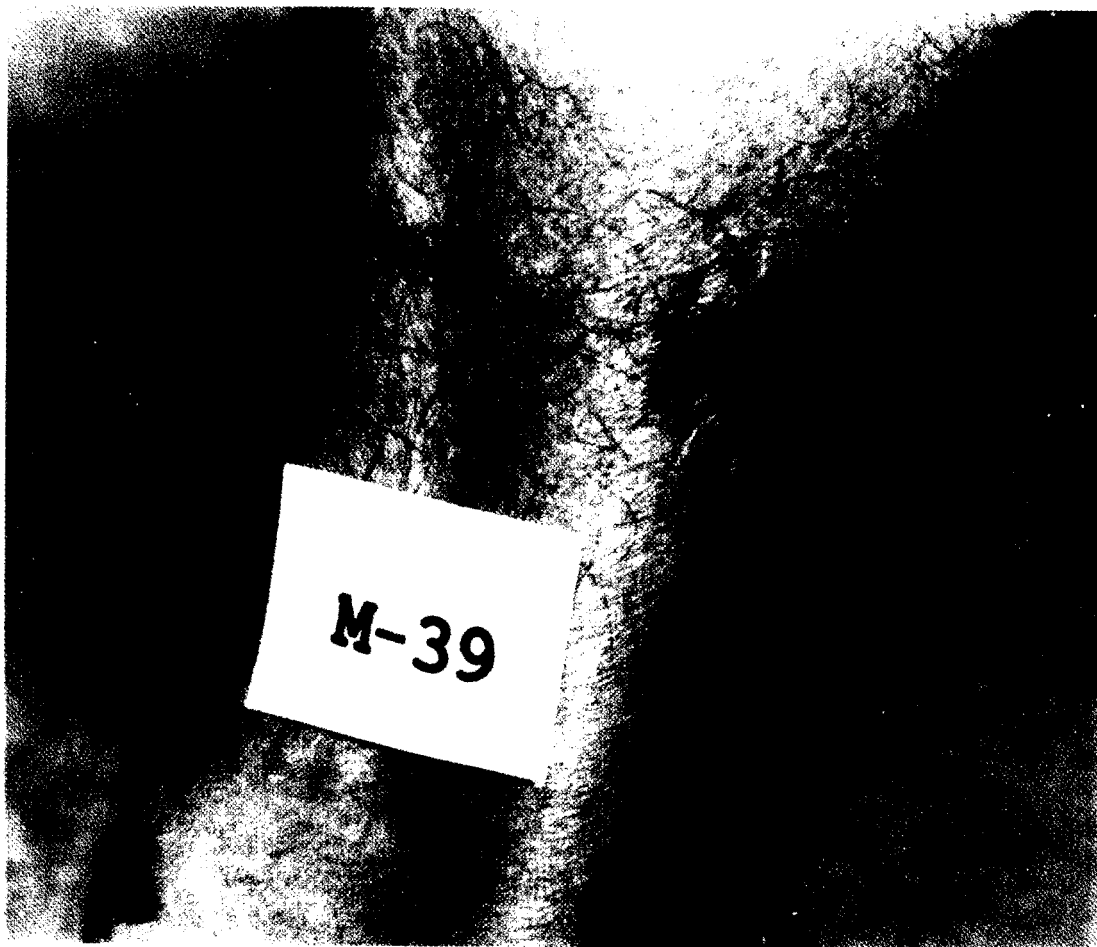
Picture No. 1 Scars on the nose and left cheek, the result of injuries inflicted by shell fragments

On the basis of forensic medical and neurological-psychiatric examinations, the following consequences have been found in this examinee: many scars on the face and limbs, and as a result of major physical and mental trauma experienced in the camps, and because he has been disfigured, he has developed a chronic depressive syndrome, which has caused a severe reduction in his general and vocational capacities.

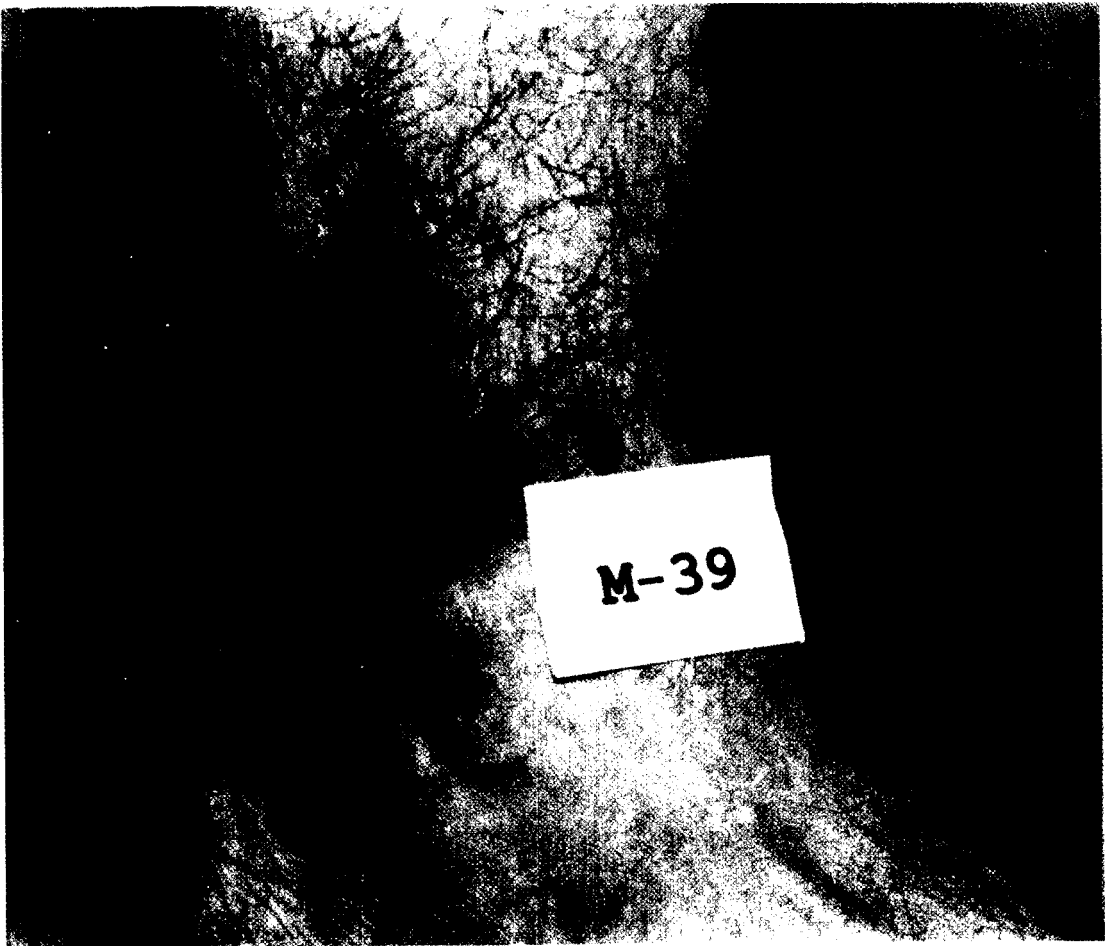


Picture No. 2 Scar on the right shoulder, anterior, the result of injuries inflicted by shell fragments

**M 39**



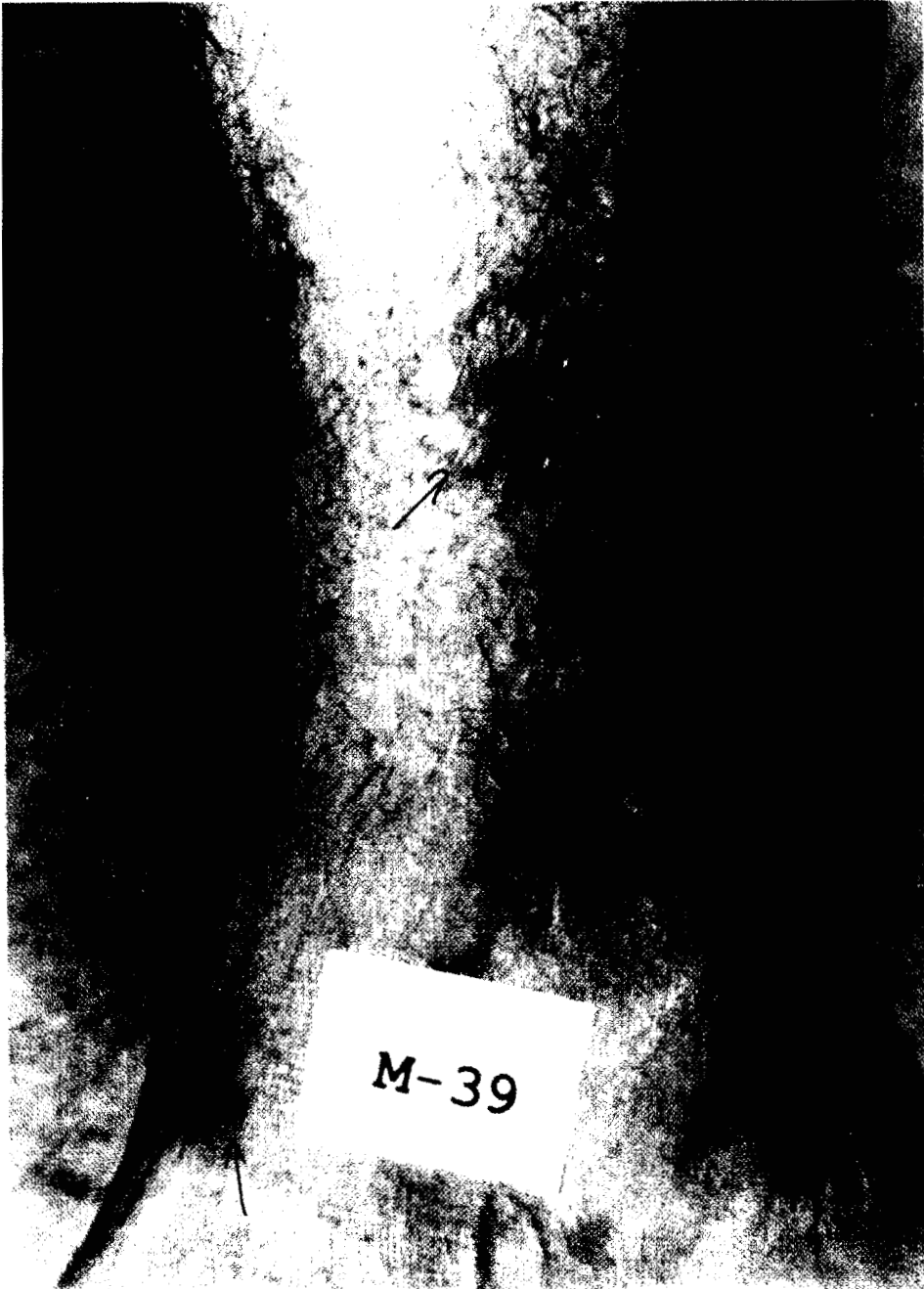
Picture No. 3 Scar on the right shin, the result of injuries  
inflicted by shell fragments



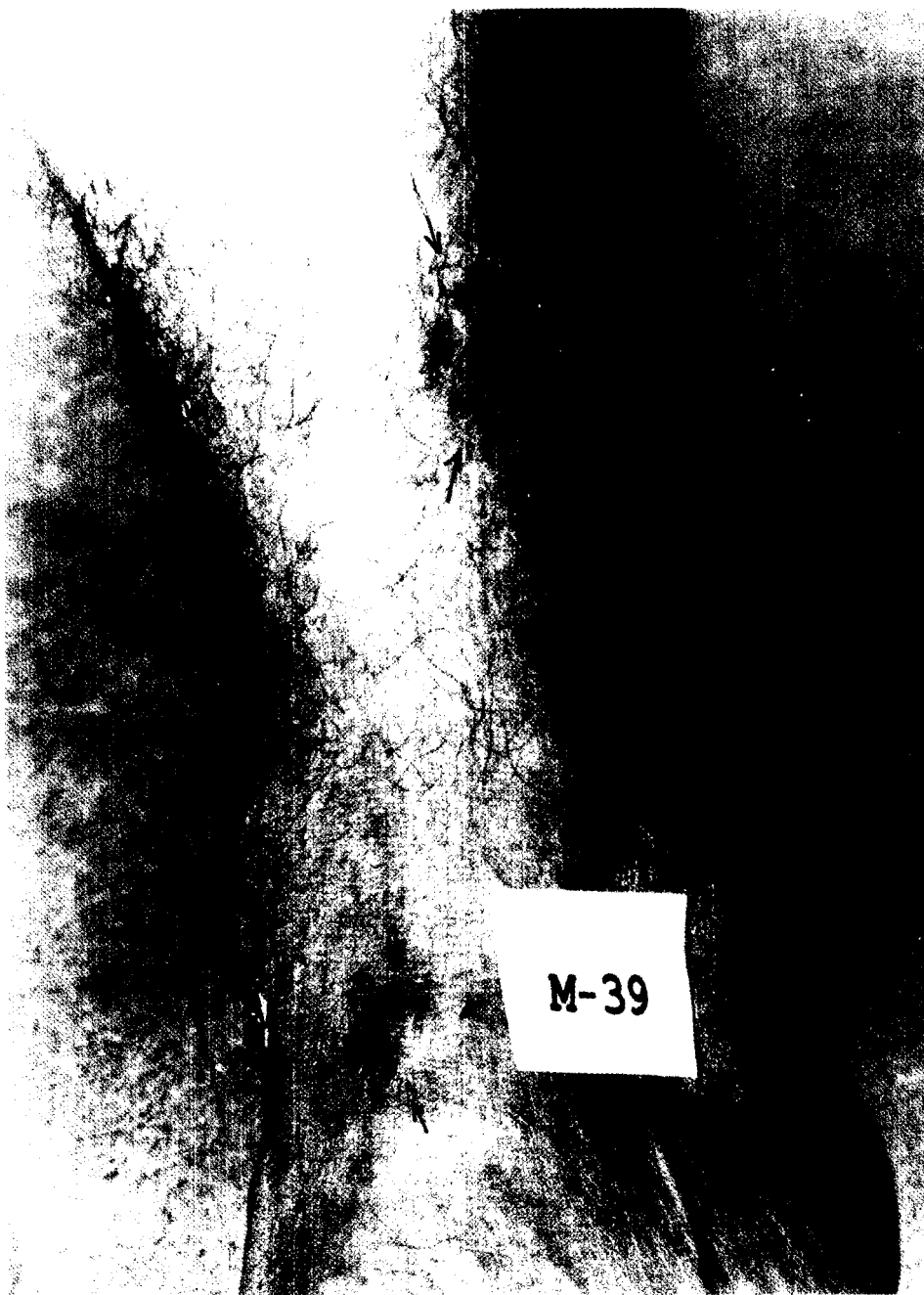
Picture No. 4 Scars on the right ankle, the result of injuries inflicted by shell fragments



M 39



Picture No. 5 Scars on the left shin, the result of injuries inflicted by shell fragments



Picture No. 6 Scars on the left ankle, the result of injuries inflicted by shell fragments

## Der 1

P.L., male, 36 years old when captured. He was captured as a soldier on 26 April 1992 in Čardak. They first took him to the JNA Club, and after three days they transferred him to the camp "Rabić", where he was about two months, and then to the camp "Polje", from which he was transferred two weeks later to the camp "Žeravac". After two days they again transferred him, this time to the camp Tulek, near Bosanski Brod, and after a month they took him to the secondary school center in Bosanski Brod. He was exchanged on 10 September 1992. He stated that he had been beaten with "all sorts of things" (punched, kicked with boots, beaten with baseball bats, planks and rifle butts; they extinguished cigarettes on his right hand; they slit his skin on the right side of his body, and they especially kicked his shins with their boots on) all over his body, from the time he was captured, because of which he was all bruised and black. He was



Picture No. 1 Scar on the nose, the result of an injury inflicted by a blunt mechanical weapon

battered the most in the camps in Rabić and Tulek, so that he was incapable of walking but had to be carried out. He thinks he was so severely beaten because they "had an eye on his family": his father had been slaughtered in front of his house on 30 April 1992, although he was a 70 years old man and an invalid without his right leg. By the way, his father's entire family was killed in the concentration camp Jasenovac in WW II.

On the basis of medical records, forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on the head, nose, lips, stomach, and limbs; Raynaud's syndrome has also developed, as well as a psychosomatic syndrome in the form of the somatic dysfunction of the cardiovascular and superior gastrointestinal tract, which have altogether caused a moderate reduction in his general and vocational capacities.

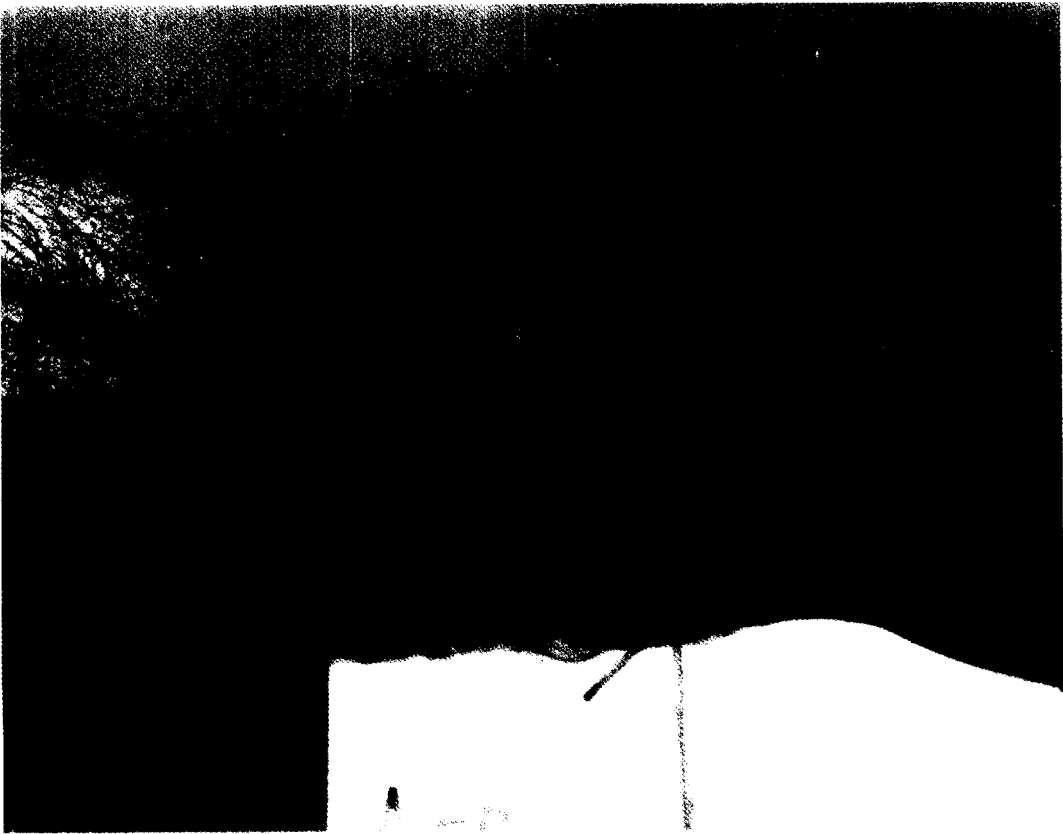


Picture No. 2 Scar on the lower lip, the result of an injury inflicted by a blunt mechanical weapon

# Der 1



Picture No. 3 Scar on the right forearm, the result of an injury inflicted by a lit cigarette



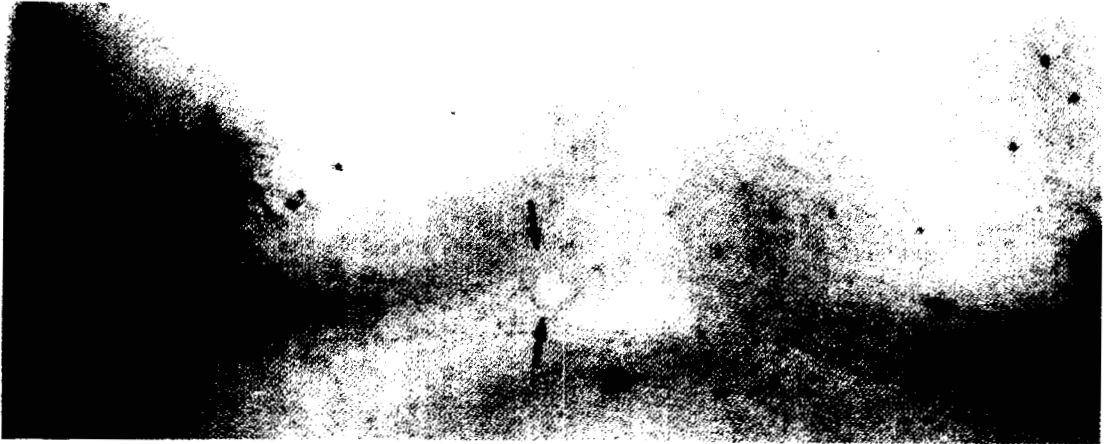
Picture No. 4 Scar on the right wrist, the result of an injury inflicted by a lit cigarette

### Der 3

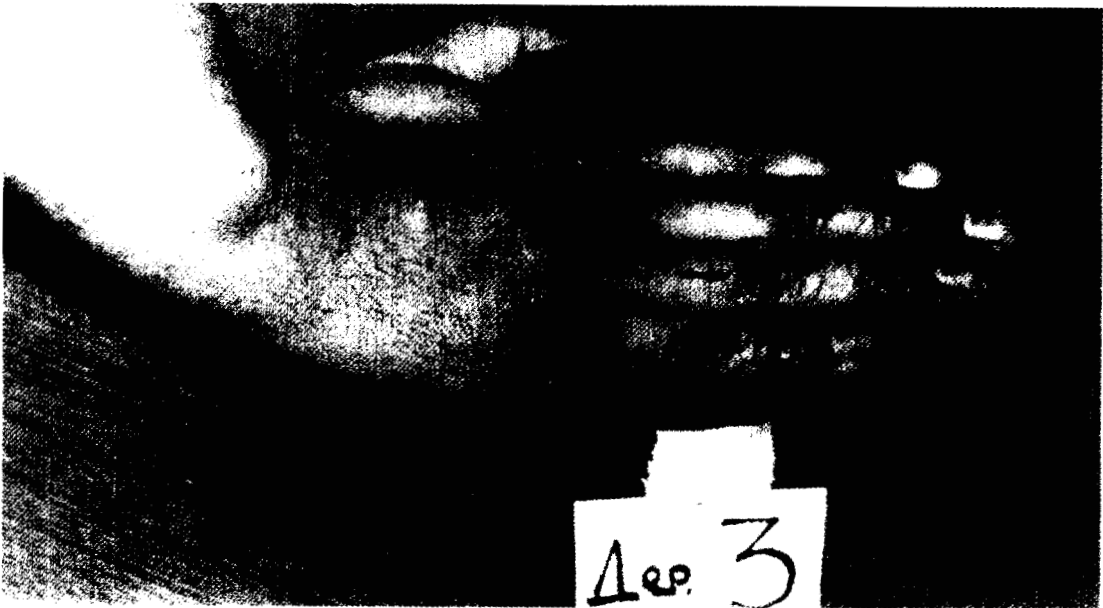
J.S., male, 44 years old when captured. He was captured as a civilian in Derventa on 25 April 1992. He was first taken to the local school and then to the JNA Club in Derventa, and he spent a day in each. From there they took him to the hospital in Derventa because of the injuries inflicted by the battering. He was discharged from the hospital on 17 June 1992. From the hospital he was transferred to the camp Polje, where they held him till 14 July 1992, when he was exchanged. His whole body was beaten from the moment he had been captured (he was punched, kicked, beaten with boots on, truncheons, "boxer", etc.). His nasal bone and maxilla had been fractured, and because of this he was sent to the hospital for treatment. They forced him to drink petrol, pouring it into his mouth, and they lit the quantities that were spilt on his hands; they extinguished cigarettes on his chest, and they stabbed his buttocks with a bayonet. They put a helmet on his head and then beat it with bats, because of which he fainted. He lost about 20 kg in the camps. When he was to be discharged from the hospital he tried to commit suicide by cutting, with a pocket knife, his veins on his left arm, but the attempt was thwarted and a surgeon sewed up the wound.

The medical records of the "Surgery Department" within the Medical Center in Derventa prove that the examinee was admitted to the hospital a day after he had been captured, and that he was treated in the hospital for a month and a half (from 26 April - 17 June 1992) with the diagnosis: " Contusio capitis et thoracis sin; luxatio dentis et maxillae sin.; conjunctivitis ac. bill." The medical records from the period immediately after he was released from the camp prove that, because of the injuries, his 1st tooth in the maxilla, left side, had to be extracted by surgery. According to the length of his stay and treatment (which was a month and a half) in the hospital in Derventa, and taking into consideration that he was a camp prisoner at the time, one might conclude that J.S. was treated for major injuries of the chest, that his ribs and head had been fractured (which was established later by the X-ray of the rib cage), his first tooth in the maxilla, left side, was dislocated, and his nasal bone was broken (which was established later by the X-ray), which were followed by concussion of the brain. Altogether, these presented a major injury. The medical records have stated bilateral "conjunctivitis" (inflammation of the conjunctiva in both eyes). This wasn't a case of inflammation, as the doctors in Derventa had put it; it was an injury in the form of haemorrhage of the conjunctiva caused by the fracture of the nasal bone. Such conclusions are based on the nature and type of the injury because of which he had been treated a month and a half in this hospital.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) on the left ribs, scars on the chest, arms and buttocks, Raynaud's syndrome, non-psychotic post-contusion psycho- organic syndrome, chronic major depressive disorder, psychosomatic disorder (duodenal ulcer) and post-traumatic stress disorder, which have altogether caused a severe reduction in his general and vocational capacities.



Picture No. 1 Scar on the chest, the result of a burn  
with a lit cigarette



Picture No. 2 Scars on the right hand fingers,  
the result of burns with a lit cigarette



**Der 3**



Picture No. 3 A linear scar on the left wrist, interior, the result of a suicide attempt



Picture No. 4 Scar on the left buttock, the result of a stab wound inflicted with the tip of a mechanical weapon

## Der 4

K.M., male, 34 years old when captured. He was captured as a company commander on 26 April 1992, in the quarter Čardak. Prior to this he was wounded in his right leg and left shoulder. They first took him to the JNA Club in Derventa, then to the camp in Polje, after that to the camp in Rabić, and then to the bowling alley in Slavonski Brod. He was exchanged in July 1992. From the moment he was captured he was given a "special treatment" because he had been a company commander. He was kicked, punched, beaten with truncheons, baseball bats, and cables. In the camp in Slavonski Brod he was tortured with low voltage electricity, during which they spilt water over him; his chest, stomach, arms, and tongue were burnt with some red-hot object. They extinguished cigarettes on his tongue so he couldn't eat. They pulled out his toenails. He starved because they gave him very little food. When he was given something to eat it was usually salt and hot peppers; while he was in the camps he lost about 40 kg. They poked and slit his skin with a knife. He was given no medical treatment in any of the camps, and because of this his leg was in infection. Two of his teeth had been loosened by the blows, so he had to have them pulled out after he was released from the camp.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: toothlessness, scars (callus) on the left ribs, scars on the face, chest and limbs, as well as tinnitus (buzzing in the ears), Hypacusis (impaired hearing), Raynaud's syndrome, post- traumatic stress disorder, which have altogether caused a severe reduction in his general and vocational capacities.



Picture No. 1 Scar on the left auricle,  
the result of a cut with the blade of a  
mechanical weapon



Picture No. 2 Scars on the left shoulder, the result of injuries inflicted by a "metal whip"

## Der 4



Picture No. 3 Linear scars on the left hand fingers, with a part of the right hand thumb pulp missing, the result of cuts with a blade of a mechanical weapon.



Picture No. 4 Linear scar on the left foot, the result of cuts with a blade of a mechanical weapon



Picture No. 5 Deformity of the toenails, the result of the nails being "pulled out"

## Der 5

N.S., male, 37 years old when captured. Captured on 26 April 1992 in Derventa as a member of the army medical corps. He was first taken to the JNA Club in Derventa, where he and the other camp prisoners were beaten for 8 hours continuously. They were beaten with truncheons and kicked with boots on; he was forced to swallow salt, after which he was in a state when he didn't even feel pain. His head and supra-orbital arch were injured by this battering. After three days he was transferred to the camp Rabić, where they held him for about 2 months, and from there he was taken to the camp Polje, from where he was exchanged on 27 June 1992. He was beaten all over his body in all the camps. There were times when he was given no water or food for 2-3 days. He lost about 10 kg in the camps. He was given no treatment in any of the camps, except for the treatment by the doctors who were also camp prisoners.



Picture No. 1 Scar on the forehead, the result of an injury inflicted with a blunt mechanical weapon

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on the face and head, elements of enduring change of personality after the catastrophic event, which have altogether caused a moderate reduction in his general and vocational capacities.

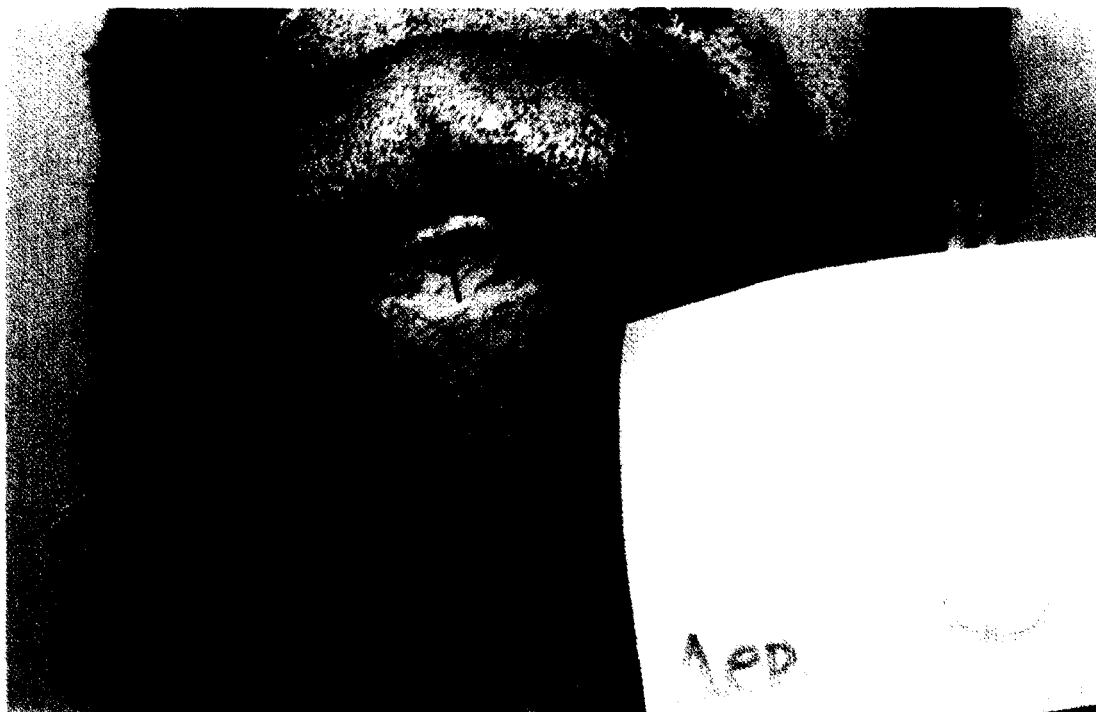


Picture No. 2 Scar above the right eyebrow, the result of an injury inflicted with a blunt mechanical object



## Der 6

K.D., male, 36 years old when captured. He was captured as a civilian on 5 May 1992 in the streets of Derventa. He was first taken to the JNA Club in Derventa, where they held him for 7 days, after which he was transferred to the camp Rabić, where he stayed till 26 June 1992. From there they took him to the camp in Slavonski Brod, from which he was exchanged on 9 July 1992. He was beaten every day with "all sorts of things": with rifle butts, wooden poles, truncheons, kicked with boots, punched etc. He was beaten the most in the camp Rabić. They poked him with a knife, burnt him with lit cigarettes on his forehead; forced him and the other camp prisoners to kick each other. His ribs were broken by the battering in the camp in Slavonski Brod, when "for three days he didn't know for himself". They forced them to fellate each other. They trampled on his body and abdomen so he defecated in his pants. By beating him they forced him to sign various documents. He said that he had fainted three times because of the beatings.



Picture No. 1 Scar under the chin, the result of a cut inflicted with the blade of a mechanical weapon

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) on the left ribs, scars on the face, lips and limbs, as well as elements of enduring change of personality after the catastrophic event, which have altogether caused a mild reduction in his general and vocational capacities.

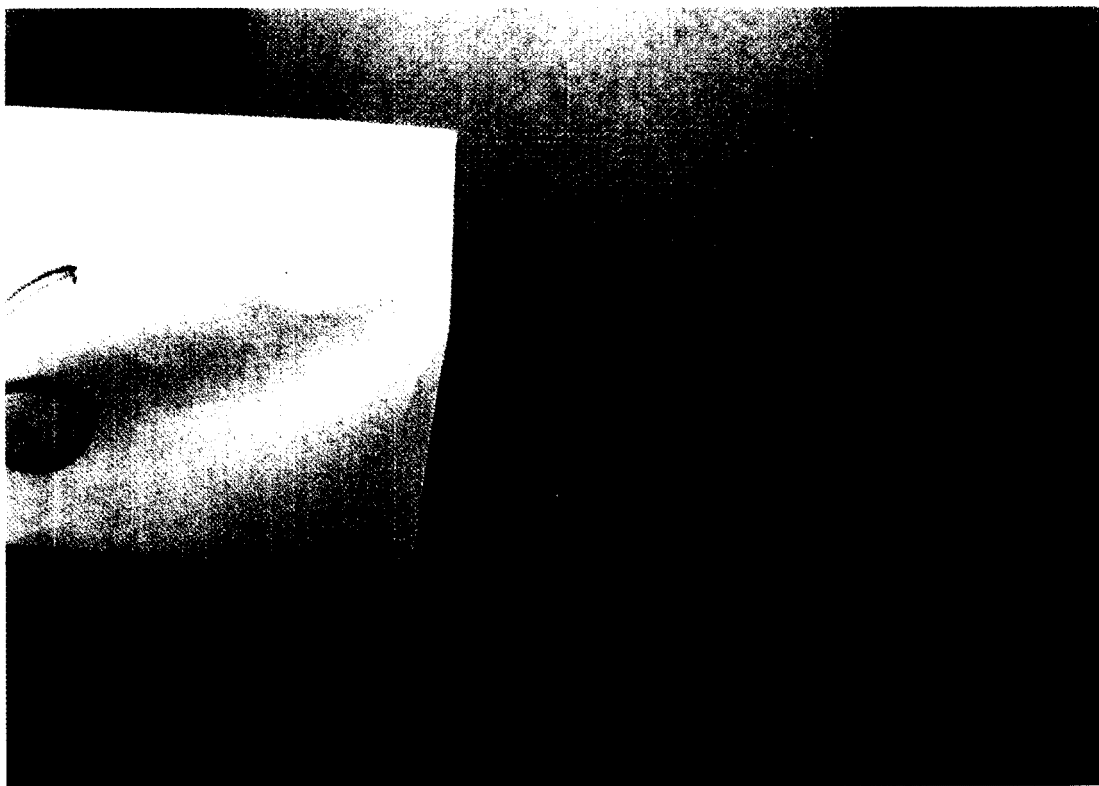


Picture No. 2 Scar on the left cheekbone, the result of an injury inflicted with a blunt mechanical weapon

**Der 6**



Picture No. 3 Scar on the lower lip, the result of an injury inflicted with a blunt mechanical weapon

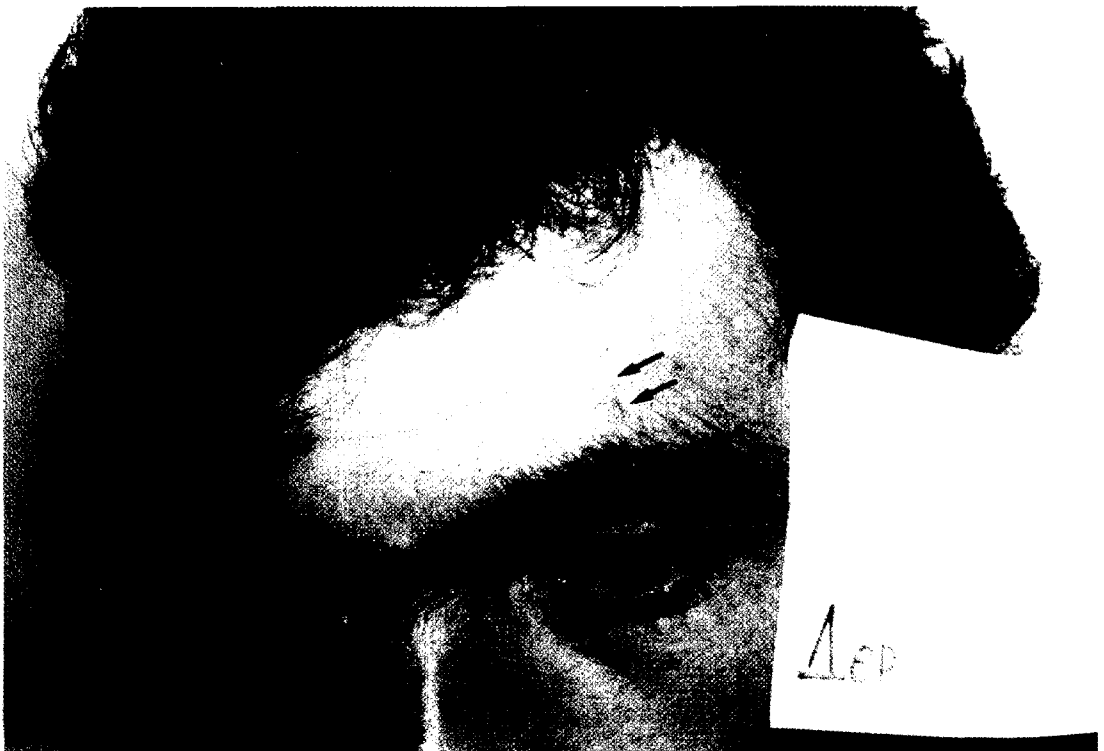


Picture No. 4 Scar on the left upper arm, the result of a stab inflicted with the tip of a sharp mechanical weapon

## Der 8

V.Z., male, 27 years old when captured. He was captured as a soldier in Derventa, in its quarter Čardak on 26 April 1992. He was first taken to the JNA Club in Derventa and was later transferred to the camp Rabić, in which he was held for about 80 days; from there he was taken to the camp Polje, and in July 1992 he was exchanged. He was beaten all over from the time he had been captured: with baseball bats, kicked with boots on, beaten with planks and all things at hand. They put a bayonet to his throat to force him watch some Azra while she was slaughtering a camp prisoner called Blagoje Đuraš. They forced him to eat salt and to stand on one leg the whole day long. They were given water and food irregularly, and there were times when they were given a liter of water to share among 30 men. His hands, which he had to hold on a bench, were beaten with bats and electricity cables.

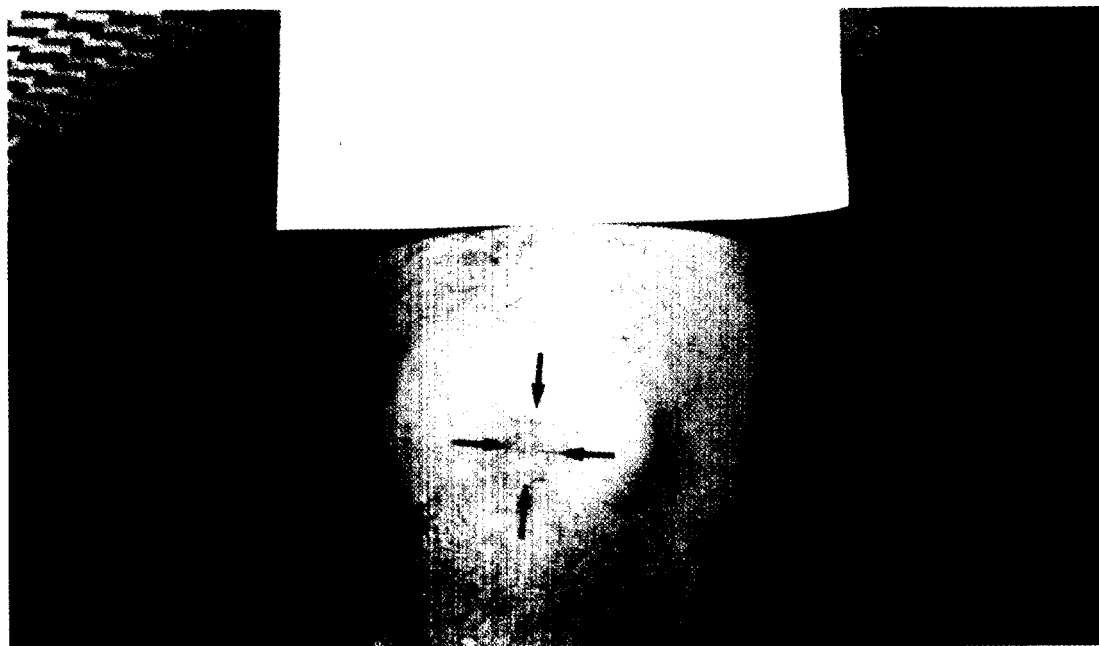
On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars on the face and right hand, hypacusis (hearing impairment), post-traumatic stress disorder, which have altogether caused a severe reduction in his general and vocational capacities.



Picture No. 1 Scar on the forehead, the result of an injury inflicted with a blunt mechanical weapon



Picture No. 2 Scar on the right upper arm, the result of a cut caused by the blade of a mechanical weapon



Picture No. 3 Scar on the right knee, the result of an injury inflicted with a blunt mechanical weapon

## Der 10

M.B., male, 33 years old when captured. He was captured as a soldier in Derventa, in its quarter Čardak on 26 April 1992. He was immediately taken to the JNA Club in Derventa, then to the camp Rabić. From this camp they took him to the camp Žeravac, where he spent only two and a half days. From there he was taken to the camp Polje, and then to Tulek. On 7 July 1992 he was exchanged. As soon as he was arrested they tied his hands behind his neck in such a manner that every movement of his hands would cause him to choke. They beat him from the moment they had captured him, and they poured into his mouth boiling coffee and freezing water, one after the other. He was beaten all the time and he fainted several times because of the battering. He was beaten with all sorts of things: he was punched, kicked, beaten with bats, rifle butts, cables, and kicked with boots on.

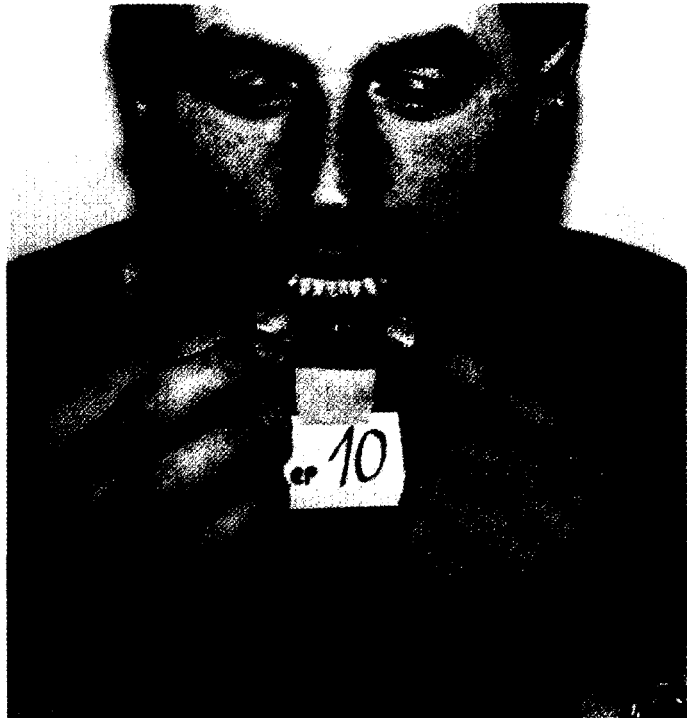
On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) on many ribs, scars on the head, lips, left auricle and upper limbs, as well as a chronic neuro-vegetative dysfunction in the form of Raynaud's syndrome, which have altogether caused a moderate reduction in his general and vocational capacities.



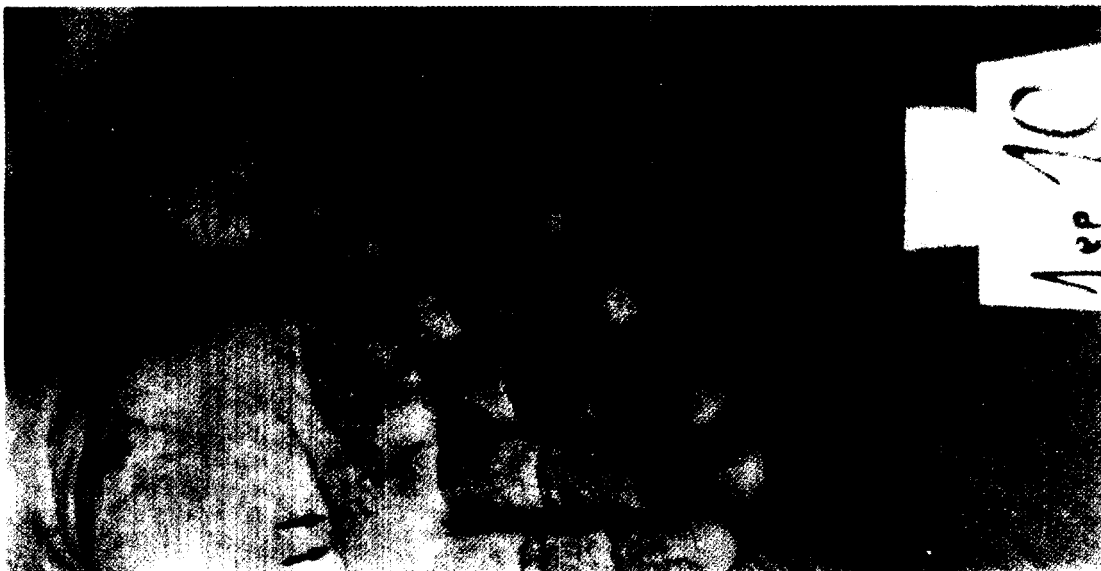
Picture No. 1 Scar on the back of the head, the result of an injury inflicted with a blunt mechanical object.



Picture No. 2 Scar on the forehead, the result of an injury inflicted with a blunt mechanical object.



Picture No. 3 Scar on the lower lip, the result of an injury inflicted with a blunt mechanical object.

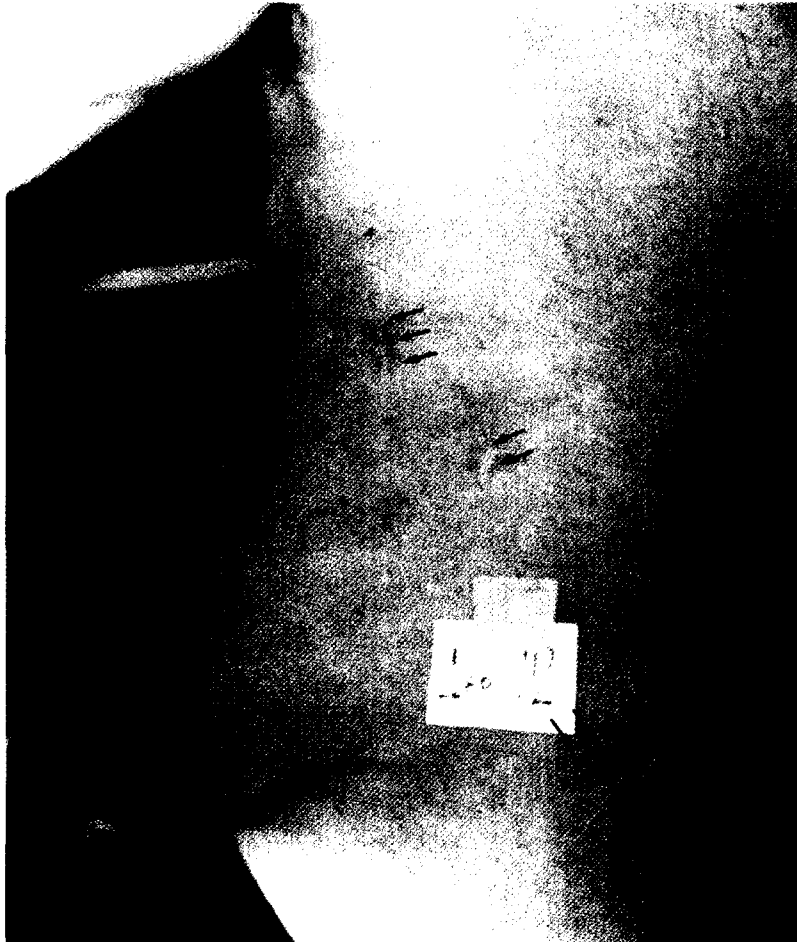


Picture No. 4 Scars on the palms, the result of burns inflicted with lit cigarettes



## Der 12

B.N., male, 45 years old when captured. He was captured as a soldier in Derventa, in its quarter Čardak on 26 April 1992. On that occasion his wife was killed. He was first taken to the JNA Club in Derventa, then to the camp Rabić and from there he was taken to the camp Polje. From this camp they transferred him to the camp Žeravac for only 3 days, and he had spent 3 days in a truck. From there he was taken to Bosanski Brod, where he was exchanged on 9 July 1992. He had been wounded by a shell explosion when they had captured him and he was unconscious. The other camp prisoners later told him that the soldiers had thought he had died, and they threw him out, through the JNA Club window. On the third day, when he was in the camp in Rabić, he regained consciousness, after which they started to beat him every day and every night. He was beaten all over his body, but mostly on his head, with all sorts of things: he was kicked, punched, beaten with bats, rifle butts, etc. Sometimes he was beaten by one man, sometimes by a group.



Picture No. 2 Scars on the left side of the chest and abdomen, the result of stabs caused by the tip and blade of a mechanical weapon

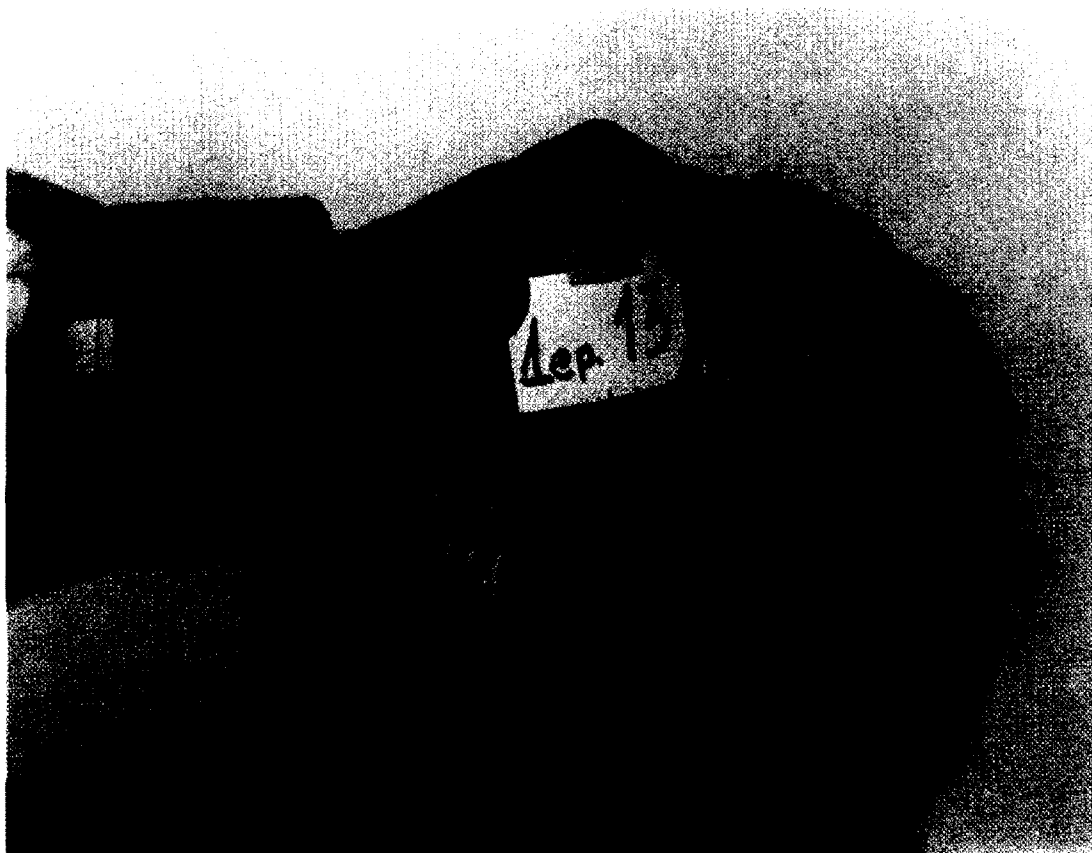
On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) where many of the ribs were fractured, scars on the head, trunk and limbs, the lumbar-sacral syndrome and hypacusis (impaired hearing), which have altogether caused a severe reduction in his general and vocational capacities.



Picture No. 1 Scars on the left upper arm, the result of stabs caused by the tip and blade of a mechanical weapon

## Der 13

Ć.I., male, 48 years old when captured. He was captured as a soldier in Derventa, in its quarter Čardak on 25 April 1992. He was first taken to the JNA Club in Derventa, then to the camp Rabić, where they held him for about 2 months. From there he was taken to the camp Polje, where they held him 2-3 days, and from this camp they transferred him to the camp Žeravac, where he spent only a day and a night, and from there he was taken to the camp in Bosanski Brod, where he remained till 5 July 1992, when he was exchanged. Before he was captured he had been wounded in his head by a bullet, and from the time he came through they beat his whole body with all sorts of things. They also forced him to eat two handfuls of salt, and he was forced to do the same the following day in the JNA Club in Derventa. They slit the skin on his back and "carved"

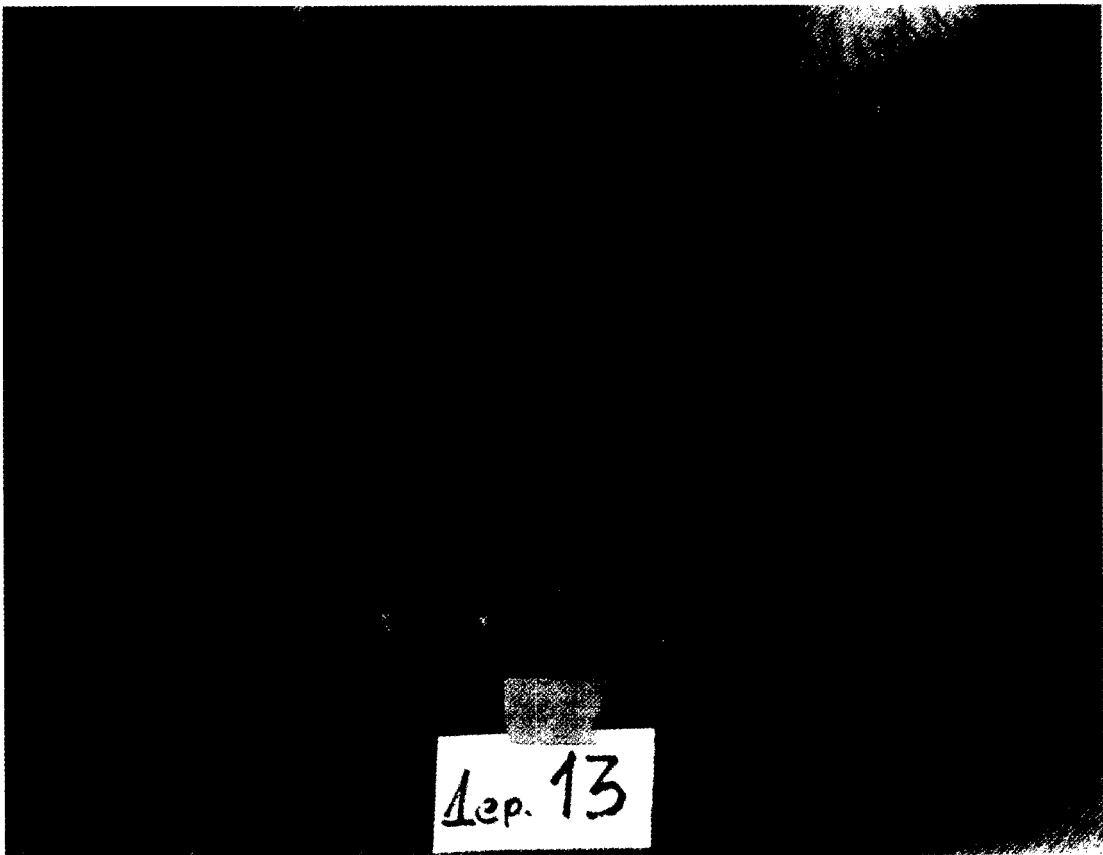


Picture No. 1 Scar on the head, the result of an injury inflicted by a blunt mechanical weapon

## Der 13

crosses on it. They fractured his 5th right hand finger with a truncheon. Other camp prisoners told him that the soldiers had extinguished cigarette butts on his hands while he was unconscious.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) where the left metacarpal bones were fractured, scars on the left hand and head, cervico-brachial syndrome, lumbar-sacral syndrome, hypacusis (hearing impairment), Raynaud's syndrome, major depressive disorder and post-traumatic stress disorder, which have altogether caused a severe reduction in his general and vocational capacities.



Picture No. 2 Scars on the left back of the hand,  
the result of burns made with a lit cigarette

## Der 15

V.S., male, 42 years old when captured. He was captured as a soldier in Derventa, in its quarter Čardak on 26 April 1992. He was first taken to the JNA Club in Derventa, then to the camp Rabić, where they held him for about 2 months. From there he was taken to the camp Polje, where they held him 2-3 days, and from this camp they transferred him to the camp Žeravac, where he spent only two days, and from there he was taken to the camp in Bosanski Brod, where he remained till 14 July 1992, when he was exchanged. He was beaten all over his body, with all sorts of things, from the time he had been captured, and because of this he was all bruised and swollen. He was beaten in all the camps, though the most in Rabić and Bosanski Brod. They kicked him on the head with their boots on, beat him with baseball bats, clubs, rifle butts, and "everything they had at hand. They broke his left ribs and the 4th right hand finger. They poked his right shin with a knife and burnt his skin on the left forearm and right shin with lit cigarettes.

On the basis of medical files, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) on the ribs that were broken and on the right hand metacarpal bones, scars on the lips and limbs, as well as tinnitus (buzzing in the ears) and post traumatic stress disorder, which have altogether severely reduced his general and vocational capacities.



Picture No. 1 Deformity in the right hand 4th finger, the result of an injury inflicted by a blunt mechanical weapon

## Der 19

L.N., male, 36 years old when captured. He was captured as a soldier in Derventa, in its quarter Čardak on 25 April 1992. He was first taken to the village of Zelenika, where he was detained for 2-3 days, and was then taken to the JNA Club in Derventa, where he stayed till 9 May 1992, and from there he was taken to the camp Rabić. From there he was taken to the camp Polje, and from this camp they transferred him to the camp Žeravac, holding him and another 100 camp prisoners for 2-3 days shut in a bus, without being given any water or food. From this camp they transferred him to the camp in Bosanski Brod, where he remained till 10 July 1992, after which he was taken to the secondary school center, from where he was exchanged on 25 August 1992. He was beaten from the moment he had been captured, and they beat him in every camp, but the most in Rabić and Tulek. They beat him with various objects, but in Tulek they beat him the most with baseball bats. He received blows over his head and body, and once, in the camp in Rabić, he fainted after receiving a kick with a boot in his chin: after this blow he felt pain "below his ears", after which his hearing was significantly reduced. He also mentioned that while he was coming through he felt as if some "construction machine was rumbling nearby". They forced him to be their "live shield" while they were on the front line, forced to dig trenches. On one occasion a shell exploded nearby and wounded him in both legs. Because of this he was taken first to the hospital in Bosanski Brod and then transferred to the hospital in Slavonski Brod, where he had surgery the same day and was immediately returned to the Bosanski Brod hospital. Having spent one night in that hospital he was sent back to the camp in Tulek.

On the basis of medical records, forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: severe loss of hearing, scars on the lower limbs, and post contusion psycho-organic syndrome, which have altogether severely reduced his general and vocational capacities.



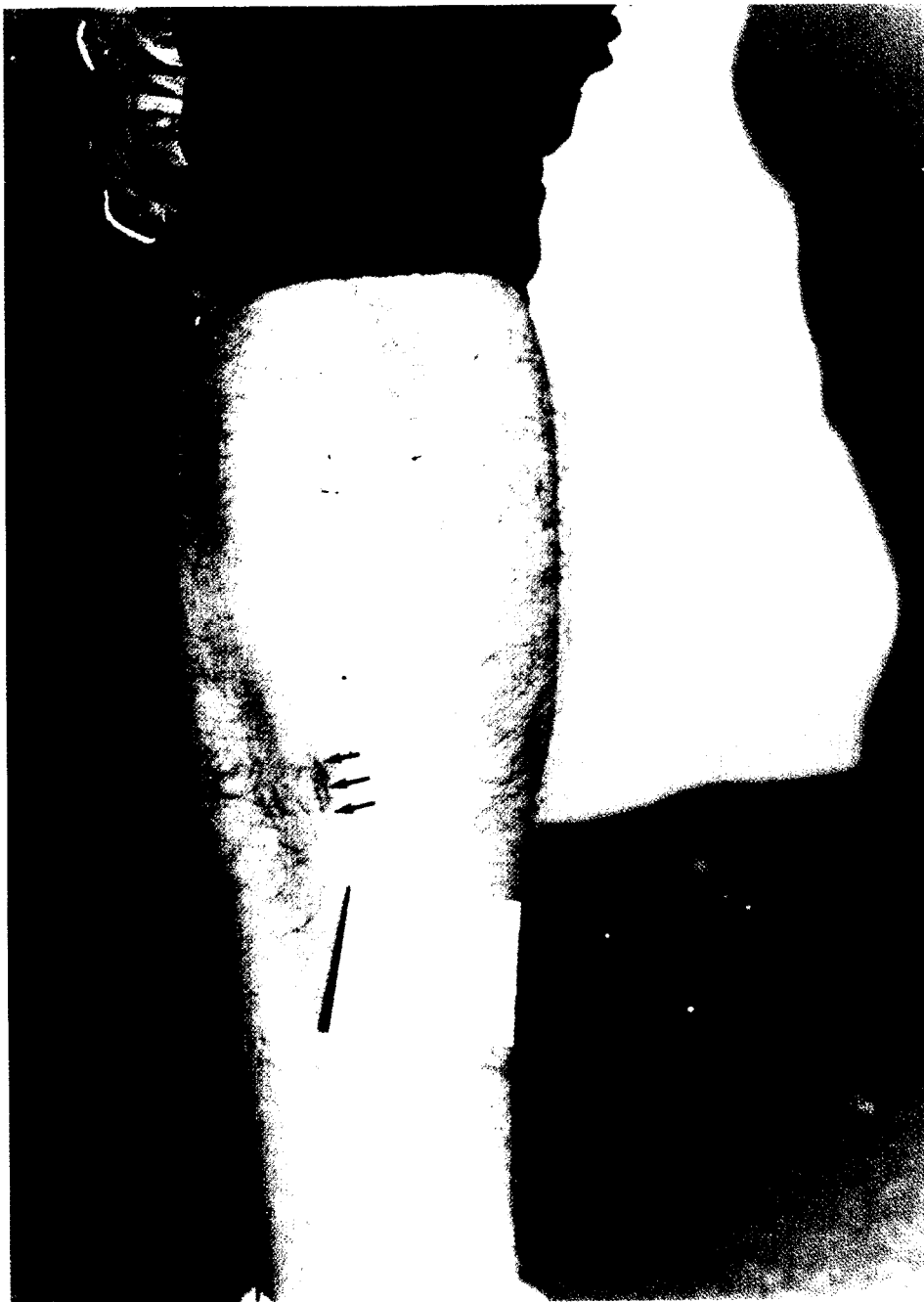
Picture No. 1 Scar on the right thigh, posterior, which is the result of an injury by a shell fragment



**Der 19**



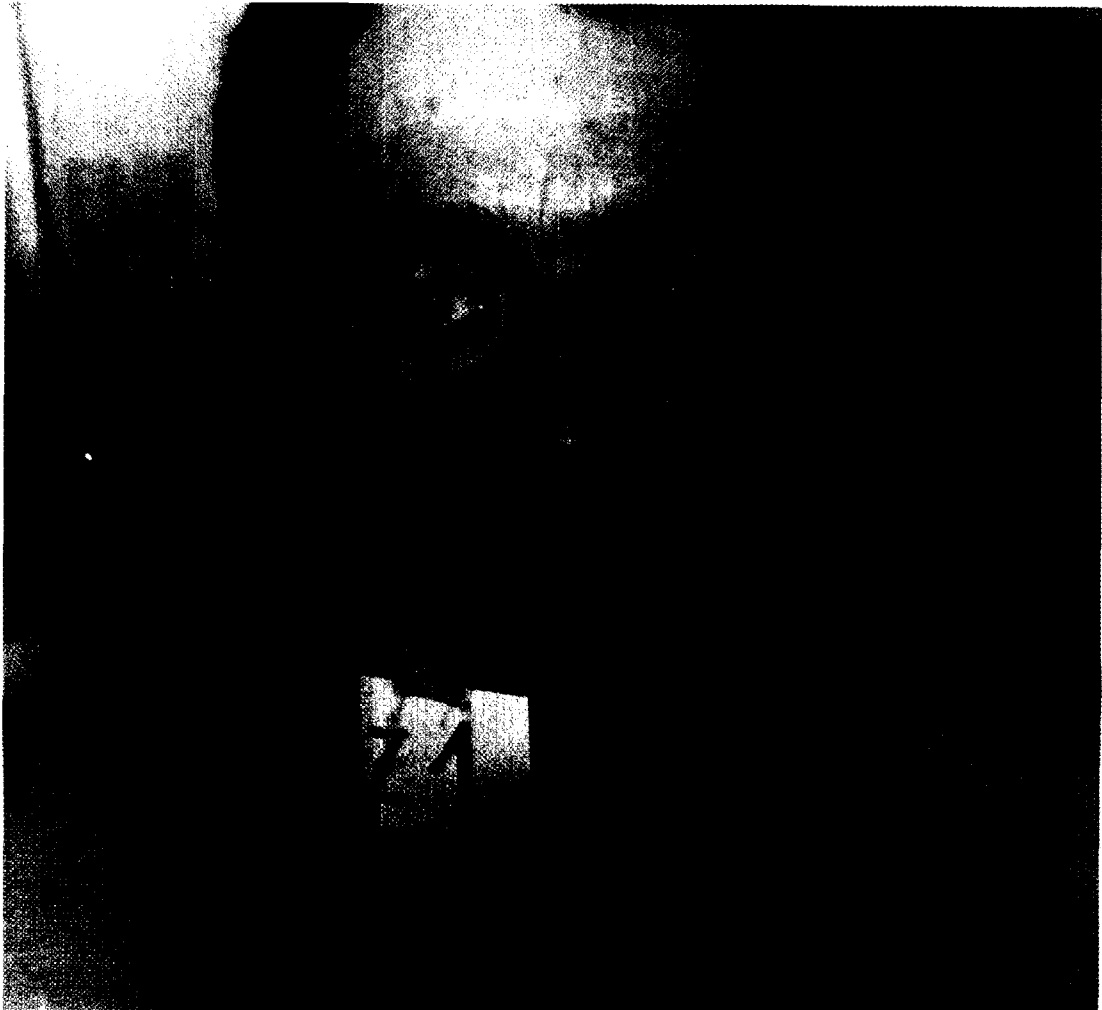
Picture No. 2 Scar on the right thigh, anterior, the result of an injury by a shell fragment



Picture No. 3 Scar on the left shin, posterior, which is the result of an injury by a shell fragment

K.J., male, 36 years old when captured. He was captured as a civilian in his flat in Tuzla, where he was recovering from the injuries sustained in combat. He was first taken to the JNA Club in Tuzla, where they held him for three days shut in its ticket office, which was the size of only 1 sq.m. After three days they gave him for the first time something to eat - a piece of bread and a slice from a can of pressed meat. From there they transferred him to the central military prison in Tuzla, where he was shut in a cell on the second floor. On 26 June 1992 they let him go home, and he lived there until on 24 December 1994 he bribed the Muslims to let him and his family leave the town. He received the worst beatings in the first three days, when they punched and kicked him, beat him with rifle butts, truncheons, broke some armchair elements on him, trampled on him, poked his arms with a knife, fractured his ribs and left pelvic bone. They knocked out his 2nd tooth in the maxilla, left side, by a kick. Every day he would faint several times from the battering.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) on the ribs that were broken, scars on the lower lip, chest and upper limbs, as well as post-traumatic stress disorder, partial deafness in the right ear and bilateral tinnitus, which have altogether severely reduced his general and vocational capacities.

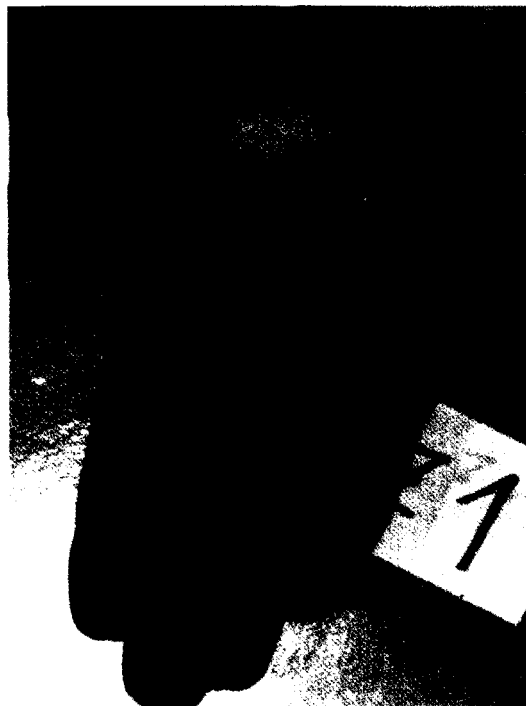


Picture No. 1 Linear scar below the lower lip, the result of an injury inflicted by the blade of a mechanical weapon .

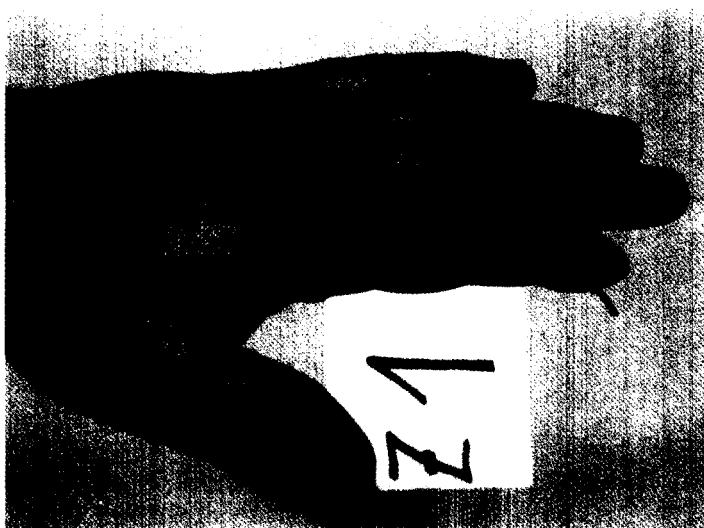
Z 1



Picture No. 2 Linear scar on the left hand 4th finger nail bed, the result of an injury inflicted by the blade of a mechanical weapon



Picture No. 3 Linear scar on right hand 5th finger, the result of an injury inflicted by the blade of a mechanical weapon

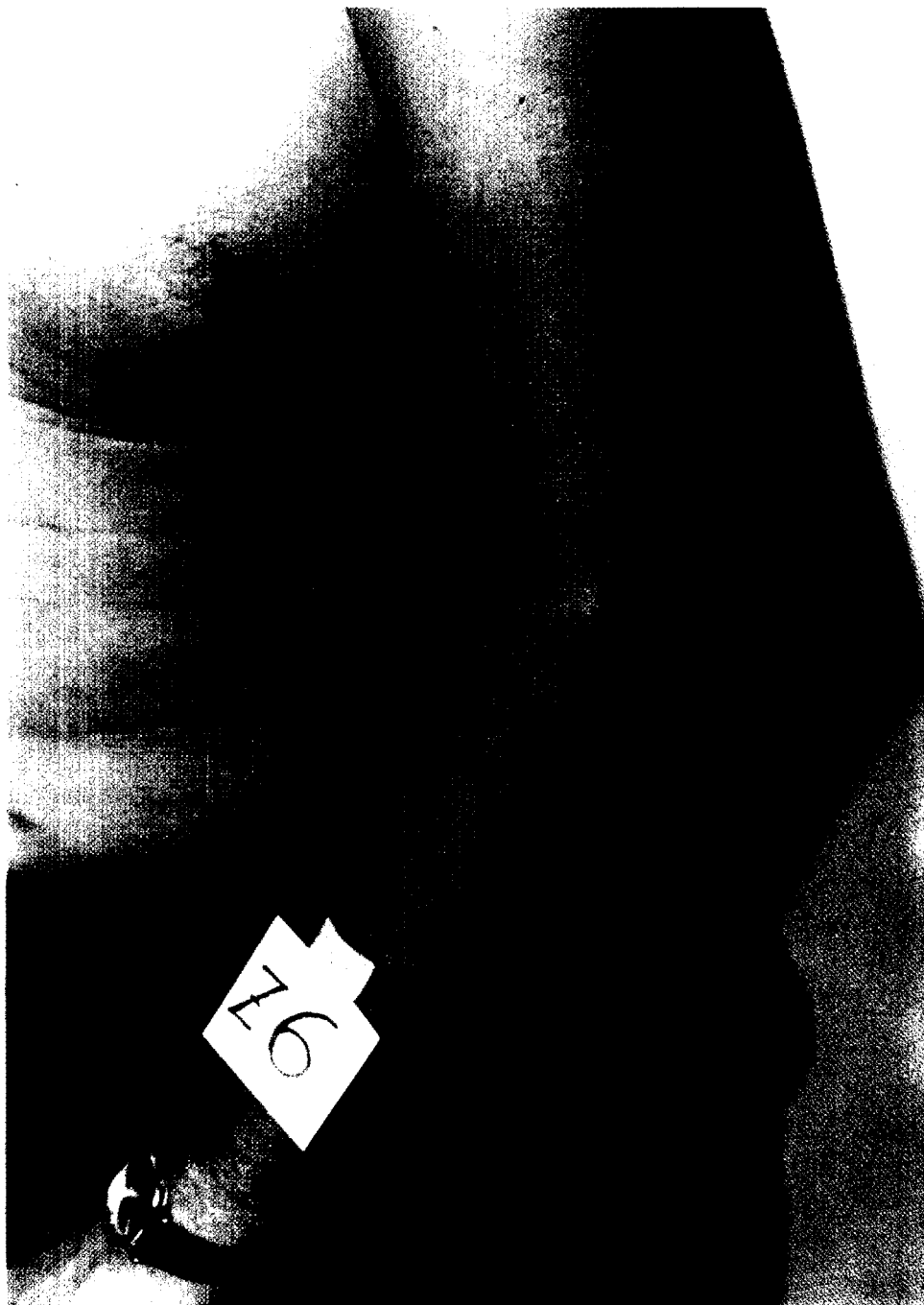


Picture No. 4 Linear scar on the left hand index finger, the result of an injury inflicted by the blade of a mechanical weapon



Picture No. 5 Linear scar on the right forearm, the result of an injury inflicted by the blade of a mechanical weapon

E.M., male, 39 years old when captured. He was captured as a civilian in his flat in Banovići on 22 June 1992. He was taken to the camp of "the railways" but was released on 13 July 1992, with an order to be in house detention with restricted movement. After 10 days they took him to the camp Strelište, in Tuzla, and after two months he was again returned home and put in house detention. He was released/exchanged on 8 November 1993. As soon as they had captured him they beat all over with pipes, truncheons, and kicked him. When he was captured he weighed 105 kg, when exchanged he weighed 69 kg. They would beat him "from head to toes" because of which he was all bruised, and he also fainted several times. His whole legs were in haematoma and were so swollen that he couldn't walk. On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars where the ribs were fractured, bilateral, scars on the limbs, as well as post-traumatic stress disorder and psycho-somatic disorder, which have altogether severely reduced his general and vocational capacities.

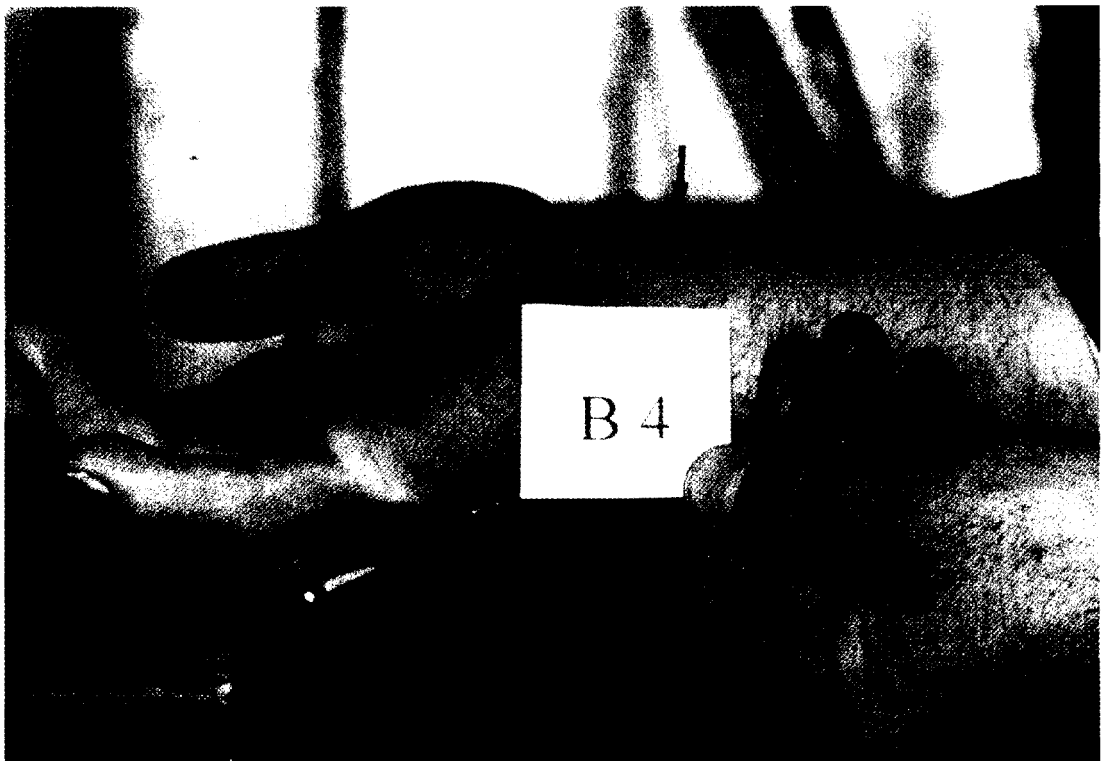


Picture No. 1 Scar on the left forearm, the result of an injury inflicted by a blunt mechanical weapon



## B 4

G.J., male, 46 years old when captured. He was captured as a civilian in his house in Banovići on 6 June 1992. He was taken first to the Railways Main Office in Banovici, where he was held for 10 days, and then to Tuzla. His brother-in-law was held in the same camp. He was kept there till 21 July 1993. He was tortured while alone. They used to hit him with blunt weapons. Once they fired from a firearm near his body. He also suffered thirst and hunger. They didn't let him sleep for almost three months. He was beaten with all sorts of things. Several times he had to stand for a long time in the sun. They knocked out two of his teeth. He experienced the "stereo torturing" several times. He was stabbed and cut with a knife several times. Once he had to stand still, at attention, the whole day. During the torturing he was always yelled and cursed at. He witnessed the torturing and killing of some other camp prisoners.



Picture No.1 Deformity in the right wrist

He was forced to fight with other camp prisoners, to give false testimonies, and they forced him to walk in the squatted position with his hand on his back, up and down a 100m corridor 15 times. He was forced to dig trenches on the front line twice. He fainted several times during the torturing, and he also vomited, urinated, and bled several times. He stood trial and was given an official defense counsel.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: deformity in the right wrist, scars on the right leg, the teeth that supported the dental prosthesis in the maxilla are missing.



Picture No.2 Knocked out teeth in the maxilla

## KV 1

S.R., female, 31 years old when wounded. On 17 September 1992 she was at home in the village of Serdari. Her father-in-law, mother-in-law, sister-in-law, husband, aunt and her two daughters and her uncle's daughter were in the house, too. The village was attacked in the early morning hours by the Muslims, who made a massacre in the village and then retreated. In that raid they killed her father-in-law in front of the house, and in the house they killed her mother-in-law, sister-in-law, uncle's daughter, aunt with her two daughters (5 and 11 year old girls). S.R. was five months pregnant with her youngest daughter. She was in the house at that time and was hit first by shell fragments in the stomach and then by another explosion - in the legs. These injuries dazed her and she fell to the floor. Then the Muslims arrived; they entered the house and opened burst fire, which wounded her in the right upper arm and both breasts. When she regained consciousness she saw that everyone had been killed, except for her aunt and herself. She was later found, put in a car and driven to the Banja Luka hospital where she had 2 surgeries. She had a third surgery later in the Military Medical Hospital - of a nerve. Regardless of all the injuries, she carried out the pregnancy and gave birth to a healthy girl in Banja Luka.

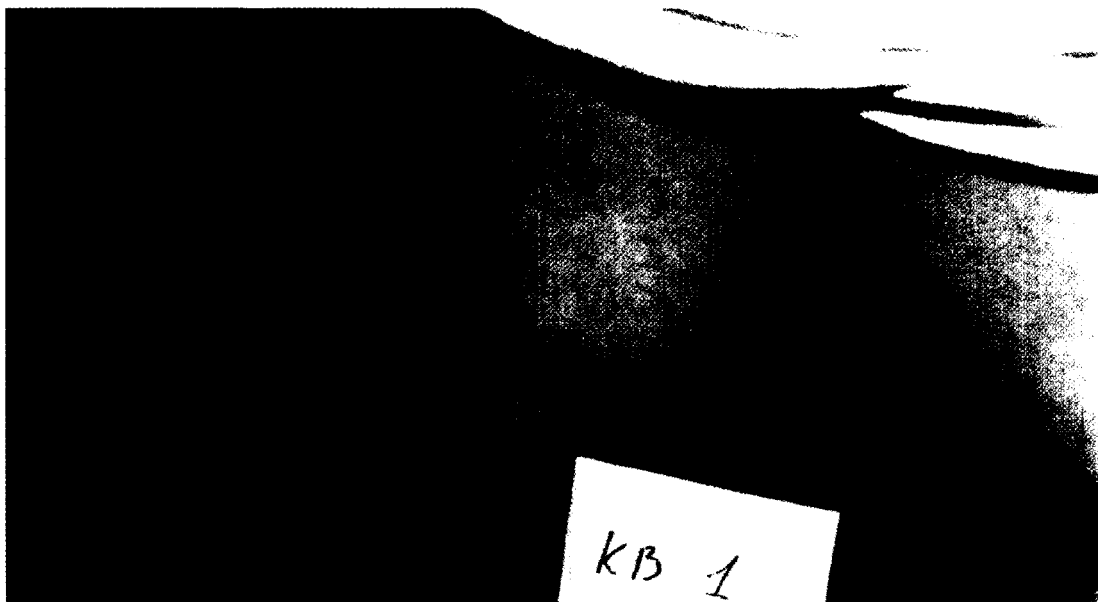
On the basis of forensic medical and neurological-psychiatric examinations, the following consequences have been found in this examinee: deformity the right upper arm, many scars on the right upper arm, breasts, abdomen and right leg, as well as a damaged ulnar and ischiatic nerve, which result in disfigurement and have moderately reduced her general and vocational capacities.



Picture No. 1 Scar on the right upper arm, the result of an injury inflicted by a shell fragment

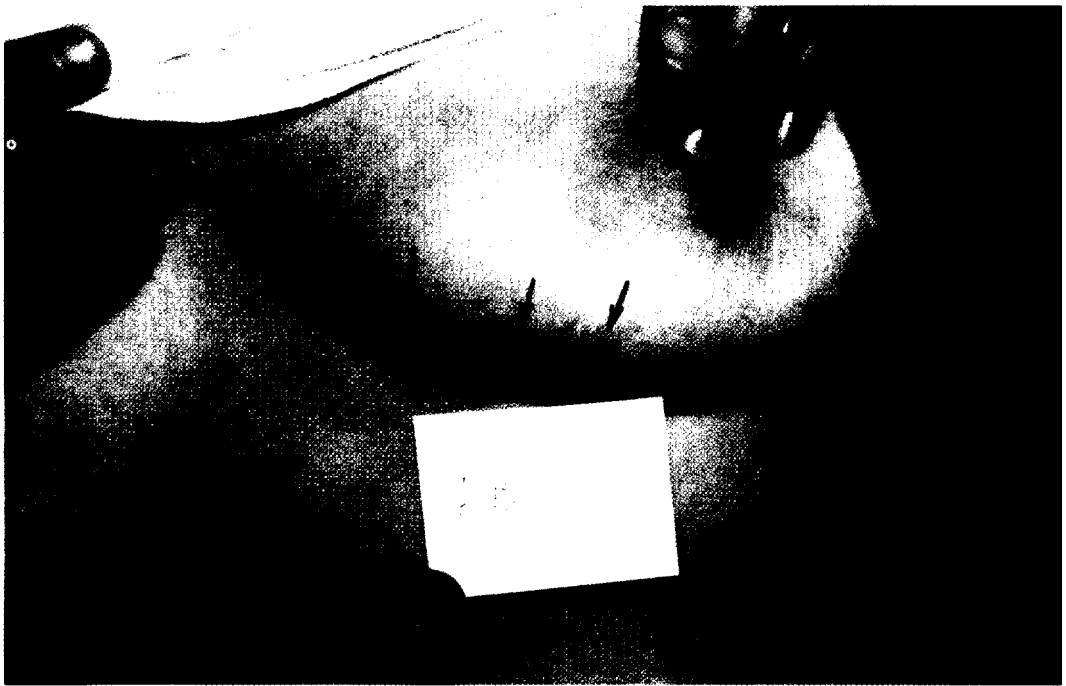


Picture No. 2 Scars on both breasts, the result of injuries inflicted by shell fragments

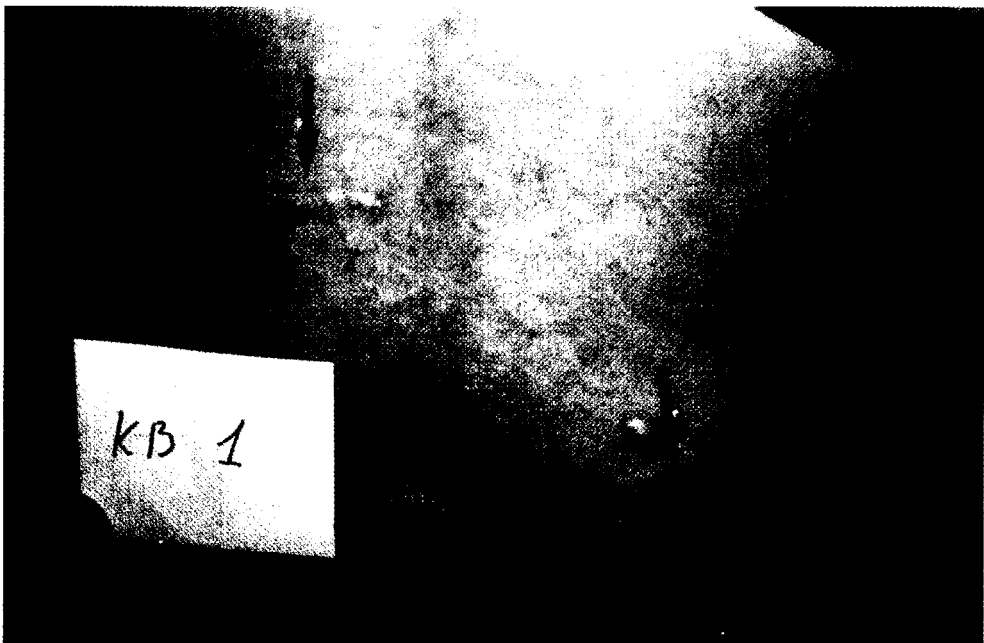


Picture No. 3 Scar on the right breast, the result of an injury inflicted by a shell fragment

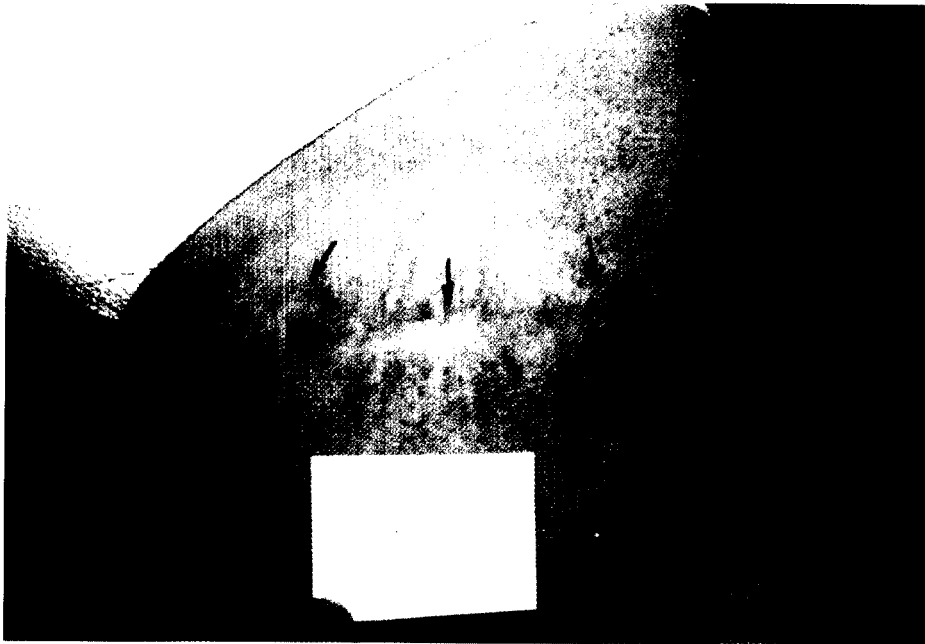
KV 1



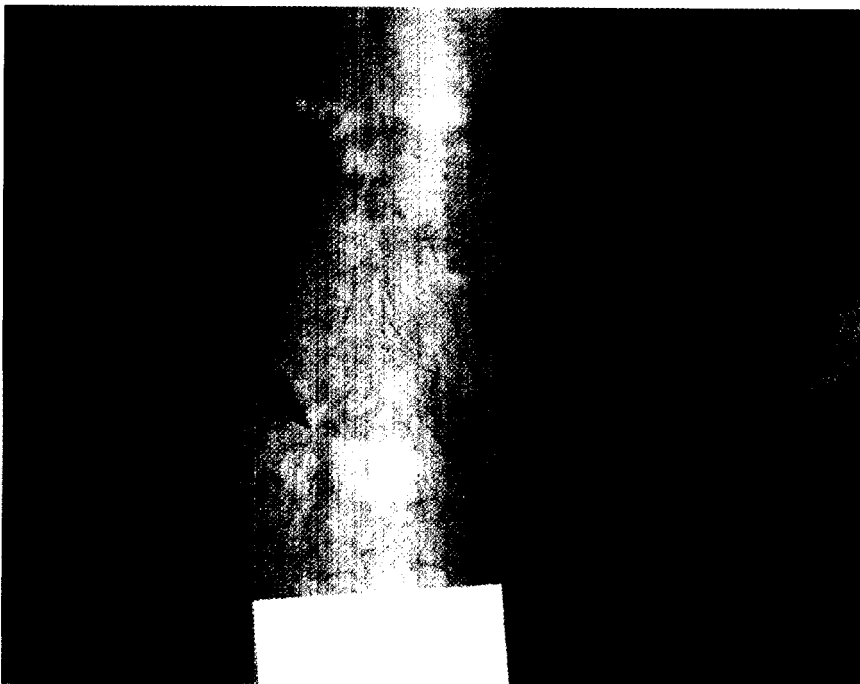
Picture No. 4 Scar on the left breast, the result of an injury inflicted by a shell fragment



Picture No. 5 Scars on the abdomen, the result of injuries inflicted by shell fragments



Picture No. 6 Scars on the right thigh, the result of injuries inflicted by shell fragments

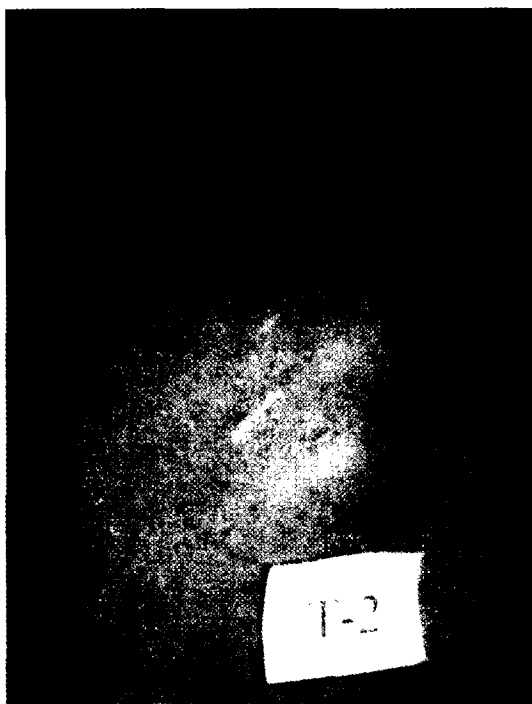


Picture No. 7 Scars on the right knee and right shin, the result of injuries inflicted by shell fragments

## Ts 2

Dj.P., male, 44 years old when captured On 2 or 3 September 1993, when two Muslims barged into his house and started to harass him. First they took off his clothes and then started poking and cutting him with a knife. Then they forced him to fellate them and then they both raped him. After that they tied his arms and legs with some rags and socks, covered him with clothes, and set the clothes to fire. All this was happening in his house. Some of the neighbours noticed the fire coming from his house, ran in, released him, called an ambulance which arrived soon, and took him to the hospital. He was treated for 7 months in the Tešanj hospital. When dismissed from the hospital, his neighbours nursed him. He remained in Tešanj till 15 July 1996, when he was brought to the IFOR checkpoint and handed to the Serbs in Teslić.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: major scars on the face, chest, anterior and bilateral, back and arms, which have disfigured his body, as well as an enduring change of personality after the disastrous experience, which have altogether severely reduced his general and vocational capacities.



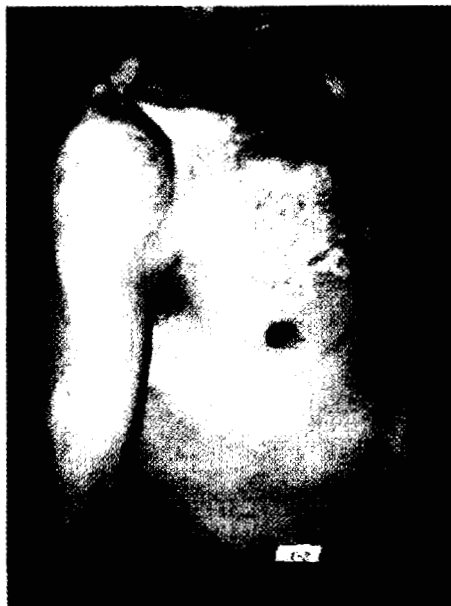
Picture No. 1 Scar on the back,  
the result of a stab injury



Picture No. 2 Scars on the face,  
the result of burns



Picture No. 3 Scars on the chest,  
the result of burns



Picture No. 4 Scars on the chest  
and right shoulder, the result of burns



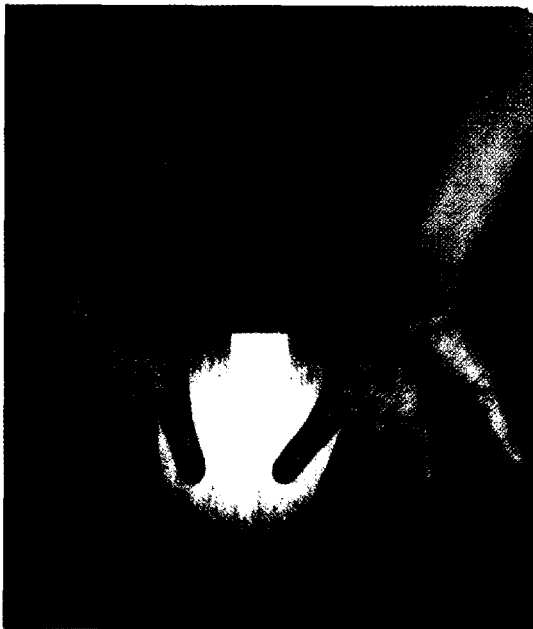
Picture No. 5 Scars on the left side of the thorax, the result of burns



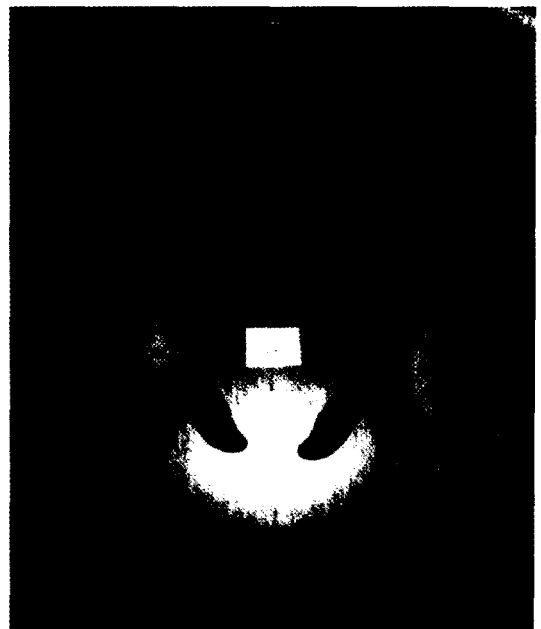
### Ts 3

A.M., female, 52 years old when captured. She is married and has three children. She was raped in her own house in front of her husband. During the night of 9 September 1993 three soldiers entered their house. She knew two of them. They asked about her sons, who were at that time in the theatre of operations. As soon as they entered her house they gave her a blow across her mouth by which some of her teeth in the upper jaw were broken. Then they started to beat her husband. After that they stripped off her clothes and while one of them was raping her, the two others were forcing her husband to watch it. The following day her brother-in-law informed the police about the event and they were protected by the police for some time. The police even wrote a report about the event. The following days they were afraid to go home and they were hiding in the houses of others. However, when they finally went home they saw that the house had been looted and things in it broken. The only thing they could do is to flee to Teslić where their son was living. Her husband never recovered from that event, "he changed mentally" and he hanged himself.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: teeth missing in the upper jaw, enduring change of personality because of the traumatic experience, psychosomatic disorder (psycho-dermatosis), which have altogether severely reduced her general and vocational capacities.



Picture No. 1 Changes on the hands (psycho-dermatosis) as a mental reaction to the experienced torture



Picture No. 2 Changes on the hands (psycho-dermatosis) as a mental reaction to the experienced torture

K.M., male, 42 years old when captured. He was captured in June 1992. He was first taken to the camp Šeher and then to the camp Žepča to dig trenches on the front line. He managed to escape and was in hiding for some time. However, they captured him again, interrogated him and let him go home. He was not allowed to leave the house. On 9 December 1992 the Croats came and took him to Žepča, where he was held 21 days in the camp. He was so heavily beaten there that he had blood in his sputum all the time. The first 18 days he was beaten day and night with bats, with boots on, and rifle butts. They hit his head against the wall; forced him to hold his arms up in the air for hours while they would beat him in every possible way. He lost consciousness several times and they would splash him with water to come through. He was led for staged execution several times. All this was done to him by his former neighbours. He was exchanged on 28 April 1993.

On the basis of forensic medical and neurological-psychiatric examinations, the following consequences have been found in this examinee: he has scars on his head and functional psychosomatic disorder, which have altogether mildly reduced his general and vocational capacities.

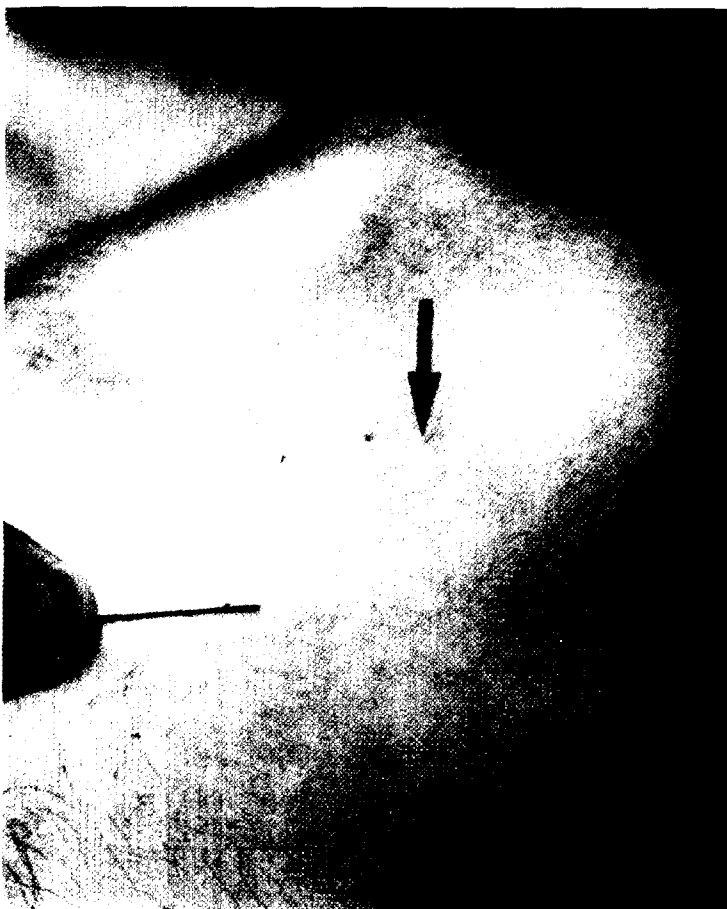


Picture No. 1 Scars on the forehead, the result of injuries inflicted with a blunt mechanical weapon

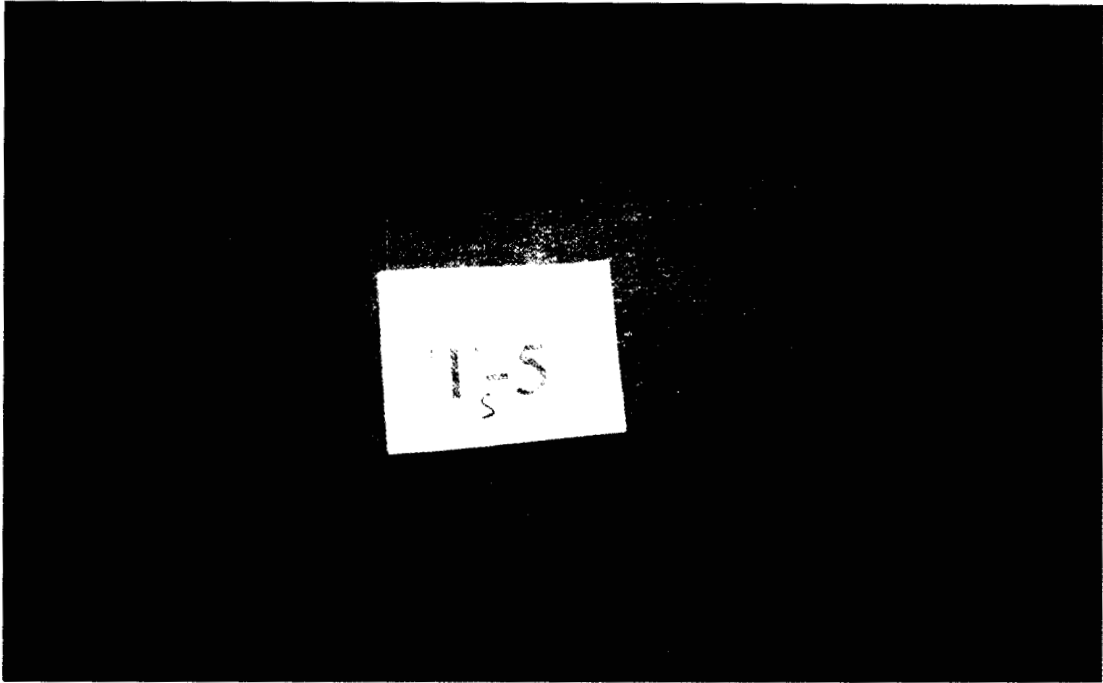
## Ts 5

R.D., male, 60 years old when the event took place On 7 July 1997 he and his wife went to Velešće, where they had a summer cottage and vegetable garden, to plant some vegetables. They spent the night in their cottage. The following day, on 8 July 1992, they were invited to lunch by the Stričević family. While they were at the table three Muslims barged into the house and started to shoot at them with burst fire. Six people were killed by this shooting, amongst which his was wife, while he was wounded. The Muslims left immediately after having shot the bursts of fire. Although wounded in the chest, left hand and left leg, he managed to leave the house. A man found him and drove him to the hospital in Sarajevo, where he was treated for 18 days. When dismissed he returned to his cottage in Velešće, since he couldn't reach his flat in Grbavica any more. He managed to reach his flat only on 6 March 1995 and on 15 March 1996 he left Sarajevo. It has been written in his discharge note that he had been wounded by shell fragments. However, the forensic medical expertise has found that he had shot wounds, the result of small arms bullets.

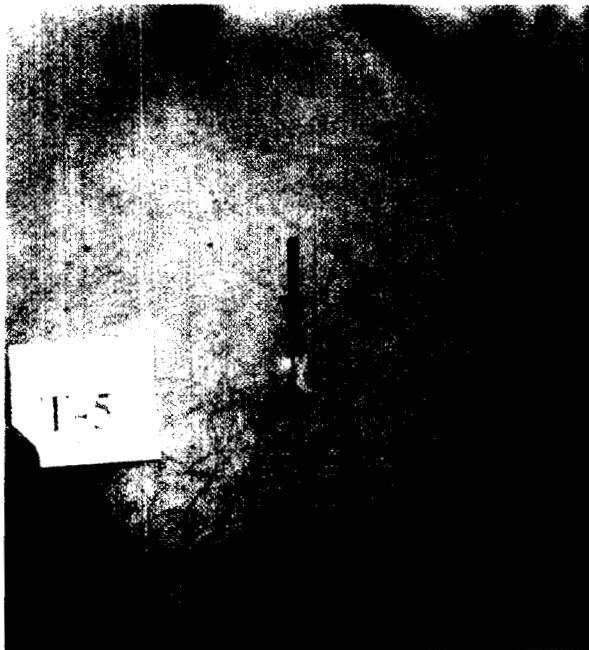
On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars on the neck, chest, back and left hip, and as result of the experienced catastrophic event, he has developed, a chronic depression, which has severely reduced his general and vocational capacities.



Picture No. 1 Scar on the left shoulder, anterior, the result of a shot wound



Picture No. 2 Scars on the left shoulder, posterior, the result of shot wounds



Picture No. 3 Scar on the right side of the chest, the result of a shot wound

**Ts 5**



Picture No. 4 Scar in the right shoulder blade area,  
the result of a shot wound



Picture No. 5 Scar on the left thigh, the result of a shot wound

## BG 2

M. O., male, 52 years old when captured. He was captured in his house in Sarajevo on 25 April 1992. They first took him to the community office, and from there to some container for storing fruit (refrigerator) where they beat him with truncheons on the head and the whole body. He had been battered to such an extent that he fainted twice. Then they turned on the refrigerator, with him inside, to the "freezing" position and left him in there for 2 hours. In the period from 25 April 1992 to 7 June 1992 he was put in house detention in the home of a Croat. From there they took him to Hrasnica, where they deprived him of the 10,000 DEM, 10,000 SFr and 10,000,000 dinars he had on him. Then they led him under some school staircase in Hrasnica, where he found 22 other Serbs. During the first night he and six other men were taken to a room - something like a torturing room. They tied their wrists with a noose and suspended them. Then one of the camp guards took some very heavy bag, as if full of lead, that was also hanging from the ceiling, and swung it so that it would hit the camp prisoners. He was the fourth on turn to be hit by the bag and after some time he fainted. He regained consciousness when they poured a bucket of water over his head, and they commented: He is still alive! Then they hanged him again and repeated everything. After they had put him down they started beating him and hitting him with some bar, and broke his right leg in three places. They hit his hands and nails with a hammer and pushed pricks under his nails. He fainted again. He came through a day or two later. The camp prisoners took some planks and rags and bound his broken leg. After that they took him to a garage. He stated: ...My only wish at the time was to be dead. They put 7-10 men in each garage (there were about 10 garages) where there was only the concrete floor. He received no medical care. Every 24 hours a 600-gr. loaf of bread was given to 21 camp prisoners to share. He remembered (he starts to cry when talking of that) how a camp prisoner used to come to his leg to eat the clotted blood on it. After having spent three months on the concrete floor of the garage he was taken to the hospital in Hrasnica, where they put plaster on his foot. His ribs were broken by the beating too. For six months he urinated blood. However, the greatest trauma to him was the camp prisoner eating his clotted blood. After breaking his leg they didn't torture him any more. But, the other camp prisoners were permanently tortured and sexually harassed in "all possible ways". After 40 days a man came to take off his plaster cast and he said that he would be exchanged. After the rib and shinbone had been fractured many pieces of bone were protruding from his skin, which he would pull out with a nail clipper. He was transferred from Hrasnica to Sarajevo on 2 August 1994 (where he had some kind of "trial"). He was exchanged on 13 June 1994.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) on the right shin, where it was fractured, whereby the fractures have deformed the right shin and knee because of which he walks with difficulty, he limps, and all this has disfigured him; scars where the ribs had been broken, fourth right hand finger cannot be completely extended, which is the result of the medial phalanx fracture; ugly scar on the right shin. As a result of the physical and mental trauma experienced in the camps a post traumatic stress syndrome, hemiplegia in the left side of the body, hearing disturbance and buzzing noise in his ears, which have altogether severely reduced his general and vocational capacities.



Picture No. 1 X-ray (anterior-posterior) shows a scar (callus) on the tibia, superior



Picture No. 2 X-ray (from the side) shows major scars (callus) on the right tibia, superior, whereby this bone has a thickening the size of a male fist. Its vertical axis is arched so that the arch opening is turned interior. This (callus) has a hollow in it, the size of 3 x 1 cm (pseudo-cistitis)



## BG 8

S.D., girl, 14 years old when the event took place. She is a student, not married, has no children. She is now living with her sister. Her father and mother were killed on 2 August 1993, in Žeravice, when the Muslims had attacked that village. On that same occasion her left forearm had been wounded and the soldiers captured her, while her elder sister managed to escape. They first took her to Kladanj, where she spent one night, and then to Tuzla, to the orphanage, where there were only Muslim children. She was 14 years old at the time and she saw the Muslims burn Serb houses and take from them whatever was valuable. While she was in Kladanj she was almost beaten just because she is Serb. She was alone there. Then they took her in an ambulance car to have her wounds treated, after which they took her to the police station to question her, and from there they took her to Tuzla. The police again questioned her there and she was exchanged on 21 August 1993. The Muslim children in the orphanage harassed her constantly. They intimidated her, saying they were going to hang her, kill her, etc. The time spent with the orphans was even worse than the time spent with the soldiers. She was mostly harassed verbally, she wasn't physically abused.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: Scars on the left upper arm.



Picture No. 1 Scar on the left forearm, the result of a shot wound.

## BG 9

A.M., male, 15 years old when captured. A student. His parents and sister were killed in the village of Kravica, while he was captured on 13 December 1992 at Potočara, which is near Srebrenica. He was captured by Muslims, who took him to the camp in Guber Banja, near Srebrenica. They held him there for two and a half months, after which he was exchanged. He was beaten in the camp with all sorts of things: he was punched and kicked, and beaten with rifle butts. They also knocked him down, by which his right hip was dislocated, they also slit the skin on his face and neck, saying they were going to slaughter him. He wasn't raped nor was he burnt with cigarettes. In the end of his stay in the camp when they started to slaughter him he fainted. He doesn't know what had happened after that; he only remembers the events after he came through, which was in the MMA hospital in Belgrade. He was treated in this hospital for a year and 5 months. Because of the right hip injury he spent many months lying in a plaster cast, and he also had surgery of his face and left eye.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: deformity of face followed with neurological deficits, improper bite, major loss of sight, scars on the right side of the forehead, and right cheek, along the right branch of the mandible, on the right side of the neck and right knee. As a consequence of the severe physical and mental trauma experienced in the camp the examinee is disfigured, and there is an enduring change in his personality after the catastrophic experience; there is a non-organic sleeping disorder, with nightmares in the second part of the night, somatic dysfunction of the vegetative nerve system, atrophy of the left eyeball, bilateral impairment of sight, paralysis of the oculomotor nerve, paresis of facial nerve and paresis of the tongue and pharynx, which have altogether severely reduced his general and vocational capacities.



Picture No. 1 Deformity of face, the result of an injury inflicted by a blunt mechanical weapon



Picture No. 2 Scars on the right side of the face, the result of injuries inflicted by a blunt mechanical weapon, as well as scars on the neck, the result if an injury inflicted by the blade of a mechanical weapon



Picture No. 3 Scars on the right side of the face, the result of injuries inflicted by a blunt mechanical weapon, as well as scars on the neck, the result if an injury inflicted by the blade of a mechanical weapon



Picture No. 4 Scars on the right side of the face, the result of injuries inflicted by a blunt mechanical weapon



Picture No. 5 Scars on the right knee, the result of injuries inflicted by a blunt mechanical weapon

## BG 12

V.S., male, 33 years old when captured. He was captured as a soldier on 30 May 1994 in Šalmani, together with another combatant. He was taken to the prison in Bugojno, where he was held for 5 days, and where he was beaten day and night with bats and some planks, during which he was forced to sing. He was beaten by everyone - in the morning hours he was beaten by the soldiers and in the afternoon hours the locals would come to beat him. In his presence they battered to death his colleague Zoran Danilović, a.k.a. "Pigi", who died on 6 June 1994 just after they had been transferred to the camp in Travnik. They slit the skin on his face and they pulled out with pliers, and without any anaesthetics, a tooth that was loosened by the blows. He had a large wound on his head from the blows, which was treated by some doctors in Bugojno. While he was in the camp in Bugojno he was handcuffed all five days to a manhole lid and all the time there was cold water running from two hoses into his boots. When he was transferred to the camp Travnik he wasn't even "touched", not to mention beaten. He was exchanged from the camp in Travnik on 27 July 1994.

On the basis of medical files, forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on the face and head, atrophic changes in both shins and ankles, enduring change of personality, lumbar sacral syndrome, which have altogether severely reduced his general and vocational capacities.



Picture No. 1 Scar on the left cheek, the result of an injury inflicted by the blade of a mechanical weapon



## BG 14

P.B., male, 42 years old when captured. He was captured as a civilian in his firm on 20 May 1992 and taken to the village of Treštenica, where they held him for several days. Then he was transferred to the school in the village of Bakovići, and after 3-4 days he was taken to the "bathroom" of the railways in Banovići, which had been transformed into a camp. He was in this camp till 12 June 1992, when they transferred him to the camp in Tuzla, and 19 days later he was returned to the "bathroom", where he was till 2 November 1993, when he managed to escape while forced to dig trenches. He was beaten with poles, rifle butts, and he was kicked from the moment he had been captured. He was beaten constantly for 24 hours when he was returned from Tuzla to the railways "bathroom", and on this occasion he was beaten with truncheons and rifle butts. He was all black from the bruises. They beat him the most over the head and body, and on that occasion he had his left elbow dislocated. He never fainted during the beating but he did feel sick and vomited.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on the back and limbs.



Picture No. 1 Scar below the left shoulder blade, the result of an injury inflicted by a blunt mechanical weapon

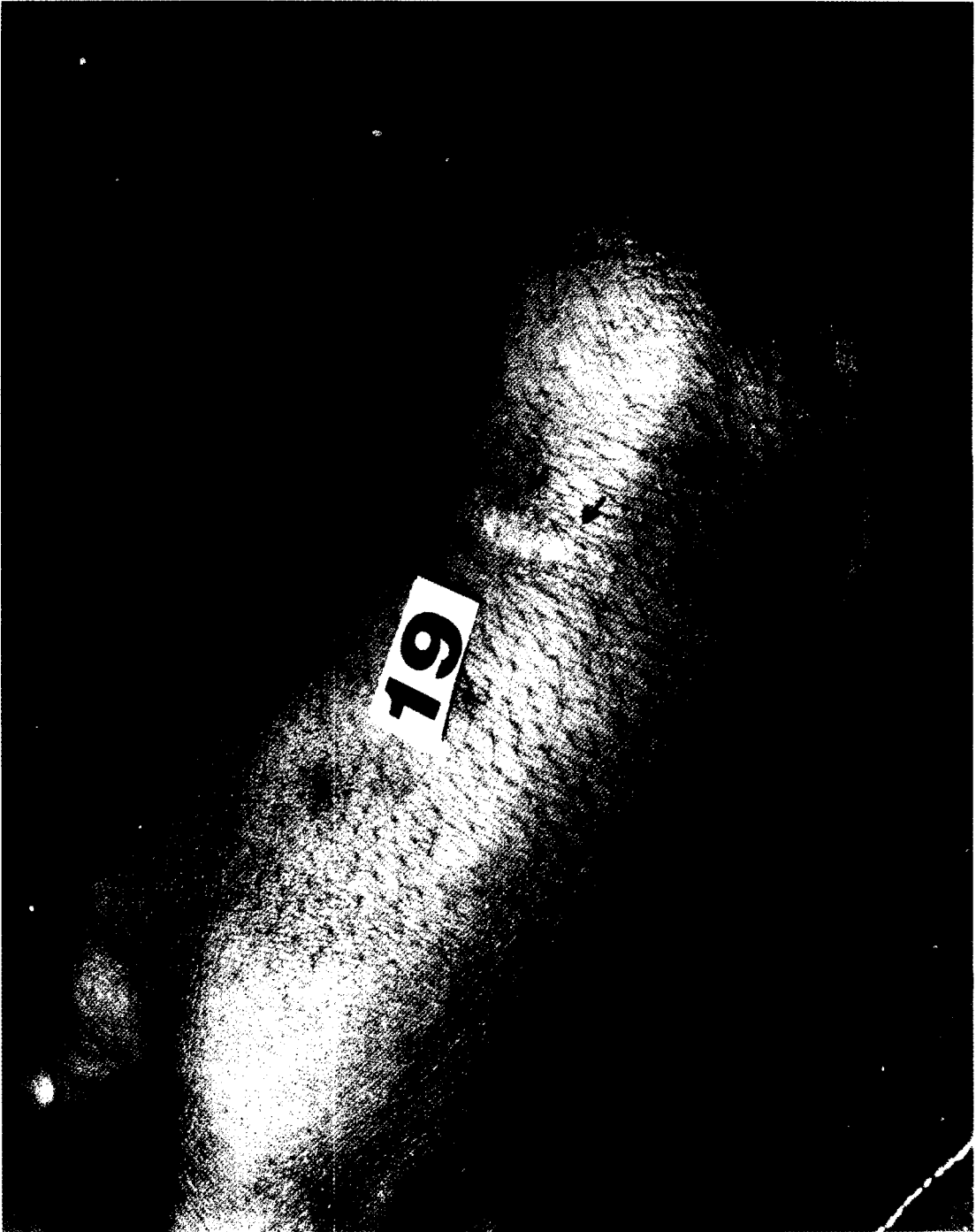


Picture No. 2 Scar on the right shin, the result of an injury inflicted by a blunt mechanical weapon

## BG 19

G.I., male, 23 years old when captured. He was captured as a soldier between Ozren and Vozuća on 21 July 1995. He was alone when he was captured. They had taken him to the camp in the village of Gostović, where he was beaten for 34 days, from the very moment he arrived. They beat him with various things: they kicked him with boots on, beat him with rifle butts, poles, with wooden club. They broke his nasal bone and ribs, and knocked out 11 of his teeth. All the time his hands and legs were tied with wire and chains, and he now has scars as a result. On 23 August 1995 they transferred him to the House of Correction in Zenica, from where he was exchanged on 10 January 1996.

On the basis of medical records and forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on the left wrist, and a post traumatic stress disorder which lasted for about a year, and in this period it severely reduced his general and vocational capacities.



Picture No. 1 Linear scar on the left wrist, the result of wires that were "cut into the skin"

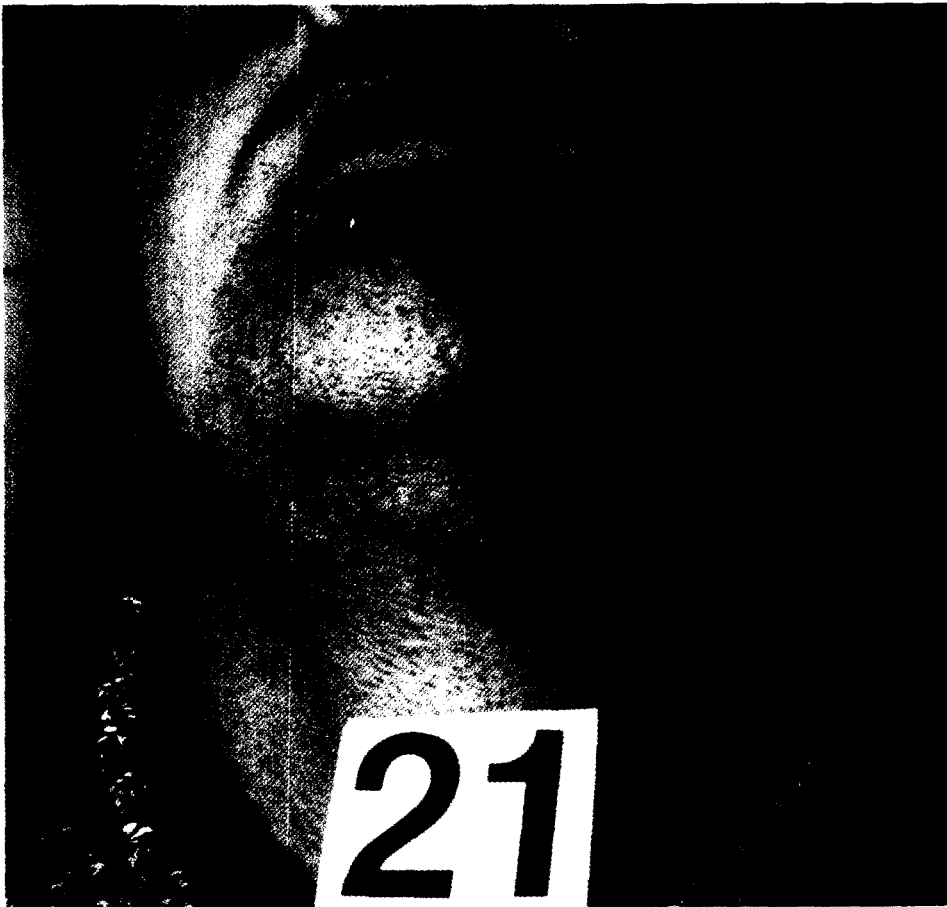
## BG 21

K.R., male, 20 years old when captured. On 15 May 1992, while he was doing his regular military duty, he was captured as a JNA soldier at the time when the JNA was withdrawing from Tuzla. He had been wounded in both legs and right arm, and was captured as a wounded soldier. He and many other soldiers were injured while they were being driven in the trucks from the town. After they had been injured most of the wounded soldiers were killed as soon as they were captured. They first gave him a punch in his face and then fired a shot into his mouth. After that he and some other soldiers were taken to the hospital in Tuzla where he had surgery of the mandible and of the injuries on his legs and arm. He was dismissed from the hospital on 9 June 1992 and sent to the prison in Tuzla, where they held him till 18 May 1993, when he was exchanged. While in prison he was also mentally harassed during the interrogations.



Picture No. 1 Scar behind the right ear, the result of a shot wound

The original discharge note from the Ear, Nose and Throat Department of the Medical Center in Tuzla, registered under No. 213/493, proves that he was treated in this hospital with the diagnosis: shot wound on the base of his tongue and cheek, with fractures of the mandible, shot wound in the left forearm and both thighs ("Vulnus sclopetarium faciei et baseos oris et linguae. Defecti mandibulae in regio 3-3. Vulnus sclopetarium antebrachii l.dex. et femoris ant.billi") He had been operated on in this hospital and when his condition improved he was discharged. The case history, which was signed by a doctor and also by the head of the ENT department (by Dr. Fuad Brkić and by the head Prof. Dr. B. Hajdarović), it is written that the patient is "sent to the clinic for maxillo-facial surgery of the MMA in Belgrade"; however, the anamnestic data and the date when he was released from prison, as well as the date when he was admitted to the MMA hospital in Belgrade prove that what was stated in the discharge note is not true. Namely, K.R. was not sent to the MMA in Belgrade for further treatment but was sent to the prison in Tuzla.



Picture No. 2 Scar under the chin, the result of surgery  
on the tongue after injury by a bullet

## BG 21

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: there are scars on the head and limbs, and there is an enduring change in his personality after the ferrible experience, which have altogether severely reduced his general and vocational capacities.



Picture No. 3 Scar on the right forearm, the result of a shot wound



Picture No. 4 Scar on the right thigh, the result of a shot wound

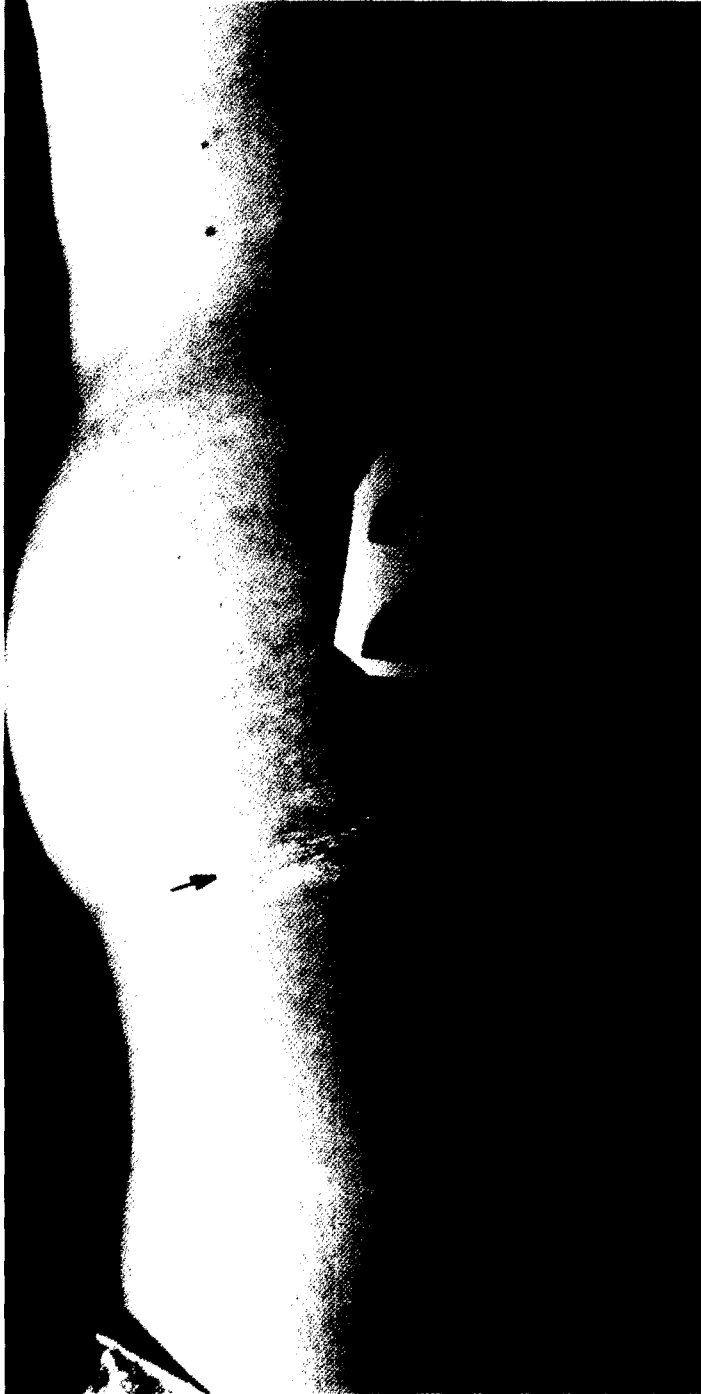


## Bg 25

R.S., male, 30 years old when captured. On 7 May 1992 some neighbour shot his father in the stomach while the latter was in his garden. He put his father in his car and started in the direction of the dispensary in Breza. From there his father was taken in an ambulance to Pale. However, after they had passed the Sarajevo airport in Butmir someone started to shoot at the ambulance car from the Muslim-held positions. His father, who had already been wounded, was killed by this fire, while the examinee was wounded in the stomach. The driver wasn't wounded and he managed to reach on foot the Serb-held positions. Being wounded he had been captured by the Muslims, and they took him to some flat in Sarajevo, where they harassed and beat him, during which they poured salt on the inflicted injuries on his back. After that some journalists with cameras arrived, forcing him to give a statement how the Serbs had shot him. In this entire period he wasn't given any medical treatment; they just put a sheet over the wounded stomach. He was exchanged the following day in Dobrinja, and he was then driven to the hospital in Pale, where he was given medical treatment for the first time. The following day he was transported to the MMA in Belgrade.

The original medical records prove that he was admitted to the hospital in Pale immediately after being exchanged, with the diagnosis of severe small arms shot wounds in the abdomen and abdominal organs, the abdominal cavity already severely inflamed. Because of this he was transferred to the MMA for further treatment immediately after the surgery in this hospital.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: many major scars on the abdomen, which have resulted in the weakness of the abdomen muscles and the forming of the "hanging belly".



Picture No. 1 Scar on the left flank, the result of a shot wound

Bg 25



Picture No. 2 "The hanging belly", the result of shot wounds,  
and the subsequent necessary surgery



Picture No. 3 X-ray showing metal foreign bodies in the soft tissue of the pelvis

## Bg 27

Nj.B., male, 53 years old when captured. He was captured as a civilian in his flat in Sarajevo on 1 May 1992 by the Green Berets of Juka Prazina. They took him to some "private prison", which was in fact a camp, where they held him for three days. They battered him so much that they thought he was dead, so they dumped him between two containers. When he came through at dawn he managed to reach Ilidža, which was the Serb territory. While he was in that camp he was beaten over his whole body and head. They kicked him with their boots on and beat him with rifle butts, metal bars, some metal tubes, and "who knows with what they hadn't". There were 15 men imprisoned in that camp. He didn't see any female camp prisoners. After he had fled to the Serb territory he was accommodated in the hotel "Terma", in Ilidža, where his injuries were regularly treated. His nose and right hand index finger were fractured by the battering, his head was "broken" and his lips "cut".



Picture No. 1 Scars on the lower lip, the result of an injury inflicted by a blunt mechanical weapon

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: deformity in the nasal pyramid because of improper healing of the nasal bones, deformity in the right hand index finger, scars (callus) on the parietal bone, scars on the head and lips, as well as a non-psychotic post-contusion organic psycho syndrome, which have altogether severely reduced his general and vocational capacities.



Picture No. 2 Deformity in the right hand index finger, the result of an injury inflicted by a blunt mechanical weapon

## BG 32

D.S., male, 19 years old when he was captured. He was captured as a soldier in the Nikšićka highland on 5 August 1994. He was captured after he had been wounded by small arms and shell fragments (right knee, right hip, stomach, lungs). Two Muslims had approached him and then one of them put a pistol barrel into his mouth, cursing his Serb mother and saying he was going to kill him. Then he fired two shots in his already injured left shin, and fired another bullet into his neck, from the left side. They put him on a canvass and they dragged him on it to the village of Brgole. When they reached it they came across some 10-12 elderly men who approached him and started to beat him with rifle butts, to kick him, and punch him. He also received a blow with the butt in his head, but he didn't faint from it. Then they put him into a car, tied his right arm, and started to question him about the disposition of the Serb forces. He was so worn out he could neither speak nor see. Then they gave him an injection in his vein and took him in an unknown direction. He fainted. As he was coming through he could see some spotlights (surgery in the hospital in Zenica). He could hear some voices and he saw a doctor sewing his intestine. Then he fainted again. As he was again coming through he could hear someone say "the Četnik is coming through". Then three doctors arrived, one of them being from Virginia (USA) and said he is one of the "doctor sans frontieres". He was told that he had been in a coma for 7 days and that not once did he regain consciousness. On that day they had decided to take him off the machines (having concluded that he was clinically dead). They transferred him to a room with 8 beds, with Muslim patients lying in it. Four of the seven Muslim patients could walk, and during the night they would come to his bed and give him blows in the stomach where the stitches were. Because of these blows the sutures snapped. This happened three times, and each time he was sewn again. He cannot tell how long he was in that hospital. However, when he was discharged he was transferred to the prison in Zenica. In that prison they once took him to a room with bars on its windows, where they put him on a table and tied him to it, and then they started to torture him: a Muslim turned on a drill 5 cm above his forehead, and another one turned on a motor saw over his genitals, while the third man hammered nails with wires into his shin bones. Then one of them took some kind of a truncheon, spilt some liquid on the tiles on the floor, and then brought that bat to the liquid on the floor, and he could see blue sparks coming from it (electric truncheon). All that time he was naked. Then one of the men approached him saying "well, you won't be able to aim any more" and he reached out to poke out his eye. Then the examinee fainted. When he came through he was back in the cell. The following day some foreigners had arrived and he was transferred to Sarajevo. He was on the stretchers all the time (he had an external fixture and a dislocated left hip). When they had reached the military hospital in Sarajevo they didn't want to admit him there, because he was a "Četnik", so he was sent to the hospital in Koševo, where he was guarded by 4 guards. One of them would give him blows, the other one spat on him, the third relieved himself on him. They molested him with hunger by immediately throwing out through the window the meal that the nurse had brought him. When admitted to the hospital doctor Faruk Kulenović told him that the doctors in Tuzla hadn't put the fixtures

well, and then he took a hammer and started to hammer the nails deeper into his bone without previously giving him any anaesthetic. From there he was transferred to the barracks Viktor Bubanj, and from there to Hrasno, to the hospital for retarded children, which had been transformed into a camp. From there they returned him to the "Viktor Bubanj" barracks, and then he experienced "the longest night in his life"; they pulled out with pliers the nails on his right foot toes, they extinguished cigarettes on his tongue, poked him with some needles, hurt his wounds so that they started to bleed, extracted blood from his veins with injections and then wrote names on the wall with his blood, threatened they were going to circumcise him, knocked out and broke three of his teeth, while one of the men was constantly beating his left ribs. When his torturers were worn out they sent in a man and said that he was allowed to do with him whatever he wished. When that man saw him all in blood, and stretched in quarters, he stopped, took a look of him, and "he didn't have the guts to approach me". In the morning the same men that had tortured me came. wiped the blood, cleaned everything in the room, put me in a car and took me to the central prison in Sarajevo. I was put in a cell on the 5th floor. In this prison the Red Cross registered me. Then they initiated legal proceedings against him, and the judge Kapo Muhidin interrogated and accused him.



Picture No. 1 Scar on the back of his neck, the result of a shot wound



## **BG 32**

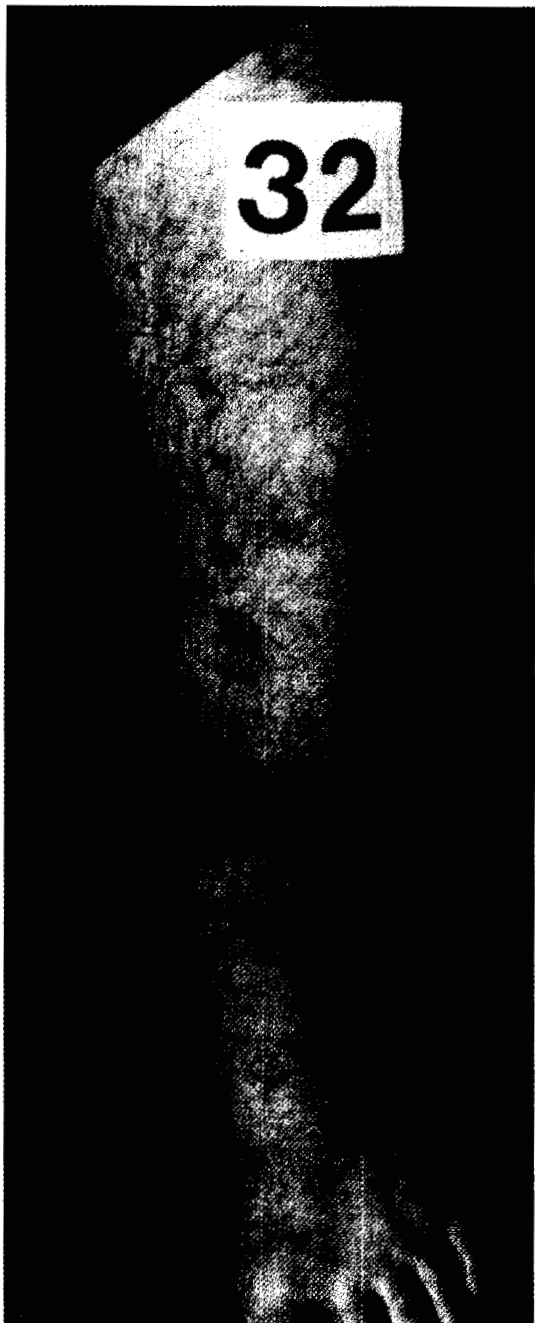
He shouted at him and then he and the typist started to create his minutes. In one moment, in a burst of rage, he stabbed a pencil into the examinee's right hand. He said he would be sentenced to 10 years of prison, but he was never handed the sentence. He was exchanged on 21 September 1994 on a bridge in Sarajevo.

The medical records from the hospitals in Zenica and Sarajevo prove that he was treated in these hospitals for shot wounds in the left shin and for inflammation of the bones, as well as for the injuries in the abdomen and abdominal organs inflicted by shell fragments.

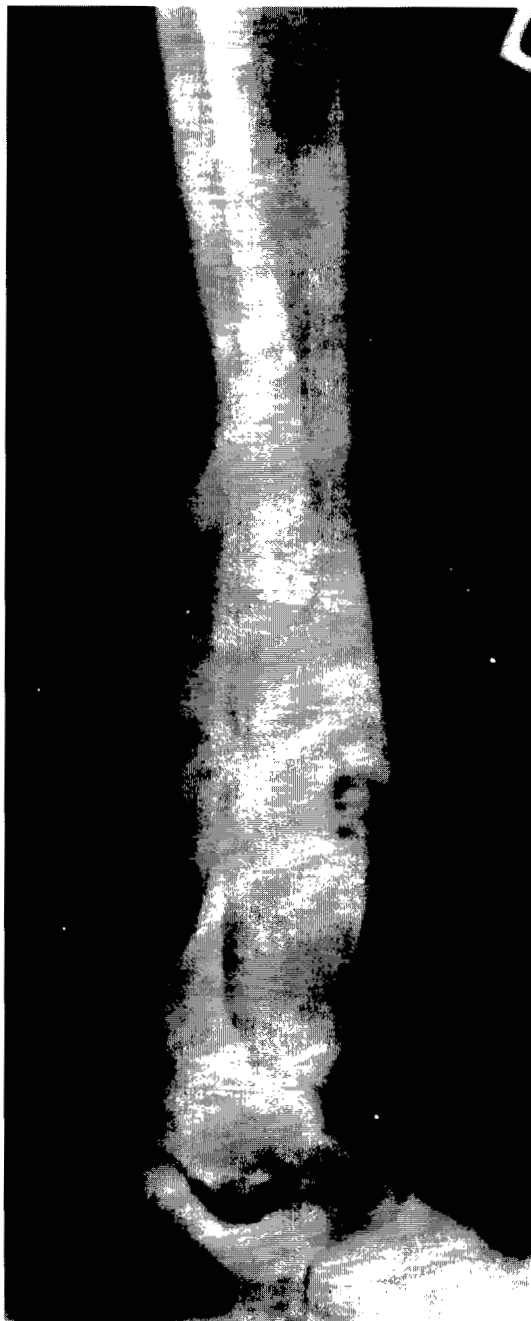
On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: he is disfigured because of a major deformation of the left shin, because the fracture hadn't healed properly, accompanied with paresis of the tibial and peroneal nerve, many scars on the face, neck, stomach, lower limbs and right hand, and as a result of the severe physical and mental trauma a post traumatic stress disorder has developed, which have altogether severely reduced his general and vocational capacities.



Picture No. 2 Scar on the back of the right hand, the result of a stab with the point of a pencil



Picture No. 3 Deformity of the left shin and many scars on it, the result injuries inflicted by shell fragments and bullets



Picture No. 4 X-ray showing improperly healed fracture in the left shin

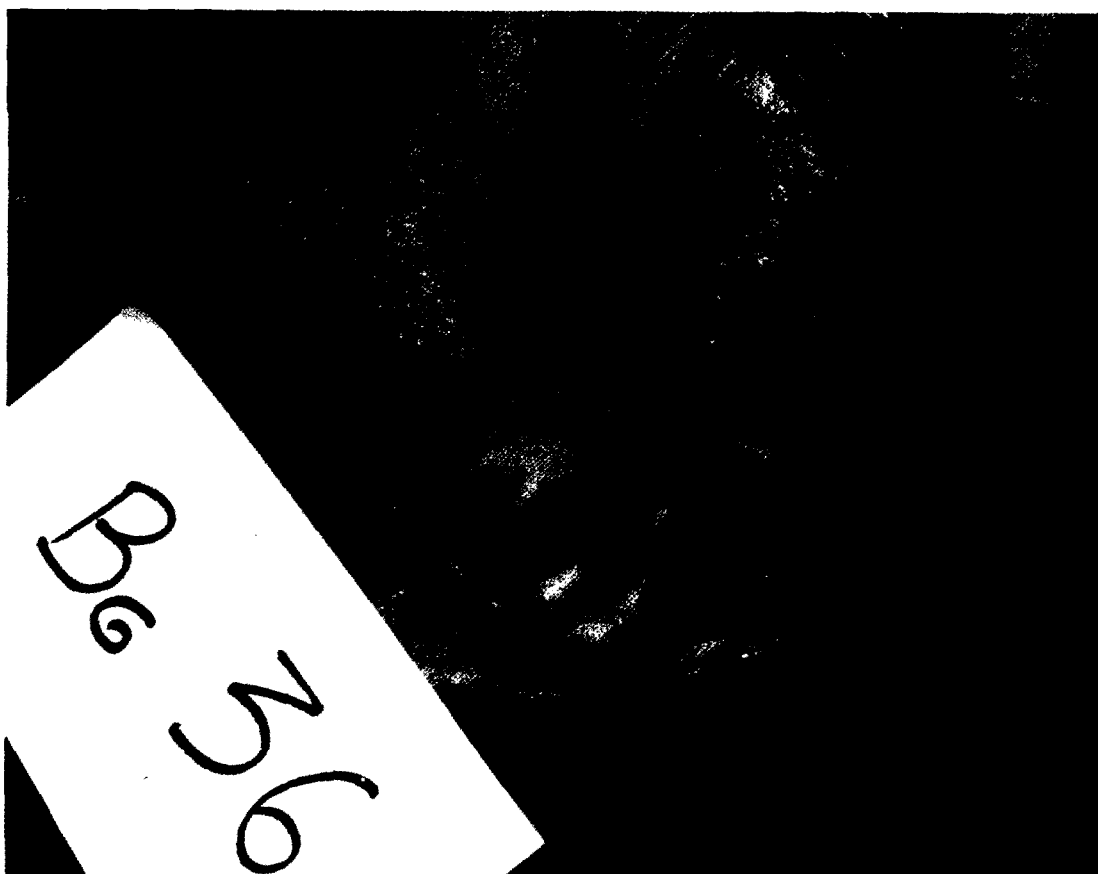
## Bg 36

M.R., male, 44 years old when captured. He was captured as a civilian in the streets of Lukovac on 23 July 1992. They took him to a deserted slaughterhouse near Lukovac, which had been transformed into a camp. There were other camp prisoners in it too. After being held there for three months he was transferred to the camp in Tuzla, where they interrogated him for a day. After that they released him (on 14 October 1992). They were beating him constantly, especially in the first 20 and the last two days. They beat him with all sorts of things, with boots on, truncheons, bats, rifle butts, and with everything at hand. He was black from the bruises and he fainted at least twenty times from the battering. They tortured him by bringing a lit cigarette to his eyeball, during which he had to keep his eyes open (a Muslim woman did this to him). They slit the skin on his left arm and left ear with knives. They tied his legs with chains, then they raised him upside down, and while he was hanging they beat him. They fractured his nose, ribs, and right hand. When released he got the hernia of the testicles.



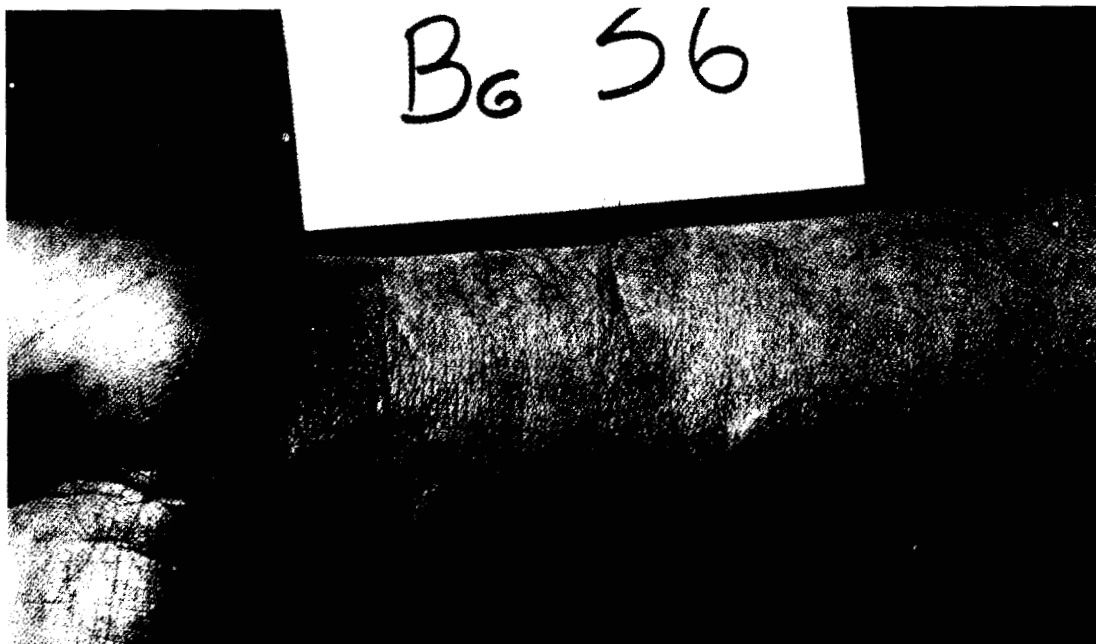
Picture No. 1 Deformity and a rough scar on the left auricle, the result of a cut with the blade of a mechanical weapon

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: deformity of the nose, the result of improper healing of the nasal bones, many scars (callus) where the ribs were broken, scar (callus) on the right radial bone, many scars on the left auricle and upper limbs, and as a result of the severe physical and mental trauma, an enduring change of personality has developed from the experiences in the camps, which have altogether severely reduced his general and vocational capacities.

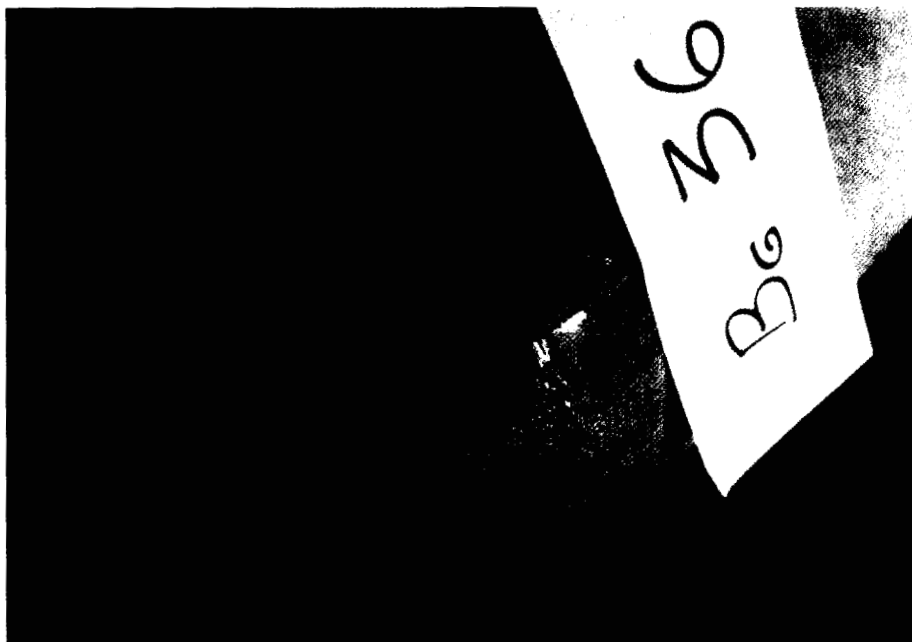


Picture No. 2 Deformity and a rough scar on the left auricle, the result of a cut with the blade of a mechanical weapon

BG 36



Picture No. 3 Scar on the right forearm, interior, the result of a cut with the blade of a mechanical weapon



Picture No. 4 Scar on the right forearm, exterior, the result of a cut with the blade of a mechanical weapon

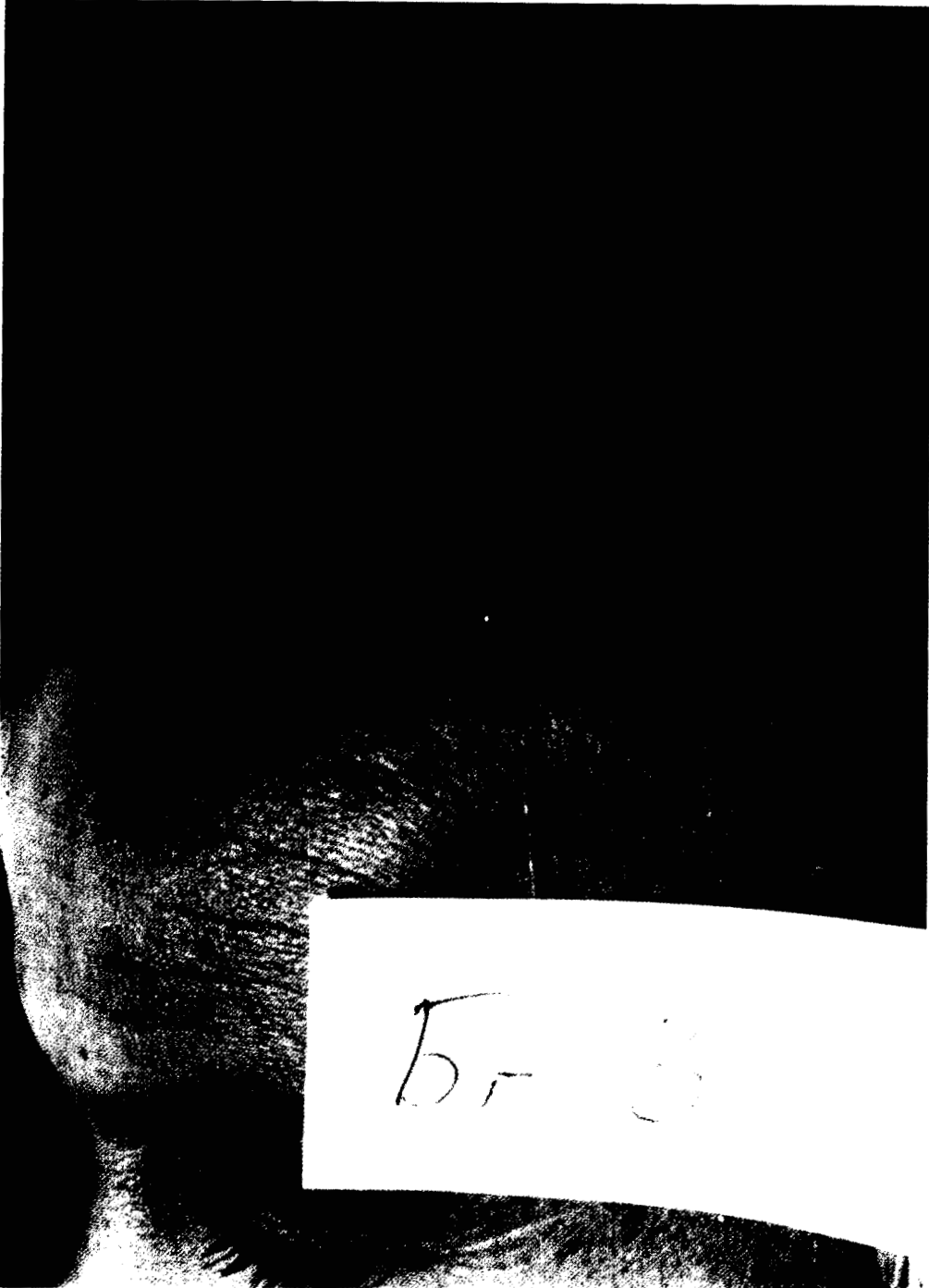


Picture No. 5 X-ray showing a scar (callus) on the right radial bone

## BG 38

G.N., male, 36 years old when captured. He was captured as a civilian in his flat in Sarajevo on 1 May 1992. They first held him in house detention in his flat, after which they took him to some basements that had been transformed into camps for Serbs. They held him in these camps for 3 months, after which he was transferred to the camp in the military "Viktor Bubanj" military barracks, where they held him for 51 days, after which he was exchanged. He was beaten non-stop from the moment he had been captured. He was first beaten in his flat for about 20 days, and the beatings continued in the basements. While he was in the barracks they beat him from time to time, but he did witness other camp prisoners being beaten to death. They kicked his whole body, beat him with metal tubes, truncheons, and with everything at hand, because of which he was all black. He was hanged for his hands several times so that only his toes were on the ground, and he was battered in that position all the time. He fainted many times during the battering. They knocked out several of his teeth. They broke three of his ribs, broke his head, and left knee. Once, while he was in the barracks, a doctor dressed his left hand where his skin had been ruptured by blows with metal tubes.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on the head and limbs, as well as non organic disturbance of sleep with nightmares in the second stage of the sleep, which have mildly reduced his general and vocational capacities.



Picture No. 1 Scar on the left side of the forehead, the result of an injury inflicted by a blunt mechanical object.



## BG 7

Š.B., male, 38 years old when captured. He was captured as a soldier near Višegrad, on 16 October 1992. He was taken to Međeđa and shut in some basement, where he spent two and a half months. Two of his friends were also camp prisoners in that camp, and on 25 December 1992 they were all transferred to the basement of a deserted house in Goražde. They were exchanged from there on 8 June 1993. They were beaten more in Goražde, especially in the first 15 days. Later they were beaten less. They were beaten with everything at hand: mostly with wooden and rubber bats, with rifle butts, and they were punched and kicked. In the entire imprisonment (4 and a half months) their hands were tied on their backs, and they were untied only when they were occasionally given food. He was permanently black from the bruises. His left side of the chest and the sternum hurt him the most. They slit his skin and now he has scars there. He lost about 50 kg while in prison, because they were very scarcely given food.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on the chest and back, damaged ischiatic nerve, Raynaud's syndrome, which have mildly reduced his general and vocational capacities.



Picture No. 1 Scars on the back, the result of the skin being slit with the blade of a mechanical weapon.

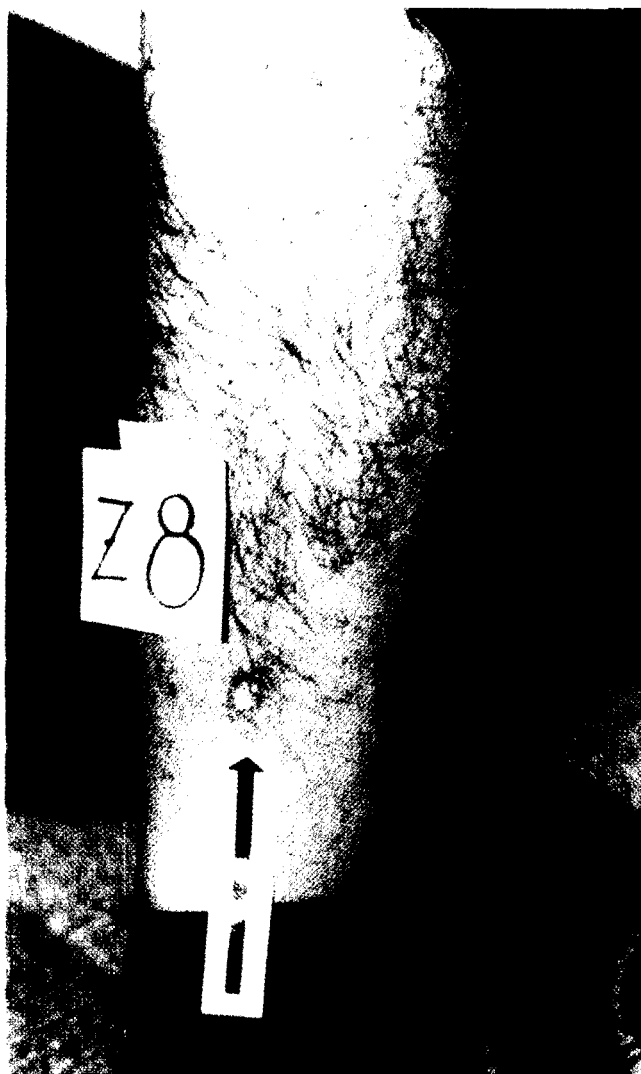
**Z 8**

R.N., male, 41 years old when captured. He was captured as a soldier on 24 September 1992. He was taken to the camp in Srebrenica, where they held him for 24 days, and was exchanged on 14 October 1992. They held him in the police station in Srebrenica, and from the moment he had been captured he was beaten at least once a day. His whole body was beaten, especially his limbs, chest, and stomach. He was beaten with bars, truncheons, rifle butts, punched and kicked. They poked his chest with knives and extinguished cigarettes on his legs. He was also hanged upside down and his body was then beaten. They broke all his teeth.



Picture No. 1 Scar on the left side of the thorax, the result of a stab with the tip and blade of a mechanical weapon

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: scars (callus) where the ribs were broken, bilateral, all teeth missing, scars on the chest and legs.



Picture No. 2 Scar on the right shin, the result of a burn with a lit cigarette

Š.V., male, 54 years old when captured. He was captured as a soldier on 24 September 1992 while defending his village. In the attack his son and brother were killed. They first took him to the camp in Srebrenica, where he stayed till 16 October 1992, when he was exchanged. As soon as he had been released he was taken to the hospital in Zvornik, and from there he was sent to Milići to recover. As soon as he was captured he was stoned, beaten with rifle butts, and kicked, but he experienced the worst battering in the camp, where he was beaten almost every night. The Chief of the police station beat him the most, and he was the one who broke his ribs on both sides of the rib cage. He was beaten with all sorts of things, but especially with steel cables over his flanks and legs, and with metal bars over his head and body. His skin was burnt with lit cigarettes, he was tortured with electricity, and the conductors were connected to his genitals, which caused terrible pain. Very often he fainted during the beatings, when they would splash water over him for him to come through, after which they would continue to batter him. Seven of his teeth were knocked out.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: many scars (callus) where ribs were fractured, bilateral, scars on the limbs.



Picture No. 1 Scars on the back of the hands,  
the result of burns with lit cigarettes

Z 4



Picture No. 2 Scar on the left knee, the result of an injury inflicted by a blunt mechanical object.



Picture No. 3 Scar on the right shin, the result of an injury inflicted by a blunt mechanical tool.



## BL 1

Ć.G., male, 40 years old when captured. He was captured as a soldier in Lušići on 3 May 1995 and was exchanged on 27 January 1976. They first took him to Krupa and then to the camp in Bihać, and from there to the prison for civilians in Bihać. They had beaten him all the time with rifle butts and truncheons. They forced him to play "Russian roulette"; they put three rounds in the magazine and then forced him to put the pistol barrel in his mouth and to trigger. Since he refused to trigger, he was stabbed in the abdomen with a knife. On one other occasion of the "Russian roulette" they forced another camp prisoner to trigger the pistol pointed at his head. He was beaten with handcuffs tight around his wrists - which often bled after the beating.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on the stomach and around the wrists, and he has nightmares followed by insomnia, which have altogether mildly reduced his general and vocational capacities.



Picture No. 1 Scar on the stomach, the result of a stab wound

## **BG 47**

S.S., male, 27 years old when captured. Captured as a policeman on 25 May 1995 near Grmuša. He was first taken to the headquarters and then to the basement of the motel "Unski Dijamant", where he was held for 4 days. From there he was taken to a wagon for livestock at the railway station Srbijani, where he was held for 40 days. Then he was returned to the basement of the motel "Unski Dijamant" where he stayed till 18 October 1995, and from there he was taken to the camp in Bihać, from which he was exchanged on 23 December 1995. He was beaten for the first time in the livestock wagon, which was followed with interrogation. He was beaten with truncheons and kicked. He wasn't given food and water (it was summer and the heat in the wagon was unbearable. The real torture started when he was taken to Bihać, where he was under investigation. He wasn't convicted. They beat him so fiercely that his skin kept rupturing from the blows. That is where his already impaired hearing deteriorated.

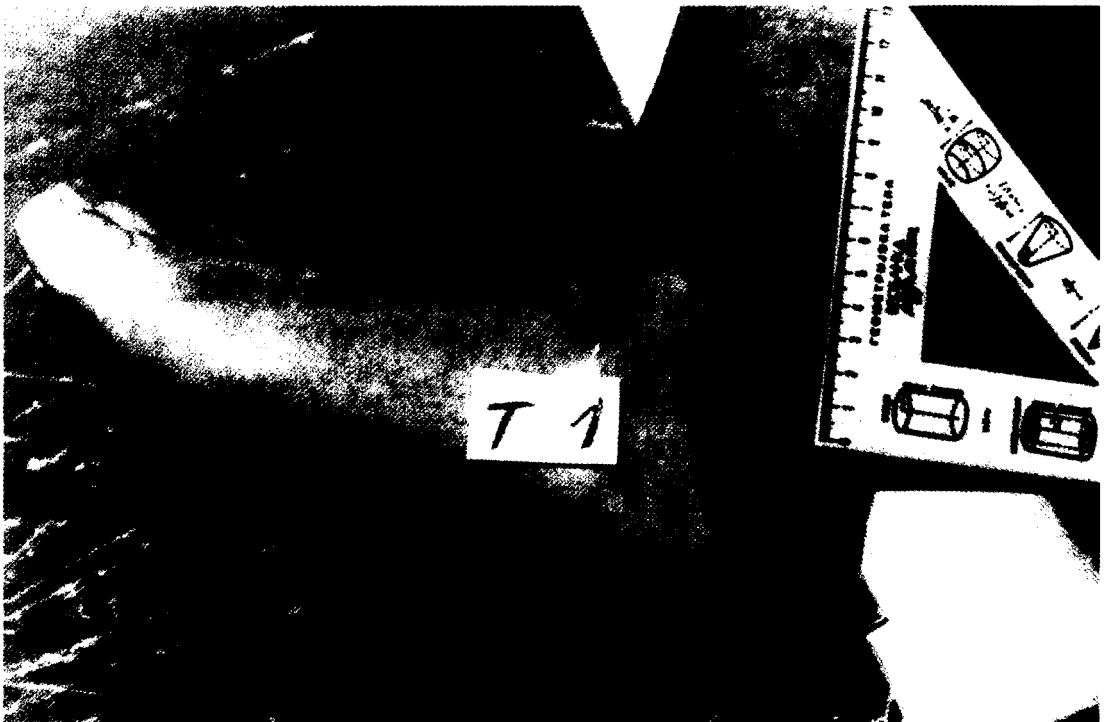
On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on the back, cervical-brachial syndrome with limited mobility in the left shoulder joint, lumbar- sacral syndrome and chronic post-traumatic stress disorder, which have altogether severely reduced his general and vocational capacities.



Picture No. 1 Scar on the back, the result of an injury inflicted with a blunt mechanical weapon

## T 1

R.B., male, 57 years old when captured. He was captured as a civilian on 8 April 1992 while travelling on the road Čapljina - Stolac. He was first taken to Metković, where he was held for three days, and from there he was taken to the camp "Lora", near Split, where he remained till 26 April 1992. From there he was transferred to the camp in Duvno and from there he was transferred to the camp in Ljubuški, where he was till 18 August 1992, when he was exchanged. He mentioned that he had been beaten in all the camps, with all sorts of things (kicked with boots on, punched, beaten with rifle butts, bowling pins, etc.). He was beaten the most in Metković, where he had been blindfolded for three days. Besides being battered he was also threatened that his eyes would be gouged out. While he was in Ljubuški he once fell in a coma. He was given three meals a day, some thin stew of mashed stuff, and in the last month he was given only one meal a day, as a penalty after the escape attempt of one camp prisoner.



Picture No.1 Scar on the left elbow, the result of the skin being ruptured

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: scars (callus) on the ribs, scars on the head, chest, left elbow, and in the region of both ankles, as well as post-traumatic stress disorder, which have altogether severely reduced his general and vocational capacities.



Picture No.2 Atrophic changes in the right foot, the result of injuries

### T 3

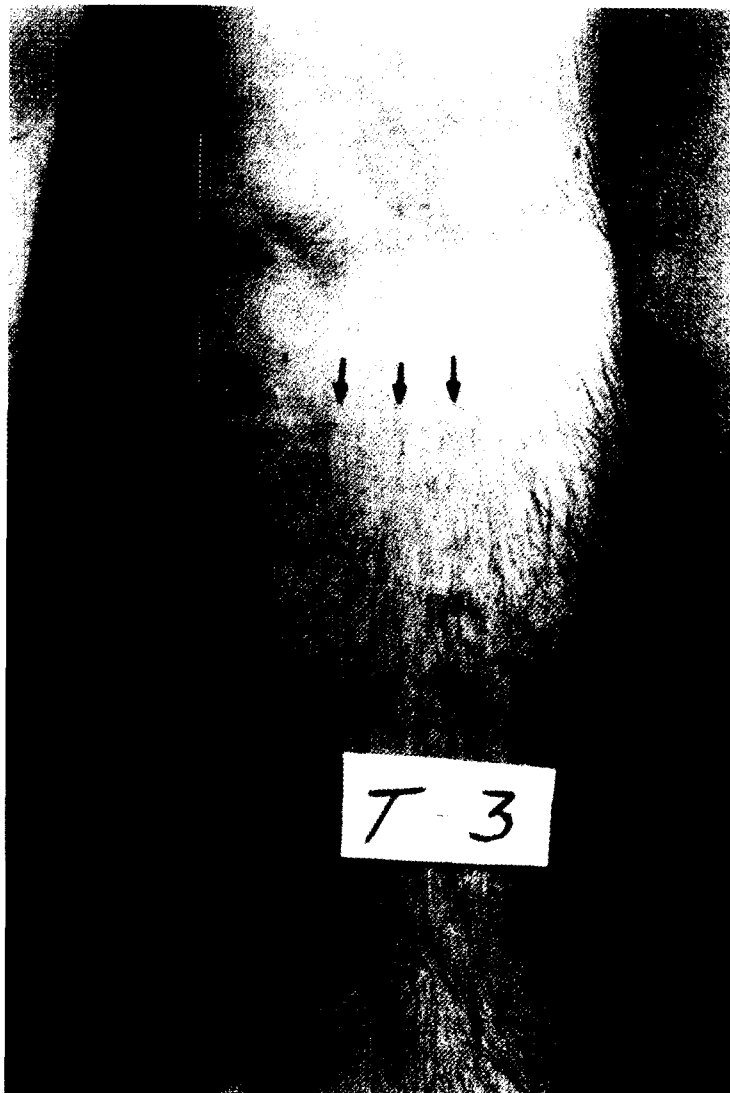
B.M., male, 43 years old when captured. He was captured as a police inspector in the streets of Mostar on 4 May 1992. He was immediately taken to the University of Mostar where he was held till 14 May 1992. From there he was transferred to Čelovina in the Šantićeva St., from there he was taken to the camps in Duvno and Lora and spent two days in each of them. After that he was sent to Lištica and was exchanged on 18 August 1992. He was beaten with "all sorts of things" in all the camps (with baseball bats, fists, cables, etc.) and especially with bats over his foot soles and palms. He was forced to eat lit cigarettes. His left arm was "slit" with a knife, after which they sewed the wounds without giving him any anaesthetics.



Picture No.1 Scars on the forehead, the result of the skin being ruptured with a blunt mechanical object

He was often hanged with handcuffs to heating pipes, with his legs separated. He was permanently black from the battering, and he also urinated blood. His left ribs were fractured. His teeth were broken and they dislocated his left shoulder.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: toothlessness in both jaws, scars (callus) on the head and limbs, as well as post-traumatic stress disorder, which have altogether severely reduced his general and vocational capacities.



Picture No.2 Scar on the left forearm, the result of the skin being slit



## T 4

B.M., male, 26 years old when captured. He was captured as a soldier in Žujeva Gruda, near Stolac, on 13 May 1992, and taken to Metković, where he was held for two days. From there he was transferred to Lora, where he was till 14 August 1992, when he was exchanged. His whole body was beaten with "all sorts of things" (kicked, punched, beaten with baseball bats and rifle butts, etc.), but the camp commander had forbidden the camp prisoners to be beaten on their heads. He was beaten singled out and in a group, and all the time he was black from the bruises. In Metković his arms and the arms of the other camp prisoners were pulled through the fence and tied with handcuffs on the other side, and then their backs were beaten with all sorts of things. The handcuffs cut into his wrists and he now has scars there. While in the camp Lora he was tortured in a special way - his ears were connected to the field telephone inductor or rectifier under voltage. He was shut in block "C" in Lora, and he was given a meal every 5-6 days, which was "something cooked", for which he thinks contained cabbage. Sometimes they were given a piece of bread.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on the back and left hand.



Picture No.1 Scar in the base of the left wrist, the result of handcuffs that were cut into the skin

## T 6

T.L., male, 62 years old when captured. He was captured as a civilian in his flat in Mostar on 18 April 1992. He was first taken to the camp "Bijeli Breg", near Mostar, where he was held till 9 June 1992., and was then transferred to Čelovina. He was exchanged by mediation of the Red Cross on 18 August 1992 in Stolac. As soon as he was captured he was beaten and he fainted, so he can't tell what were all the means he had been beaten with. He was threatened to be killed. Since the battering, while he was unconscious had fractured his left shin, he was admitted to the surgery department of the hospital in Mostar.



Picture No.1 Deformity in the left shin, with many scars and atrophic changes on the skin

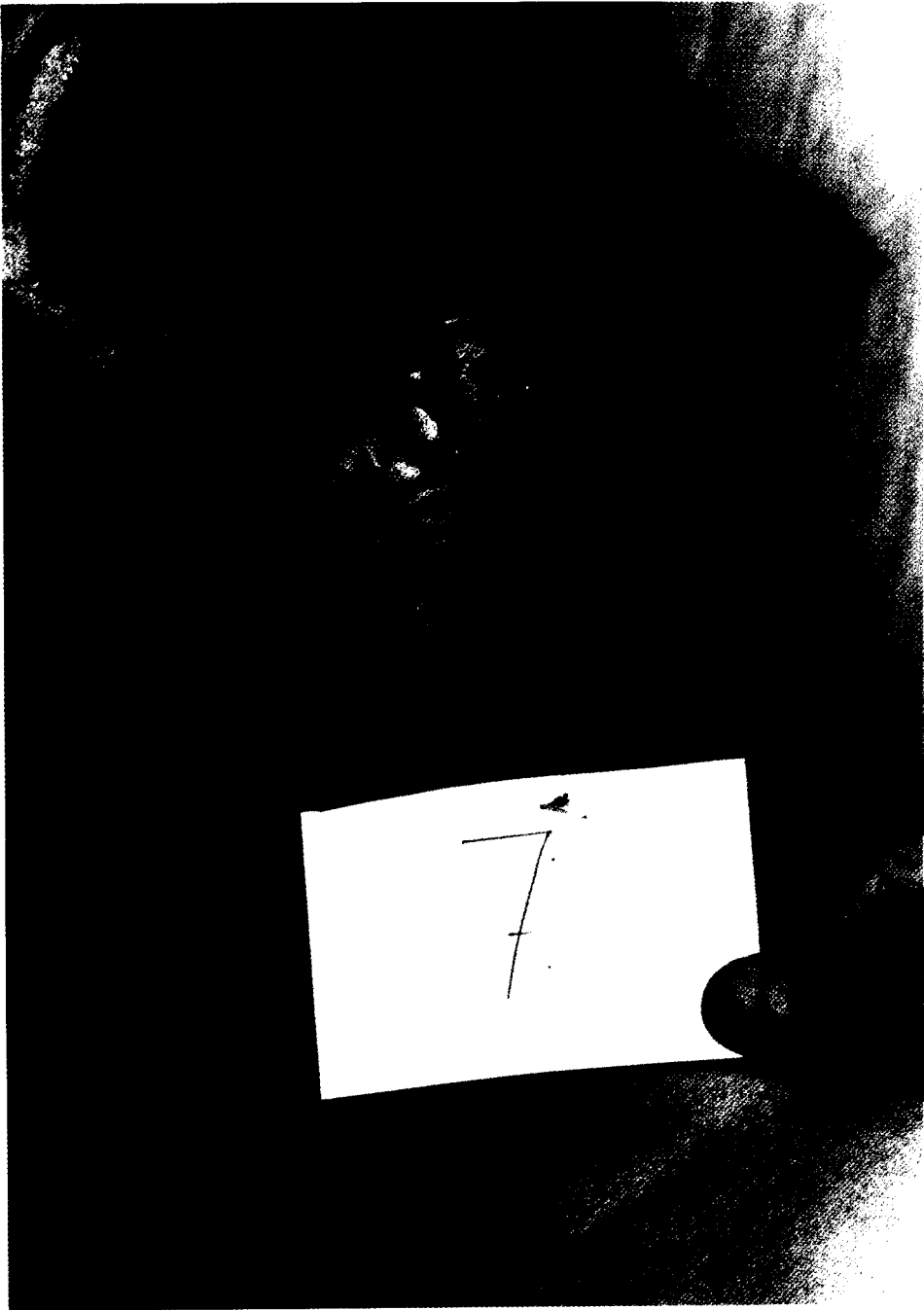
On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of torture, have been found in this examinee:



Picture No. 2 X-ray showing scars (callus) on the tibia, both on its superior and inferior end, after being treated by a surgery.

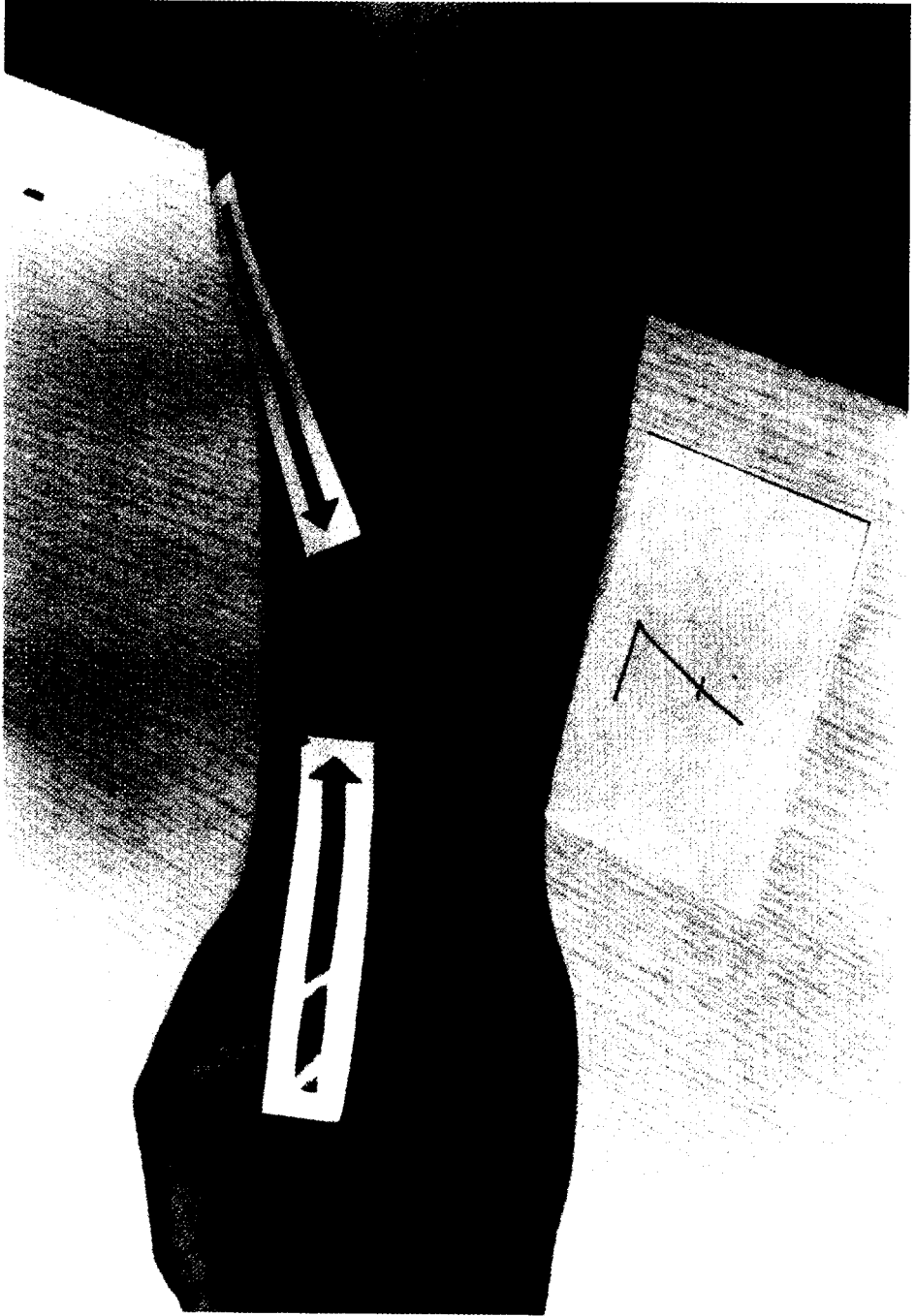
Ž.V., male, 32 years old when captured. He was captured as a soldier on 22 March 1992, near Orlov Kuk, in Popovo Polje. As soon as the following morning he was transferred from it to the camp Lora, where he was till 12 August 1992. From there he was taken to Kerestinac, and two days later, on 14 August 1992 he was exchanged. Very often they would sit on him and "poke him with a knife", and while he was in Lora they would connect his ears, which they had previously pierced, to a low voltage power source (they called this "earrings"). He was also beaten with baseball bats over his limbs, and especially over his legs and knees, he was kicked and punched. They would usually tie his eyes, and then they would beat him "with all sorts of things". Lit cigarettes were extinguished in his nose and mouth. Many times he was threatened to be killed; he was forced to sign some papers, he was taken for staged executions (a pistol would be put into his mouth), he was permanently spat on, forced to sing Ustashi songs. "Periodically" they were given some slops as a meal.

On the basis of medical records, forensic medical and neurological-psychiatric examinations the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: Scars on the limbs and left ear, a psycho-organic syndrome has developed, which altogether have severely reduced his general and vocational capacities.

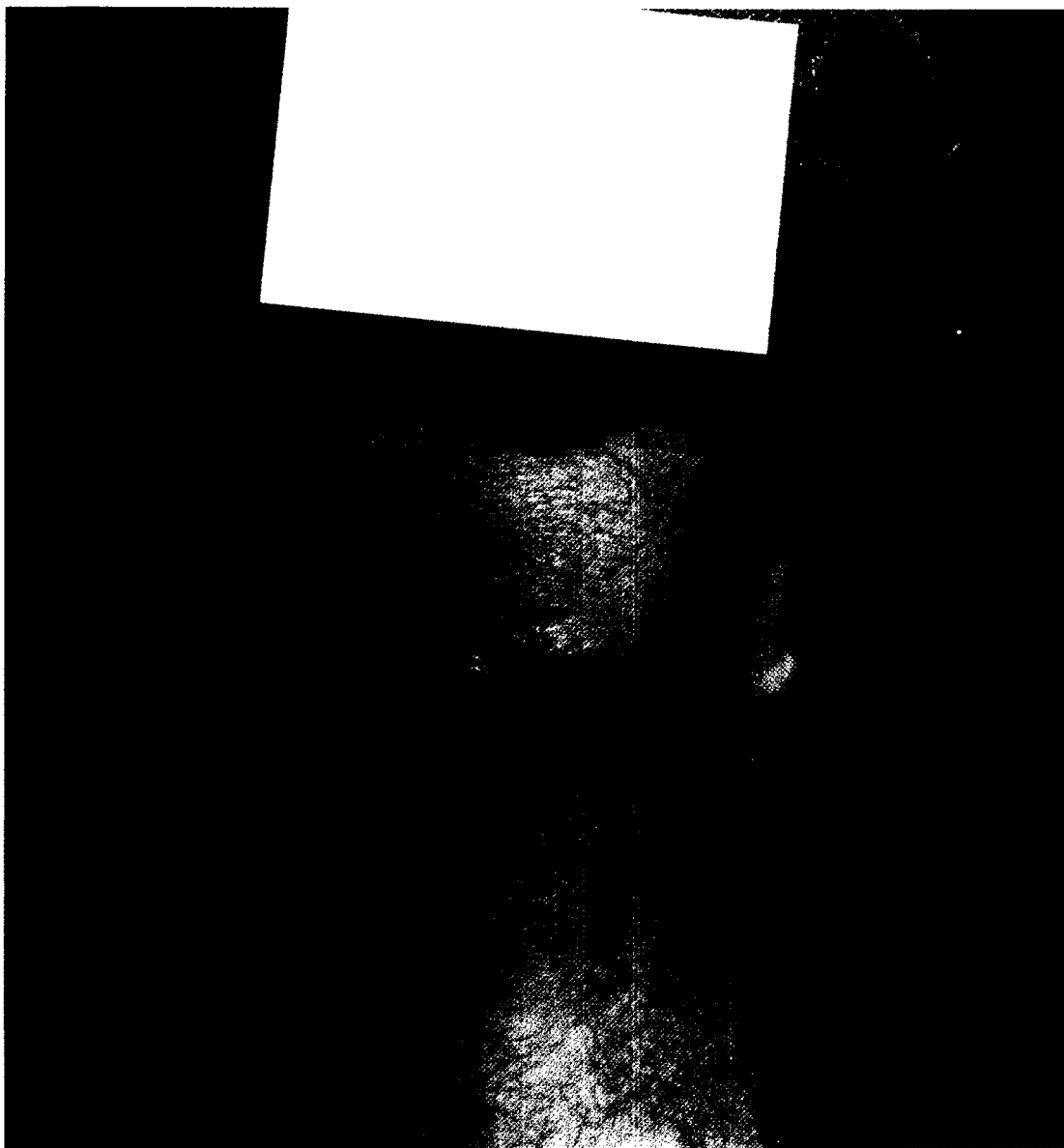


Picture No.1 Scar on the left ear, the result of the uvula being pulled

T 7



Picture No.2 Linear scar on the right forearm, where the skin was slit

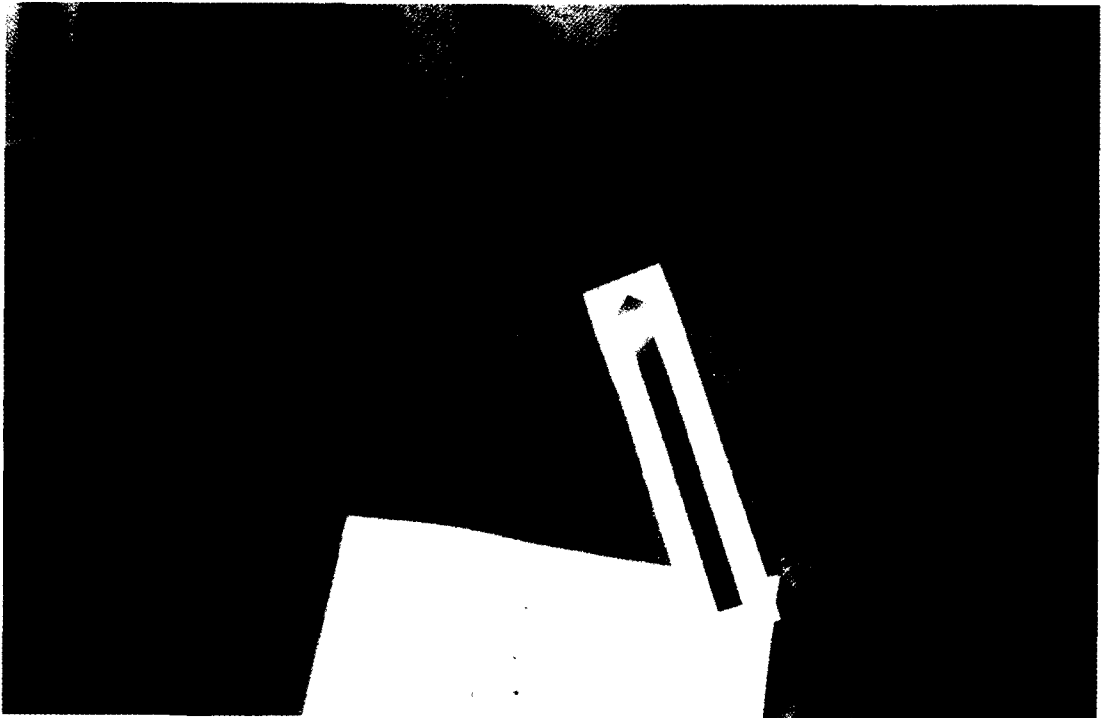


Picture No. 3 Scar on the left knee, where the sin was ruptured



## T 8

B.B., male, 51 years old when captured. He was captured as a civilian on 12 June 1992 in his flat in Čapljina. He was first taken to the camp in Dretelj, where he was till 17 August 1992, and from there he was transferred to the camps in Grabovina, Ljubuški, Lora, and then again to Ljubuški, and Rodoč. He was exchanged on 31 October 1992. He was beaten with "all sorts of things". He says he will never forget when he was forced to eat food that was mixed with his own blood. His whole body was beaten with rifle butts, pistols, he was kicked with boots on and punched, cigarette butts were extinguished on his neck and in his mouth and nose. He was beaten for no reason together with other camp prisoners, but also singled out. He was permanently threatened he would be executed, and he was several times taken for staged executions, just to be intimidated. The International Red Cross registered him only on 7 September 1992.



Picture No.1 Scar on the neck, anterior, the result of a lit cigarette on it extinguished

On the basis of forensic medical and neurological-psychiatric examinations the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: scars on the head, neck and hands, as well as a post traumatic syndrome with suicidal ideas, which altogether have severely reduced his general and vocational capacities.



Picture No. 2 Scar on the right hand finger, the result of a lit cigarette on it extinguished, and scar on the left-hand finger, the result of a cut

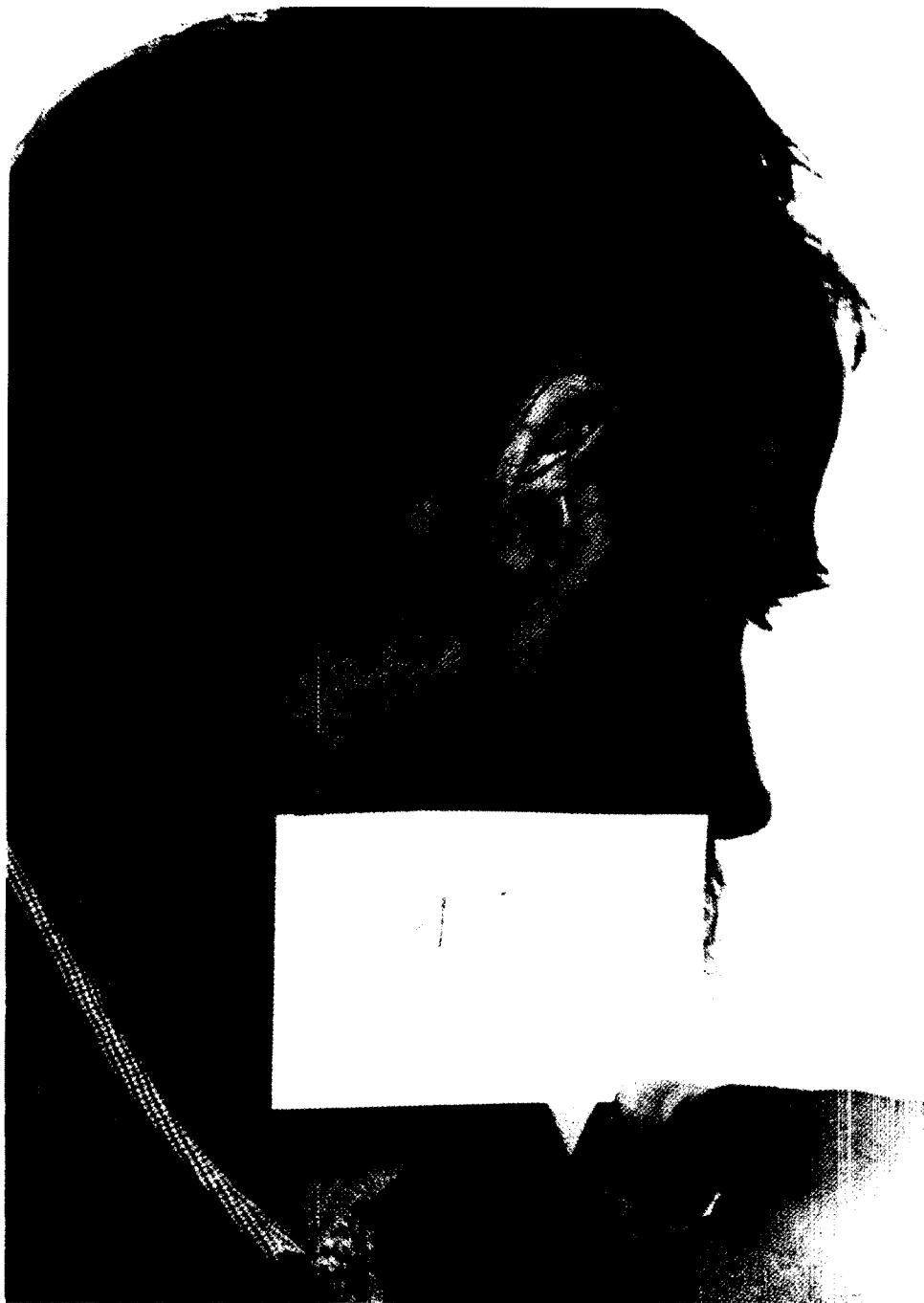
## T 10

Z.Z., male, 35 years old when captured. He was captured as a civilian on 26 May 1992, and taken to the sports hall in Konjic, where he was immediately battered. That same night he was transferred to the camp in Čelebić, into the tunnel, where he was held till 28/29 May in 1992, and from there he was returned to Konjic and again taken back to Čelebić, to the No. 6. Because of the injuries inflicted by the battering he was admitted to the Medical Center in Konjic. In late September 1992 he was released and ordered not to leave his village (all the time he was surrounded by Muslims and Croats). He was captured for the second time and taken to the camp located in the sports hall in Konjic, where he stood trial. He was there till 9 March 1993, when he was taken to Butmir, near Sarajevo, when he was exchanged. From the time he was captured his whole body was beaten with "all sorts of things", but especially his head, arms, and shins. He suffered hunger ("they only gave me enough grass to graze"). He was beaten with some "electric bats" over his back, shut into manholes where there was no air, during which he was observed, and when he would start losing consciousness the lid would be raised. The 200 camp prisoners were given 2 minutes to go and urinate, and if anyone would be late he would be battered.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: scars on the head, legs and right auricle, as well as post traumatic stress syndrome, which have altogether severely reduced his general and vocational capacities.



Picture No.1 Scar on the head where the skin was ruptured by a blunt mechanical weapon



Picture No.2 Scar on the right auricle where the skin was ruptured by a blunt mechanical weapon

P.L., male, 45 years old when captured. He was captured on 16 June 1992 and was immediately taken to the village of Svinjarevina, where he spent a day. From there he was taken to Mostar, then he was transferred to the camp in Metković, where he was till 25 June 1992, and from there to the camp in Lora, where he was till 10/11 August 1992. From there he was transferred to the prison Kerestinac, where he was till 14 August 1992, when he was exchanged. His whole body was being battered from the very beginning, day and night, without any order or system, and he was battered to the very last day. He was beaten with bats, rubber truncheons, rifle butts, wires, and kicked with boots on. Cigarettes were extinguished on his skin, a rubber hose with water running from it was put into his mouth. Each camp prisoner was forced to drink a glass of salty water and then they forced them to stand in the sun for 5-6 hours, naked, not allowed to move at all. His nose and fingers, or genitals and nose were connected to a low voltage power source, etc. He was forced to "telephone", by connecting him to a power source, during which he had cramps, and after this torture he was forced to stand still for 3-4 hours.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: scars (callus) on the maxilla, followed by a bump in the soft tissue on the left side of the face, scars on the ribs, scars on the head and right shin, as well as post-traumatic stress syndrome, which have altogether severely reduced his general and vocational capacities.



Picture No.1 Scars on the right shin, where the skin was ruptured by a blunt mechanical weapon

T.D., male, 35 years old when captured. He was captured as a civilian near Muminovača, while driving a car, on 8 April 1992. He was taken to the camp in Metković, and then to the camp in Lora, to Stopanići, near Duvno, and he was exchanged from the camp in Ljubuški on 18 August 1992. His whole body was beaten with bars, bats, and it was kicked and punched several times a day, from the moment he had been captured. He was mostly beaten over his head, hands, flanks, stomach, and legs. Lit cigarettes were extinguished on his body, his hands were stabbed with a knife, and then the injuries were sewn without him being given any anaesthetic. His beard was burnt, he was forced to eat salt, crushed stone and sand; he had to suffer hunger and thirst (on one occasion he was punished with 15 days of starvation); he was forced to "drive" the chair, as if it were a truck, on whose edges were pikes on which he would prick himself; on several occasions his ears and nose, or his nose and genitals would be connected to a low voltage power source; he was forced to bark as a dog in front of the others; he was threatened and insulted every day. His right upper arm was shot at from point blank range from a pistol, and his left hip and left upper arm were shot at with a shotgun. He was told that his daughters had been raped and roasted in the crypt in Prebilovci. He had to suffer thirst and hunger. Several times a day he was forced to swallow a handful of salt without being given any water.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: deformities in fingers on both hands as well as many scars on the body and limbs, which have caused disfigurement, as well as post-traumatic stress disorder, which altogether has severely reduced his general and vocational capacities.



Picture No.1 Deformity in the 4th and 5th right hand fingers, the result of a shot wound in the right upper arm (by which the ulnar nerve was damaged), as well as injuries of the fingers inflicted by a blunt mechanical weapon



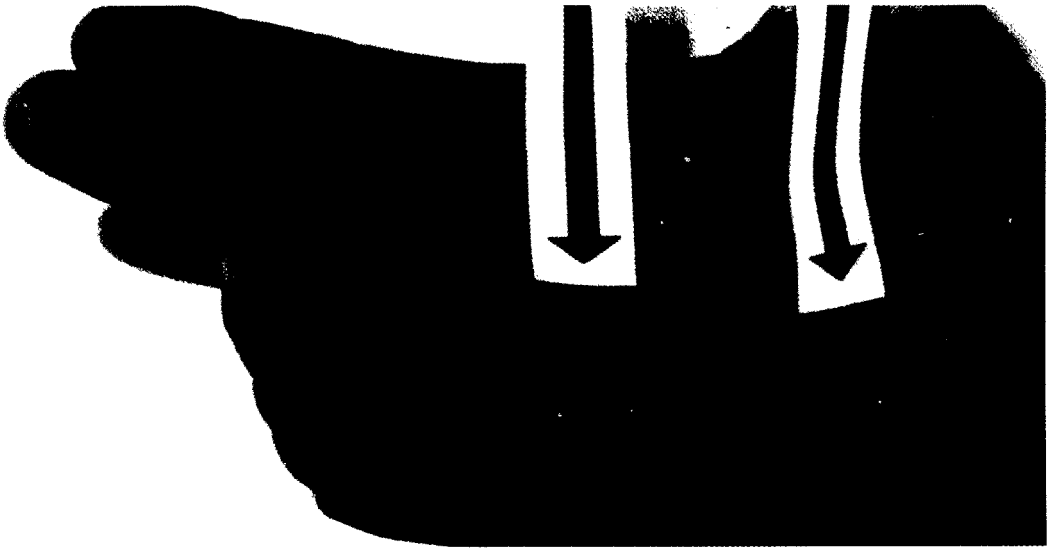
**T 13**



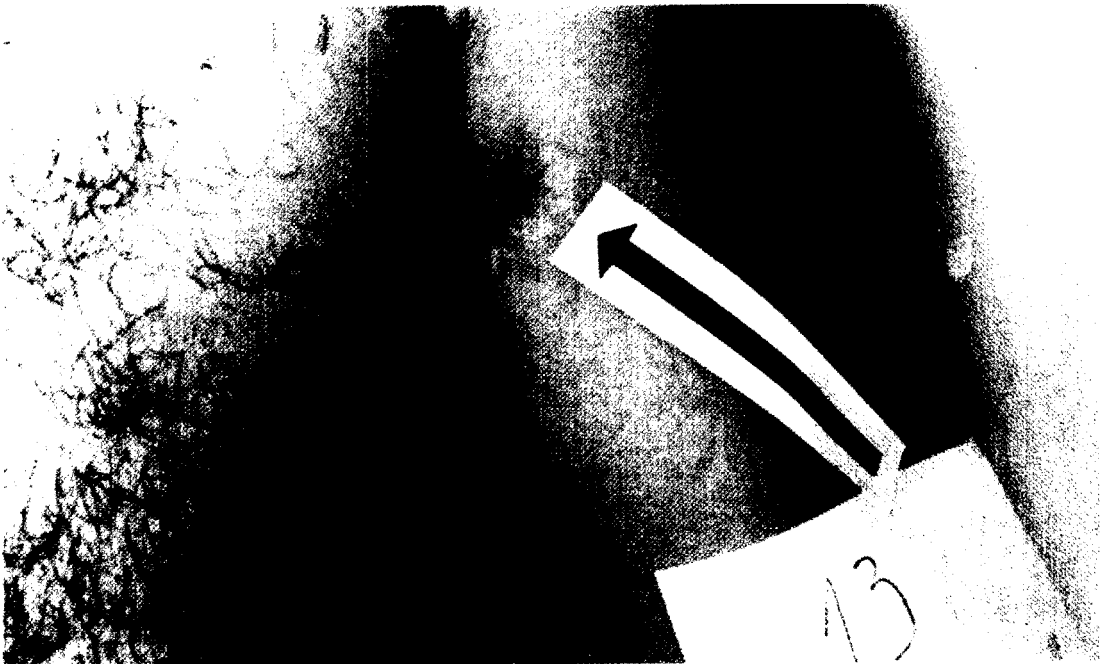
Picture No.2 Deformity in the 4th and 5th left-hand fingers, the result of a shot wound in the left upper arm, as well as injuries of the fingers (on the palm side), inflicted by a blunt mechanical weapon



Picture No. 3 Deformity in the 4th and 5th left hand fingers, the result of a shot wound in the left upper arm, as well as injuries of the fingers (on the back of the hand), inflicted by a blunt mechanical weapon

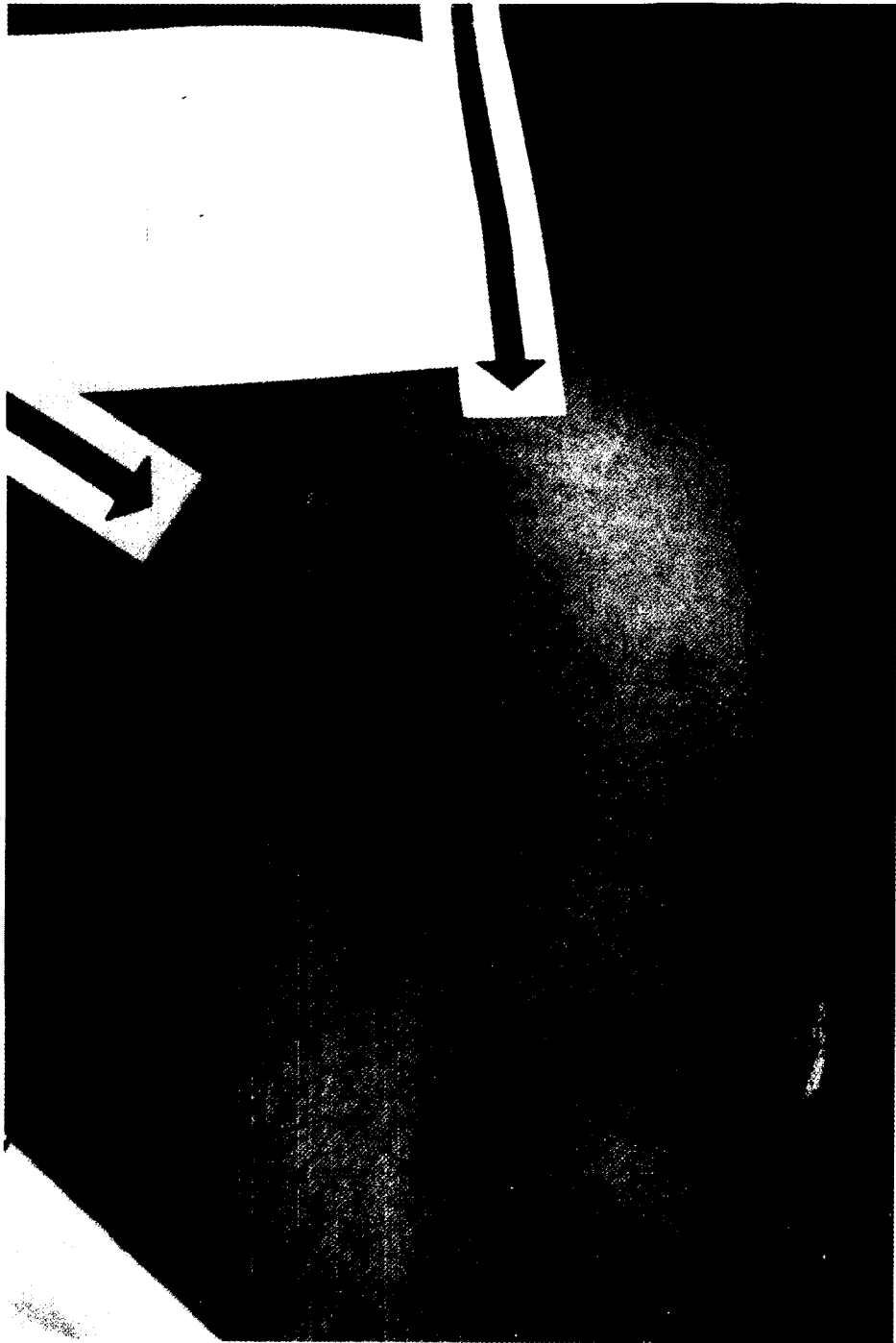


Picture No. 4 Linear scar on the right palm, the result of cuts



Picture No. 5 Scar on the left upper arm, the result of a shot wound

T 13



Picture No. 6 Scars on the left groin, the result of injuries inflicted by buckshot fired from a point blank range



Picture No. 7 X-ray showing buckshot in the soft tissue  
near the left thigh bone, superior

## T 18

M.K., female, 46 years old when captured. She was captured as a civilian in her flat in Mostar on 5 July 1992 and she was taken to another flat where she found another captured Serb. She was held in that flat till 14 July 1992 and was then taken to the prison in Mostar, where other Serb women had also been taken. She was held in this prison for about 10 days and was then taken back to the flat. In August she managed to escape from this flat and pass to the left bank in Mostar, where her flat was. She found her flat completely looted. In late August she was captured again and was handcuffed to the old bridge in Mostar. After being tied like this for several hours she was taken to



Picture No. 1 Linear scar on the right thigh where her skin was slit

the camp located in the Mostar university, in Šantićeva St., and from where she was transferred to Lora. She was exchanged on 31 October 1992. She was beaten and tortured everywhere, but she was treated the worst in the prison in Mostar. Several times they led her for staged executions, during which they would fire beside her. One night she was raped by ten men, after which they battered her. They tortured her by burning her skin with red-hot bars, and they slit her skin with a knife; she was trampled on, especially her shins. They poked her left shin with a knife, and on one occasion her left thigh was beaten with some kind of a whip, after which it was bleeding.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: scars on both hands, left and right shin, as well as post-traumatic stress disorder, which have altogether severely reduced her general and vocational capacities.



Picture No. 2 Scars on the left knee where she was injured  
with a blunt mechanical object

## BL 14

Dj.S., male, 67 years old when captured. On 12 July 1992 he was led out of his house with his wife and neighbours, and they were taken first to the camp in Konjic. They were beaten there, after which he was taken to the camp in Čelebići. His wife and son had been released immediately, but they were both killed when they returned home. His ear was cut off in the camp in Čelebići with some object, and they also wanted to slaughter him and to gouge out his eye. He was released in late 1992. His two sons were also in the camp in Čelebići, but they were not shut in the same cell.

On the basis of forensic medical and neurological-psychiatric examinations the following consequences have been found in this examinee: the superior part of the left auricle is missing, since it was cut off, as well as chronic depression and psychosomatic disorder, which have severely reduced his general and vocational capacities.



Picture No. 1 Superior part of the left auricle is missing  
because it was cut off



## BG 6

D.O., female, 36 years old when captured. Married, three children. Taken from her office on 05.05.1992 by soldiers. She was taken to Dretelj barracks, which later became the camp. She was there until 17.08.1992 and then she was transferred to a camp in Ljubuški, from which she was exchanged on 18.08.1992. In Dretelj she was first taken to a room where she was the only one and they started beating her. They said that they will rape her and beat her face and body by fists. Then she was returned to the common cell. In the evening came their colonel Blaž Kraljević and there was also a certain Sejo from Crikvenica (commander of these barracks) and they started questioning her. Nothing happened that night. On 06.05.1992 she was raped for the first time, by the commander Sejo and one soldier. Tomorrow the raping continued, by certain Vranješ, called »Cikoja« and the next day by certain Salko. The rape was always carried out in a separate room, without the presence of other prisoners in the camp. Next days they continued to rape her. They raped her 5-6 days in a row and then they were beating her, threatened her by knives and humiliated her in every other way. She was always raped by two or three of them at a time, sometimes even by 4 to 5. »They could do to Serbs and to her »whatever their imagination allowed them«, »that did not exist even in the movies«. When the soldiers from Mostar came the women had to fully undress and, threatened by the gun, they had to insert batons in own vagina, or to do it one to another. »Knife always at your throat« as a threat was a usual procedure. The women were beaten, ill-treated, needles were stuck under their nails, they were raped, they even raped a women 70-years old, they burned their hair, cut it etc. It all happened daily, until mid June 1992. Particularly active were Mediæ Ivan from Donji Radišići near Ljubuški, then Šešelj Željko, Šešelj Luka, Bjeliš Zvonimir and a certain American "Joe" and there was also some man from Australia, an emigrant called "Didon". Petrušić Ivan was the commander of their militia and "investigator".

She would be sitting naked on a chair and one of them would question her, the second would write and the third would stuck needles under her nails and hit her hands by batons. Then they would take her to be raped: oral, vaginal, anal rape took place. For her it lasted one month and a half continually. After that they would stop. There was no washing. For the said month and a half she lost about 16 kilograms. Before she was taken to the camp she had a spiral inserted, so she did not become pregnant. She did not react to verbal insults, as if "they become benumbed to everything". She thinks that about 80 women and 120 men were in the camp at that time.

On the basis of forensic and neurological-psychiatric examination it was established that presently there are: scars on the right back of the hand, radiculopathy, cervicalgia, lumboschialgia, somatic dysfunction of the vegetative system and an enduring change of personality after the catastrophic experience which heavily reduced her general and vocational capacities.

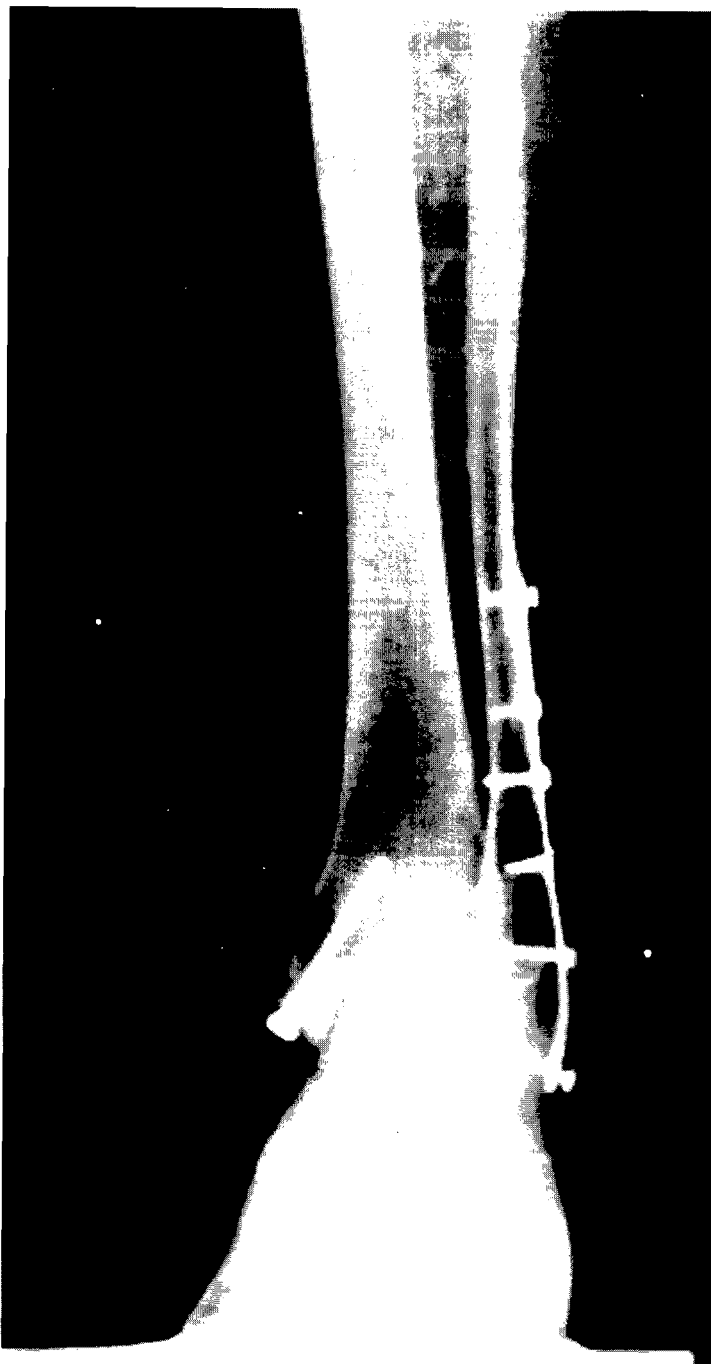


Picture No. 1 Scar on the right dorsal part of the hand from an injury inflicted by obtuse end of a mechanical tool

## BG 33

K.J., female, 66 years old when captured. She is a housewife without children, who had lived in Mostar since 1950, and was captured in that town on 9 May 1992 in her flat. She was first taken to the prison in Mostar, where she was held for 27 days, and from there she was transferred to the camp Dretelj, where her leg was fractured by a blow. She was exchanged on 18 August 1992. From the moment she had been captured she was beaten, and in the prison her head was beaten, because of which her right eye was "closed". She was beaten all over her body and she was "all black" when exchanged. In the prison in Mostar two golden dental bridges and 8 teeth, that had a gold cup over them, were pulled out. She was cursed at and threatened and they didn't believe her when she said she had no children. Every night drunken soldiers would come to the camp from Ljubuški to beat the male camp prisoners that were in the room next door ("every morning they would carry away those that had been killed by the battering") and they would throw them in some reservoirs, which the JNA had used for storing fuel, and burn the bodies there. She was given medical treatment for the first time in Trebinje, after she had been exchanged. After the camp she got diabetes.

On the basis of forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: gait disorder, as a result of limited mobility in the left ankle which was fractured, which has mildly reduced her general and vocational capacities.



Picture No. 1 X-ray showing scars (callus) of the fractures of the left shin bone, inferior, which were later operated on Individual Cases

## BG 34

D.G., male, 35 years old when the event happened. He was wounded in an ambulance car in the very center of Prijedor, on 30 May 1992 at about 04.00 hours. He was driving an ambulance of the Red Cross, which was appropriately designated. This happened when the Muslims launched an attack on Prijedor. His left and right upper legs, as well as his right upper arm, left forearm, right shoulder, chest and left hand were injured. He was first transferred to the hospital in Prijedor, then to Banja Luka, and the same evening he was transported by helicopter to Belgrade, where he was treated for about 18 months altogether.

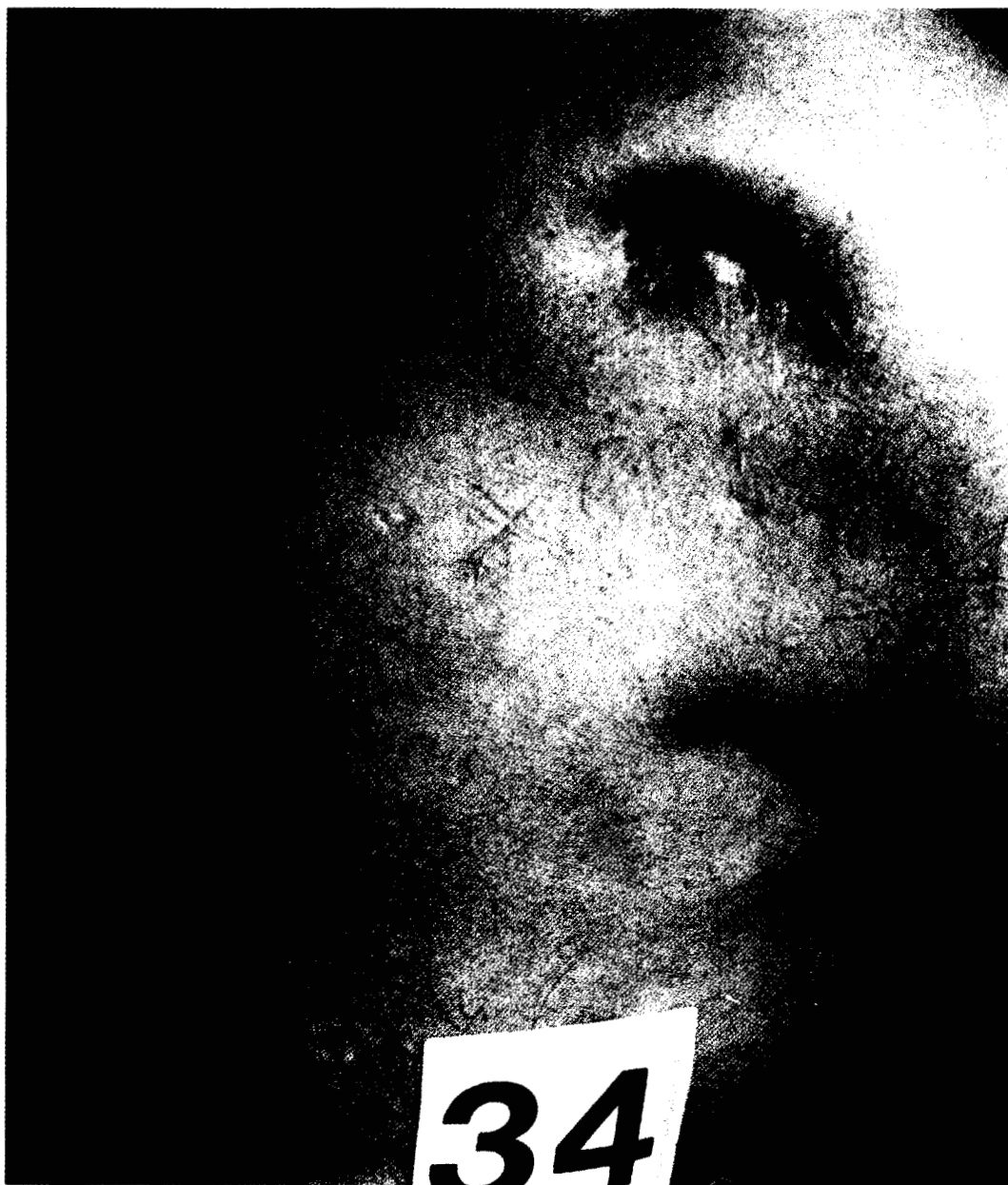


Picture No. 1 Scar in the right shoulder blade region, the result of an injury inflicted by a shell fragment

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: major and numerous scars on the body, limbs, limited mobility in the right shoulder joint, gait disorder, paresis of the right ulnar and right ischiatic nerve, which have resulted in disfigurement, and which have altogether disfigured him; because of this he has non-organic insomnia and severely suffers mentally.



Picture No. 2 Scar in the right shoulder blade region, right upper arm and thorax, the result of an injury inflicted by a shell fragment



Picture No. 3 Scar in the right shoulder blade region, posterior,  
the result of an injury inflicted by a shell fragment



Picture No. 4 Scar in the right forearm arm, the result of an injury inflicted by a shell fragment



**BG 34**



Picture No. 5 Scar in the right thigh, the result of an injury inflicted by a shell fragment



Picture No. 6 Scar in the left thigh, the result of an injury inflicted by a shell fragment

**BG 34**



Picture No. 7 X-ray showing a scar (callus) on the superior part of the right humerus, which had been fractured and was operated on, with metal foreign bodies (shell fragments) seen in the surrounding soft tissue



Picture No. 8 X-ray showing a scar (callus) on the left thigh bone, which had been fractured and was operated on, with metal foreign bodies (shell fragments) seen in the surrounding soft tissue

## BG 26

T.B., female, 27 years old when the event took place. Married and has one child. On 10 June 1992 her village, Čemerno, was attacked and every "living being in it" was killed. On that occasion 32 villagers were killed, and her father, mother, brother, aunt with her two sons, and sister-in-law, who were in the house with her, were among the killed. She and her relatives hid in the basement of her house when the soldiers approached it and ordered everyone inside to come out. As they were leaving the house they were killed with burst fire. When she had left the basement she flung herself on the ground as they started to shoot at her and she was injured only in the legs. She pretended to be dead and was thus saved. Her uncle found her that very same day and he first hid her behind a rock, and the Serb forces later arrived and transferred her to the hospital in Pale.



Picture No. 1 Scar on the left thigh, the result of shot wounds

The original medical records prove that she was admitted to the hospital in Pale the very same day, where she had surgery of the shot wounds in the pelvis and in both legs.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences, which are the result of injuries inflicted in the camps, have been found in this examinee: major scars in the region of the hips and in both legs, which have disfigured her, as well as an enduring change of personality, which have severely reduced her general and vocational capacities.



Picture No. 2 Scar on the right thigh, the result of shot wounds



Picture No. 3 Scar on the right thigh, the result of shot wounds



Picture No. 4 Scar on the right shin, the result of shot wounds



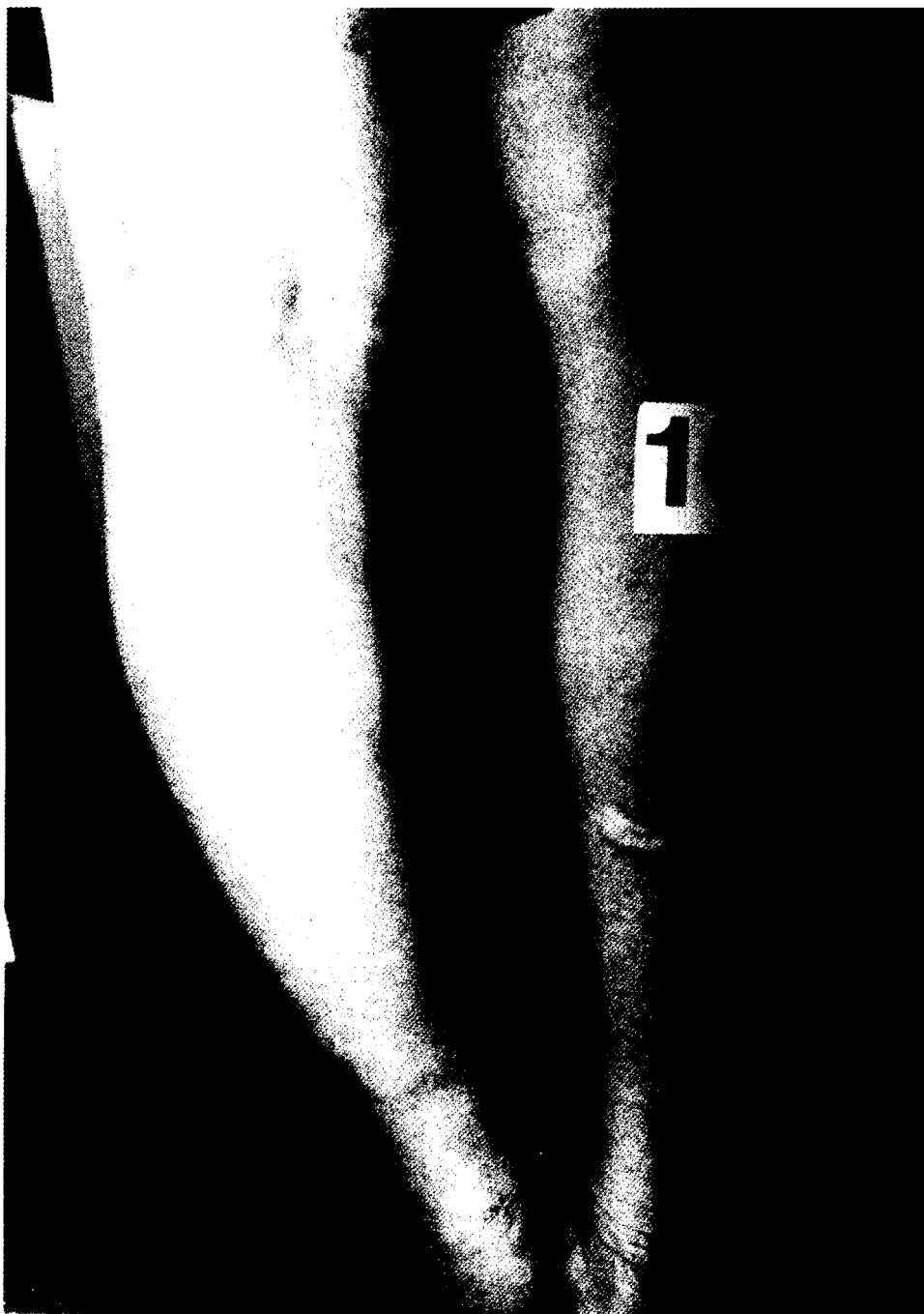
## BG 16

D.N., female, 32 years old when the event took place. Married, a housewife with two children. On 29 July 1992, at about 13.00 hours, she was in her house in F. when her sister in law told her that she had seen some "bandits" roaming around the village. The two of them started towards the river to get the children, who were bathing in it, and on their way there they were ambushed by the Muslims. One of the men grabbed her by the head across her eyes, while another one fired several shots in her legs. At that moment Serb soldiers, who were in the other end of the village, returned the shooting, after the Muslims fled and let her go. From there she was transferred to Sanski Most, where she was treated medically, and from there she was sent to Banja Luka, where she spent 15 days in hospital. From this hospital she was sent to the Orthopaedic Clinic in Banjica, Belgrade, where she was treated for 4 and a half months. They were shooting at her legs while she was down. She wasn't beaten nor did she receive any blows in her head.

On the basis of medical records, forensic medical and neurological-psychiatric examinations, and also according to the X-rays, the following consequences have been found in this examinee: deformity of the left shin with scars (callus) on her bones and with many ugly scars on her skin, coupled with gait disorder and disfigurement, as well as chronic depression, which have altogether severely reduced her general and vocational capacities.



Picture No. 1 Deformity of the left shin with many scars on the skin (anterior)



Picture No. 2 Deformity of the right shin with many scars on the skin (anterior)



Picture No. 3 X-ray showing irregular scars (callus) on the left shin Victims which have no bodily scars

## 2.5. The Intent to Destroy, in Whole or in Part, Serbs as Ethnic and Religious Group

2.5.1. Numerous testimonies of witnesses and other evidence annexed by the Respondent proves the existence of the genocidal intent. The genocidal intent of the crimes against Serbs stems not only from the circumstances of these crimes, but it was very often also expressed by their perpetrators. A Serb prisoner of the Čelovina jail in Mostar was told that it would be much worse for Serbs in 1992 than it was in 1941 (when Ustashi perpetrated a mass genocide of Serbs in and around Mostar). In the camp of Dretelj a witness, a former inmate, was told by his torturer that it served him right since he was a Serb and repeated the WWII Ustashi watchword: that a third of all Serbs will be converted to Catholic faith, a third will be killed and a third expelled. He said that Serbs had "emptied" the pits so that they may be thrown there again (alluding to a tardy burial of the remains of WWII genocide victims). Ante Golubović, chief torturer in the camp of Odžak, used to say that he was going to complete the designs of Ustashi ideologists. Association of the perpetrators of crimes against Serbs in the prison camps with Ustashi was manifested in various ways: They demanded the inmates to address them as "Mr. Ustasha", to salute them back with "Za dom spremni" (Ready to die for the homeland), to sing Ustashi songs with them while the guards wore black uniforms with Ustashi insignia, etc. Judging by the way in which the crimes were committed (throat slitting, throwing victims off the cliffs, burning them to death, mutilation and maiming, subjugation to brutal torture and humiliation) as well as by an intense ethnic and religious hatred, the crimes against the Serbs of Bosnia and Herzegovina represent a repeat of the genocidal "practices" from the times of the Ustashi fascist state, the so-called Independent State of Croatia (in World War II) which also comprised Bosnia and Herzegovina.

2.5.2. People were killed simply because they were Serbs. The genocidal intent is indicated in particular by the fact that elderly people, women and children were killed. Civilians were killed on religious holidays; three fingers on their right hands serving them to cross themselves as Orthodox Christians were cut off; carving the Christian cross on the bodies of victims; the victims were circumcised Muslim-style; victims were forced to show their respect for the Ustashi symbols under which the genocide of Serbs was perpetrated during World War Two; victims were forced to curse their saints - all these are facts confirming the existence of the genocidal intent.

2.5.3. In paragraph 35, page 906 of the Reply, the Respondent is said to have mentioned as one of the allegations repeated many times that "*non-Serbs had a strong preference for Serb religious holidays to strike back to the Serb occupier*". There is no reference to any "*striking back to the Serb occupier*" in the Counter-Memorial. This manipulation with the Federal Republic of Yugoslavia, where Serb victims in BiH (living in their ancestral homes) were labelled as "occupier" and where crimes against them were seen as "striking back", is below the minimum fair treatment in a matter before a court. However, the Applicant reluctantly admits "*that sometimes, Serbian religious holidays were chosen to attack the Serb occupier*". This was explained by the fact that on these dates, "*Serb soldiers would have lowered their guard*". The Applicant again, by a blatant disregard for facts, brands the Serbian people of Bosnia and Herzegovina as the occupier. The events described in the Counter-Memorial relate to the attacks against Serb civilians and to their killing, whereas the choice of religious festivals for the commission of crimes means not only sacrilege of holy days but also symbolizes the intent to destroy in whole or in part a religious group. Furthermore, the qualification of the Serb people in Bosnia and Herzegovina as occupier is a specific confirmation of the Applicant's genocidal intent.

2.5.4. Paragraph 5 of the introductory remarks allows for the possibility that some "people" from Muslim or Croat-controlled areas "might have tried to break into Serb-controlled areas" and that "in a struggle against starvation, indeed, if necessary then by the use of armed force, robbed the Serb occupier of cattle and crops". They were not the hungry "people" but the soldiers of the military units controlled by the Government of the Republic of Bosnia and Herzegovina. Had the purpose of these "breaks into" been the robbing of property, Serb civilians, who had not managed to flee, would not have been killed. The statement that "the Serb occupier" was robbed of cattle and crops illustrates precisely the Applicant's bias and its denial of true facts. For the Applicant, the aggressors were also Serb farmers rearing livestock and working the fields on their ancestral properties. Because an armed action aimed at the expulsion and destruction of the occupier is legitimate and legally permissible. Indeed, if the Serbs of Bosnia and Herzegovina were occupiers in that Republic, their destruction would not mean genocide but a legitimate action.

2.5.5. In para. 23, page 900 of the Reply, the Applicant repeats the claim that many "*non-Serbs acted on their own in a struggle for survival*" and that the Applicant "*does not exclude the possibility of these people having committed crimes, maybe even war crimes, in these situations*". It goes on to say that "*throughout the war, the government authorities did whatever they could*" to "prevent atrocities" and to "prosecute the perpetrators whenever that was, again given the circumstances, possible". In other words, the Applicant is not at all aware that "non-Serbs" committed any crimes; it simply does not preclude such a possibility. This "ignorance" of the Applicant is equal to cynicism, taking into account the very large number of crimes that the Muslim and Croatian forces committed against Serbs in BiH (many of the victims, perpetrators and armed unites of the Applicant have been named by name in the Counter-Memorial). In its denial of facts which are not in its favour, the Applicant has for a moment lost sight of facts which it acknowledges -

the killings of Sarajevo Serbs and the throwing of their bodies into the "Kazani" pit. Upon expressing its readiness to prosecute all perpetrators, the Applicant was in a position, in the period (several months) between the submission of the Counter-Memorial and the submission of the Reply, to find out whether some of the victims identified by name in the Counter-Memorial were murdered or tortured by "non-Serbs". As a matter of fact, it is the duty of the Applicant (as it is of any government) to investigate and prosecute the perpetrators of crimes.

## 2.6. Ethnic Cleansing

2.6.1. In the Reply to the Counter-Memorial Chapter on "Ethnic cleansing", the Applicant (para. 169, p. 948, Reply) says that the Respondent, "*without taking any legal position regarding this issue, leaves it to the Court to find out whether the alleged facts would or would not meet the criteria of the Genocide Convention*". The Applicant's claim that the Respondent has not taken a legal position on ethnic cleansing, is not true. The Respondent has explicitly stated (Counter-Memorial, para 7.1.3.1.) that forced expulsions of the population cannot be qualified as genocide, as defined under the Convention on the Prevention and Punishment of Genocide of 1948. But the Respondent does not know how the Court understands the provisions of the Genocide Convention. The Respondent has stated the facts related to the ethnic cleansing of Serbs in case the Court considers the facts about the ethnic cleansing relevant.

2.6.2. Commenting on the section concerning the ethnic cleansing in Tuzla (para. 173, p. 948, Reply), the Applicant, denying the validity of the evidence submitted, fails to make a reference to the report of Mr. Tadeusz Mazowiecki (Counter-Memorial, para. 7.3.3.4.) on to the situation of Serbs in Tuzla, where he described "their situation as desperate" and



mentioned a report in a local paper "Zmaj od Bosne" (a text printed in it says that "*each Muslim must name one Serb and vow to kill him*"). The Applicant regularly refers to similar reports as evidence elsewhere in the text and whenever it suits it.

2.6.3. The Applicant displays the same attitude of ignoring facts contained in the Counter-Memorial, even when these facts are obvious, in its Reply (para. 178, p. 949) regarding the Counter-Memorial section on Mostar, Čapljina and Jablanica. The Applicant claims that the report of Tadeusz Mazowiecki saying that as a result of the ethnic cleansing of Serbs in Mostar, Serb residents were reduced from 30,000 to only 400, "*does not in any way support the Respondent's allegations*". The Applicant attributes to the Respondent the misquoting of Special Rapporteur Mazowiecki's report, where he also said that the ethnic cleansing of Mostar was first directed against the Serbs and then against the Muslims and that "*Serbs in the eastern part of the city do not appear to be the victims of any form of individual discrimination by the Muslim majority*". The Special Rapporteur's report does not say who "emptied" of Serbs eastern Mostar, which was Muslim-controlled at all times and in which most of Mostar Serbs lived, or how many of the remaining 400 Serbs live in that part of the city. The Applicant does not want to say it, either. Therefore, according to the Applicant, the fact that "it appears" that part of the remaining Serbs are not being discriminated against, cancels out the ethnic cleansing as such, i.e. forced expulsion of some 30,000 Serbs of Mostar followed by arrests, torture and killing of Serbs. These practices were carried out both by Muslims and Croats.

2.6.4. The Applicant "emphatically denies" that any ethnic cleansing was practised under its control or authority. However, it gives no explanation as to how Mostar, Konjic, Goražde, Tuzla, Zenica and some other towns and villages in the Muslim-Croat Federation and the largest part of Sarajevo were totally or almost totally "cleansed" of Serbs. This situation has not changed to date.

## 2.7.Destruction of Places of Worship

2.7.1. The Applicant (para. 196, p. 953, of the Reply) has formally found the reason for its total disregard for facts contained in the Counter-Memorial, section 7.4. (destruction of temples belonging to the Serbian Orthodox Church): the supposedly unclear position of the Respondent concerning the legal significance of the alleged facts or the content of the Counter-Claims ("*it is clear that it cannot be expected that Bosnia and Herzegovina would have to defend itself against a case, which supposedly it needs first to construe itself...*"). In so doing, the Applicant only quoted the second sentence from the Counter-Memorial, para. 7.4.1. but not the first one. Both sentences contain the Respondent's clear view: destruction of places of worship, as defined in the Genocide Convention of 1948, does not constitute a crime of genocide; however, the Respondent states facts about the destruction of Serb religious buildings in case the Court takes a different legal opinion.

2.7.2. In spite of ignoring the facts contained in the Counter-Memorial, section 7.4., the Applicant, however, 'acknowledges that in the course of the armed conflict, Serb religious property may occasionally have been damaged and sometimes even destroyed'. Nevertheless, the Applicant 'do deny that this has ever occurred systematically, on the basis of Government instructions or instructions from other official, civil or military, authorities'. Still, the Applicant 'is not aware' once again that the destruction of Serb religious property has ever occurred. It only 'acknowledges' that this 'may' have happened 'occasionally'. The Counter-Memorial cited a great many Serbian churches and other religious property damaged or destroyed, which leads one to conclude that the destruction of Serbian places of worship was done systematically and simultaneously with the other crimes against the Serbian people.

## 2.8. Islamisation of Muslim-controlled Parts of Bosnia and Herzegovina

2.8.1. The Applicant insists on various statements of the 'Bosnian Government' and its officials on the need to preserve the 'multi-ethnic state'. It says that Bosnian Serbs, too, participated in the work of the Presidency chaired by President Izetbegović and that there were also Serbs among the generals of the 'Bosnian Army' (General Divjak). The justification of the Counter-Claims cannot be judged on the basis of the statements of the 'Bosnian Government' but on the basis of facts relating to crimes committed by the 'Bosnian Army' and police as well as by the personnel of the prison camps controlled by the 'Bosnian Government'. It is also irrelevant that individual Serbs, in very few cases and for various personal motives (including fear for their own life), served in the 'Bosnian Army' or worked for the 'Bosnian Government'. The true practice of the Applicant with regard to the 'preservation of the multi-ethnic state' was in contrast to those statements. This is, among other things, proved by the renaming of streets in Sarajevo. The names of streets after famous Serb historical figures, scientists, writers or artists have been changed into Muslim or other names. The following streets have thus been renamed:

- Djura Jakšić st, now Adija Mulabegović st.;
- Djuro Djaković st., now Alipašina st.;
- Jova Janković st., now Amir Krupalija st.;
- Slavko Rodić st., now Atifa Karalić st.;
- Slaviša Vajner-Čiča st., now August Braun st.;
- Dimitrije Tucović st., now Avdaga Šahinagić st.;
- Grujo Novaković st., now Bajram Zenuni st.;
- Olga Ivković st., now Behaudin Selmanović st.;
- Sava Janković st., now Behdžet Mutevelić st.;
- Nemanjina Čikma, now Čekaluša Čikma;
- Svetozar Marković st., now Čemerlina st.;

- Braće Savić st., now Ćamil Sijarić st.;
- Danilo Djokić st, now Dr Fetah Bećirbegović st.;
- Aleksa Bojović-Brka st., now Dr Mustafa Denišlić st.;
- Stevan Sindjelić st., now Džemal Ćelić st.;
- Mirko Jovanović st., now Hadži-Šabanović st.;
- Spasenija-Cana Babović st., now Hakija Turajlić st.;
- Branko Radičević st., now Hizeta st.;
- Nadežda Petrović st., now Humačka Ploča;
- Iso Jovanović st., now Husref Redžić st.;
- Ivan Milutinović st., now Ibrahim Pečevija st.;
- Slobodan Princip st., now Kulovića st.;
- Stevan Hristić st., now Meho Smailagić st.;
- Boriša Kovačević st., now Mehmed Spaho st.;
- Kosta Abrašević st., now Mithat Begić st.;
- Jovan Popović st., now Muhamed Ridžanović st.;
- Hajduk Veljko st., now Musa Hazim Ćatić st.;
- Vuk Karadžić st., now Pehlivanuša st.;
- Sava Kovačević st., now Reis Džemaludin Čaušević st.;
- Jug Bogdan st., now Rizah Štetić st.;
- Jova Janković st., now Safet Isović st.;
- Miloš Obilić st., now Safet Beg Bašagić st.;
- Miško Jovanović st., now Šećir Sikirića st.;
- Branislav Nušić st., now Tahrniščina st.;
- Petar Kočić st., now Telale st.;
- Milutin Djurašković st., now Topal Osman-paša st.;
- Žikica Jovanović-Španac st., now Vahid Maglajić st.

The former city by-pass has been renamed into Put mladih Muslimana (Young Muslims Road).

The stated facts show that even the streets named after Vuk Karadžić (1787-1864), reformer of the Serbian literary language, a historian and collector of popular narrative art and tradition, one of the most prominent figures in the history of Serbian science and culture - has not retained its former name. The streets which used to bear the names of famous Serb writers or artists such as Branko Radičević, Petar Kočić

Branislav Nušić, Nadežda Petrović, Stevan Hristić and others, have not kept those names. Even the streets named after two heroes from the Kosovo cycle national ballads (the battle of Kosovo fought against Turks in 1389): Miloš Obilić and Jug Bogdan, as well as those named after historical figures who came into prominence when Serbs began their liberation struggle against Turks at the turn of the 19th century (Stevan Sindjelić, Hajduk Veljko) - were all taken off the list of streets. Also, the names of 20th-century Serb historical personalities, including veterans of the last war (fought against Nazi-fascism), were all removed from street names. In the Muslim-Croat Federation, communities where Muslims form a majority (e.g. in Sarajevo), are building a society based on Muslim tenets, as witnessed in the life-style of the population. It is unclear, therefore, how the Applicant views a multi-ethnic society (and state) if it is built to suit Muslims only, while any trace of Serb existence and creativity is being wiped out in the territory of the Muslim-Croat Federation (which is but one of the two entities in Bosnia and Herzegovina).

2.8.2. The Respondent has also presented other facts in its Counter-Memorial, bearing witness to the forced Islamisation of Muslim-controlled parts of Bosnia and Herzegovina. In this light, it pointed to the participation of Mujahedin forces in the civil war there. This participation was also confirmed by the Bassiouni Commission in the following way:

*"47. Mujahedin, or "holy warriors", is a generic term for Muslim volunteers fighting in the former Yugoslavia. Many Mujahedin originate from Muslim countries outside the former Yugoslavia. It was reported that the Mujahedin began arriving in BiH as early as June 1992. Reports on the number of Mujahedin forces operating in BiH vary, but it is unlikely that the Mujahedin forces have made a significant military contribution to the BiH Government's war effort. The Mujahedin forces came from Muslim states and many of them were veterans of the Afghan war. (...)*

49. *Mujaheedin forces were actively involved in military operations in seven counties throughout BiH. The dates of reported activity range from 3 June 1992 through June 1993, with the heaviest activity reported in Travnik, Zenica, and Konjic.*

50. *Several reports indicate that the Mujaheedin were placed under the command of the BiH Army. The Mujaheedin forces were closely associated with the 5th Corps, the 6th and 7th Zenica Brigades, the 7th Travnik Brigade, and 45th Muslim Brigade which belongs to the 6th Corps in Konjic of the Army of BiH. They also allegedly fought alongside the Muslim Police, the Krajiska Brigade from Travnik, units of Kosovo Muslims, Albanian soldiers, and paramilitary groups such as the "Green Legion" and the "Black Swans".*

51. *Reports also indicate that the Mujaheedin had the support of President Izetbegović and his government. This was demonstrated in the Bihać pocket, where the Mujaheedin joined BiH forces loyal to Izetbegović. Together, these forces battled separatist forces who entered into a separate peace treaty with Bosnian Serbs.*

*(d) Allegations of war crimes*

52. *Reports submitted to the Commission of Experts alleged that the Mujaheedin have been responsible for the mutilation and killing of civilians, raping, looting, the destruction of property, and the expulsion of non-Muslim populations. The deputy commander of the BiH Army, Colonel Stjepan Siber, has said, it was a mistake to let them (the Mujaheedin) here ...they commit most of the atrocities and work against the interests of the Muslim people. They have been killing, looting and stealing.*

*(e) Summary of reported paramilitary activity*

*53. In Zenica, between 31 August and 2 September 1992, 250 Mujahedin troops allegedly came to BiH from Turkey, Qatar, Bahrain and Iran. These troops worked alongside the Green Legion and HOS paramilitary groups stationed in Zenica. The Mujahedin allegedly also operated at a camp at Arnauti. It was reported that a unit of the Mujahedin, called the "Guerrilla", participated in the 16 April 1993 attack on Vitez and attempted to exchange 10 HVO hostages for foreign prisoners held in HVO prisons.*

(Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780, Volume I, S/1994/674/Annex III.A, pages 17 and 18)"

**2.9. Evidence Proving Facts upon which the Counter-Claim Is Based**

2.9.1. The Applicant explains its view on the inadmissibility of witness statements supporting the Counter-claim contained in the Counter-Memorial (para. 26, p. 903 , and para. 27, p. 904, Reply) by saying that they "usually contain anonymous witness statements given before a Serb legal authority" and that the Applicant "is not at all able to verify the background of these presumably legal authorities, nor is it able to assess the quality of the presumably legal proceedings in the course of which, again presumably, the statements were delivered"; that "the witnesses were never cross-examined nor have they been interrogated by a neutral, independent authority". The Applicant, knows full well why witness testimonies are "anonymous": to protect witnesses, their names were removed from copies of testimony records (their initials are only stated), while the reference numbers appearing on these records serve to identify witnesses concerned. Testimonies were not given before any

"Serb legal authority", as such authorities are nonexistent. There exist only the legal authorities of the Federal Republic of Yugoslavia (and of its constituent Republics) and the legal authorities of Republika Srpska. A reference to the "background of these presumably legal authorities" (before which testimonies were given) serves only to cloud things and its real purpose is unclear. Witnesses were all heard in accordance with the applicable rules of the Code of Criminal Procedure which does not recognize the institution of "cross-examination", although the Code allows a witness to be asked questions after he has spontaneously given his testimony. By claiming that witnesses were not "interrogated by a neutral, independent authority", the Applicant actually suggests that they should have been heard by the legal authorities other than those in the FRY and Republika Srpska. (Does the Applicant stick to this when it comes to gathering evidence to support its own claims?) The Applicant should not be bothered by this. The Respondent will request the Court to summon the witnesses whose written statements were enclosed, so that the Applicant will be able to cross-examine them.

2.9.2. The Applicant drew the attention of the Court (para. 28, p. 904, of the Reply) that some witnesses were heard by the investigating judge of the District Court in Belgrade and objected that the Respondent "fails to clarify" whether such procedure relates to all possible crimes committed in BiH territory or is only confined to cases where Serbs were victims and persons suspected of these crimes are non-Serbs. The Respondent has nothing to "clarify" regarding the gathering of evidence on crimes committed in Bosnia and Herzegovina. The crimes did not occur in the territory of the Federal Republic of Yugoslavia. Therefore, the Respondent is not under the general obligation to investigate and prosecute these crimes. The interest of the FRY to gather evidence on the factual basis of the Counter-Memorial, is fully legitimate, and the evidence has been obtained fully legally.



2.9.3. The Applicant noted (para. 29, p. 904, Reply) that the records of witness testimonies, given before the investigating judges in Republika Srpska, invoke the same articles of the Penal Code as those provided by the Respondent. This makes the Applicant conclude that "Bosnian Serbs had organized their judicial system not only separate from that of BiH, but as, alternatively, their own system and as part of the legal system of Yugoslavia". Republika Srpska, in its Constitutional Law to implement the Constitution of RS ("Official Journal of RS", No. 21/92), has decided to apply the laws and other regulations of the former Socialist Federal Republic of Yugoslavia and the former Socialist Republic of Bosnia and Herzegovina pending the passing of appropriate laws. It is, therefore, abundantly clear why the records of the investigating judges of courts in Republika Srpska refer to the same articles of the Penal Code as in the case of records of the investigating judges in Yugoslavia (the crime of genocide and war crimes were punishable under the federal Penal Code), and the Applicant's claim that "at least part of the Bosnian Serb legal system functioned as an integral part of the Federal legal system of Yugoslavia" is devoid of any meaning. To set the record straight, the Applicant itself took over the provisions of the Penal Code of the SFRY by the Decree taking effect on 11 April 1992 ("Official Gazette of the Republic of Bosnia and Herzegovina", No. 2/92).

2.9.4. Paragraphs 30 and 31, on page 905 of the Reply say that only four records of witness testimonies relate to genocide (as defined under Article 141 of the Penal Code of Yugoslavia), and that most of the other records refer to articles of the Penal Code defining other criminal acts against humanity and international law. It is therefore "remarkable", in the opinion of the Applicant, that the Respondent has used such records of witness testimonies to support the allegations of genocide. Paragraph 32, page 905 of the Reply says: *"The Respondent has failed to explain why, then, all the annexed witness statements would serve to support its counter-claims. Bosnia*

*and Herzegovina concludes that also for this reason, there does not exist any legally relevant basis for Respondent's counter-claims*". The Applicant's view is totally unacceptable. Witnesses were heard in connection with facts and circumstances relating to the commission of crimes and it is absolutely irrelevant which crime qualifications were invoked in the records of testimonies, in particular because these crimes involved several related crimes against humanity and international law. Under the Yugoslav Code of Criminal Procedure, the prosecutor, in issuing his indictment, qualifies the criminal offence concerned. In doing so, the prosecutor is not bound by the qualification given by the investigating judge hearing a witness. The committed crimes (as facts) form the basis of the Counter-Claim, while the conclusion as to the genocidal nature of these crimes and the responsibility of the Applicant is drawn from all the circumstances. Records of witness testimonies transmitted to ICTY are relevant as evidence of facts. Legal qualifications of crimes made *prima facie* by an investigating judge are not binding on a domestic prosecutor nor are they binding on the International Court of Justice.

2.9.5. The Reply (para. 33, p. 905) draws attention to the autopsy reports (attached to the Counter-Memorial) saying that they were made at the "Military Medical Academy, Pathology and Forensic Institute, Belgrade", whereas the autopsies were carried out in BiH territory at the request of Bosnian Serb authorities, which "*once also attests to the entirely integrated structures of Republika Srpska and the Respondent*". It is true that experts from the Military Medical Academy in Belgrade performed post mortems at the request of RS authorities, implying no integrated structures of Republika Srpska and the Respondent. It is absurd to claim in the Reply that such "integration" is also proved by the fact that some medical examinations of victims were carried out in RS at the request of the Committee for gathering information on crimes against humanity and international law, based in Belgrade.

2.9.6. Medical examination reports (para. 34, p. 906 of the Reply) are said to contain "case histories" or statements of witnesses which are often "copies" of their testimonies and that, on account of this, they cannot be used as evidence on the circumstances in which injuries were sustained or on the "identity" of "alleged" perpetrators. Finally, the Applicant says that these reports and photos attached thereto "do not provide any proof of the existence of an organized campaign aimed against the Serbs as such". The normal "case histories" serve as proof of the cause of injury and should be judged along with the testimony of the injured witness. (It is not expected that the information contained in the case history should coincide with the testimony of the injured.) True, medical reports and photographs of injuries, taken in isolation, are not direct proof of the existence of "an organized campaign aimed against the Serbs as such". However, this evidence should be judged together with all other evidence, and indirectly (as proof of the bodily harm and the harm done to the mental integrity of the person as well as that of the method of infliction of injuries) they are proof of the genocidal nature of the crimes committed against the Serbs.

2.9.7. Due to the circumstances related to the size and complexity of the tasks facing the Respondent in gathering evidence and in having all this material translated into English, the Respondent was not able to transmit to the Court some witness testimonies, on the basis of which the Counter-Claims were prepared, within the time-limit set for the submission of the Counter-Memorial. In view of the Applicant's refusal to comment on the facts presented in the Counter-Claims but on which no evidence was submitted, the Respondent now presents it as annexes to this Rejoinder.

2.9.8. The following annexes related to the marked paragraphs of the Counter-Memorial are added:

- Annex No. RC1 related to paragraph 7.1.8.3. in Counter-Memorial
- Annex No. RC2 related to paragraphs 7.1.2.8. & 7.1.2.9. & 7.2.0.1. in Counter-Memorial
- Annex No. RC3 related to paragraphs 7.12.94. & 7.3.16.1. & 7.2.0.1. in Counter-Memorial
- Annex No. RC4 related to paragraph 7.2.19.1. in Counter-Memorial
- Annex No. RC5 related to paragraph 7.1.5.1. in Counter-Memorial
- Annex No. RC6 related to paragraph 7.1.24.1. & 7.2.12.3. in Counter-Memorial
- Annex No. RC7 related to paragraphs 7.1.49.2. & 7.1.49.11. in Counter-Memorial
- Annex No. RC8 related to paragraph 7.1.54.2. in Counter-Memorial
- Annex No. RC9 related to paragraph 7.1.1.2. in Counter-Memorial
- Annex No. RC10 related to paragraph 7.1.21.3. in Counter-Memorial
- Annex No. RC11 related to paragraphs 7.1.14.1. & 7.2.34.1. in Counter-Memorial
- Annex No. RC12 related to paragraphs 7.2.0.1. & 7.3.13.0. in Counter-Memorial

- Annex No. RC13 related to paragraphs 7.3.7.0. & 7.1.6.0. in Counter-Memorial
- Annex No. RC14 related to paragraph 7.1.17.1. in Counter-Memorial
- Annex No. RC15 related to paragraph 7.1.37.1. in Counter-Memorial
- Annex No. RC16 related to paragraph 7.1.39.2. in Counter-Memorial
- Annex No. RC17 related to paragraph 7.1.36.8. in Counter-Memorial
- Annex No. RC18 related to paragraph 7.1.37.1. in Counter-Memorial
- Annex No. RC19 related to paragraph 7.1.38.1. in Counter-Memorial
- Annex No. RC20 related to paragraph 7.1.39.2. in Counter-Memorial
- Annex No. RC21 related to paragraph 7.1.39.3. in Counter-Memorial
- Annex No. RC22 related to paragraph 7.1.40.5. in Counter-Memorial
- Annex No. RC23 related to paragraph 7.1.39.4. in Counter-Memorial
- Annex No. RC24 related to paragraph 7.2.8.11. in Counter-Memorial

- Annex No. RC25 related to paragraph 7.2.11.1.4. in Counter-Memorial
- Annex No. RC26 related to paragraphs 7.2.11.23. & 7.2.12.1.13.in Counter-Memorial
- Annex No. RC27 related to paragraph 7.2.3.2. in Counter-Memorial
- Annex No. RC28 related to paragraphs 7.2.11.4.1. & 7.2.11.4.4. & 7.2.11.4.5. in Counter-Memorial
- Annex No. RC29 related to paragraph 7.2.3.2. in Counter-Memorial
- Annex No. RC30 related to paragraph 7.2.3.2. in Counter-Memorial
- Annex No. RC31 related to paragraph 7.2.19.4.3. in Counter-Memorial
- Annex No. RC32 related to paragraphs 7.2.7.3. & 7.2.3.2. & 7.1.26.1. in Counter-Memorial
- Annex No. RC33 related to paragraph 7.2.3.2. in Counter-Memorial
- Annex No. RC34 related to paragraph 7.2.3.2. in Counter-Memorial
- Annex No. RC35 related to paragraph 7.2.8.15. in Counter-Memorial
- Annex No. RC36 related to paragraph 7.2.3.2. in Counter-Memorial

- Annex No. RC37 related to paragraph 7.1.11.14. in Counter-Memorial
- Annex No. RC38 related to paragraph 7.1.11.17. in Counter-Memorial
- Annex No. RC39 related to paragraph 7.1.11.16. in Counter-Memorial
- Annex No. RC40 related to paragraph 7.1.11.12. in Counter-Memorial
- Annex No. RC41 related to paragraph 7.1.37.1. in Counter-Memorial
- Annex No. RC42 related to paragraph 7.1.11.17. in Counter-Memorial
- Annex No. RC43 related to paragraph 7.1.11.13. in Counter-Memorial
- Annex No. RC44 related to paragraph 7.1.11.17. in Counter-Memorial
- Annex No. RC45 related to paragraph 7.1.12.1. in Counter-Memorial
- Annex No. RC46 related to paragraph 7.1.11.14. in Counter-Memorial
- Annex No. RC47 related to paragraph 7.1.12.1. in Counter-Memorial
- Annex No. RC48 related to paragraph 7.1.12.1. in Counter-Memorial

- Annex No. RC49 related to paragraph 7.1.11.13. in Counter-Memorial
- Annex No. RC50 related to paragraph 7.1.12.1. in Counter-Memorial
- Annex No. RC51 related to paragraph 7.2.40.0. in Counter-Memorial
- Annex No. RC52 related to paragraphs 7.3.14.0. & 7.1.38.1. in Counter-Memorial
- Annex No. RC53 related to paragraphs 7.2.0.1. & 7.3.14.0. & 7.2.6.8. in Counter-Memorial
- Annex No. RC54 related to paragraphs 7.3.14.0. & 7.2.6.3. & 7.1.38. in Counter-Memorial
- Annex No. RC55 related to paragraph 7.3.2.4. in Counter-Memorial
- Annex No. RC56 related to paragraphs 7.2.11.3. & 7.3.19.0. & 7.2.10.1.11. & 7.2.10.2.2. in Counter-Memorial
- Annex No. RC57 related to paragraphs 7.2.10.4.3. & 7.2.11.0. & 7.2.11.5. & 7.3.19.0. in Counter-Memorial
- Annex No. RC58 related to paragraphs 7.2.12.3.2. & 7.3.19.0. & 7.2.10.1.5. & 7.2.10.2.2. in Counter-Memorial
- Annex No. RC59 related to paragraphs 7.3.19.0. & 7.2.10.1.3. & 7.2.10.2.2. & 7.2.10.4. & 7.2.11.5. in Counter-Memorial
- Annex No. RC60 related to paragraphs 7.2.10.2.2. & 7.2.10.4. & 7.2.11.0. & 7.2.11.3. in Counter-Memorial



- Annex No. RC61 related to paragraphs 7.2.11.0. & 7.2.11.5. & 7.2.2.13.1. & 7.2.10.2.2. in Counter-Memorial
- Annex No. RC62 related to paragraphs 7.2.11.0. & 7.2.11.6.5. & 7.2.12.1.14. in Counter-Memorial
- Annex No. RC63 related to paragraph 7.2.12.1.4. in Counter-Memorial
- Annex No. RC64 related to paragraph 7.2.10.2.2. in Counter-Memorial
- Annex No. RC65 related to paragraphs 7.2.11.1.2. & 7.2.10.1.1. in Counter-Memorial
- Annex No. RC66 related to paragraph 7.2.10.4. in Counter-Memorial
- Annex No. RC67 related to paragraph 7.3.19.1.2. in Counter-Memorial
- Annex No. RC68 related to paragraphs 7.2.10.1.1. & 7.2.10.4. & 7.2.11.3. & 7.2.11.5. in Counter-Memorial
- Annex No. RC69 related to paragraphs 7.2.10.1.17. & 7.2.10.2.2. & 7.2.10.4. in Counter-Memorial
- Annex No. RC70 related to paragraphs 7.2.10.2.2. & 7.2.10.4. & 7.2.11.3. & 7.2.11.5. & 7.3.19.0. & 7.2.10.1.3. in Counter-Memorial
- Annex No. RC71 related to paragraphs 7.2.11.0. & 7.2.10.2.2. in Counter-Memorial
- Annex No. RC72 related to paragraphs 7.2.10.1.12. & 7.2.10.4. & 7.2.11.5. & 7.2.12.1.14. & 7.2.12.3.2. & 7.2.12.3.3. in Counter-Memorial

- Annex No. RC73 related to paragraphs 7.2.10.2.2. & 7.2.10.4. & 7.3.19.0.in Counter-Memorial
- Annex No. RC74 related to paragraphs 7.2.10.3.7. & 7.2.10.2.2. in Counter-Memorial
- Annex No. RC75 related to paragraphs 7.2.10.2.2. & 7.2.11.5. & 7.2.11.6.7. in Counter-Memorial
- Annex No. RC76 related to paragraph 7.1.39.1. in Counter-Memorial
- Annex No. RC77 related to paragraphs 7.2.10.4. & 7.2.11.0. & 7.2.11.5 & 7.2.12.3.2. & 7.3.19.0. in Counter-Memorial
- Annex No. RC78 related to paragraphs 7.2.10.4. & 7.3.19.0. & 7.2.10.1.15. & 7.2.10.2.2. in Counter-Memorial
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- Annex No. RC351 related to paragraphs 7.2.9.0. & 7.2.12.1.2. & 7.2.12.3. in Counter-Memorial
- Annex No. RC352 related to paragraphs 7.2.3.2. & 7.2.7.0. in Counter-Memorial
- Annex No. RC353 related to paragraphs 7.2.10.1.5. & 7.2.30.24. in Counter-Memorial
- Annex No. RC354 related to paragraph 7.2.30.20. in Counter-Memorial
- Annex No. RC355 related to paragraphs 7.1.39.2. & 7.1.39.5. in Counter-Memorial
- Annex No. RC356 related to paragraph 7.2.12.3. in Counter-Memorial
- Annex No. RC357 related to paragraphs 7.2.27.2. & 7.2.21.3. in Counter-Memorial
- Annex No. RC358 related to paragraphs 7.1.24.1. & 7.2.12.0. & 7.2.12.1.5. & 7.2.12.3. & 7.3.20.2. in Counter-Memorial
- Annex No. RC359 related to paragraphs 7.2.4.1. & 7.2.4.3.2. & 7.2.4.27. in Counter-Memorial

- Annex No. RC360 related to paragraphs 7.2.7.2. & 7.3.2. & 7.2.8. & 7.2.7.0. in Counter-Memorial
- Annex No. RC361 related to paragraphs 7.2.12.3. & 7.3.20.3.6. in Counter-Memorial
- Annex No. RC362 related to paragraph 7.2.12.3. in Counter-Memorial
- Annex No. RC363 related to paragraph 7.2.30.12. in Counter-Memorial
- Annex No. RC364 related to paragraphs 7.2.30.23. & 7.2.4.16. in Counter-Memorial
- Annex No. RC365 related to paragraphs 7.2.4.1. & 7.2.4.2. in Counter-Memorial
- Annex No. RC366 related to paragraphs 7.2.4.28. & 7.2.30.13. in Counter-Memorial
- Annex No. RC367
- Annex No. RC368 related to paragraph 7.2.12.2.2. in Counter-Memorial
- Annex No. RC369 related to paragraph 7.1.38.9. in Counter-Memorial
- Annex No. RC370 related to paragraphs 7.2.4.1. & 7.1.25.0. & 7.3.8.0. in Counter-Memorial
- Annex No. RC371 related to paragraph 1.3.3.13. in Counter-Memorial
- Annex No. RC372 related to paragraph 1.3.3.13. in Counter-Memorial

- Annex No. RC373 related to paragraph 1.3.3.13. in Counter-Memorial
- Annex No. RC374 related to paragraph 7.1.29.1. in Counter-Memorial
- Annex No. RC375 related to paragraph 1.3.3.12. in Counter-Memorial
- Annex No. RC376 related to paragraph 1.3.3.12. in Counter-Memorial
- Annex No. RC377 related to paragraph 1.3.3.12. in Counter-Memorial
- Annex No. RC378 related to paragraph 1.3.3.13. in Counter-Memorial
- Annex No. RC379 related to paragraph 1.3.3.13. in Counter-Memorial
- Annex No. RC380 related to paragraph 1.3.3.13. in Counter-Memorial
- Annex No. RC381 related to paragraph 7.1.13.10. in Counter-Memorial
- Annex No. RC382 related to paragraphs 7.2.12.1.10. & 7.3.20.1. in Counter-Memorial
- Annex No. RC383 related to paragraph 7.2.7.1. in Counter-Memorial
- Annex No. RC384 related to paragraphs 7.2.12.1.10. & 7.3.20.1. in Counter-Memorial

- Annex No. RC385 related to paragraph 7.2.32.1. in Counter-Memorial
- Annex No. RC386 related to paragraph 1.3.3.13. in Counter-Memorial
- Annex No. RC387 related to paragraph 7.1.62.1. in Counter-Memorial
- Annex No. RC388 related to paragraph 7.1.11.5. in Counter-Memorial
- Annex No. RC389 related to paragraph 7.2.6.37. in Counter-Memorial
- Annex No. RC390 related to paragraphs 7.2.3.2. & 7.1.13.0. in Counter-Memorial
- Annex No. RC391 related to paragraph 7.1.11.1. in Counter-Memorial
- Annex No. RC392 related to paragraph 7.1.8.3. in Counter-Memorial
- Annex No. RC393 related to paragraphs 7.2.4.2. & 7.2.4.18. & 7.2.0.1. in Counter-Memorial
- Annex No. RC394 related to paragraph 7.1.36.1. in Counter-Memorial
- Annex No. RC395 related to paragraph 7.1.36.4. in Counter-Memorial
- Annex No. RC396 related to paragraph 7.1.32.4. in Counter-Memorial

- Annex No. RC397 related to paragraph 7.1.34.1. in Counter-Memorial
- Annex No. RC398 related to paragraph 7.1.35.3. in Counter-Memorial
- Annex No. RC399 related to paragraph 7.1.35.1. in Counter-Memorial
- Annex No. RC400 related to paragraph 7.1.36.6. in Counter-Memorial
- Annex No. RC401 related to paragraph 7.1.36.8. in Counter-Memorial
- Annex No. RC402 related to paragraph 7.1.35.2. in Counter-Memorial
- Annex No. RC403 related to paragraph 7.1.33.4. in Counter-Memorial
- Annex No. RC404 related to paragraph 7.1.35.8. in Counter-Memorial
- Annex No. RC405 related to paragraph 7.1.36.5. in Counter-Memorial
- Annex No. RC406 related to paragraph 7.1.35.1. in Counter-Memorial
- Annex No. RC407 related to paragraph 7.1.34.1. in Counter-Memorial
- Annex No. RC408 related to paragraph 7.1.36.7. in Counter-Memorial

- Annex No. RC409 related to paragraph 7.1.35.5. in Counter-Memorial
- Annex No. RC410 related to paragraph 7.1.33.4. in Counter-Memorial
- Annex No. RC411 related to paragraph 7.1.35.7. in Counter-Memorial
- Annex No. RC412 related to paragraph 7.1.36.2. in Counter-Memorial
- Annex No. RC413 related to paragraph 7.1.32.5. in Counter-Memorial
- Annex No. RC414 related to paragraph 7.1.35.1. in Counter-Memorial
- Annex No. RC415 related to paragraph 7.1.36.5. in Counter-Memorial
- Annex No. RC416 related to paragraph 7.1.35.6. in Counter-Memorial
- Annex No. RC417 related to paragraph 7.1.35.5. in Counter-Memorial
- Annex No. RC418 related to paragraph 7.1.35.2. in Counter-Memorial
- Annex No. RC419 related to paragraph 7.1.32.3. in Counter-Memorial
- Annex No. RC420 related to paragraph 7.1.36.1. in Counter-Memorial

- Annex No. RC421 related to paragraphs 7.2.7.0. & 7.2.0.1. in Counter-Memorial
- Annex No. RC422 related to paragraph 7.2.27.2. in Counter-Memorial
- Annex No. RC423 related to paragraph 7.2.3.2. in Counter-Memorial
- Annex No. RC424 related to paragraph 7.1.56.1. in Counter-Memorial
- Annex No. RC425 related to paragraph 7.1.56.1. in Counter-Memorial
- Annex No. RC426 related to paragraph 7.1.62.1. in Counter-Memorial
- Annex No. RC427 related to paragraph 7.1.56.1. in Counter-Memorial
- Annex No. RC428 related to paragraph 7.1.62.1. in Counter-Memorial
- Annex No. RC429 related to paragraphs 7.2.10.1.3. & 7.2.10.1.5. & 7.2.10.1.19. & 7.2.10.1.20. & 7.2.10.3.6. & 7.2.11.5. in Counter-Memorial
- Annex No. RC430 related to paragraph 7.2.10.1.4. in Counter-Memorial
- Annex No. RC431 related to paragraph 7.1.26.2. in Counter-Memorial
- Annex No. RC432 related to paragraph 7.1.56.1. in Counter-Memorial

- Annex No. RC433 related to paragraphs 7.2.6.38.7. & 7.3.18.0. in Counter-Memorial
- Annex No. RC434 related to paragraph 7.1.27.1. in Counter-Memorial
- Annex No. RC435 related to paragraph 7.2.6.10. in Counter-Memorial
- Annex No. RC436 related to paragraphs 7.1.54.2. & 7.2.6.38.9. & 7.2.17.1. & 7.2.17.5. & 7.2.17.5.1. & 7.2.17.5.4. & 7.2.17.5.5. & 7.2.17.5.6. in Counter-Memorial
- Annex No. RC437 related to paragraphs 7.1.44.2. & 7.2.6.37. 7.2.6.38.4. & 7.2.6.38.6. in Counter-Memorial
- Annex No. RC438 related to paragraph 7.2.6.26. in Counter-Memorial
- Annex No. RC439 related to paragraph 7.2.6.38.6. in Counter-Memorial
- Annex No. RC440 related to paragraphs 7.1.38.9. & 7.1.33.0. & 7.1.43.0. in Counter-Memorial
- Annex No. RC441 related to paragraph 7.2.11.5. in Counter-Memorial
- Annex No. RC442 related to paragraph 7.1.32.1. in Counter-Memorial
- Annex No. RC443 related to paragraph 7.1.31.3. in Counter-Memorial
- Annex No. RC444 related to paragraph 7.1.31.1. in Counter-Memorial



- Annex No. RC445 related to paragraph 7.1.30.3. in Counter-Memorial
- Annex No. RC446 related to paragraph 7.1.30.3. in Counter-Memorial
- Annex No. RC447 related to paragraph 7.1.30.3. in Counter-Memorial
- Annex No. RC448 related to paragraph 7.1.30.3. in Counter-Memorial
- Annex No. RC449 related to paragraph 7.1.30.2. in Counter-Memorial
- Annex No. RC450 related to paragraph 7.1.30.1. in Counter-Memorial
- Annex No. RC451 related to paragraph 7.1.27.9. in Counter-Memorial
- Annex No. RC452 related to paragraph 7.1.27.6. in Counter-Memorial
- Annex No. RC453 related to paragraph 7.1.27.6. in Counter-Memorial
- Annex No. RC454 related to paragraph 7.1.27.6. in Counter-Memorial
- Annex No. RC455 related to paragraph 7.1.27.6. in Counter-Memorial
- Annex No. RC456 related to paragraph 7.1.27.6. in Counter-Memorial

- Annex No. RC457 related to paragraph 7.1.27.6. in Counter-Memorial
- Annex No. RC458 related to paragraph 7.1.27.6. in Counter-Memorial
- Annex No. RC459 related with paragraph 7.1.4.2. & 7.2.28.1. in Counter-Memorial
- Annex No. RC460 related with paragraph 7.1.4.3. in Counter-Memorial
- Annex No. RC461 related to paragraph 7.1.49.2. & 7.1.49.3. & 7.2.23.2. in Counter-Memorial
- Annex No. RC462 related to paragraph 7.1.13.11. in Counter-Memorial
- Annex No. RC463 related to paragraph 7.1.19.4. in Counter-Memorial
- Annex No. RC464 related to paragraph in Counter-Memorial
- Annex No. RC465 related to paragraph in Counter-Memorial
- Annex No. RC466 related to paragraphs 7.1.9.11. & 7.2.6.1. in Counter-Memorial
- Annex No. RC467 related to paragraphs 7.1.16.3. & 7.2.5.8.9. & 7.2.5.8.10. in Counter-Memorial
- Annex No. RC468 related to paragraph 7.1.4.2. in Counter-Memorial
- Annex No. RC469 related to paragraph 7.1.49.2. in Counter-Memorial

- Annex No. RC470 related to paragraphs 7.1.39.4. & 7.1.39.8. & 7.2.0.1. in Counter-Memorial
- Annex No. RC471 related to paragraph 7.1.35.1. in Counter-Memorial
- Annex No. RC472 related to paragraph 7.1.19.2. in Counter-Memorial
- Annex No. RC473 related to paragraph 7.1.4.3. in Counter-Memorial
- Annex No. RC474 related to paragraphs 7.1.41.0. & 7.1.41.1. in Counter-Memorial
- Annex No. RC475 related to paragraphs 7.1.27.9. & 7.1.35.9. in Counter-Memorial
- Annex No. RC477 related to paragraph 7.1.45.1. in Counter-Memorial
- Annex No. RC478 related to paragraph 7.1.19.1. in Counter-Memorial
- Annex No. RC479 related to paragraph 7.1.4.2. in Counter-Memorial
- Annex No. RC480 related to paragraph 7.1.19.3. in Counter-Memorial
- Annex No. RC481 related to paragraph 7.1.47.1. in Counter-Memorial
- Annex No. RC482 related to paragraph 7.1.47.1. in Counter-Memorial
- Annex No. RC483 related to paragraph in Counter-Memorial

- Annex No. RC484 related to paragraph 7.2.3.8. & 7.2.3.12. & 7.2.4.2. & 7.2.4.12. in Counter-Memorial
- Annex No. RC485 related to paragraph 7.1.13.11. in Counter-Memorial
- Annex No. RC486 related to paragraph 7.2.30.26. in Counter-Memorial
- Annex No. RC487 related to paragraph 7.1.4.1. in Counter-Memorial
- Annex No. RC488 related to paragraph 7.1.4.9. in Counter-Memorial
- Annex No. RC489 related to paragraph 7.2.16.1. in Counter-Memorial
- Annex No. RC490 related to paragraph 7.1.62.0. in Counter-Memorial
- Annex No. RC491 related to paragraph 3.1.3.1. in Counter-Memorial
- Annex No. RC492 related to paragraph in Counter-Memorial
- Annex No. RC493 related to paragraph in Counter-Memorial
- Annex No. RC494 related to paragraph in Counter-Memorial
- Annex No. RC495 related to paragraph in Counter-Memorial
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- Annex No. RC498 related to paragraph in Counter-Memorial
- Annex No. RC499 related to paragraph in Counter-Memorial
- Annex No. RC500 related to paragraph in Counter-Memorial
- Annex No. RC501 related to paragraphs 7.1.39.7. & 7.1.39.8. & 7.2.0.1. in Counter-Memorial
- Annex No. RC502 related to paragraphs 7.2.1.0. & 7.2.2.0. & 7.2.6.38.9. in Counter-Memorial
- Annex No. RC503 related to paragraphs 7.2.5.8.9. & 7.2.5.8.10. & 7.2.6.38.9. in Counter-Memorial
- Annex No. RC504 related to paragraph 7.1.9.16. in Counter-Memorial
- Annex No. RC505 related to paragraph 7.2.4.2. in Counter-Memorial
- Annex No. RC506 related to paragraph 7.2.4.20. in Counter-Memorial
- Annex No. RC507 related to paragraph 7.2.4.26. in Counter-Memorial
- Annex No. RC508 related to paragraph 7.2.4.19. in Counter-Memorial
- Annex No. RC509 related to paragraph 7.2.4.21. in Counter-Memorial
- Annex No. RC510 related to paragraph 7.2.4.8. in Counter-Memorial

- Annex No. RC511 related to paragraph 7.2.4.9. in Counter-Memorial
- Annex No. RC512 related to paragraph 7.2.4.10. in Counter-Memorial
- Annex No. RC513 related to paragraph 7.1.10.1. in Counter-Memorial
- Annex No. RC514 related to paragraph 7.2.4.7. in Counter-Memorial
- Annex No. RC515 related to paragraph 7.2.4.10. in Counter-Memorial
- Annex No. RC516 related to paragraph 7.2.30.15. in Counter-Memorial

#### 2.10. Responsibility of the Applicant for Violation of the Obligations Established by the Convention on the Prevention and Punishment of the Crime of Genocide

2.10.1. Pursuant to Article 5 of the Genocide Convention, the Applicant was obliged to take necessary legal measures to give effect to the provisions of the Convention, and in particular to provide for effective penal sanctions against persons guilty of genocide or any other crime referred to in Article 3 of the Convention. It appears that the Applicant has been late in complying with this obligation. It was bound to do so from the date it became party to the Convention. According to the ICJ Judgment of 11 July 1996, that date is defined as the time when armed conflicts began in Bosnia and Herzegovina. The Applicant, in its Decree going into effect on 11 April 1992 ("Official Journal of RBiH", No. 2/29), took over the Penal Code of the SFRY which included the crime of genocide as an

indictable offence. In reality, fighting broke out in Bosnia and Herzegovina even before that date.

2.10.2. In accordance with Article 1 of the Genocide Convention, the Applicant was bound to prevent this crime from being committed. It however failed to do so. The Applicant not only failed to prevent this crime from being perpetrated, but its organs-armed forces have actually perpetrated it.

2.10.3. Under Articles 1, 3 and 4 of the Convention, the Applicant was bound to punish the perpetrators of the crime of genocide, as well as to punish direct and public incitement to committing genocide. The Applicant failed to do so. This failure on the part of the Applicant constitutes a violation of the above-mentioned obligation.

2.10.4. The Applicant is responsible both for the actions and omissions of its authorities. Given that the armed forces of Bosnian Croats have been incorporated into the constitutional structure of the Applicant, the actions and omissions by these forces are also attributable to the Applicant, in accordance with the rules of international law governing the responsibility of states. The assertions of the Applicant that some military units, like the 9th Mountain Brigade in Sarajevo, escaped control and acted contrary to orders, are irrelevant from the point of view of their attributability to the Applicant.

## 2.11. Elimination of All Consequences of Violation of the Obligations Established by the Convention on the Prevention and Punishment of the Crime of Genocide and Provision of Fair Compensation

2.11.1. In paragraphs 10 and 11, on page 958 of the Reply, the Applicant claims that the Respondent has not proven that it suffered any economically assessable damage susceptible of being compensated. The Applicant, therefore, believes that the Respondent is entitled only to satisfaction, as a form of

compensation for moral damage. The Respondent, however, suffered huge material damage caused by the violation of the Applicant's obligations under the Genocide Convention. The Respondent did not elaborate on this issue in its Counter-Claim, because it was premature.



## PART TWO

### 3. CLAIM OF THE APPLICANT IS NOT BASED ON FACTS AND ON LAW

#### 3.1. Evidence and the Way of Proving

3.1.1. In para 26, p.962 of the Reply, the Applicant *"fully maintains its conviction that this is not a criminal trial and that therefore the facts need not to be proven 'beyond a reasonable doubt'"*.

3.1.2. The Respondent considers that the present proceedings concern the most serious issues of State responsibility that it is possible to imagine and the standard of proof should, as a matter of the good administration of justice, be appropriately rigorous. In relation to the allegations of Yugoslav collusion with Albania in the Corfu Channel Case (Merits) it is useful to recall that the Court required 'conclusive evidence', and remarked that: *'A charge of such exceptional gravity against a State would require a degree of certainty that has not been reached here'*. (I.C.J. Reports, 1949, paras 16-17, p. 17).

3.1.3. In the same Judgment the Court stated that: *'The proof may be drawn from inferences of the fact, provided that they leave no room for reasonable doubt'*.(I.C.J. Reports, 1949, p.18). (emphasis in the original). In general the Court in the Corfu Channel case adopted a policy of considerable caution in relation to reliance upon circumstantial evidence. For present purposes such caution is of particular significance because, unlike the situation in Albania, after early March 1992, the locus in quo did not form part of Yugoslavia and was not under the control of Yugoslavia.

3.1.4. In the Reply the Applicant uses as proofs for its claims mostly Annexes to the Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), indictments brought in by the Prosecutor before the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Former Yugoslavia since 1991, decisions of the Tribunal based on Article 61 of the Rules of Procedure and Evidence, a Judgment of the Tribunal in the Tadić case, submissions by individual governments to the Security Council, reports of individual non-governmental organizations, as well as newspaper articles and books by individual publicists. All these materials are of dubious evidential value.

3.1.5. The Respondent quotes below the text about the sources of documents and the appraisal of the documentation and reports contained in Annexes to the Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), presented by Bassiouni's Commission itself in its Report. The text reads as follows:

*"SOURCES OF DOCUMENTS*

*"6. The documentation centre received documents from governments, United Nations bodies, GOs, NGOs, and other sources. Many of these documents were obtained through the Commission, but over half were obtained independently by IHRLI (Independent Human Rights Law Institute). A large number of the documents obtained by the Commission and IHRLI are now in the public domain. Some Commission documents were not forwarded to IHRLI for confidentiality reasons.*

*"7. IHRLI received many documents in languages other than English, particularly in Serbo-Croatian. IHRLI relied on volunteer translators to translate these documents*

*into English for entry into the database and for analysis by IHRLI attorney-analysts.*

*"A. Submissions by Governments*

*"8. The following governments submitted reports and materials to the commission pertaining to the large-scale victimization that has occurred in the former Yugoslavia: Albania, Australia, Austria, Belgium, Bosnia and Herzegovina, Burkina Faso, Canada, Colombia, Croatia, Denmark, Federal Republic of Yugoslavia, France, Germany, Iran, Italy, Kenya, the Netherlands, Norway, Russia, Republic of Serbia, Saudi Arabia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America and Venezuela.*

*"9. A number of reports received from governments provided data relating to specific occurrences which, if supported by evidence, would constitute 'grave breaches' of the Geneva Conventions and other violations of international humanitarian law. The Governments of Austria, Bosnia and Herzegovina, Canada, Croatia, the Federal Republic of Yugoslavia, France, Germany, Norway, Sweden, Switzerland, the United Kingdom and the United States of America were among the Governments which provided information that proved useful to the work of the Commission and ultimately will prove useful to the Prosecutor of the ICTFY. Several of the above-mentioned Governments made multiple submissions.*

*"10. Other submissions by governments ranged from general letters expressing support for initiatives taken by the United Nations, to re-publications of media reports, and to investigative studies and reports alleging or documenting 'grave breaches' of the Geneva*

*Conventions and other violations of international humanitarian law. Some of this documentation consisted of general background information.*

*"11. Of the submissions described above, some were incorporated into formally submitted UN documents and are therefore in the public domain; other documents were submitted directly to the Commission only, and are therefore not in the public domain.*

*"B. Submissions by the 'warring parties' not recognized as states*

*"12. The following parties also submitted relevant information through multiple submissions: Hrvatska Zajednica Herceg-Bosne (Croatian Community of Herceg-Bosnia), Republika Srpska Krajina (Republic of Serbian Krajina), and Republika Srpska (Serbian Republic).*

*"C. Information received from United Nations bodies*

*"13. The following UN bodies were a source of information to the Commission: United Nations Centre for Human Rights; Committee on the Rights of the Child; Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions; Special Rapporteur on Arbitrary Arrest and Detention; Special Rapporteur on the Situation of Human Rights in the Territory of the Former Yugoslavia; United Nations Commission on Human Rights; United Nations Educational Scientific and Cultural Organization (UNESCO); United Nations High Commissioner for Refugees (UNHCR); United Nations Children's Fund (UNICEF); United Nations Human Rights Committee; United Nations Program for Development; United Nations Protection Force (UNPROFOR); United Nations Committee on the Elimination of Racial*

*Discrimination; United Nations Department of Public Information; and World Health Organization (WHO).*

*"D. Submissions by IGOs*

*"14. The following IGOs have submitted reports or provided information to the Commission, or published material which the Commission consulted: Conference on Security and Cooperation in Europe (CSCE), Council of Europe, European Community Monitoring Mission (ECMM), European Parliament, International Committee of the Red Cross (ICRC), International Conference on the Former Yugoslavia (ICFY), North Atlantic Treaty Organization (NATO), and Organization of the Islamic Conference (OIC).*

*"15. Some IGOs, because of their limited mandates and missions, did not provide all of the information to which they had access. The International Committee of the Red Cross, for instance, did a great deal of work in the prison camp, but only provided information which it published and which is in the public domain.*

*"E. Submissions by NGOs*

*"16. The reports received from a number of non-governmental and humanitarian organizations proved to be very useful in enabling the Commission to gather pertinent, substantial data. The extent of the investigations giving rise to these reports, and the level of their analysis, demonstrated an effort and commitment on the part of many NGOs to produce verifiable facts. The accounts published in the reports of some NGOs, particularly those received from Human Rights Watch Helsinki, were detailed and most closely resembled the type of data the Commission needed to assess responsibility for 'grave breaches' of the Geneva*

*Conventions and other violations of international humanitarian law. NGOs from which the Commission or IHRLI received information are listed in Annex I.C below.*

*"17. NGOs did not, however, provide the Commission with their supporting documentation, usually for fear of breaching confidentiality agreements endangering the lives of their sources of information.*

*"F. Other sources*

*"18. While governments, the UN bodies, IGOs, and NGOs provided most of the documentation to the Commission, other sources yielded some useful information. Private individuals submitted personal accounts of victimization, videotapes, photographs, and other relevant information. IHRLI also gathered valuable information from print and electronic media, including reports based on searches of the LEXIS/NEXIS and Foreign Broadcast Information Service (FBIS) databases.*

*"III. ASSESSMENT OF REPORTS RECEIVED BY THE  
IHRLI DOCUMENTATION CENTRE*

*"19. The Commission and the Rapporteur experienced mixed results in their efforts to gather data and evidence of alleged violations of international humanitarian law. Many of the reports prepared by governments, UN bodies, IGOs, and NGOs consisted of general allegations which did not contain evidence. However, these sources were complemented by information provided by the warring parties' state war crimes commissions, other national organizations, media sources, and private individuals.*

*"20. The reports received establish the large scale victimization that has taken place in the former Yugoslavia, but frequently did not contain the leg.*

*'Evidence' necessary to bring criminal charges under international criminal law or under the domestic criminal law of states in whose territory those were committed. Some reports, however, contained specific information supported by evidence, such as affidavits, witness statements, photographs, maps, etc.*

*"21. Since the submitting sources did not always provide sufficient information to support their allegations, the incidents reported and entered into the database frequently lacked necessary information. Difficulties in data entry and analysis occurred because of the following common problems of the reports received: 1) sources upon which reports were based were usually not verifiable because many reports did not disclose original sources; 2) spellings of names and locations were often inconsistent, due to translation into the reporting language; 3) locations were difficult to pinpoint, due to a lack of specific geographical information; 4) reports of the same incident sometimes varied significantly in important details; 5) property damage reports rarely included more than the type of property affected, and often lacked specific locations; 6) numbers of victims or other variables were often reported within large ranges; 7) names of victims, witnesses and perpetrators were often intentionally omitted from the reports; 8) reports often failed to identify the specific military units involved in alleged incidents; and 9) important details, which may not have seemed relevant to the reporter, were often omitted." (S/1994/674/Annex I.A pp.4-7)*

3.1.6. Bassiouni's Commission was quite explicit: *" The reports received establish the large scale victimization that has taken place in the former Yugoslavia, but frequently did not contain the leg. 'Evidence' necessary to bring criminal charges under*

*international criminal law or under the domestic criminal law of states in whose territory those were committed".*

3.1.7. There are serious reasons for doubt about the correctness of the legal findings and views of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of Former Yugoslavia since 1991, concerning facts and law, for the following reasons.

3.1.8. Extreme insufficiency of legal regulations on the basis of which the Tribunal functions leaves ample room for political abuse. The whole areas have been left legally unregulated and only parts of certain international conventions containing the obligation of the contracting States to incriminate certain acts by their criminal law have been incorporated into the Statute of the Tribunal although it is known that these provisions cannot be directly applied without violating the basic principles of criminal law. The Statute of the Tribunal contains only 34 articles, most of which deal with the regulation of organizational matters and hardly a dozen contain rudimentary penal law provisions .

3.1.9. The entire area of the General Part of criminal law, without which the application of criminal law is inconceivable, remains completely unregulated. It was only during the work of the Preparatory Committee for the Permanent International Criminal Court that there was a realization about something that is commonplace in criminal law regarding the importance of the General Part. Wise rightly insists on the importance of the principle of legality also in international criminal law, not only with regard to specific criminal acts but also with regard to the General Part of criminal law, which would practically call for a complete penal code. (E.M. Wise, General Rules of Criminal Law. In: The International Criminal Court: Observations and Issues before the 1997-98 Preparatory Committee; and Administrative and Financial Implications, 13 Nouvelles Etudes Penales, AIDP, 1997, pp.271-273).



3.1.10. All the three basic principles of criminal law have been violated: 1. *nullum crimen sine lege* (total absence of the General Part and violation of the postulate *lex certa* in the Special Part); 2. *nullum poena sine lege* (a system of completely undefined punishments has been adopted - and in the Rules of Procedure the penalty of deprivation of liberty for life has been added, something which could hardly be prescribed by a procedural provision); and 3. *nullum crimen sine culpa* (no general conditions for criminal responsibility have been defined). Presumed culpability has been introduced with regard to command responsibility in Article 7, para 3 of the Statute, which is unacceptable as a matter of principle, and in particular in respect of genocide because of genocidal intent as its constitutive element. Command responsibility is a form of objective responsibility, and at best it can be a case of negligence. The intention of Article 86 of the Additional Protocol I to the Geneva Conventions is that states, in case of failure by the commanding officer to take measures to prevent war crimes, should make provision for his criminal or disciplinary responsibility, i.e. incriminate it as a specific criminal act of negligence committed by omission. There are no grounds whatsoever in the Geneva Conventions or in the Convention on the Prevention and Punishment of Genocide for extending it to include genocide.

3.1.11. In the area of process law, too, there is a departure from the usual standards, and many important questions are not regulated at all. With regard to the policy of prosecution, as an illustration for extreme flexibility, Rule No.1 of the Prosecutor of the Tribunal<sup>1</sup> may be mentioned, a rule by which the Prosecutor prescribed his own procedure in connection with the institute of *nolle prosequi* (an institute that exists in Anglo-Saxon law, but

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<sup>1</sup> Prosecutor's Regulation No.1 of 1994, as amended 1995, Tribunal Basic Documents, 1995.

is applied restrictively and under certain conditions). According to this rule the Prosecutor has the option of non-prosecution and non-accusation of perpetrators of even the gravest crimes if they testify against another perpetrator. But, even such a rule is superfluous because the Prosecutor is not bound by anything in assessing whether or not proceedings will be instituted before the Tribunal and against whom. The Prosecutor has unlimited powers in this respect. The Prosecutor decides not only against whom an indictment will be brought in but also against whom it will not be brought in despite the existence of numerous proofs. The officials of the Tribunal Prosecutor's Office occasionally tend to justify this attitude by the lack of funds or by alleged insufficient cooperation of certain states, which cannot serve as true arguments for not bringing in indictments in connection with the known events and criminal acts. Having in mind that the Tribunal's Trial Chambers cannot decide on actions and acts for which no indictment has been brought in, the work of the Tribunal must of necessity result in selective justice. However, in the case of an international judicial institution, selective justice has far more serious consequences than in the case of national institutions. The result of selective justice is in this case reflected as harm to peoples and states and not to individuals. In the concrete case before the International Court of Justice, the effect of selective justice of the International Criminal Tribunal's Prosecutor may affect the equality of parties to the dispute.

3.1.12. As it is known, the Prosecutor may also bring in secret indictments, which is not allowed in the criminal proceedings of any civilized country. The explanation offered to the effect that this is resorted to by the police worldwide is completely unsustainable. Namely, what is involved here are preliminary actions which are as a rule kept secret for the sake of more efficient detection and gathering of evidence; or, possibly, investigation is involved, but in no case the phase of accusation. The procedure of bringing charges against a person is, in modern criminal proceedings, a public procedure and the

indictment as such is an act which contains, as its compulsory constitutive, even central element, the accusation of a certain person of a certain criminal act.

3.1.13. As a negative example of newly introduced institutes, the so-called principle of rotation provided for by the Rules of Procedure and Evidence (Rule 27) should be mentioned; besides being basically unacceptable it is also in direct contravention of the Statute of the Tribunal. What the Tribunal has done with the relationship between the Trial Chambers and the Appellate Chamber through the above-mentioned principle of rotation constitutes not only the direct violation of its own Statute (Art. 14, paragraph 3) but also the abandonment of at least some kind of distinction (even though within the same court) between the two levels of trial. Apart from grossly violating one of the basic principles, and directly violating the Statute, the principle of rotation also creates problems in practice, because it already happened that the same judge sits both in the Trial Chamber and the Appellate Chamber. For the time being, different cases are in question, but even so, it is hardly acceptable not only as matter of principle but also from a practical point of view that in one case one judge sits in the first-instance court and in another, in the appellate court, while his colleague is in the opposite roles in the same two cases. Many fundamental questions which have been solved in the same or similar way are not regulated in criminal process law, have not been regulated and are controversial. The absence of legal security is best illustrated not only by the fact that the Tribunal's Rules of Procedure and Evidence are brought by the Tribunal itself, but also by the fact that it often changes them, and the amendments become effective immediately, i.e. without previous publication; furthermore, they may also be applied to the proceedings which are under way (Rule No. 6 C).

3.1.14. Whatever the real motives for establishing the Tribunal, the approach to it has been one of improvisation; the basic principles of criminal, and also international law have been

violated. The Tribunal cannot dissociate itself from the way in which it was established: it remains to be a special auxiliary organ of the Security Council. Considering the legal grounds for its establishment, the set objectives and rudimentary law being applied, it can be said that we are dealing here with the disciplinary commission of the Security Council and not with a criminal court. The Security Council was not a neutral party in adopting decisions in connection with the crisis and armed conflict in the territory of the former Yugoslavia. The establishment of the Tribunal, too, is one of its "disciplinary measures" against Serbs. (See M.P. Scharf, *A Critique of the Yugoslavia War Crimes Tribunal*. In: *The International Criminal Court: Observations and Issues before the 1997-98 Preparatory Committee*, 13 *Nouvelles etudes penales*, AIDP, 1997, p.265).

3.1.15. The proceeding under Rule 61 of the Tribunal's Rules of Procedure and Evidence, on which the Applicant heavily relies, in particular in connection with the indictments against Karadžić and Mladić, is no trial at all. Thus, in the "Rajic" case (IT-95-12-R61) the Tribunal states: "*A Rule 61 proceeding is not a trial in absentia. There is no finding of guilt in this proceeding*". The position in the "Nikolić" case (IT-95-2-R61) is cited in the same way. In that proceeding not even the defence counsel of the accused may participate, nor any other representative of the accused. It has thus been decided in the "Karadžić and Mladić" case (IT-95-5-R61/IT-95-19-R61). Finally, the defence counsel of the accused has no right to lodge any, not even preliminary, objections. Thus, on 24 July 1996, in connection with the above-mentioned indictments against Karadžić and Mladić, Trial Chamber I brought Decision Rejecting the Application presented by Messrs. Medvene and Hanley III Seeking Leave to File Briefs Challenging the Fairness of the Statute and the Rules of Procedure and Evidence. Therefore, the Applicant's position of principle on the nature and significance of this proceeding expressed in para 40, p.47 of the Reply is completely wrong.

3.1.16. It is clear that the indictments are not a proof *per se* that a criminal act has been committed. This is true in particular of the indictments of the International Criminal Tribunal. In the Tadić case, out of a total of 34 charges, Trial Chamber I found only 11 counts justified, among which gravest charges remained unproven. In the process, the Prosecutor failed to prove the most serious accusations relating to alleged killings and rapes. On the quality of evidence used by the Prosecutor speaks also the Decision of the USA Court in Laredo (Texas) of 17 December 1997 which refused to extradite the accused Elizaphan Ntakirutimana to the International Criminal Tribunal for Rwanda, inter alia, because the submitted evidence was not convincing. (In the United States District Court for the Southern District of Texas Laredo Division in the Matter of Surrender of Elizaphan Ntakirutimana, Misc. No. L-96-5, Annex No. R6, pp. r59-r71)

3.1.17. The unbalanced attitude of the Tribunal towards the three parties to the conflicts in B&H is reflected in the following facts: 1) a large disproportion in the number of accused Serbs in comparison with that of accused Muslims, as well as in the number of investigations under way; 2) inconsistency in the qualifications of criminal acts with which persons of Serb nationality are charged compared to the qualification of acts committed by Muslims and/or Croats; 3) unequal application of Article 7(3) - command responsibility with respect to accused Serbs and/or Muslims.

3.1.18. Disproportion in the number of accused Serbs in comparison with the number of Muslims against whom indictments have been brought in is obvious and is in contradiction with the real situation of committed crimes. The International Criminal Tribunal has brought in indictments against 59 persons of Serb nationality so far, while only one indictment has been brought in against 3 Muslims in the Čelebići case which will be discussed in more detail later on.

This disproportion points to the unbalanced and biased approach of ICTY.

3.1.19. Of all current investigations conducted by the Prosecutor's Office of the Tribunal in 1998, only one relates to a case where victims were persons of Serb nationality, and the location is in the territory of Croatia. According to unofficial information the Prosecutor's Office has at its disposal a total of ten investigating teams, out of which six teams investigate alleged crimes against Muslims, three investigate crimes against Croats while only one team is charged with the task of investigating crimes against Serbs. This is considered confidential information and, consequently, it is not possible to supply any document.

3.1.20. Exhumations of mass graves are a part of the investigations in course and, according to the published data, since 1996 work is underway on more than 14 sites none of which is related to investigation associated with Serb victims.

3.1.21. On a number of occasions during the meetings between the highest representatives of the ICTY Prosecutor's Office and the Yugoslav officials from 1996 to date the Yugoslav side called attention to the unbalanced approach of the Prosecutor when investigations of cases where victims are persons of Serb nationality are in question. The only answer of the Prosecutor and his/her representatives has been that the ICTY does not dispose of adequate funds for the purpose.

3.1.22. A comparative analysis of the indictment in the Čelebići case on the one hand, and the indictments against persons of Serb nationality on the other, has shown the following inconsistencies in the ICTY approach when qualification of the same or similar criminal acts is in question.

3.1.23. When compared with the general allegations in the indictments brought in against Serbs it can be noticed that the

general allegations in the "Čelebići" indictment, in the section entitled "Background", contain a very brief description of the general circumstances and events in the municipality of Konjic. Moreover, the Prosecutor mentions some irrelevant data in this part, obviously with the aim of scaling down the crimes against the Serb population in the region so as to avoid stating that crimes against Serbs were of a systematic character, widespread and of mass proportions. In order to enable this comparison to be made quoted below is the integral text of the part of the indictment entitled "Background", which is followed by the statements of the Prosecutor during the trial.

#### *"BACKGROUND*

*1. The Konjic municipality is located in central Bosnia and Herzegovina. In the 1991 census, the population of Konjic municipality, which includes Konjic town and surrounding villages, including Čelebići, was approximately 45,000 persons, with the ethnic distribution being approximately 55 per cent Muslim, 26 per cent Croatian and 15 per cent Serbian. Konjic was of significance because it contained a large factory for arms and ammunition, as well as several military facilities, and because it was a transportation link between Mostar and Sarajevo.*

*2. Beginning in the latter part of May 1992, forces consisting of Bosnian Muslims and Bosnian Croats attacked and took control of those villages containing predominantly Bosnian Serbs within and around the Konjic municipality. The attackers forcibly expelled Bosnian Serb residents from their homes and held them at collection centres. Many of the women and children were confined in a local school or in other locations. Most of the men and some women were taken to a former JNA facility in Čelebići, hereafter referred to as Čelebići camp. There, the detainees were killed,*

*tortured, sexually assaulted, beaten, and otherwise subjected to cruel and inhuman treatment. The majority of detainees were confined at Čelebići from approximately October of 1992, though some remained until December 1992. Detention facilities within the camp included a tunnel, a hangar, and an administration building. After their confinement in Čelebići, the majority of the detainees were moved to other detention camps, where they were imprisoned for periods of up to 28 months."*

(Annex 2: ICTY, Indictment, Prosecutor v. Delalić & others ("Čelebići camp"), Case No. IT-96-21-I, 21 Mar. 1996, pp.1-2)

3.1.23. In the "Čelebići" indictment, in contrast to all indictments brought in against Serbs, there is no claim on the part of the Prosecutor that the committed acts or omissions were part of the widespread, mass or systematic attacks against civilian population, a fact which is further on reflected in the qualification of the acts. Namely, for this reason the acts cannot be qualified as crimes against humanity. However, the Prosecutor, when necessary, for instance in his concluding remarks in the "Čelebići" case (Annex 3: "Sentencing submissions of the Prosecutor", Case No. IT-96-21-T, of 1 October 1998, pp.10-13), in proposing to the Chamber to take as an aggravating circumstance, in meting out the punishment, precisely the gravity of the accusations, describes, inter alia, the circumstances indicating that the attacks on civilian population were widespread ("The Konjic municipality and surrounding villages"), mass scale and systematic (suffering of the entire Serb population over a long period of time), although here again, the same as in the indictment, the mentioned terms are avoided:

*"...It is also clear that the treatment of the detainees in Čelebići was part of a wider pattern of mistreatment in Konjic area. Both the Prosecution and the Defence*



witnesses referred to the general conditions for Serbs in Konjic, and how they were in danger and victimized physically, emotionally, and materially. (See, for example, T. 6097, 12271, 11616). Many of the victims lost first their jobs and then their property. (See, for example, T. 1363, 2005, 6199-6200, 7607). Many of the victims, who had fled to the woods after their villages were attacked, were brutally beaten before they were brought to Čelebići. (See, for example, T. 1175, 4130, 4710). Many of the victims also had family members outside the camp who were killed or massacred. (See, for example, T. 557, 4397, 7005).

When victims finally were released from Čelebići, they could not stay in Konjic, and, almost without exception, the detainees then became refugees. As refugees, they had no residences, no property, and little chance of obtaining employment. In contrast to the families of the detainees who, according to the Defence evidence, have been supported by the SDA (T. 15287), these refugees have received nothing. (See, for example, T. 6204, 7614-15). A large number of the witnesses who testified now have moved to parts of North America or elsewhere, where they do not speak the language, and where they are far away from their homes and extended families. Professionally, the refugees, both those in North America and those in the former Yugoslavia, can rarely obtain employment comparable to the jobs they performed in Konjic. (See, for example, T. 6371). On the contrary, many have been transformed from independent and self-sufficient citizens to refugees dependent on the largesse of others. Almost none of the victims from Čelebići has returned to Konjic."

" Another factor that must be considered in evaluating the gravity of the Offence is long-standing nature of the crimes."

3.1.24. In view of such an unbalanced approach of the Prosecutor's Office, when the description of the general situation is in question, further inconsistencies concerning the qualification of acts follow. The most obvious example is the comparison between the description and qualification of rape in the "Čelebići" case with the same act in the "Omarska" case.

As can be seen from the attached parts of the indictments (ICTY, Indictment, Prosecutor v. Delalić & others ("Čelebići camp"), Case No. IT-96-21-I, 21 Mar. 1996, pp.7-8 and ICTY, Indictment, Prosecutor v. Meakić & others ("Omarska camp"), Case No. IT-95-4-I, 13 Feb. 1995, pp.8-10), due to the policy of double standards of the Tribunal's Prosecution, the same acts are qualified differently. The description of the acts allegedly committed by the Serbs is considerably more detailed in comparison with the really more serious acts of Muslim perpetrators. For the fivefold rape of the same person M. Radić is indicted of a total of 10 counts, five of which are qualified as a crime against humanity, while for multiple rapes of two persons under extremely humiliating conditions (group raping, rape in the presence of other prisoners, anal intercourse) H. Delić is accused under four counts of the indictment, none of which relates to the crime against humanity. Also, it should be borne in mind that the responsibility of H. Delić is greater because he was the deputy commander and commander of the Čelebići camp and M. Radić only the head of a guards' shift in Omarska camp.

3.1.25 The Respondent notes that the alleged rapes of which Serbs are accused under all indictments, like in the mentioned case ("Omarska"), are also qualified as a crime against humanity. In the only case where Serbs appear as victims ("Čelebići") the same acts are qualified solely as grave breaches of the Geneva Conventions for the protection of the victims of war, and a violation of the laws and customs of war. For this reason rape in the "Čelebići" indictment is classified as

torture and cruel treatment, although this same act could be directly characterized as rape (Article 5(g) of the Statute of the Tribunal) had the act been qualified as a crime against humanity.

3.1.26. The Respondent will present here a comparative account of indictments in the "Omarska Camp" case and the "Čelebići Camp" case.

3.1.27. The "Omarska Camp" indictment (Indictment ICTY, IT-95-4-I of 13 Feb. 1995) of all concrete crimes describes only one case of murder, fivefold rape of the same person and participation in willfully causing serious injury to body or health of 6 detainees. These alleged crimes are qualified in the following way:

- Željko Meakić (commander) is charged with committing genocide (Article 4) for complicity in killing, torture and creating unbearable conditions of life. As can be seen in the part of the indictment quoted below, there is not a single concrete detail about any of the crimes listed:

*"CHARGES:*

*ACCUSED: Željko Meakić*

*18.1. Željko Meakić, intending to destroy, in whole or in part, the Bosnian Muslim and Bosnian Croat people as national, ethnic or religious groups, was complicit with other persons in the killing of Bosnian Muslims and Bosnian Croats from the opstina Prijedor at the Omarska camp, thereby committing genocide, a crime recognised by Article 4(a) of the Statute of the Tribunal.*

*18.2. Željko Meakić, intending to destroy, in whole or in part, the Bosnian Muslim and Bosnian Croat people as national, ethnic, or religious groups, was complicit with*

*other persons in causing serious bodily or mental harm to Bosnian Muslim and Bosnian Croat people from the opstina Prijedor at the Omarska camp, thereby committing genocide, a crime recognised by Article 4(b) of the Statute of the Tribunal.*

*18.3. Željko Meakić, intending to destroy, in whole or in part, the Bosnian Muslim and Bosnian Croat people as national, ethnic, or religious groups, was complicit with other persons in the deliberate infliction of conditions of life on Bosnian Muslim and Bosnian Croat people from the opstina Prijedor at the Omarska camp calculated to bring about their physical destruction, in whole or in part, thereby committing genocide, a crime recognised by Article 4(c) of the Statute of the Tribunal." (Ibid. p.5)*

With regard to other acts under Articles 2, 3 and 5 of the Statute of the Tribunal, Ž. Meakić is charged on the grounds of command responsibility. He took part personally only in two alleged crimes - beating up of detainees on the occasion of their bringing to the Omarska camp (there are no data about the alleged victims) and a case of light bodily injury.

- M. Radić (head of a guards' shift) is charged on the grounds of command responsibility, and with fivefold raping the same person.

- M. Kvočka and D. Prcać (deputy camp commanders), as well as M. Kos and M. Gruban (heads of guards' shifts) are charged exclusively on the grounds of command responsibility.

- D. Knežević and Z. Žigić are charged with the murder of one and with beating four persons. D. Knežević is also charged with one more beating on the same grounds. There is no identity of the victims.

3.1.28. At the same time the "Čelebići camp" indictment relates to the following crimes according to the responsibility of the perpetrators:

- Zejnil Delalić, Zdravko Mucić and Hazim Delić were in positions of superior authority to all camp's guards and to those other persons who entered the camp and mistreated detainees. The accused failed to take the necessary and reasonable measures to prevent or to punish the perpetrators.

The accused are accordingly responsible for the crimes allegedly committed by their subordinates:

- murder of at least 14 detainees;
- at least 7 acts of torture, including 2 rapes;
- at least 5 cases of causing great suffering or serious injury;

- at least 3 cases of inhumane acts, including forcing persons to commit fellatio on each other;

- unlawful confinement of the detainees in inhumane conditions.

- Hazim Delić is also individually responsible for his alleged direct participation in:

- 4 murders;
- 5 acts of torture, including 2 rapes;
- 1 case of causing great suffering or serious injury;
- the use of a device emitting electrical current to inflict pain.

- Esad Landžo is individually responsible for his alleged direct participation in:

- 5 murders;
- 4 acts of torture;
- 1 case of causing great suffering and serious injury;
- subjecting detainees to inhumane conditions.

The charges read as follows:

*COUNTS 1 AND 2*  
*Killing of Šćepo GOTOVAC*

16. Sometime around the latter part of June 1992, Hazim DELIĆ, Esad LANDŽO and others selected Šćepo GOTOVAC, aged between 60 and 70 years. Hazim DELIĆ, Esad LANDŽO and others then beat Šćepo GOTOVAC for an extended period of time and nailed an SDA badge to his forehead. Šćepo GOTOVAC died soon after from the resulting injuries. By their acts and omissions, Hazim DELIĆ and Esad LANDŽO are responsible for:

*Count 1. A Grave Breach punishable under Article 2(a)(wilful killing) of the Statute of the Tribunal; and*

*Count 2. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(murder) of the Geneva Conventions.*

*COUNTS 3 AND 4*  
*Killing of Željko MILOŠEVIĆ*

17. Sometime around the middle of July 1992 and continuing for several days, Željko MILOŠEVIĆ was repeatedly and severely beaten by guards. Sometime around 20 July 1992, Hazim DELIĆ selected Željko MILOŠEVIĆ and brought him outside where Hazim DELIĆ and others severely beat him. By the next morning, Željko MILOŠEVIĆ had died from his injuries. By his acts and omissions, Hazim DELIĆ is responsible for:

*Count 3. A Grave Breach punishable under Article 2(a)(wilful killing) of the Statute of the Tribunal; and*

*Count 4. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(murder) of the Geneva Conventions.*

*COUNTS 5 AND 6*  
*Killing of Simo JOVANOVIĆ*

*18. Sometime in July 1992 in front of a detention facility, a group including Hazim DELIĆ and Esad LANDŽO over an extended period of time severely beat Simo JOVANOVIĆ. Esad LANDŽO and another guard then brought Simo JOVANOVIĆ back into the detention facility. He was denied medical treatment and died from his injuries almost immediately thereafter. By their acts and omissions, Hazim DELIĆ and Esad LANDŽO are responsible for:*

*Count 5. A Grave Breach punishable under Article 2(a)(wilful killing) of the Statute of the Tribunal; and*

*Count 6. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(murder) of the Geneva Conventions.*

*COUNTS 7 AND 8*

*Killing of Boško SAMOUKOVIĆ*

*19. Sometime in July 1992, Esad LANDŽO beat a number of detainees from Bradina with a wooden plank. During the beatings, Esad LANDŽO repeatedly struck Boško SAMOUKOVIĆ, aged approximately 60 years. After Boško SAMOUKOVIĆ lost consciousness from the blows, he was taken out of the detention facility and he died soon after from his injuries. By his acts and omissions, Esad LANDŽO is responsible for:*

*Count 7. A Grave Breach punishable under Article 2(a)(wilful killing) of the Statute of the Tribunal; and*

*Count 8. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(murder) of the Geneva Conventions.*

*COUNTS 9 AND 10*

*Killing of person with surname MILJANIĆ  
(Withdrawn 21 April 1997)*

*20. Sometime around the latter part of July 1992, Esad LANDŽO entered a detention facility and selected a detainee with the surname MILJANIĆ, aged between 60 and 70 years. Esad LANDŽO then used a baseball bat to beat the detainee to death. By his acts and omissions, Esad LANDŽO is responsible for:*

*Count 9. A Grave Breach punishable under Article 2(a)(wilful killing) of the Statute of the Tribunal; and*

*Count 10. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(murder) of the Geneva Conventions.*



## COUNTS 11 AND 12

### *Killing of Slavko SUŠIĆ*

21. Sometime around the latter part of July, or in August 1992, a group including Hazim DELIĆ and Esad LANDŽO repeatedly selected Slavko SUŠIĆ for severe beatings. Hazim DELIĆ, Esad LANDŽO and others beat Slavko SUŠIĆ with objects, including a bat and a piece of cable. They also tortured him using objects including pliers, lit fuses, and nails. After being subjected to this treatment for several days, Slavko SUŠIĆ died from his injuries. By their acts and omissions, Hazim DELIĆ and Esad LANDŽO are responsible for:

Count 11. A Grave Breach punishable under Article 2(a)(wilful killing) of the Statute of the Tribunal; and

Count 12. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(murder) of the Geneva Conventions.

## COUNTS 13 AND 14

### *Responsibility of Superiors for Murders*

22. With respect to the murders committed in Celebici camp, including: the murder in June 1992 of Milorad KULJANIN, who was shot by guards, one of whom said they wished a sacrifice for the Muslim festival of Bairam; the murder of Željko ČEČEŽ, who was beaten to death in June or July 1992; the murder of Slobodan BABIĆ, who was beaten to death in June 1992; the murder of Petko GLIGOREVIĆ, who was beaten to death in the latter part of May 1992; the murder of Gojko MILJANIĆ, who was beaten to death in the latter part of May 1992; the murder

*of Željko KLIMENTA, who was shot and killed during the latter part of July 1992; the murder of Miroslav VUJIČIĆ, who was shot on approximately 27 May 1992; the murder of PERO MRKAJIĆ, who was beaten to death in July 1992; and including all the murders described above in paragraphs sixteen to twenty-one, Zejnil DELALIĆ, Zdravko MUCIĆ and Hazim DELIĆ knew or had reason to know that their subordinates were about to commit those acts or had done so, and failed either to take the necessary and reasonable steps to prevent those acts or to punish the perpetrators. With respect to those counts above where Hazim DELIĆ is charged as a direct participant, he is also charged here as a superior. By their acts and omissions, Zejnil DELALIĆ, Zdravko MUCIĆ, and Hazim DELIĆ are responsible for:*

*Count 13. A Grave Breach punishable under Article 2(a)(wilful killings) of the Statute of the Tribunal; and*

*Count 14. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(murders) of the Geneva Conventions.*

#### *COUNTS 15 TO 17*

##### *Torture of Momir KULJANIN*

*23. Sometime beginning around 25 May 1992 and continuing until the beginning of September 1992, Hazim DELIĆ, Esad LANDŽO and others repeatedly and severely beat Momir KULJANIN. The beatings included being kicked to unconsciousness, having a cross burned on his hand, being hit with shovels, being suffocated, and having an unknown corrosive powder applied to his body. By their acts and omissions, Hazim DELIĆ and Esad LANDŽO are responsible for:*

*Count 15. A Grave Breach punishable under Article 2(b) (torture) of the Statute of the Tribunal;*

*Count 16. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(torture) of the Geneva Conventions; or alternatively*

*Count 17. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(cruel treatment) of the Geneva Conventions.*

*COUNTS 18 TO 20  
Torture and Rape of Grozdana ČEČEZ*

*24. Sometime beginning around 27 May 1992 and continuing until the beginning of August 1992, Hazim DELIĆ and others subjected Grozdana ČEČEZ to repeated incidents of forcible sexual intercourse. On one occasion, she was raped in front of other persons, and on another occasion she was raped by three different persons in one night. By his acts and omissions, Hazim DELIĆ is responsible for:*

*Count 18. A Grave Breach punishable under Article 2(b) (torture) of the Statute of the Tribunal;*

*Count 19. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(torture) of the Geneva Conventions; or alternatively*

*Count 20. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(cruel treatment) of the Geneva Conventions.*

*COUNTS 21 TO 23*  
*Torture and Rape of Witness A*

*25. Sometime beginning around 15 June 1992 and continuing until the beginning of August 1992, Hazim DELIĆ subjected a detainee, here identified as Witness A, to repeated incidents of forcible sexual intercourse, including both vaginal and anal intercourse. Hazim DELIĆ raped her during her first interrogation and during the next six weeks, she was raped every few days. By his acts and omissions, Hazim DELIĆ is responsible for:*

*Count 21. A Grave Breach punishable under Article 2(b) (torture) of the Statute of the Tribunal;*

*Count 22. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(torture) of the Geneva Conventions; or alternatively*

*Count 23. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(cruel treatment) of the Geneva Conventions.*

*COUNTS 24 TO 26*

*Torture of Spasoje MILJEVIĆ*

*26. Sometime beginning around 15 June 1992 and continuing until August 1992, Hazim DELIĆ, Esad LANDŽO and others mistreated Spasoje MILJEVIĆ on multiple occasions by placing a mask over his face so he could not breathe, by placing a heated knife against parts of his body, by carving a Fleur de Lis on his palm, by forcing him to eat grass, and by severely*

*beating him using fists, feet, a metal chain, and a wooden implement. By their acts and omissions, Hazim DELIĆ and Esad LANDŽO are responsible for:*

*Count 24. A Grave Breach punishable under Article 2(b) (torture) of the Statute of the Tribunal;*

*Count 25. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(torture) of the Geneva Conventions; or alternatively*

*Count 26. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(cruel treatment) of the Geneva Conventions.*

*COUNTS 27 TO 29  
Torture of Mirko BABIĆ*

*27. Sometime around the middle of July 1992, Hazim DELIĆ, Esad LANDŽO and others mistreated Mirko BABIĆ on several occasions. On one occasion, Hazim DELIĆ, Esad LANDŽO, and others placed a mask over the head of Mirko BABIĆ and then beat him with blunt objects until he lost consciousness. On another occasion, Esad LANDŽO burned the leg of Mirko BABIĆ. By their acts and omissions, Hazim DELIĆ and Esad LANDŽO are responsible for:*

*Count 27. A Grave Breach punishable under Article 2(b) (torture) of the Statute of the Tribunal;*

*Count 28. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(torture) of the Geneva Conventions; or alternatively*

*Count 29. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(cruel treatment) of the Geneva Conventions.*

*COUNTS 30 TO 32*

*Torture of Mirko Djordjić*

*28. Sometime around the beginning of June 1992 and continuing to the end of August 1992, Esad LANDŽO subjected Mirko Djordjić to numerous incidents of mistreatment, which included beating him with a baseball bat, forcing him to do push-ups while being beaten, and placing hot metal pincers on his tongue and in his ear. By his acts and omissions, Esad LANDŽO is responsible for:*

*Count 30. A Grave Breach punishable under Article 2(b) (torture) of the Statute of the Tribunal;*

*Count 31. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(torture) of the Geneva Conventions; or alternatively*

*Count 32. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(cruel treatment) of the Geneva Conventions.*

*COUNTS 33 TO 35*  
*Responsibility of Superiors for Acts of Torture*

*29. With respect to the acts of torture committed in Čelebići camp, including placing Milovan KULJANIN in a manhole for several days without food or water, and including those acts of torture described in paragraphs twenty-three to twenty-eight, Zejnil DELALIĆ, Zdravko MUCIĆ, and Hazim DELIĆ knew or had reason to know that subordinates were about to commit those acts or had done so, and failed either to take the necessary and reasonable steps to prevent those acts or to punish the perpetrators. With respect to those counts above where Hazim DELIĆ is charged as a direct participant, he is also charged here as a superior. By their acts and omissions, Zejnil DELALIĆ, Zdravko MUCIĆ, and Hazim DELIĆ are responsible for:*

*Count 33. A Grave Breach punishable under Article 2(b) (torture) of the Statute of the Tribunal:*

*Count 34. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(torture) of the Geneva Conventions; or alternatively*

*Count 35. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(cruel treatment) of the Geneva Conventions.*

*COUNTS 36 AND 37*  
*Causing Great Suffering or Serious Injury to Nedeljko*  
*DRAGANIĆ*

*30. Sometime beginning around the end of June 1992 and continuing until August 1992, Esad LANDŽO and others*

*repeatedly mistreated Nedeljko DRAGANIĆ by tying him to a roof beam and beating him, by striking him with a baseball bat, and by pouring gasoline on his trousers, setting them on fire and burning his legs. By his acts and omissions, Esad LANDŽO is responsible for:*

*Count 36. A Grave Breach punishable under Article 2(c) (wilfully causing great suffering or serious injury) of the Statute of the Tribunal; and*

*Count 37. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(cruel treatment) of the Geneva Conventions.*

#### *COUNTS 38 AND 39*

#### *Responsibility of Superiors for Causing Great Suffering or Serious Injury*

*31. With respect to the acts causing great suffering committed in Čelebići camp, including the severe beatings of Mirko KULJANIN and Dragan KULJANIN, the placing of a burning fuse cord around the genital areas of Vukašin MRKAJIĆ and Duško BENĐO, and including those acts causing great suffering or serious injury described above in paragraph thirty, Zejnil DELALIĆ, Zdravko MUCIĆ, and Hazim DELIĆ knew or had reason to know that subordinates were about to commit those acts or had done so, and failed either to take the necessary and reasonable steps to prevent those acts or to punish the perpetrators. With respect to those counts above where Hazim DELIĆ is charged as a direct participant, he is also charged here as a superior. By their acts and omissions, Zdravko MUCIĆ and Hazim DELIĆ are responsible for:*



*Count 38. A Grave Breach punishable under Article 2(c) (wilfully causing great suffering or serious injury) of the Statute of the Tribunal; and*

*Count 39. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3((1)(a)(cruel treatment) of the Geneva Conventions.*

*COUNTS 40 AND 41*

*Causing Great Suffering or Serious Injury to Miroslav BOŽIĆ  
(Withdrawn 19 January 1998)*

*32. On approximately 1 December 1992, after having been accused earlier that day by Hazim DELIĆ of belonging to an enemy military unit, Miroslav BOŽIĆ was selected and then severely beaten by a group of guards for approximately 30 minutes. Hazim DELIĆ, who was then Commander of Čelebići camp, observed the beating, and at one point after initially stating that Miroslav BOŽIĆ could return to his cell, Hazim DELIĆ ordered him back against the wall, where the beating by the guards continued for another ten minutes. In addition to his responsibility as a direct participant in this incident, Hazim DELIĆ knew or had reason to know that persons in positions of subordinate authority to him were about to commit those acts, or had already committed those acts, and failed either to take the necessary and reasonable steps to prevent those acts or to punish the perpetrators after the acts had been committed. He is also charged as a superior. By his acts and omissions, Hazim DELIĆ is responsible for:*

*Count 40. A Grave Breach punishable under Article 2(c) (wilfully causing great suffering or serious injury) of the Statute of the Tribunal; and*

*Count 41. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a)(cruel treatment) of the Geneva Conventions.*

#### *COUNTS 42 AND 43*

##### *Inhumane Acts Involving the Use of Electrical Device*

*33. Sometime beginning around 30 May 1992 and continuing until the latter part of September 1992, Hazim DELIĆ used a device emitting electrical current to inflict pain on many detainees including Milenko KULJANIN and Novica ĐORĐIĆ. By his acts and omissions, Hazim DELIĆ is responsible for:*

*Count 42. A Grave Breach punishable under Article 2(b)(inhuman treatment) of the Statute of the Tribunal; and Count 43. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) (cruel treatment) of the Geneva Conventions.*

#### *COUNTS 44 AND 45*

##### *Responsibility of Superiors for Inhumane Acts*

*34. With respect to the incidents of inhumane acts committed in Čelebići camp, including forcing persons to commit fellatio- with each other, forcing a father and son to slap each other repeatedly, and including those acts described above in paragraph thirty-three, Zejnil DELALIĆ, Zdravko MUCIĆ, and Hazim DELIĆ knew or had reason to know that subordinates were about to commit those acts or had done so, and failed either to take the necessary and reasonable steps to prevent those acts or to punish the perpetrators. With respect to those counts above where Hazim DELIĆ is charged as a direct*

*participant, he is also charged here as a superior. By their acts and omissions, Zejnir DELALIĆ, Zdravko MUCIĆ, and Hazim DELIĆ are responsible for:*

*Count 44. A Grave Breach punishable under Article 2(b)(inhumane treatment) of the Statute of the Tribunal; and*

*Count 45. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) (cruel treatment) of the Geneva Conventions.*

#### *COUNTS 46 AND 47*

##### *Inhuman Conditions*

*35. Between May and October 1992, the detainees at Čelebići camp were subjected to an atmosphere of terror created by the killing and abuse of other detainees and to inhumane living conditions by being deprived of adequate food, water, medical care, as well as sleeping and toilet facilities. These conditions caused the detainees to suffer severe psychological and physical trauma. Zdravko MUCIĆ, Hazim DELIĆ and Esad LANDŽO directly participated in creating these conditions. Zejnir DELALIĆ, Zdravko MUCIĆ, and Hazim DELIĆ also knew or had reason to know that persons in positions of subordinate authority to them were about to commit those acts resulting in the inhumane conditions, or had already committed those acts, and failed either to take the necessary and reasonable steps to prevent those acts or to punish the perpetrators after the acts had been committed. By their acts and omissions, Zejnir DELALIĆ, Zdravko MUCIĆ, Hazim DELIĆ, and Esad LANDŽO are responsible for:*

*Count 46. A Grave Breach punishable under Article 2(c)(wilfully causing great suffering) of the Statute of the Tribunal; and*

*Count 47. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) (cruel treatment) of the Geneva Conventions.*

*COUNT48*

*Unlawful Confinement of Civilians*

*36. Between May and October 1992, Zejnil DELALIĆ, Zdravko MUCIĆ, and Hazim DELIĆ participated in the unlawful confinement of numerous civilians at Čelebići camp. Zejnil DELALIĆ, Zdravko MUCIĆ, and Hazim DELIĆ also knew or had reason to know that persons in positions of subordinate authority to them were about to commit those acts resulting in the unlawful confinement of civilians, or had already committed those acts, and failed either to take the necessary and reasonable steps to prevent those acts or to punish the perpetrators after the acts had been committed. By their acts and omissions, Zejnil DELALIĆ, Zdravko MUCIĆ, and Hazim DELIĆ are responsible for:*

*Count 48. A Grave Breach punishable under Article 2(g)(unlawful confinement of civilians) of the Statute of the Tribunal.*

*COUNT 49*

*Plunder of Private Property*

*37. Between May and September 1992, Zdravko MUCIĆ and Hazim DELIĆ participated in the plunder of money, watches and other valuable property belonging to persons detained at Čelebići camp. Zdravko MUCIĆ and Hazim DELIĆ also knew or had reason to know that persons in positions of subordinate authority to them were about to commit those acts resulting in the plunder of private property, or had already committed those*

*acts, and failed either to take the necessary and reasonable steps to prevent those acts or to punish the perpetrators after the acts had been committed. By their acts and omissions, Zdravko MUCIĆ, and Hazim DELIĆ are responsible for:*

*Count 49. A Violation of the Laws or Customs of War punishable under Article 3(e)(plunder) of the Statute of the Tribunal.*

*19 March 1996*

*Richard J. Goldstone Prosecutor*

(The Indictment, The Prosecutor of the Tribunal against Zejnir Delalalić, Zdravko Mucić, Hazim Delić, Esad Landžo, Case No IT-96-21)

The difference in criminal qualifications of acts in Čelebići case and in Omarska case is obvious.

3.1.29. With regard to the credibility of the allegations contained in the indictments of the Tribunal's Prosecutor, suffice it to note that some of them were amended in the meantime, after their review and confirmation by the judges, and even during the trial. Namely, 11 persons from the "Omarska camp" indictment were acquitted with the explanation of the Prosecutor that: *"This decision was taken in an attempt to balance the available resources within the Tribunal and in recognition of the need to prosecute cases fairly and expeditiously."* (ICTY Press Release CC/PIU/314-E, 8 May 1998). In this way 3 charges for rape, 2 charges for murder and 1 for beating were dropped, all of them also qualified as a crime against humanity. However, the Prosecutor did not make public the indictment amended in this way, therefore reference by the Applicant to this indictment is completely groundless.

3.1.30. A similar procedure was applied in the case of D. Tadić, where the Prosecutor, during the trial, dropped the charge of alleged rape. However, in the sentence itself the Trial Chamber

states that the Prosecutor dropped three counts from the indictment during the trial, without specifically mentioning which ones, and precisely these three counts relate to the charge of alleged rape. In the sentence, paragraph 5 of the indictment, which contains these three counts of the indictment in connection with one part of the rape, is not mentioned at all; however, in annexes to the sentence (Annex I) the text of the indictment from which the above-mentioned paragraph 5 has not been removed is enclosed.

3.1.31. In the above-mentioned Press Release the Tribunal's Prosecutor, Louise Arbour, claims, inter alia, that the 11 persons in the "Omarska camp" case have not been acquitted due to lack of evidence. However, three of them - Gruban, Mirko Babić and Predrag Kostić are charged only with the alleged rape of one "F", qualified also as a crime against humanity. However, Tadić has been acquitted of the charges of alleged rape of the person "F" for lack of evidence. In view of the Prosecutor's withdrawal of all these charges for rape, it follows from it that the Prosecution has not a single proof of rapes in the Prijedor municipality (except in the case of Radić - rape of the lorry-driver Suada Ramić, who unconvincingly testified in the Tadić case, but was not cross-examined; and the Keraterm case), let alone proof of mass and systematic rapes. However, due to the skillful manoeuvring of the Prosecution, as described above, and to a superficial review of the indictments referred to by the Applicant, it comes out that numerous rapes are in question.

3.1.32. An equally unbalanced approach of ICTY can be noticed also in the proceedings conducted so far. In the Tadić case the Prosecution, with the approval of the Trial Chamber, considered in great detail the so-called general circumstances. Summoned by the Prosecution, 16 so-called policy experts testified in connection with this question for a whole month (from 7 May to 7 June 1996). Among those policy witnesses there were a few party officials of the Party of Democratic Action, as well as

Jerko Doko, Minister of Defence of the Republic of Bosnia and Herzegovina in the period from 1 February to 13 August 1992, whose place would be among the accused rather than among the witnesses, if the provisions of the Statute of ICTY on command responsibility were consistently applied. Their testimonies were not confined only to the general circumstances in the Prijedor municipality at the specific time of relevance to the indictment, but dated back to the historical descriptions from the 7th century on and had to do by and large with the establishment of the "causes and creation" of the Yugoslav crisis, as well as with the events in Slovenia, Croatia and other places in Bosnia and Herzegovina during the civil war. In the process, a series of untrue historical assertions were put forward, or events were presented one-sidedly - taken out of general context. The defence counsel of Tadić, Dutch advocate M. Wladimiroff, engaged very little or not at all in refuting the assertions of the Prosecution and its witnesses testifying to these issues because he based his defence on proving Tadić's alibi, i.e. that Tadić had not stayed at the time in places where the alleged crimes he is charged with under the indictment were committed. Besides, the Trial Chamber declined the request of Dr Milan Bulajić, Yugoslav historian and expert in international law, to testify in the Tadić case on general circumstances in the capacity as *amicus curiae*.

3.1.33. At the same time the Prosecutor, in the "Čelebići camp" case, prevents his witnesses, victims of crimes, to testify to the mass scale and systematic character of attacks on Serb civilians in the Konjic municipality, where the Čelebići camp was only one of 29 camps under Muslim or Croat control (Annexes to the Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), Volume IV - Annex VIII, p.20, para 114), the existence of which resulted, *inter alia*, in the number of Serbs in the Konjic municipality being reduced from prewar 7,700 to about 200 at present. Also, in this proceeding the Prosecutor, in contrast to the Tadić case, summoned only three policy experts and, paradoxically, with a

view to proving the existence of "the state of international armed conflict and partial occupation of Bosnia and Herzegovina" and, in particular, the responsibility of Serbs for such a situation. The policy experts invited by the Prosecutor claim, *inter alia*, that Bosnian Serbs (in this case victims whom the Prosecutor is expected to protect) acted as agents of another State. Such a conduct of the Prosecutor resulted in the refusal of many Serb victims from the Čelebići camp to appear and testify before the Tribunal at all. It is clear that the Defence of the accused did not even try to refute the views of these experts because they were in favour of the accused.

3.1.34. Another inconsistency of the ICTY, also to the detriment of Serb victims, has to do with the application of Article 7(3) of the Statute of the ICTY and of unequal criteria used in establishing command responsibility of the perpetrators of alleged criminal acts of Serb nationality vis-a-vis the responsibility of Muslim military officers and political leaders.

3.1.35. At this point quoted will be the interpretations of Article 7(3) of the Statute of the ICTY - command responsibility, as set out by the Prosecution in its submission "The Prosecutor's Response to the Pre-trial Briefs of the Accused", without entering on this occasion into the consideration of its validity:

*"Firstly, the link between the accused and the perpetrator need not be direct. It can, as stated in the Prosecutor's pre-trial brief, be indirect, in that the subordinates need not be directly subordinated to the superior for the superior to have a duty to act under Article 7(3).*

*Secondly, the level of control required does not have to amount to total control over all functions in relation to the accused. Command and control can be exercised in a variety of ways. As stated in the Prosecutor's pre-trial brief, some of the types of*



*command that could exist include: operational command, tactical command, occupying a position of influence, and the role of an adviser. Accordingly, a superior could still be responsible for the acts of subordinates in circumstances of partial control, if the superior has not employed all the means available to prevent or punish these acts." ("The Prosecutor's Response to the Pre-trial Briefs of the Accused", Čelebići case, No. IT-96-21-T, 18 April 1997, p.2)*

3.1.36. In spite of these criteria, the Prosecutor summoned in the same "Čelebići" case as his witnesses also generals of the Army of Bosnia and Herzegovina - the late General Arif Pašalić, former Chief of Staff of the Army of the Federation of B&H. At the time relevant to the indictment he was the commander of the Fourth Corps of the Army of B&H and was directly and indirectly the superior to the accused persons and obviously at least *"knew or had the possibility of knowing that his subordinates were connected with the perpetration of the crime or that they committed it, and the superior (the Prosecutor's witness) failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators"* (Article 7(3) of the Statute of the Tribunal). Also, in the same proceeding the Defence of the accused summoned as witnesses the persons who at the time to which the indictment relates occupied the most senior military and civilian positions in the Konjic municipality - for instance, the testimony of Dr Rusmir Hadžihuseinović, president of the Municipal Assembly of Konjic, of the War Presidency of Konjic and president of the SDA of the Konjic municipality.

As the Respondent noted, among policy witnesses in the Tadić case, as a witness of the Prosecutor appeared also Jerko Doko, Minister of Defence of the Republic of B&H in the period from 1 February to 13 August 1992, whose place, as well, would be among the accused and not among the

witnesses if the provisions of Article 7(3) and the above-mentioned criteria of the ICTY were consistently applied.

The Respondent notes that persons of Serb nationality in similar or, which is more frequent, in much lower positions, in the municipalities which are the subject matter of other indictments of the Tribunal, were accused all together to the last man, on the grounds of the so-called command responsibility (Article 7(3) of the Statute of the Tribunal) of alleged crimes against humanity - for example, Blagoje Simić, member of the civilian branch of the "Crisis Centre" of the Bosanski Šamac municipality ("Bosanski Šamac case"), and even of genocide - Milan Kovačević, who was a member of the civilian branch of the "Crisis Centre" of the Prijedor municipality ("Kovačević and Drljača" case).

3.1.37 The extent of legal effects of reports of non-governmental organizations, referred to by the Applicant, is defined by the Helsinki Watch document (Prosecute Now! Volume 5, Issue 12, 1 August 1993, Annex 7, Part 2 of the Annexes to the Memorial) in which it is said that "*these cases summaries alone may not suffice for criminal indictment ...*".

3.1.38. Information contained in the reports submitted by individual governments originates in most cases from unknown sources. These governments probably obtained such information mostly from the Government of Bosnia and Herzegovina or in some other indirect unreliable way. Some governments made a selection of the information at their disposal and presented it in line with their political interests which more often than not were not in agreement with the criteria of objectivity and impartiality.

3.1.39. Newspaper articles and books submitted by the Applicant were not written in the majority of cases by witnesses to the events described. These newspaper articles and books were written on the basis of information and materials gathered by the authors from various sources. With full respect for the

journalist profession, the assessments and views of journalists concerning relevant legal questions associated with the subject-matter of this dispute surely cannot be of any particular significance.

3.1.40. Some foreign journalists visited the Republika Srpska. Colonel Milovan Milutinović was the Head of Information Service of the First Krajina Corps and of the Main Headquarters of the Republika Srpska Army during the war in Bosnia and Herzegovina. Col. Milutinović describes Roy Gutman's reporting on the events in the Republika Srpska in the following way:

*"The first news about the camps for Serbs run by Croat and Muslim armed formations was broadcast by the Information Service of the First Krajina Corps on 23 June 1992 after the liberation of villages around Derventa. Video materials were taped showing camps in which Serbs were imprisoned and tortured, mainly men, but some cases of imprisoned and victimized women and children were also registered. Camp prisoners described the cruel treatment to which they were subjected by enemy soldiers, in particular by the members of HOS (Croatian Armed Forces). A doctor and a group of medical staff held in a camp near Derventa were left for days without food and water and the Croat soldiers made them graze grass in places where the former relieved themselves. Their statements and testimonies offered to Eurovision through RTS and TV Banja Luka were not accepted. Much more detailed information about camps for Serbs and about rapes of Serb women was broadcast by the Press Centre after the liberation of Odžak on 14 July 1992.*

*GUTMAN IN BANJA LUKA - FIRST TIME; Fightings with numerous armed Muslim groups continued in May, June and July 1992 throughout Krajina. At the end of July 1992, several foreign journalists arrived in the Banja*

*Luka area. Among them was the US 'News Day' journalist Roy Gutman. I remember him introducing himself as a Jew, a man who was the correspondent from Belgrade for a number of years and who cherishes special sympathies for Serbs.*

*I received him politely in the Press Centre in Banja Luka and explained to him the military-political situation in considerable detail. I showed him the documents about the engagement of the Croatian Army in the Posavina (the Sava River Valley). He listened carefully and made notes. From time to time he asked some very precise questions. I also informed him of the orders of the Muslim leadership from Sarajevo for the attack on Serbs and the taking over of control in municipalities. I admit now that I spoke to Gutman in great detail, hoping that being a Jew he will understand, about the camps for Serbs in the Posavina. I offered him statements by raped Serb women from Brod. He was surprised to learn about such data and expressed understanding for the anger of the Serb people.*

*Gutman was also interested to know the attitude of the Serb authorities and the Serb Army towards the non-Serb population that would be imprisoned and subject to investigation. He expressed interest in Manjača, Omarska and Trnopolje asking for more details, so I explained that all those who were found with arms were detained there. The Manjača prison is under the Army control while Omarska and Trnopolje are under the control of the civilian authorities. I also said that the Muslims were put up there for their own protection against unnecessary risks in the fightings.*

*I spoke with my superiors and made some observations about Gutman. I said that in asking questions Gutman resembles more an investigator than*

*a journalist. It was jointly decided that I should make arrangements for his visit to Manjača and tell him to request permission from the civilian authorities for visits to Trnopolje, Prijedor and Omarska.*

*The next day Gutman came up with 'a lot of new information' obtained from international organizations about the situation on the ground. According to his reaction during the conversation I concluded that he understands Serbian well although he spoke through an interpreter all the time.*

*Before leaving for Manjača I took with me a cameraman and a photo reporter. Gutman was among the first foreign journalists to visit that prison for PoWs in which there were about 3,000 members of the Muslim armed formations and other men found with arms in the area of military operations. We made a tour of all facilities. Gutman spoke with about a dozen PoWs, a Muslim doctor, with the staff and with cooks. According to the words recorded on video tape of the Press Centre in Banja Luka he was satisfied with the way the Serb Army treated captured Muslims and also pointed out that the prison staff fully complies with the Geneva Conventions.*

*While expecting the approval to visit Prijedor, Trnopolje and Omarska, Roy Gutman spoke with local people and was also received by the mayor, Predrag Radić.*

*The approval did not arrive. He established contact with representatives of the SDA party which pursued its activities legitimately at the time. They spoke to him about the 'abhorrent acts of Serbs' and about 'camps in which Muslims are subjected to unseen tortures'. With their help Gutman illegally visited the*

*village of Kozarac which was completely destroyed, but he could not speak with anyone there because the people found refuge in Trnopolje. He soon finished his visit to Banja Luka. Before leaving he expressed his thanks for the hospitality and help.*

*Immediately after his departure, on 2 and 5 August 1992, the 'News Day' newspaper (and later on 'Der Spiegel' and other newspapers) published insinuations about concentration camps for Muslims run by Serbs.*

*ABOUT THE IMPORTANCE OF THE TRUTH IN BOSNIA: After these texts there was an avalanche of accusations in the world media against Serbs. Roy Gutman was awarded the Pulitzer Prize for these insinuations about the Serb people. Disinformation about the concentration camps organized by Serbs had a strong impact on all anti-fascist forces in the world and provoked a turnabout of Jewish lobbies in the United States and in Western Europe.*

*Such abuse in the anti-Serb propaganda has been admitted to also by the director of the American Public Relations Agency 'Rudder & Finn', James Harf, in an interview given to Jacques Merlino, author of the book 'Not All Yugoslav Truths Are To Be Told'. Merlino spent a few days in Banja Luka and compiled a story that was broadcast on French TV. In the book 'Not All Yugoslav Truths Are To Be Told' he says: 'Harf who considers himself a professional explains: the terms ethnic cleansing and concentration camps appeared and the emotional charge was so strong that nobody could resist it.' However, when asked: Did they check the information about the existence of Serb-run concentration camps, Mr. Harf curtly replied that 'it is not their job to check information but to speed up the spread of the*

*information which is in their favour'. Asked whether he feels responsible for what he is doing, Mr. Harf answered 'that he is not paid to moralize' and added 'if you wish to prove that Serbs are poor victims, go ahead.'*

*PENNY MARSHAL ON GUTMAN'S TRACK: The huge media campaign after these fabrications without precedent brought about horrendous pressure on Serbs to dissolve the 'concentration camps'. The attempts to convince the world that such camps simply do not exist fell on deaf ears. Radovan Karadžić invited from London, where he was at the time, all foreign agencies to go to the spot and see for themselves that there are no camps.*

*Already the following day more than thirty foreign journalists from the leading world agencies arrived in Banja Luka together with the Minister for Information, Velibor Ostojić. I was called by Ostojić and told to come to the "Bosna" hotel the same evening. He asked me to make arrangements for foreign journalists to visit Prijedor, Trnopolje, Omarska and Manjača. I said that I could take upon myself the obligation to organize a visit to Manjača which is under military control and that the staff of the Ministry for Information should make arrangements for the rest. He did not accept the explanation saying that it was President Karadžić's order and that I must proceed accordingly. At the same time he promised to request from the authorities in Prijedor to receive the journalists and to enable them to visit the indicated places.*

*I informed my superiors accordingly pointing out that it would be a great mistake if such a large number of journalists returned without getting their job done. The next morning I held a briefing for foreign journalists and*

*proposed a visit to Manjača. The majority refused the proposal pointing out that Manjača is a prison for PoWs and that, according to available information, their treatment by the Army is extremely correct and in the spirit of the 'Geneva Convention and international laws of war'.*

*I tried to get in touch with Velibor Ostojić, who took upon himself to get the authorities in Prijedor to make arrangements for the visit, but he could not be reached. The foreign journalists were becoming nervous. Many already claimed that Karadžić lied and that the camps were being hidden from the public.*

*Then I spoke on the phone with those responsible in Prijedor in order to arrange the visit. All of them categorically refused because they were indignant with the international public presenting Serbs as barbarians. Some representatives of the civilian authorities even threatened. I did not wish to take any risks, so I tried to contact other influential personalities.*

*After a few hours of persuasion, the chief of police in Prijedor, Simo Drljača, informed me that we should come to the Municipal Assembly in Prijedor. On a hot day in August, around noon, a coach packed with foreign journalists with bullet-proof jackets on them, cameras and film cameras arrived in Prijedor. A rather long press conference was held in the Assembly building; after the conference the journalists escorted by the police set off for Omarska.*

*A few kilometres away from Omarska, in a wooded part of the road, there was a sudden armed skirmish with an armed Muslim group. The skirmish took some time and, after consultation with the journalists, we returned to Banja Luka.*



*The following day the journalists paid a visit to Trnopolje, organized by the Secretariat of the Interior from Prijedor, and spoke with the escaped Muslim population which found shelter at the elementary school and the local cultural centre.*

*The British TV journalist from ITN, Penny Marshal, said:"I'm frightened of these people and we are going take shots of them behind this fence'; she entered the fenced-off space formerly a building material depot and took snap shots of the Muslims through the barbed-wire fence around the depot. There was no barbed-wire fence around the reception centre.*

*Aware of the possible manipulations I requested that the ITN immediately stop taking shots and come out of the building material depot. They got out quickly and set off for the centre of the camp. I personally warned Penny Marshal of the need to behave responsibly and not to abuse our hospitality. She said that nothing was filmed and that any abuse is out of the question. There exists videotaped material of the TV crew from the Press Centre about this incident.*

*The journalists freely circulated around the reception centre, spoke with people there and with Red Cross representatives. The Muslims declared that they had fled from their homes looking for shelter because their villages were being shelled. They said that they freely go to their homes and bring food and vegetables and that there were no problems with the Serb authorities securing the camp. They requested greater engagement of the International Red Cross in providing relief assistance because food was in short supply.*

*Yet, the following day the leading world TV stations broadcast ITN shots made in the building material depot. The shots 'confirmed to the objective world public' that Serbs were running 'concentration camps'.*

*What can one say after all that happened? At the beginning of military operations the Serb side allowed visits to 'controversial places', but the world media houses failed to visit throughout the four wartime years or to take shots of a single camp for Serbs run by the Muslim or Croat side. Why the winner of the Pulitzer Award, Roy Gutman, never took any interest in it?*

*All sorts of disinformation were employed during the war. For example, the Serb side was accused by international circles for a long time of running two camps in Banja Luka for Croats and Muslims. In fact, there were no such camps. The truth is that there are two army barracks in Banja Luka known under the name of "Small camp" and "New camp" which were called so by foreign representatives, including the International Red Cross. The accusations concerning the camps in Banja Luka ceased only after a group of UNPROFOR Generals accompanied by General Mladić and by foreign journalists made a tour of the barracks known under these names for dozens of years, i.e. the Small Camp and the New Camp.*

*GUTMAN IN BANJA LUKA, SECOND TIME: After this campaign we made an analysis and established that the first texts and information about 'concentration camps' were, after all, published by Roy Gutman. I requested that the data be checked. We learned that Roy Gutman was indeed a correspondent from Belgrade and that*

*there is reason to believe that he is a US Navy intelligence officer.*

*And - in mid-September 1992, accompanied by representatives of international organizations, Roy Gutman arrived in Banja Luka again.*

*I received him again. During the conversation I pointed out that his writings were contrary to what he had said on departure from Banja Luka. He was surprised to hear that, in view of very poor communications, we managed to obtain his texts. He tried to find excuses saying that it was not exactly like this and that the editors of 'News Day' altered his texts. It was clear to me that he had come to define new broadlines of propaganda activity.*

*I objected seriously to his smearing and satanizing a whole people who, like the Jewish people, suffered so much throughout history. I stressed the word 'Jewish', if 'you are of Jewish background at all' I said. He made excuses once again saying that it was a misunderstanding. 'You are very skillful in gathering information and in exploiting it; it is a pity you are not a journalist', I said. He claimed that he 'is only a journalist and nothing else'. I pointed out to him that I know that he is a US naval officer. He denied, of course. I thought about asking him to leave the country.*

*Once again I explained the military-political situation and the situation on the ground in great detail. He seemed to be interested, like the first time. He insisted on a visit to Prijedor, Omarska and Trnopolje, because he had information that there are problems there with regard to the civilian population. He pointed out that the RS Army treats the prisoners in Manjača very correctly, in the spirit of the Geneva Convention*

*and that he did not wish to go there again. In agreement with the civilian authorities I helped him to visit Prijedor, Omarska and Trnopolje. He had a series of talks with people and with representatives of the authorities and acquainted himself with the situation in detail.*

*Precisely during his visit to Banja Luka, Muslims brutally murdered 18 men, women and children in the village of Serdari, near Kotor Varoš, on 17 September 1992 (para. 7.1.17.6. of the Counter-Memorial - Respondent's remark). Many of them were burned in their homes, which was an unseen crime in our country until then. I sent there Gutman, as well as Francis Harris of the Daily Telegraph (Britain) and photo reporters Boris Gayleri from the 'Gaff' (Germany) and Steve Pagani from Reuters (Britain). Upon return from Serdari they did not conceal their consternation. Yet, as I could have expected, there were no reports or pictures in their newspapers about Serb sufferings. So, that was Gutman's way of doing things.*

*However, it was at that moment that a flurry of reports about rapes of Muslim women began. In mid-October 1992 the German magazine 'Stern' carried a large article about the alleged rape of nearly 60,000 Muslim women. The figure increased daily. Disinformation filled leading world media.*

*Only then groups of journalists began to arrive in Krajina in order to shed more light on the alleged mass rapes. According to 'Stern', in a text authored by Alexandra Stieglmayer, correspondent from Zagreb, the former UNPROFOR commander, Canadian General L. Mackenzie, abused minor Muslim girls in a house in the area of Doboje. The German journalist from Zoller Film Production, Martin Letmayer, came to Banja Luka in the*

wake of this report. We gave him an escort and he left for Dobož. He found the indicated address. No, the story was not correct. This has nothing to do with reality; so much so, that it was even established that General Mackenzie had never been in Dobož.

The journalist checked the story at other addresses as well. He found Muslims in those houses who confirmed that stories published in 'Stern' were fabrications. Letmayer recorded it with TV camera. He offered his findings to the German TV and some world TV houses. But none of them accepted. A long time afterwards the Swiss newspaper 'Die Weltwoche' published his testimony. Much later, when the war in Bosnia and Herzegovina was finished, his texts and recordings were presented to the German public.

According to our analyses, it was precisely Roy Gutman once again who takes great responsibility for the spreading of disinformation about alleged rapes of Muslim women. During the second visit to Banja Luka he devoted his journalistic research to the rapes of Muslim women in the 'camps', pointing out in particular those that were allegedly committed by Serb policemen in Omarska.

Later on German General Manfred Opel, member of the Social-Democratic Party, spoke openly about the manipulation of the news about rapes. He said that only three women in Germany claimed that they had been raped in Bosnia, while the figure reached 150,000. However, as Opel says, subsequently it was established that all the three Muslim women, who gave statements to Western media, had German passports obtained long before.

*Nonetheless, this did not prevent German politician Stephan Schwarz, member of the Christian-Democratic Union, from claiming on German TV that Serbs performed medical (biological) experiments on Muslim women like the Nazis had done before them. He claimed 'that, for example, a dog's embryo is implanted in women'. This news caused disquiet of the German and world public and further intensified anti-Serb feelings.*

*GUTMAN IN BANJA LUKA, THIRD AND LAST TIME: A new campaign in connection with ethnic cleansing began in the world media when Roy Gutman arrived in Banja Luka for the third time towards the end of the year. No, he did not feel ashamed. He is just doing his job. We talked again. He attempted to justify himself; that he wrote a text about Serdari, about the crime committed by Muslims, but the text was not endorsed by the editors of his newspaper. I just laughed it off. Once again I thought about whether or not he should be expelled. I felt that such an act would only make things worse.*

*Once again we talked for hours. I asked him how much money he gets for propaganda effects that he fabricates about Serbs. This time it was he who grinned.*

*He insisted on hearing my view on 'ethnic cleansing'. I said that this does not exist as a programme in the territory of the Republika Srpska, but that migration of the population in the whole area of B&H is evident. I also drew his attention to the large number of Serb refugees from the Travnik, Sarajevo, Zenica and Bihać regions.*

*Suddenly he requested information about the crime committed by the policemen from Prijedor on the Korićanske rocks on the occasion of the transport of the prisoners to Travnik. Allegedly 185 Muslims were killed. I knew nothing about it. He explained to me that there were 10 policemen in the group and that the Army is quite clean because it did not participate. He told me that he had information that after the disclosure of the crime the Muslim victims were burned in the canyon of Ugra. 'You have plenty of information like a genuine intelligence officer', I said. And he continues: 'The crime did take place, three Muslims survived'.*

*After a long and strenuous talk he insisted on a visit to the Korićanske stene locality. 'It is not possible because it is the area of military operations. Fierce fightings have been going on for days there and there is a large number of casualties on both sides.' He was surprised. 'Since when are the operations under way?' he asked. 'For a couple of days now, but the journalists are not allowed into the zone of military operations.' 'Not even escorted by you?', he asked me so naively. 'You are a military man, so you know that instructions and orders must be obeyed', I said. Gutman smiled and stopped insisting.*

*He asked me to arrange contacts for him with the chiefs of public security centres in Banja Luka and Prijedor, i.e. Stojan Župljanin and Simo Drljača. I suggested that he himself approach the Public Security Centre in Banja Luka. He accepted; not a word fell from his lips. In the meantime, he visited Banja Luka Catholic bishop Komarica, representatives of the International Red Cross and UNHCR.*

*The next day I was invited to the "Bosna" hotel by Stojan Župljanin and Simo Drljača, who asked me*

*what kind of journalist is in question. I told them. They decided to take him to lunch, have a drink and talk things over. Gutman repeated to them his old story about Serb bravery, about the similar fate of the Serb and Jewish peoples. They had a long talk about a variety of questions in a pleasant atmosphere.*

*And - a report on ethnic cleansing appeared, in which Župljanin and Drljača were occasionally quoted. On the whole, it had little to do with the talk they had together. The text boiled down to an accusation of Serbs of engagement in ethnic cleansing.*

*A little later the 'Dnevnik' daily published in Novi Sad and 'Revija 92' magazine carried texts pointing out the dubious activity of US naval officer Roy Gutman, who is casually engaged in journalism. In 1993 the Federal Ministry for Information banned Gutman from visiting Yugoslavia. His advocate took legal action against some Yugoslav newspapers because of publishing texts about his espionage activities but this court dispute never came to an end. Thus Serbs parted ways with their 'tested friend'. (Milovan Milutinović , "Work and Image of Roy Gutman", NIN (Weekly Informative Magazine), issue No. 2497, 5 November 1998, pp.57-59, Annex No R7 pp.r72-r74/r75-r82 )*

3.1.41. In para 27, p.940 of the Reply, the Applicant states that the witnesses whose testimonies are referred to by the Respondent were not cross-examined or questioned by a neutral, independent authority. That is correct. That is why the Respondent will request the Court to hear the witnesses and the Applicant will have the opportunity for cross-examination. The Respondent expects and requests to have the same possibility, i.e. to question the authors of the information referred to by the Applicant.



3.1.42. In paras 26 and 28, pp.475-477 of the Reply, the Applicant presents the alleged telephone conversations obtained through tapping on the part of the Ministry of Internal Affairs. In para 30, p.478 of the Reply the Applicant says that the Respondent did not deny in his Counter-Memorial one of the presented telephone conversations. This is not correct. In para 1.3.17.1., p.102 of the Counter-Memorial the Respondent denied the correctness of the Applicant's allegations regarding both telephone conversations.

3.1.43 The Applicant very rarely refers to the statements of witnesses. He presents the alleged statements of General Djukić, as Annex 140 to the Reply. In question are a few additional remarks to the statements allegedly given by General Djordje Djukić after he had been arrested. General of the RS Army Djordje Djukić was arrested in Sarajevo on 30 January 1996. From the presented records it is not visible to whom and when General Djukić gave his statements. There are convincing reasons to believe that some parts of the statements presented by the Applicant are falsified. Namely, General Djukić allegedly stated that, by the order of the Federal Secretariat for National Defence, signed by General Blagoje Adžić, the Main Headquarters of the RS Army was formed comprised of: Commander Lieutenant-General Ratko Mladić, Chief of Staff of the Army of the Republika Srpska, Major-General Manojlo Milovanović, etc. This information is not correct. The Assembly of the Serb people in Bosnia and Herzegovina, at its session held on 12 May 1992, brought the Decision on forming the Army of the Serb Republic of Bosnia and Herzegovina and, in Article 3 of the said Decision, Lieutenant-General Ratko Mladić was appointed commander of the Main Headquarters of the Army of the Serb Republic. The Decision was signed by the President of the Assembly of the Serb people of Bosnia and Herzegovina, Momčilo Krajišnik, MA. The Decision was published in "The official Journal of the Serb people in Bosnia and Herzegovina", No. 6/1992, 12 to 17 May, p.219 (Annex No. R 8, pp r83/r84, r85). General Blagoje Adžić, Chief of General

Staff, submitted his resignation on 8 May 1992. The resignation was accepted the same day. The Assembly of the Serb People in Bosnia and Herzegovina brought its Decision on forming the Army of the Serb Republic of Bosnia and Herzegovina on 12 May 1992 and appointed General Ratko Mladić Chief of the Main Headquarters. It follows from the above-mentioned data that the allegation in the statement of General Djordje Djukić to the effect that, by the order of the Federal Secretariat for National Defence signed by General Blagoje Adžić, the Main Headquarters of the Army of the Republika Srpska was formed, is untrue. It is not possible that General Djukić did not know how this matter had really happened. Therefore, the Respondent requests the Court to invite the Applicant to submit the originals of the given statements, as well as the information about the circumstances of the testimony.

3.1.44. In Annex 257 to the Reply, the Applicant enclosed the alleged summons to Nemanja Crnogorac to the Army of the Republika Srpska, sent by the Secretariat for Internal Affairs in Subotica<sup>2</sup>. The summons is dated 28 June 1995. In the bottom left corner of the summons there is the signature containing the clearly legible abbreviation "kap.", which indicates that the person who signed the summons has the rank of captain. This was not possible. In June 1995 the members of the Ministry of Internal Affairs did not have ranks. The ranks were introduced by the Law on the Ranks of Members of the Ministry of Internal Affairs, published in "The Official Journal of the Republic of Serbia", No.53/95 of 28 December 1995 and effective from 5 January 1996. Before the coming into force of this Law the members of the Ministry of Internal Affairs could not have ranks, consequently, not on 28 June 1995. The members of the Ministry of Internal Affairs could have ranks only after 28 March 1996 because they acquired them on the basis of the

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<sup>2</sup> Subotica is a town in the northern part of the Federal Republic of Yugoslavia.

Ordinance relating to the evaluation of the performance of, and the acquisition and loss of ranks by, the members of the Ministry of Internal Affairs, brought by the Minister of Internal Affairs on the basis of the said Law, published in the "Official Journal of the Republic of Serbia", No. 15/96 of 28 March 1996.

3.1.45. Due to the limited time available to the Respondent for the preparation of the Rejoinder and other restricting circumstances, it was not possible to check all allegations and to authenticate all documents submitted by the Applicant. Some of the allegations have not been commented as quite irrelevant to the subject-matter of the dispute. There are some forgeries of the Applicant so obvious that they need no special comment. For example, the replacement of the word "peace" with the word "space" in the statement of the Government of the Republic of Serbia of 6 May 1993 (para. 371, p. 687 of the Reply). Anyhow, the absence of comment on any allegation or document submitted by the Applicant cannot be understood as consent of the Respondent.

### 3.2. Facts Relevant for the Attribution of Acts to the Respondent

#### 3.2.1. Position of the Yugoslav People's Army in the Socialist Republic of Bosnia and Herzegovina

3.2.1.1. The Yugoslav People's Army Was a Neutral Force in the Period Preceding the Armed Rebellion of the Muslim and Croat Forces Against the Socialist Federal Republic of Yugoslavia.

3.2.1.1.1. The Applicant enclosed to the Reply as evidence the assessment of the situation and problems in the area of the Socialist Republic of Bosnia and Herzegovina, prepared by the commander of the Second Military District, Colonel-General Milutin Kukanjac and submitted to the General Staff of the Armed Forces of the Socialist Federal Republic of Yugoslavia. The document is dated 20 March 1992. In Annex 20 to the Reply the Applicant set out the conclusions contained in the said assessment.

3.2.1.1.2. In para. 54, p.495 of the Reply, the Applicant says that Colonel-General Kukanjac describes himself and the Yugoslav People's Army on the first pages of this report (Assessment) "*As a more or less neutral force*". The Applicant says: "*This was also the official stance until the first genocidal acts were committed in the spring of 1992.*" The Applicant immediately corrects himself and continues: "*This neutrality was, of course, just a facade intended to confuse the outside world and facilitate the execution of RAM*". The above-mentioned document is classified as "*military secret, strictly confidential*" and contains the following remark: "*You are kindly requested to return documents upon having been used. For some really justified reasons, we propose that documents are approached*

*only by really closest circle of people.*" If the said document was of the indicated character, if it was classified as "military secret, strictly confidential" and if it was intended for the most restricted number of persons, it is completely unclear why Colonel-General Kukanjac would have reasons to mispresent himself and the Yugoslav People's Army as a neutral force. Judging by para. 58, p.498 of the Reply, the Applicant encloses this document as proof of the existence of a certain plan RAM, i.e. of a plan of genocide of non-Serb population in the Socialist Republic of Bosnia and Herzegovina. However, in the enclosed document there is nothing whatsoever that would confirm the existence of such a plan. On the contrary, this document evidences quite the opposite.

3.2.1.1.3. The document contains nothing that would indicate the offensive or even genocidal intentions of the Command of the Second Military District, which was based in Sarajevo and which covered the territory of the Socialist Republic of Bosnia and Herzegovina. On the contrary, the document describes the defensive measures of the Command of the Second Military District. Thus, the Command proposes the dislocation of some ammunitions and material supplies depots from the areas of Bosnia and Herzegovina with the majority Croat or Muslim population to locations with the majority Serb population or to locations outside the Socialist Republic of Bosnia and Herzegovina. The Command draws attention to certain problems in connection with the dislocation. Thus, on page 8 of the enclosed document (Annex 120 to the Reply), it is stated that the chances for the dislocation of supplies in Konjic are small because the local guards and lookouts of the Muslim-Croat paramilitary formations continuously and closely watch the depots and keep their superiors informed accordingly. Consequently, already in March 1992 the Command of the Second Military District informed about the anti-Army activities of the Muslim-Croat paramilitary formations. Two months later a camp for the Serb population was organized in Čelebići in which crimes of genocide will be committed (para. 7.2.1.0,

p.743 of the Counter-Memorial). This proposal for the dislocation of military effectives of the Yugoslav People's Army was motivated by the growing hostility demonstrated by the Muslim Party of Democratic Action and the Croatian Democratic Union towards the Yugoslav People's Army, mobilizing the Muslim and Croat population against the Yugoslav People's Army and forming paramilitary formations. The Command of the Second Military District obviously did not wish to use force in order to remain in the areas in which the majority of the population was motivated against it.

3.2.1.1.4. In order to avert conflicts with the Muslim and Croat population in Bosnia and Herzegovina, the Command of the Second Military District proposes in the same document that the civilian authorities in Bosnia and Herzegovina, as well as citizens be warned not to take measures against members of the Yugoslav People's Army that might provoke reaction and even conflicts. Therefore, the intention of avoiding conflicts is quite obvious.

3.2.1.1.5. On page 10 of this document the Command informs that all the units in the Second Military District have been given precise tasks concerning the protection and defence of military facilities and members of the Army. This confirms the defensive intentions of the Yugoslav People's Army.

3.2.1.1.6. To be able to understand the position and attitude of the Yugoslav People's Army in the Socialist Republic of Bosnia and Herzegovina all circumstances should be borne in mind. The Command of the Second Military District sets forth in the above-mentioned document, on pages 3 and 4, its view of the attitude of individual parties and peoples in the Socialist Republic of Bosnia and Herzegovina towards the JNA in the following way:

*"The state in the field and JNA:*

*(a) The HDZ leadership relations to JNA are more and more hostile every day; one gets an impression that every single Croat in Bosnia and Herzegovina has been given a task to speak about our Army always and everywhere the worst things so called 'YugoArmy which has brutally killed Croats and destroyed their houses', 'It is Serbo-Chetnics army', etc.; the estimation is, that any talks on eventual remaining of the Army at the Croats' areas in Bosnia and Herzegovina and any kinds of cooperation simply have not any chances in a situation like this; the role of the Army in preventing bloodshed in Sarajevo on 3rd and 4th March 1992 has strongly echoed among the citizens of Bosnia and Herzegovina in a positive way; the leaders of the party on all levels are trying to minimize the role of the Army in the stated night and they are rather successful.*

*(b) Thankful to strong anti-army campaign run by the SDA leadership, mass media and some other institutions, a substantial part of Muslim people has rather hostile attitude related to our Army; however, the role of the JNA during the mentioned night has considerably retreated confidence of Muslim people in the Army; the District Command has received most telegrams, letters and telephone calls from Muslims as a sign of gratitude that we have prevented the bloodshed; we have information, that SDA and some other parties leaderships are considering the plan on how to turn the Muslim people against JNA; they have no success for now.*

*(c) Looking in the whole, the SDS leadership and the Serb people are accepting the Army, they are protecting it wherever it is actually possible, they are responding to calls for war and volunteer units, they are fully cooperative with the commands, they are rather accountable with RMS, etc.; it is quite normal, because*

*the Serb people is actually endangered here and analogously we are protecting the people's interests; notwithstanding, there are some occurrences and behaviours which are not corresponding to generally known and accepted principles and attitudes (like some critics of the Army in the Assembly of the Serb people, appearance of the Chetnics and warnings that we are not to touch them, estimations of some our officers, etc.).*

*In this respect, the commander of 2nd MD is soon going to talk to the front leaders of the Serb people (Karadžić, Koljević, Plavšić, Krajišnik, Djukić)."*

3.2.1.1.7. The Serb people in the Socialist Republic of Bosnia and Herzegovina was indeed objectively in jeopardy. This was shown by the subsequent development of events when this people was exposed to the crimes of genocide, which is the subject matter of the Counter-Claim. The reasons for the assessment of the objective threat existed also at that time, in March 1992, as well as earlier, in the course of 1991. The Respondent drew attention to these reasons in chapter two of the Counter-Memorial, on pp.111-245 and in chapter one of the Rejoinder in the part about the policy aiming at the destruction of Serbs as a group. In the course of 1991 the Serb people in the SR of Bosnia and Herzegovina had serious reasons for considering itself threatened and that is why it looked for protection by the Yugoslav People's Army.

3.2.1.1.8. The Assembly of the Serb people in Bosnia and Herzegovina requested the Yugoslav People's Army, on 11 December 1991, to protect the territory of Bosnia and Herzegovina with the majority Serb population.

3.2.1.1.9. The association of Serbs from Bosnia and Herzegovina in Serbia addressed a letter to the Federal Secretariat for National Defence (Federal Ministry of Defence)



and to the Chief of General Staff of the Yugoslav People's Army, on 22 January 1992, requesting that the Army protect the Serb population in the Kupres municipality. The Applicant submitted this letter as Annex 124 to the Reply and the Respondent presents it here in the form presented by the Applicant in para. 74, pp.506-507 of the Reply:

*"Municipality of Kupres lies at the farthest south of Bosanska Krajina (region in the northwest of Bosnia and Herzegovina) and it is surrounded by the municipalities populated by Catholic and Muslim population: Bugojno, Duvno and Livno. In the 2nd World War neighbouring muslim and catholic population attempted to commit genocide over the Serbs, but, fortunately they succeeded only partly. By such attempt the number of Serb population was reduced, and after-war colonization in Vojvodina (north Yugoslavia) contributed to their reduced number as well. By the beginning of this century 70 per cent of population of Kupres were Serbs, while today there are only 51 per cent of them. The overall population is some 11,000. High percentage of the presence of Catholics and Muslims in the very municipality, its encirclement by such communities as well as close vicinity of catholic West Herzegovina, speaks in favour of the necessity to protect the Serb population in the municipality of Kupres. By the protection of Kupres, the care for the periphery villages in the municipalities of Livno, Duvno and Bugojno, populated by the Serbs would be provided for, because this population suffered a lot during the second world war.*

*Strategic position of Kupres Plateau*

*The lowest peak on this plateau is 1,200 m above the sea level. The communication which links Split with central Bosnia goes through it. According to the plans of NDH (Independent State of Croatia), this communication*

*is of vital importance for future Croatian state. By taking control over this part by paramilitary troops of Croatia and Herzegovina, they would gain control over dominant peak, overlooking the neighbouring Serb territories in Bosanska Krajina.(...)*

*Reception of troops by the local Population*

*Shorter stay of a military unit in this area in 1991 showed that the villagers of the Serb villages received our troops with delight. In addition, they provided them the best food and drink at their homes.*

*Relationship with the local authorities*

*At the last elections, the Serb Democratic Party (SDS) won in Kupres, it has the most influence in local authorities, and from that point of view the JNA could completely legally set up a garrison in this territory, before all, because Kupres voted in favour of its linking to the Serb Krajina.*

*The intentions of HDZ (Croatian Democratic Union) in Kupres are to exclude from the Serb Krajina villages with a Catholic population, so we think that soon presence of the Army would disturb such plans and defer ever more present aggressiveness of paramilitary units from neighbouring catholic municipalities from West Herzegovina."*

3.2.1.1.10. The Applicant comments on the above quoted letter in para. 74, p.507 of the Reply in the following way:

*"The requested placement of a new JNA unit in the Kupres area was thus justified on two grounds. Firstly, the JNA troops had to be deployed to defend the Serb population, which in the view of the author of the*

*request was threatened with genocide, just like the one that had allegedly taken place during the Second World War. Secondly, the 'Kupres Plateau' was supposedly of primary strategic importance."*

3.2.1.1.11. The request addressed to the Yugoslav People's Army was fully justified. In paras. 7.1.13.0.-7.1.13.12.2, pp. 447-454 of the Counter-Memorial the Respondent stated the facts about the crimes of genocide of Serbs that had been committed at the beginning of April 1992. It would be important for this dispute if the Applicant would inform the Court how many Serbs there are now in the municipality of Kupres.

3.2.1.1.12. The president of the Assembly of the municipality of Foča addressed a letter to the Chief of General Staff of the Yugoslav People's Army on 17 March 1992 requesting that the units of the Yugoslav People's Army be located in Foča. The Applicant attached this letter as Annex 125 to the Reply and the Respondent will quote it here as presented in para. 75, pp.508-509 of the Reply:

*"Considering the evolution of the situation in B&H and municipality of Foča, the Serb Assembly discussed the possibility of placement of a garrison in Foča. Relying on the general feeling of exclusively Serb population who make 50 per cent of the overall population of the municipal area, as well (as) on the fact that a JNA garrison had been located in Foča until 1976, we think in advance that this request is justified. In the town itself, there are some facilities which are property of the JNA and which, according to our estimate, could serve for placement of a unit of some 400 men. It is also possible to take over the most contemporary equipped building constructed for the needs of women's jail with all its adjuncts, where some 500-600 men could be placed. The building is some 2 km away from the town and it is located in the area exclusively populated by the*

*Serbs. Pursuant to our request, we have made some previous agreements and submitted necessary documentation to the Bileće Corps HQ, so you can make all necessary consultations in this regard with the above mentioned Corps HQ. We are ready to provide men necessary for manning of units, who are presently being trained in the Garrison in Kalinovik. Please, be so kind to consider this request at your earliest convenience and, if possible, inform us about the result."*

3.2.1.1.13. The Respondent stated the facts of the crime of genocide of Serbs in this municipality in paras. 7.1.5.0.-7.1.5.23, pp.372-382 of the Counter-Memorial. The request for the protection of Serbs in this municipality was not made without reason.

3.2.1.1.14. The above mentioned circumstances determined the conduct and attitude of the Yugoslav People's Army. In para. 3.2.1.1.6. the Respondent quoted the assessment of the Command of the Second Military District concerning the attitude of the three national parties of the Socialist Republic of Bosnia and Herzegovina towards the JNA in which, inter alia, it is stated:

*"... the role of the Army in preventing the bloodshed in Sarajevo on 3rd and 4th March 1992 has strongly echoed among the citizens of Bosnia and Herzegovina in a positive way; ... the role of the JNA during the mentioned night has considerably retreated confidence of Muslim people to the Army; the District Command has received most telegrams, letters and telephone calls from Muslims as a sign of gratitude that we have prevented the bloodshed;".* It is a reference to the putting of roadblocks in Sarajevo which followed in the wake of the shooting at a Serb wedding party on the day of the referendum for an independent and sovereign

Bosnia and Herzegovina held on 1 March 1992 (para. 2.13.2.10, p.179 of the Counter-Memorial). On that occasion, thanks to the intervention of the Yugoslav People's Army, the conflict between the three sides was prevented.

3.2.1.1.15. When considering the engagement of the Yugoslav People's Army in protecting the Serb people in the Socialist Republic of Bosnia and Herzegovina, sight should not be lost of the following parts of the assessment of the Command of the Second Military District, which the Applicant attached as Annex 120 to the Reply:

*" - some SDS leaders - on all levels, by various channels are asking for weapons from the JNA and MIYO of Serbia and this is their way to ensure their dominance which results with disagreements and lack of unity with people;*

*- some SDS leaders are pleading for dissociation from the JNA and creating some other army, which may cause negative consequences for the JNA, especially in terms of enlistment of the units with manpower;*

*- there are occurrences that some activists, some operating bodies in regions and various SAO (Serb Autonomous Area) Assemblies are setting up conditions - ultimatums to the Army, pleading for putting the Army under their commands at limited areas, etc. (this is particularly outstanding at the region of Ozren).*

*- due to the mentioned events, tangible measures have been undertaken, but these issues will soon be discussed with SDS leaders in Sarajevo, in order to prevent more serious consequences as a result of escape of the volunteer units out of control".*

It is obvious that the Yugoslav People's Army was careful that the Serb side should not be the one to provoke conflicts in the Socialist Republic of Bosnia and Herzegovina.

### 3.2.1.2. The Armed Rebellion of the Muslim-Croat Paramilitary Formations Against the Socialist Federal Republic of Yugoslavia and the Attacks on the Yugoslav People's Army

3.2.1.2.1. The disturbance of and the attacks on the Yugoslav People's Army in the Socialist Republic of Bosnia and Herzegovina began as early as September 1991. They grew into an armed rebellion in April 1992. The Respondent wishes to draw attention to some cases of attacks on the Yugoslav People's Army.

3.2.1.2.2. A characteristic example is the attack on the military column of the Tenth motorized brigade on the Duvno-Posušje main road near Studena Vrela. On 18 September 1991, at about 1.00 p.m., the said unit was returning from a bivouac to Mostar and word was sent on time to the authorities of the Ministry of Internal Affairs of the Socialist Republic of Bosnia and Herzegovina (hereinafter MUP) about its arrival. The MUP patrol, comprised of Ante Mišković and Petar Ivanković, escorting the convoy, abandoned its duty after the column got out of Duvno and left in an unknown direction while the column was ambushed by Croat terrorists. On the scene of the ambush a tank-truck with number plate MO 113-142, owned by the Bauxite Mine from Posušje, was placed across the road. Fire from automatic weapons was opened on the soldiers who got out of the vehicle and Sergeant Vojko Čeh, father's name Jozo, born in Novo Meesto, Slovenia, in 1963, was killed on that occasion; private Vojislav Miletić, born in 1972, residing in Belgrade, was seriously wounded. On the scene of the ambush the body of Ludvig Pavlović (1951) from the village of Vitina, municipality of Ljubuški, with residence in Zagreb, notorious Ustashi terrorist-member of the group "Feniks-72" ("Feniks-72" is a group of Ustashi terrorists which illegally entered the territory of the Socialist Federal Republic of Yugoslavia in 1972 and committed several terrorist acts). He was sentenced to 20 years

in prison and was pardoned in 1991. The circumstance that the Ministry of Internal Affairs patrol escorting the military column had left before the beginning of the attack, as well as the fact that no investigation was conducted after the attack nor were the terrorists identified points to their collusion with the Ministry of Internal Affairs of the Socialist Republic of Bosnia and Herzegovina.

3.2.1.2.3. In October 1991 the following facilities of the Yugoslav People's Army were attacked: Bihać and Mostar airfields, "Krepšić" (Brčko), Busovača and Manjača depots, the Derventa army barracks, the columns in Bosanska Dubica and Čapljina and the "Slavko Rodić" military factory in Bugojno. The attackers were armed members of the SDA and the HDZ (CDU). They planted a bomb in the military factory in Bugojno which went off and killed the chief of military control. On 17 October 1991 an armed group of citizens blocked the passage across the bridge in Čapljina and threatening to use arms forcibly took a large quantity of armaments and military equipment.

3.2.1.2.4. In November 1991 the following units and facilities of the Yugoslav People's Army were attacked: military columns on the roads Vitez-Busovača and Mostar-Čapljina, airfields Bihać and Mostar, the army barracks in Brčko, "Brigec" depot near Mostar and the military factory "Bratstvo" in Novi Travnik. The attacks were made by armed men of Croat and Muslim nationality. A group of armed civilians forced its way to the grounds of the military factory "Bratstvo" in Novi Travnik, opened fire on the guards and forcibly took their weapons and ammunition. One soldier was wounded on that occasion. On the road Vitez-Busovača five armed persons in Ministry of Internal Affairs uniforms forcibly took a truck belonging to the military factory "Slavko Rodić" from Bugojno, which was transporting the capsules and fuzes for tank cannon projectiles.

3.2.1.2.5. In the village of Gabela near Čapljina the HDZ extremists planted antipersonnel and antitank mines around a military depot and the members of MUP of Bosnia and Herzegovina from Bihać planted mines on the railway line near Bosanska Krupa at the end of November 1991 in order to block the passage of military transport. In the course of December 1991 and in January and February 1992 armed members of the SDA and the HDZ opened fire 14 times on military facilities (Mostar, Bihać, Čapljina, Bijeljina, Busovača, Sarajevo) and one officer and two soldiers were wounded.

3.2.1.2.6. In this period a large number of physical assaults on members of the Yugoslav People's Army (Mostar, Sarajevo, Doboј, Gračanica, Rajlovac, Tuzla, Derventa...) were registered and several serious or light bodily injuries were inflicted on them. Muslims and Croats who responded to summons for mobilization to the Yugoslav People's Army were also exposed to physical violence on a mass scale. In Mostar and in other places there existed groups for liquidation of members of the Yugoslav People's Army.

3.2.1.2.7. In para. 88, p.520 of the Reply the Applicant says that Bosanski Brod was the first town to have been attacked by the Yugoslav People's Army, on 27 March 1992. In para. 3.1.3.4., p.252 of the Counter-Memorial the Respondent stated that the Croat armed formations as well as the Muslim Green Berets attacked the territorial defence units in Bosanski Brod and that the town was shelled from Slavonski Brod situated on the other side of the river Sava in Croatia. The Applicant did not comment on this assertion of the Respondent but attached, as a proof of the alleged attack of the JNA on Bosanski Brod, an article by Dessa Trevisan and Tim Judah carried in "The Times", as Annex 129 to the Reply. The Applicant says:

*"Their article marked the beginning of the genocidal campaign in Bosnia and Herzegovina".*



However, the article referred to by the Applicant indicates something quite different. The Respondent quotes below the text presented by the Applicant in para. 88, pp.520-521 of the Reply, which reads as follows:

*"Mortar and artillery shells rained down yesterday on the north Bosnian town of Bosanski Brod, on the border with Croatia, as Serbs announced the constitution of their own republic in Bosnia-Herzegovina. Yugoslavia jets circled above, but a spokesman at the town's Muslim-Croat crisis centre denied a Croatian police report that they had rocketed a factory."*

*In a ceremony in Sarajevo, local Serb leaders said they were 'laying the foundations of a fourth Serbian state in Yugoslavia (Republika Srpska; the others are: Serbia, Montenegro, Srpska Republika Krajina)'. The declaration came as Muslims and Croats on the Bosnian presidency sent a message to the United Nations appealing for military observers to help bring calm to the republic and accused Serbs of terrorism. Yesterday Bosnia sent three leaders to check reports that civilians had been killed in the continuing fighting in Bosanski Brod. Three people were injured by an explosion in a cafe in Mostar and Serbs accused Croats and Muslims of killing ten civilians. Armed clashes and shooting incidents threaten to destroy hopes that a Bosnian civil war could be avoided or that UN peace-keeping troops could be deployed in Croatia."*

It is not clear from the article who shelled the town. The Respondent reiterates that the town was shelled from Slavonski Brod on the Croatian side. It is clear from the article that the fighting was going on in the town itself and that three leaders were sent to check the reports on civilian casualties. It can also be seen that three people were injured in an explosion in a cafe in Mostar and that Serbs accused Croats and Muslims.

The two journalists conclude that these armed clashes and shooting incidents threaten to destroy hopes that a civil war could be avoided in Bosnia.

3.2.1.2.8. On 4 April 1992 the army barracks "Jajce" in Sarajevo was attacked and the facade was damaged on that occasion but there were no casualties. Military buildings were repeatedly attacked. The Decision of the Presidency of the SR of B&H on mobilization of the territorial defence (TO) further complicated the already tense situation. Armed paramilitary formations freely move across the territory, block passage on roads and check motor vehicles and individuals.

3.2.1.2.9. On 5 April 1992 the members of the Green Berets in Sarajevo opened fire on flats and buildings in which live JNA officers, the army barracks "Jajce" and on the Second Military District Command building and attempted to take over control of Butmir airport.

3.2.1.2.10. On the same day 10 130mm artillery pieces were pulled out from the Technical Maintenance Service in Novi Travnik and deployed in the area of the village of Bučići on the road Travnik-Vitez. The artillery pieces were pulled out by the members of HOS (Croatian Armed Forces).

3.2.1.2.11. In para. 109, p. 538 of the Reply, the Applicant says that the fighting in Sarajevo began on 5 April 1992 on the eve of the meeting of the Foreign Ministers of the European Community, at which the decision was to be adopted on the recognition of Bosnia and Herzegovina as an independent state. The clashes broke out after 2.00 p.m., after the expiry of the deadline set by the Serb leaders for retraction of the decision on full mobilization of the Republic Territorial Defence and Police Reservists where Croats and Muslims had the dominant role. The order for the mobilization was issued by Alija Izetbegović (The Applicant does not say that the order was issued by Alija Izetbegović but this is stated in para. 54, p.152,

Annex VI to the Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1991) referred to by the Applicant). By the Order on mobilization Alija Izetbegović formalized the armed rebellion against the SFRY. There were no legal grounds for the president of the Presidency of the Republic - federal unit to issue such an order. In para. 58, page 153, Annex VI of the said document it is stated that after the outbreak of these hostilities in Sarajevo on 5 April 1992, Radovan Karadžić, Alija Izetbegović and Miljenko Brkić, leader of the HDZ, agreed on a total cease-fire in the Republic. Also present during the talks in TV Studio Sarajevo, when the cease-fire was agreed upon, were Colonel-General Milutin Kukanjac, commander of the Second Military District and European Community monitor Antonio Santos. The role of General Kukanjac was much more important than the mere presence at the talks of the three national leaders in Sarajevo TV studio. The talk was organized on the initiative and with a great engagement of General Kukanjac.

3.2.1.2.12. The document of the Second Military District Command of 7 April 1992 attached by the Applicant as Annex 131 to the Reply confirms the fact that the fighting around Bosanski Brod was between the Croatian forces and the forces of the Territorial Defence. This document contains the information on the dislocation of armed formations in individual regions of Bosnia and Herzegovina:

*"1. Zone of combat activity Kupres*

*1.1. Enemy Deployment*

- up to one reinforced platoon at the saddle Kupreška Vrata;*
- Ratakovine, Poljike p.e. 1296, force about one company;*
- v. Osmanlije, v. Čevići, force about one company;*
- p.e. 1120, graveyard Magarica, force of about one platoon;*

- v. Stražbenica, p.e. 1181 Kuk, force of about one company;
- in the town of Kupres force of about one platoon;
- in the region of v. Vrila, v. Kure, force of about one platoon;
- in the region of v. Gluščevina, p.e. 1096 Rajkovaca, an artillery battery;
- in the region of p.e. 1271 Batoglav reconnaissance post;
- in the region of v. D & G. Ravno, force of one reinforced platoon;
- in the region of Livno a ZNG\* brigade deployed;
- in the region of v. G.Runjani, v. Listani, force of one reinforced company;
- in the region of v. Ljubunčići, force of about one company;
- in the region of Suica there is a HOS\* unit of some 300 men;
- ZNG\* - Croatian army;
- HOS\* - Croatian voluntary troops

### *1.2 Deployment of Our Forces*

- along the line: Doline (p.e. 1152) - v. Stražbenica - 3rd battalion of the 11th partisan brigade;
- along the line v. Zlosela (p.e. 1120) Kupreško Polje - a tactical company with voluntary platoon from Šipovo and v.Zlosela;
- along the line v. Zloselo (p.e. 1156) - v. Olovo
- 2nd batt. of the 13th partisan brigade;
- along the line Bili Potok - v. Lovrica Dolina (p.e. 1289)- 3rd. batt. of the 13th partisan brigade;
- mortar unit in the region of v. Suhova;
- howitzer 105 mm in the region of v. Blagaj;
- 2/5th combined artillery regiment in the region of v. Mrdenovci, p.e. 1154, church p.e. 1130 Novo Selo;

- in the region of Koprivnica, Carev Mlin 1 - 19/30 partd (partisan division);
- in the region of v. D & G. Vukovsko, TO detachment Vukovsko;
- major part of the town of Kupres is held under the control of TO company Kupres;

## 2. COMBAT OPERATION ZONE BOSANSKI BROD

### 2.1. Enemy deployment of the 108th ZNG brigade

- in the region of Bos. Brod forces in the strength of two battalions of ZNG at the confrontation line school Bos. Brod - Grda - Mecelj channel, p.e. 87, crook Cacavica, v. Kolibe Gornje (north of church) and G.Maja (p.e. 90).
- in the region of v.Hrastovaca p.e. 90 (north of channel), v.Ukvinari, v.Čardak (north for 1 km), v.Lug, force of about one battalion;
- in the region of v.Bijelo Polje, v.Bos. Dubočac force in the strength of about one battalion;
- artillery in the region of v.Potočani.

### 2.2. DEPLOYMENT OF OUR FORCES

- TO detachment Bos.Brod eastern part of Bos.Brod region of Greda;
- TO unit "Liješće" in the region of v.Liješće;
- 1/327 mtbr. with 1st company of TO in the region of v.Kolibe Gornje;
- tactic company/327 mtbr in the region of v.Nareci;
- 2. armoured batt./336 mtbr in the region of v.Zborište, v.Bos.Lužani;
- batt.TO Prnjavor and company TO "Trstenica" in the region of v.Kalačka, Pavlovo Brdo;

- *POOd-1 (1-1/17 anti-tank artillery regiment in the region of v.Bjalas);*
- *bVBR/17map (combined artillery regiment) in the region of v.Polje (p.e.199)*
- *b/had-337 mtbr. in the region of v.Sokići;*
- *4327 mtbr. in the region of v.Glogovača;*
- *command of 327th mtbr. in Derventa;*
- *2497 eng. regiment in v.Betnja Mala, v.Polje;*
- *command post of the 1st operative group/17th Corps in v.Podnolje (p.e.179).*

### **3. ZONE OF COMBAT ACTIVITIES IN BIJELJINA**

#### **3.1. Enemy Forces**

- *there are some 400 members of the SDA (most of them are now disarmed);*
- *there are some 200 members of the SDA in the village of Janja.*

#### **3.2. Our Forces**

- *Command of the 38th partisan (infantry) division, 17th combined artillery regiment;*
- *multiple rocket launcher battery/17th combined artillery regiment, howitzer battery/17th combined artillery regiment deployed in Bijeljina;*
- *2 armoured battalion/453 motorized brigade in the village of Janja;*
- *1/17 partisan brigade deployed in the region of Bos.Rača, Galistok, v.Brodare;*
- *2/17 partisan brigade deployed in v.G.Šepak (Zvornik);*
- *3/17 partisan brigade deployed in the region of Trpovačka Grda, Lukavac, v.D. Crnevljevo;*
- *command post in the village M.Obarska;*
- *mortar battery/38 partisan division deployed in the village of Ljesnica;*

- 22nd partisan brigade deployed: 1/22 part.br. in the region of the village of Čelopek;
- 2/22 partbr. in the village of Bogatovo Selo;
- 3/22 partbr. in the village of D.Trnova;
- command post in the village of Ugljevik.

#### 4. ZONE OF COMBAT OPERATIONS SARAJEVO

##### 4.1. Enemy

- green beret forces have strength of some 3,000 men

##### 4.2. Our Forces

- 49th motorised brigade deployed at the following positions:
  - region of Vratnik - tank platoon;
  - region of Butmir airport - reinforced tank platoon;
  - region of Mojmiło Brdo - reinforced tank platoon;
  - 4th combined artillery regiment in the region of Koran;
  - 4th combined anti-tank artillery regiment in the region of the village of Mokro;
  - 346th light artillery regiment of air defence in the region of Treščević;
  - 216th mountain brigade in Han Pijesak;
  - detached command post of the 4th corps in v.D.Zlatište.

This document confirms that significant Croatian forces were stationed in the zone of Bosanski Brod. The document also shows that important Croatian armed forces, as well as paramilitary Croat-Muslim formations were deployed in other parts of Bosnia and Herzegovina. Commenting on the document of Colonel Zekanović, which contains the information about the

deployment of armed formations in Bosnia and Herzegovina, the Applicant, in para. 92, p.526 of the Reply, states that it is an illustration of the fact that the JNA was not a neutral force because it refers to disarmament and enemy. It is clear that in a situation when the Army has been attacked, it cannot be neutral vis-a-vis the attackers.

3.2.1.2.13. On 7 April 1992 an armed attack by the formations of the "Green Berets" in police and camouflage uniforms was made on the City Headquarters of TO Sarajevo and the District Headquarters of TO Sarajevo; complete equipment and weapons were seized.

3.2.1.2.14. The same day, 7 April 1992, Croat paramilitary formations from West Herzegovina, unprovoked in any way, made an artillery-mortar attack on Mostar airport and several soldiers and officers were wounded.

3.2.1.2.15. On 8 April 1992 the members of the Ministry of Internal Affairs SR B&H and HOS members killed 7 conscripts from the 5th Corps. (para. 7.1.36.1. of the Counter-Memorial.) The killing took place at the approach to Jajce from the direction of Banja Luka. The conscripts travelled from their unit having obtained leave, by public transport coach.(para. 7.1.36.1 of the Counter-Memorial)

3.2.1.2.16. On the basis of the Decision of the rump Presidency of SR B&H all former paramilitary formations were included in the Bosnia army "Territorial Defence" B&H; in this way further arming of these paramilitary formations was continued.

3.2.1.2.17. On 9 April 1992, at about 11.00 a.m., a column of 4 motor vehicles with 14 soldiers set off from Bosanski Petrovac in the direction of Bihać with the task of taking over the equipment in the "27 July" army barracks. At the entry to Bihać an ambush was set up by Muslim paramilitary formations, with strength of about 30 men, armed and in camouflage uniforms.



They stopped the column, disarmed the soldiers and seized their weapons.

3.2.1.2.18. In the whole territory of SR B&H mobilization of the newly proclaimed Bosnian army (Army - TO) was underway, in which were incorporated all Muslim-Croat paramilitary formations of B&H. Under the Decision of Alija Izetbegović, all HOS units, the Green Berets, the HDZ and the Ministry of Interior Affairs were placed under the command of TO BiH and will operate under an integrated plan.

3.2.1.2.19. In para. 98, p.530 of the Reply the Applicant refers to the document of the Command of the 17th Corps of the JNA dated 10 April 1992, attached as Annex 132 to the Reply. In this document the commander of the 17th Corps requests support by light combat aircraft in order to neutralize the forces attacking JNA units defending the bridges on the river Drina. It is clear from the document that in this case, too, the JNA was attacked. It was exposed to attacks of Muslim paramilitary units. The "Combat and Operative Report" dispatched by the Second Military District operative team on duty to the General Staff of the SFRY Armed Forces on 26 April 1992 states the relevant circumstances. This report is attached as Annex 133 to the Reply of the Applicant. The report begins with the statement that in the course of 26 April 1992, the enemy violated cease-fire in twelve cases. In the afternoon hours the enemy shelled the barracks of the Derventa garrison from the villages of Plehon and Piskavica and opened fire on the same barracks from infantry weapons from the village of Babino Brdo. Section 2 of the report deals with combat capability in the Second Military District. It is said in the report that the pulling out of supplies and materiel from the Command building and transport to the army barracks in Lukavica was continued during the day, as well as from the depots in Visoko, Ilijas and Semizovac. All command units are intensively engaged in raising the level of combat capacity, protection of facilities and control of the territory. In section 3 of the report the situation in the territory is

described. It is stated that: *"The situation in the territory is becoming ever more complex, in particular in the area of responsibility of the 17th Corps, Central Bosnia and Cazinska Krajina region. Erection of roadblocks and the prevention of movement of JNA units are characteristic of the situation in the city of Sarajevo and on other roads. The garrison in Travnik has been in total blockade for some time now ... to secure the Vogosca crossroads a company from the 216th mountain brigade has been brought with the task of securing the "Pretis" factory. ... Activities of paramilitary formations in preparation of armed struggle and resistance to the JNA continue."* In regard to the 17th Corps the following information has been presented: *"A part of the units has been engaged for securing the principal communications in the zone of Kupres, execution in combat operations in the area of Zvornik and in defence operations in the area of Bosanski Brod and Derвента. The situation in the territory is becoming ever more complex with a tendency of further deterioration. Inter-ethnic intolerance threatens with the outbreak of new conflicts in the territories where the situation was calm so far".* Section 5 of the report is related to the security situation. It is said: *"Blockade of military facilities has been intensified, including threats with attack and seizure of supplies and materiel. On a certain number of crossroads in the city of Sarajevo obstacles made of concrete have been placed. All movements are being strictly watched and controlled and some motor vehicles are being impounded. Passage and transportation are only possible if combined with physical security measures and with demonstrated readiness for defence".* Section 8 of the report informs about the activities of the EU monitoring mission teams. It is said: *"The departure of the EU monitoring mission team for Odžak has been agreed upon and realized with a view to securing the evacuation of threatened Serbs from villages in the vicinity of Odžak."* Is there anything at all here suggesting genocidal intentions or genocidal operations of the Yugoslav People's Army? There is nothing of the kind at all. Quite the opposite, this document attests to the defensive character of JNA combat operations and to the fact

that the JNA was exposed to attacks in the whole territory of Bosnia and Herzegovina.

3.2.1.2.20. Despite the fact that in the course of March and in particular in April 1992 intensive negotiations were conducted on the status of the Yugoslav People's Army in the Socialist Republic of Bosnia and Herzegovina (the Ministry of National Defence of the Socialist Republic of Bosnia and Herzegovina adopted on 10 April 1992 a Platform for negotiations with representatives of the JNA on the status of the Yugoslav People's Army in the Socialist Republic of Bosnia and Herzegovina), the newly established Headquarters of the Territorial Defence of the Socialist Republic of Bosnia and Herzegovina issued, on 14 April 1992, the Directive for the defence of the sovereignty and independence of the Socialist Republic of Bosnia and Herzegovina, by which the Yugoslav People's Army and the Territorial Defence of the Serb autonomous regions were termed enemies and war was declared on them (order was issued for mobilization, forming of combat units, taking over of depots and blockade of the barracks of the Yugoslav People's Army, capture of members of the Yugoslav People's Army, etc.). Furthermore, on the basis of the Decision of the Presidency of the Socialist Republic of Bosnia and Herzegovina, the Headquarters of Territorial Defence of the Socialist Republic of Bosnia and Herzegovina issued orders under No.02/145/1 of 29 April 1992 for the blockade of facilities and units of the Yugoslav People's Army and for the preparations for the launching of combat operations in the whole territory of the Socialist Republic of Bosnia and Herzegovina.

3.2.1.2.21. In the course of 12 April 1992 the attack on the "Faletić" depot near Sarajevo was continuous and the defenders were demanded to surrender. At 7.00 a.m. Butmir airport was attacked and the attack was made by the "Green Berets".

3.2.1.2.22. On 16 April 1992 Muslim-Croat paramilitary formations attacked a JNA unit in the area of Bosanski Brod by opening fire from mortars and infantry weapons. Nine JNA members were killed and 16 were injured.

3.2.1.2.23. In para. 105 on p.536 of the Reply, the Applicant quotes the text of the Extraordinary Report dispatched by the Second Military District operative centre to the General Staff of the Armed Forces of the SFRY on 17 April 1992. The extraordinary report as presented by the Applicant on page 536 of the Reply reads as follows:

*"Extraordinary Report*

*The 17th Corps HQ reported that it took control over all vital objects in Bosanski Šamac in the night of 16/17.04.1992.*

*Intervention came as a result of numerous conflicts and excesses on ethnic grounds, preceded by the attempt of the Croatian Army to cross the bridge on the Sava river. A part of these troops together with paramilitary troops from the Bosanski Šamac area made an attempt to attack the forces of the 17th Corps along the line Prud-Bosanski Šamac. This attack was repelled and losses inflicted to the enemy. In the operations of taking control over the vital objects in Bosanski Šamac, the 17th Tactic Group troops together with the troops of the Serb TO (Territorial Defence) and the Serb militia took part. The situation in the town is relatively calm. Individuals who were opening the fire at our troops and citizens were isolated. There have been some cases of moving out of the population, while a substantial number of the municipal leadership fled to Croatia.*

*The establishment of the civilian authorities is under way. There are some indications that the enemy might*

*strike again. Necessary measures to enable any further attacks and to disarm the remaining enemy's troops are undertaken."*

It can be seen from this document that the Yugoslav People's Army was attacked by the armed forces of the Republic of Croatia as well as by paramilitary formations from the municipality of Bosanski Šamac area.

3.2.1.2.24. On 17 April 1992, at 3.30 a.m., members of the "Green Berets" and Ministry of Internal Affairs made an armed attack on the "Pretis" military factory in Vogošća with the intention of taking with them finished products. The security service managed to repel these attacks.

3.2.1.2.25. The same day, late in the afternoon, the forces of Ministry of Internal Affairs BiH and paramilitary formations blocked the military depot in Konjic with the intention of taking control of the facility.

3.2.1.2.26. From day to day the personal security of the members of the JNA and that of their families was increasingly threatened as a consequence of intensified arrests and bringing in to the police. Attacks and provocations on military flats, in particular in Sarajevo, became ever more frequent. Members of the "Green Berets" often broke into flats taking away and harassing the occupants.

3.2.1.2.27. On 21 April 1992, at 6.55 a.m., the military hospital Sarajevo was hit by a mortar shell.

3.2.1.2.28. As a result of the agreement between T. Ajanović and the top leadership of Croatia, military advisers from the Croatian Army arrived in the village of Kozarac near Prijedor to organize the population militarily.

3.2.1.2.29. On 22 April 1992 paramilitary formations inflicted damage on the Second Military District Command building: a total of 11 motor vehicles owned by the JNA and 20 privately owned motor vehicles were damaged. Window panes on the building were shattered. During the morning hours and in the evening attacks on the army barracks in Derventa were repeatedly made by fire from mortars of various calibres.

3.2.1.2.30. On 24 April 1992 Muslim-Croat paramilitary formations and armed groups of citizens stopped a column of 5 motor vehicles and one armoured vehicle in the suburb of Kovači on Vratnik near Sarajevo. The soldiers were disarmed and captured.

3.2.1.2.31. The same day paramilitary formations of Muslims in Sarajevo made an attack on the Second Military District Command building by mortar fire.

3.2.1.2.32. On 25 April 1992, Lieutenant-Colonel Krsmanović, one soldier driver and a motor vehicle were captured near Zlatište, Sarajevo. After interrogation in the Ministry of Internal Affairs and maltreatment, the officer and the soldier were released while their weapons and the motor vehicle were seized.

3.2.1.2.33. The same day 25 soldiers securing the JNA "Miro Popara" barracks in Čapljina were captured during the attack on the barracks by the HVO (Croatian Defence Council) and other paramilitary formations.

3.2.1.2.34. The Applicant has attached as Annex 130 to the Reply a copy of the decision for engagement in combat operations sent by Major-General Milan Nedeljković, commander of the 17th Corps of the JNA, to the General Staff of the Armed Forces of the SFRY and to the Second Military District Command. The Applicant refers to this document in para 89, p.521 of the Reply, partly quotes it but omitting some very

important parts of the document. From section 1 of the Decision relating to the objective, the following part has been omitted:

*"By defence operations of the forces in the area of Bosanski Šamac, Gradačac, Orašje and Brčko prevent (probably the army of the Republic of Croatia, initial letters of the abbreviation that has been used are not clearly legible on the copy) forced crossing of the river Sava and, by various operations, break up attacks of anti-aircraft formations, those of infiltrated sabotage-terrorist groups, prevent inter-ethnic conflicts, perform combat control of the territory and keep under control communications in one's own zones."* The quoted part of the document describes the objectives of combat activities. They were: prevention of the armed forces of the Republic of Croatia to cross the river Sava and to reach the territory of Bosnia and Herzegovina, elimination of terrorist groups which were active in that area, as well as prevention of inter-ethnic conflict. The objective was to prevent inter-ethnic conflict. This is clearly stated in the document attached by the Applicant.

3.2.1.2.35. On 26 April 1992, between 9.00 and 9.30 p.m., an attack was made on the security guard post of the Second Military District Command from the direction of Dobrovoljačka Street. The attack was made by the members of the "Green Berets".

3.2.1.2.36. On 27 April 1992 the members of TO BiH ambushed two JNA vehicles from Dubrave airport (Tuzla) in the region of the village of Ljubača near Tuzla. Captain Refik Miftari was killed in the attack and two soldiers were slightly wounded. The attack was organized by Vahid Karavelić, commander of the Regional HQ of TO for North-Eastern Bosnia, formerly a JNA captain who deserted at the beginning of January 1992. He was deprived of liberty at the time. He pointed out in his statement that already as a member of the JNA he got in touch with the illegal SDA crisis centre at the end of November 1991; that he worked on illegal organizing of Muslims militarily in the area of north-eastern Bosnia and made preparations for military

actions against the JNA and the Serb people. On that occasion original documents (various receipts, certificates, acknowledgements, etc.) were found with him, from which the role of the Ministry of Defence of Croatia in arming Muslims and Croats in BiH can be seen.

3.2.1.2.37. On 29 April 1992 Colonel Hasan Efendić, commander of TO BiH, issued Order on implementation of the Decision of the Presidency of the Republic of BiH, No.02-11-337/92 of 27 April 1992, which reads:

*Item 1. Put roadblocks and obstacles everywhere on all roads in the territory of BiH used by units of the former JNA for pulling out technical means and materiel; this should be done in close coordination with MUP.*

*Item 2. Impose blockade of the broader area of military facilities from which attempts are being made to remove technical means and materiel, by using various regular and natural barriers and obstacles with which TO units of the Republic of BiH and MUP should be supplied.*

*Item 3. Prevent the exit from the barracks and communication on the territory of the Republic of BiH to unannounced columns of the former JNA and which are not escorted by MUP.*

*Item 4. Make plans for and initiate combat operations on the whole territory of the Republic of BiH.*

3.2.1.2.38. On 1 May 1992 the forces of Ministry of Internal Affairs BiH attacked the Vlašić military facility with a view to taking control of it. In the attack two soldiers were killed by sniper fire and one soldier was seriously wounded.



3.2.1.2.39. From 1 May till the morning hours of 3 May 1992 the Second Military District Command building in Sarajevo was continuously shelled and fired at from infantry weapons. In that period, on 2 May 1992, the JNA Club building in Sarajevo was attacked. The attack was led by Jusuf-Juka Prazina, notorious criminal and one of the chief leaders of Muslim military formations - the "Green Berets" - and perpetrators of attacks on military facilities at the time.

3.2.1.2.40. Despite the fact that agreement was reached to evacuate the Second Military District Command from Sarajevo to Lukavica, under the escort of UN forces, the column was attacked in the course of 3 May 1992, in the afternoon hours. The attack on and brutal crimes against the members of the JNA were under the direct command of Jovan Divjak, former JNA Colonel deserter, through Željko Žagi, commander of one of TO headquarters in Sarajevo, Jusuf Prazina and Emin Švrakic, notorious criminal. The orders were issued directly by Ejup Ganić, member of the rump Presidency of BiH. During the attack the abhorrent crime was committed against the JNA members who were shot at from the back, forced to stand against the wall, stripped naked and shown around the city, where the population spat at them and humiliated them, while the captured officers were brutally maltreated in the Central Prison in Sarajevo. All this was done before the eyes of the UN representatives. Reporting on that event the Paris newspaper "Liberation" wrote that this massacre will enter into the annals of the war in BiH as "a barbarian act without precedent". In confirmation of that assessment it quoted Marc Goulding as saying that he was shocked to learn of the way the members of the JNA had been liquidated. In the attacks in Sarajevo on 2 and 3 May 1992 a total of 28 members of the JNA were killed (9 officers, 1 NCO, 1 civilian employed in the JNA and 17 soldiers).

3.2.1.2.41. On 15 May 1992, at about 3.30 p.m., the army barracks in Tuzla was attacked and, between 6.00 and 7.00

p.m., after it had been agreed that the unit in question leave Tuzla, on the crossroads Brčanska Malta a part of the column (about 20 vehicles) was cut off and attacked. That time, too, a ferocious crime against the JNA members was committed. A large number of soldiers were killed and about 20 injured. The attack was planned and organized by Željko Knez, former JNA Lieutenant-Colonel - deserter and Sead Delić, former JNA Major, also deserter, both of whom held important posts in the District TO Headquarters Tuzla. That all had been planned in advance is attested to also by the fact that the massacre was filmed by TV camera of the local TV studio FS-3.

### 3.2.1.3. Alleged Forced Mobilization in the FR of Yugoslavia

3.2.1.3.1. In para. 405, p.711 of the Reply the Applicant, claiming that there was forced mobilization in the Federal Republic of Yugoslavia for the needs of the Republika Srpska Army, inter alia, says: *"The Respondent forcibly mobilized those people, mostly but not exclusively refugees from Bosnia and Herzegovina, for the Army of Bosnian Serbs."*

In the further allegations in the Reply the Applicant expands on the thesis that forced mobilization was carried out by the members of the Ministry of Internal Affairs of the Republic of Serbia, describing in detail the manner in which this was done, "corroborating" its allegations exclusively by parts from newspaper articles, without offering a single proof of its assertions that would be valid in the eyes of the law. In this way the Applicant endeavoured to create the impression that widely known facts are involved which need not be proved.

3.2.1.3.2. All the assertions of the Applicant associated with the alleged forced mobilization in the Federal Republic of Yugoslavia are completely denied by the Respondent because the allegations stated are simply not true. No mobilization of Serb refugees from the Republika Srpska took place in the

Federal Republic of Yugoslavia. Even if such a mobilization did take place, and it did not, would it be logical to expect from the forcibly mobilized persons to commit genocidal acts on behalf of the Federal Republic of Yugoslavia or the Republika Srpska. This aspect of the alleged mobilization of Serb, "but not exclusively" Serb, refugees (which means that among mobilized persons there were those of other nationalities), the Applicant deliberately fails to take into account so as not to compromise its thesis about the genocidal behaviour of the Federal Republic of Yugoslavia.

3.2.1.3.3. The truth is that the Federal Republic of Yugoslavia and the Republic of Serbia, in the period referred to by the Applicant in its Reply, took intensified measures aimed at checking the place of residence or temporary abode of a huge number of refugees who found themselves in the territory of the Federal Republic of Yugoslavia and that these persons, only when it was absolutely necessary, were brought to police stations to establish their identity, which was carried out legitimately by the authorities of internal affairs on the basis of the relevant regulations in force in the Federal Republic of Yugoslavia.

3.2.1.3.4. According to the regulations in force, the internal affairs' authorities are not authorized to carry out mobilization, but only to discharge duties within their competence, i.e. those related to the protection of life, personal security of citizens and security of their property and, in this connection, to the application of regulations concerning registration and cancellation of place of residence or temporary abode and/or registration of change of address.

3.2.1.3.5. In para. 425, p.722 of the Reply the Applicant attempts to illustrate the allegation that the state authorities of the Republic of Serbia carried out forced mobilization of persons born in the territory of Bosnia and Herzegovina, during the summer of 1995. To that end the Applicant refers to the

case of one Nemanja Crnogorac born in Bosnia and Herzegovina, who was allegedly mobilized by being served, on 29 June 1995, a summons which read: "Nemanja Crnogorac is called upon to join the Army of Bosnian Serbs" In Annex 257 to the Reply the Applicant offered the "proof" in support of the this allegation, in the form of a photocopy of the described summons.

3.2.1.3.6. As far as the photocopy of the summons to Nemanja Crnogorac to report to the Secretariat for Internal Affairs in Subotica for the purpose of joining the Republika Srpska Army is concerned, in the subject matter: "*persons subject to military conscription in BiH*", involved here is a clumsy forgery and here is why:

In the bottom right corner of the summons, as previously referred by the Respondent, there is a signature containing a clearly legible abbreviation "kap" which means that the person who signed the summons has the rank of captain; this was by no means possible because in June 1995 the members of the Ministry of Internal Affairs had no ranks. The ranks were introduced subsequently by the Law on ranks of the members of the Ministry of Internal Affairs published in the "Official Journal of the Republic of Serbia", No.53/95 of 28 December 1995 and effective from 5 January 1996. Before the coming into force of this Law the members of the Ministry of Internal Affairs could not have ranks, consequently, not on 28 June 1995 either. The members of MUP could have ranks only after 28 March 1996 because they acquired them on the basis of the Regulations relating to Evaluation of Performance and to Acquisition and Loss of Rank by Members of the Ministry of Internal Affairs, brought by the Minister for Internal Affairs on the basis of the said Law and published in the "Official Journal of the Republic of Serbia", No.15/96 of 28 March 1996.

3.2.1.3.7. In the part of the Applicant's Reply relating to the alleged forced mobilization in the territory of the Federal

Republic of Yugoslavia there are unfounded accusations and contradictions which only contribute to the impression that the Applicant does not dispose of reliable information about the alleged mobilization in question, based on proofs. Quoted below are some examples:

In para. 418, p.718 of the Reply the Applicant states that: *"Until the summer of 1995, new passports could only be issued to women and men - under the age of 16 or over 60."* But in para 425, p.724 of the Reply it is claimed: *"The person in question, Nemanja Crnogorac, was born in Bosnia and Herzegovina but was in possession of a passport issued six months before by the Ministry of Internal Affairs in Subotica (passport, Nemanja Crnogorac, 14 January 1995. Annex 258)".*

A "reliable" piece of information of the Applicant about the number of persons who allegedly were forcibly mobilized is stated in para. 419, p.718 of the Reply: "Women in black", the formerly mentioned non-governmental organization, estimate that the covered number of refugees was between 6000 to 20000. This estimate is based on the figures published in the magazine "Vreme" (Time).

3.2.1.3.8. In para. 438, p.730 of the Reply the Applicant quite erroneously interprets the sentence of the District Court in Belgrade and says: "This was also, which is very interesting, the opinion of the District Court in Belgrade, which decided, on 27 February 1998, that the Federal Republic of Yugoslavia is accountable for the physical and mental damage suffered by Serbs who had been forcibly recruited to the army of "Republika Srpska" and "Republika Srpska Krajina".

Firstly, in the sentence of the District Court in Belgrade the Republika Srpska or the Republika Srpska Army are not mentioned at all for the simple reason that this was not the subject matter of this court dispute.

Secondly, on the basis of the appeal, the District Court in Belgrade altered the sentence of the First Municipal Court in Belgrade in the part of the sentence relating to the mobilization of the plaintiff for the needs of the Army of the Republic of Serbian Krajina, having adopted the position that *"the Republic of Serbia was not passively rendered accountable for some other damage suffered by the plaintiffs in connection with the question of mobilization and possible consequences thereof, a matter to which the appeal justifiably drew attention."*(Excerpt from the sentence of the District Court in Belgrade Gz.No.6024/97 of 15 October 1997 is in quotation marks and not of 27 February 1998 when the sentence was transmitted to the authorized representative of the plaintiffs).

Finally, the Applicant persists, this time again, in his conviction that newspaper articles are the most reliable piece of evidence and did not even try to trace the original text of the sentence of the District Court in Belgrade, quoting as proof only a newspaper article, tailored for the purposes of this Reply.

3.2.1.3.9. In paras. 431 and 432, pp.727 and 728 of the Reply relating to the activities of the Bureau of the Republika Srpska in Belgrade the Applicant also stated that: *"One of the main tasks of that Bureau, referred to earlier in this section, was in fact to dynamize mobilization."*

It is important to note that not in a single piece of evidence offered (nor in the statement of General Djordje Djukić, Annex 140 of the Reply) is it possible to find anything about the involvement of the authorities of internal affairs of the Federal Republic of Yugoslavia or the Republic of Serbia in the possible activities of the Republika Srpska Bureau in Belgrade associated with the mobilization of persons from the territory of the FR of Yugoslavia.

3.2.1.3.10. In paras. 434-437, p.729 of the Reply the Applicant, instead of evidence, offers its own arbitrary assessment of

"perfect harmony" and "close cooperation" between Belgrade and the Serb authorities in the Republika Srpska.

### 3.2.2. Forming of the Army of the Serb Republic of Bosnia and Herzegovina (Republic of Srpska)

3.2.2.1. The Assembly of the Serb people in Bosnia and Herzegovina, at its session held on 12 May 1992, brought the Decision on Forming the Army of the Serb Republic of Bosnia and Herzegovina, on the basis of Art.70, para 2 of the Constitution of the Serb Republic of Bosnia and Herzegovina. This Decision was published in the Official Journal of the Serb people in Bosnia and Herzegovina, No.6 of 12-17 May 1992, p. 219.(Annex No. R8, pp. r83/r84-r85) The former units and headquarters of the Territorial Defence were renamed as command units of the Army. The organization and formation of the Army, pursuant to Art.2 of the Decision, is determined by the President of the Republic. By Art.3 of the Decision Lieutenant-General Ratko Mladić was appointed commander of the Main Headquarters of the Army of the Serb Republic of Bosnia and Herzegovina. Art.4 provides for that the Army of the Serb Republic of Bosnia and Herzegovina wear uniforms and grade insignia as were worn by the members of the Yugoslav People's Army and Territorial Defence. The Serb flag is the basis of cap ornaments and, on the left forearm, the Serb flag on a round base with the inscription "Army of the Serb Republic of Bosnia and Herzegovina". Later on the provision relating to uniforms and grades was changed.

3.2.2.2. In para. 159, p.566 of the Reply the Applicant quotes a part from the book by Borisav Jović, former President of the Presidency of the SFRY, and attached this part of the book as Annex 15 to the Reply. In that part of the book Borisav Jović describes the talk between the leadership of the Federal Republic of Yugoslavia and the leadership of Bosnian Serbs

which took place on 30 April 1992 and related to the withdrawal of the JNA from BiH. It was agreed that within a period of fifteen days the members of the JNA who are citizens of the FRY be withdrawn from Bosnia. It is also said in this text that the Serb leadership of BiH can take political control over the soldiers who remain in BiH. This clearly reflects the position of the then leadership of the FRY regarding political control over the future Army of the Serb Republic of Bosnia and Herzegovina.

3.2.2.3. Both political and military control over the Army of the Serb Republic of Bosnia and Herzegovina was in the hands of the Presidency of the Serb Republic of Bosnia and Herzegovina (later Republic of Srpska). The relations of command in the Army of the Serb Republic of Bosnia and Herzegovina are regulated by the Law on the Army of the Serb Republic of Bosnia and Herzegovina published in the Official Journal No. 7 of 1992. Decisions of the President of the Presidency of the Serb Republic of Bosnia and Herzegovina were brought on the basis of this Law. On the basis of the same Law the President of the Presidency of the Serb Republic of Bosnia and Herzegovina brought the Decree on the Application of the Rules of International Law of Armed Conflicts to the Army of the Serb Republic of Bosnia and Herzegovina published in the "Official Journal of the Serb people in Bosnia and Herzegovina", No. 9 of 13 June 1992. (Annex No. R9, pp r86-r87/r88) In para. 1 of this Decree it is said: *"The Army of the Serb Republic of Bosnia and Herzegovina and the Serb Ministry of Internal Affairs shall apply and observe the rules of international law of armed conflicts in armed conflict."* Under the rules of international military law the Decree understands: international treaties signed or ratified or acceded to by the former SFRY, rules of international customary law of armed conflicts and the generally recognized principles of international law of armed conflicts. The SFRY is a contracting Party to all four 1949 Geneva Conventions. In para. 2 of the Decree it is said: *"Commanders of the Army at all*



*levels and every member of the Army or other military formation taking part in combat operations shall be responsible for the application of the rules of international law of armed conflicts. Against persons violating the rules of international law of armed conflicts proceedings for pronouncing sanctions prescribed by the law shall be initiated by the competent commander."* Chapter 16 of the Penal Code of the SFRY defines criminal acts against international law and crimes against humanity incriminating the violation of law of armed conflicts and international humanitarian law. It has already been noted earlier in this document that the Republic of Srpska accepted and applied the Penal Code of the SFRY. Para. 3 of the Decree authorizes the Minister of Defence of the Serb Republic of Bosnia and Herzegovina to prescribe the instruction on the treatment of PoWs. Para. 4 provides for training for familiarization with the rules of international military law, on a regular basis.

3.2.2.4. The Presidency of the Serb Republic of Bosnia and Herzegovina, at its session held on 13 June 1992, brought the Decision on Prohibition of Forming and Activities of Armed Groups and Individuals in the Territory of the Republic, which are not under the Unique Command of the Army or Militia, published in the "Official Journal of the Serb people in BiH" No.10 of 30 June 1992. (Annex No. R10, pp. r89/r90 ) Art.1 of this Decision prohibits the forming and activities of self-organized armed groups and individuals in the territory of the Serb Republic of Bosnia and Herzegovina. Pursuant to the same Article 1 the existing groups and individuals are bound to place themselves within 3 days under the unique command of the Army of the Serb Republic of Bosnia and Herzegovina or of the Ministry of Internal Affairs of the Serb Republic of Bosnia and Herzegovina. In Art.2 of this Decision the Presidency of the Serb Republic of Bosnia and Herzegovina dissociates itself from groups which continue to operate autonomously and orders sanctioning of their existence and activities with the most severe measures provided for by the law. Art. 3 of the Decision

says that subordination to the unique command of the army or militia also implies strict compliance with the provisions of international law.

3.2.2.5. Djordje Djukić, General of the Army of the Republic of Srpska, arrested in Sarajevo on 30 January 1996, in his statement given to the authorities of the Applicant, defines the objectives of the Republika Srpska Army in the following way:

*"The Army, formed on this way, had a task to ensure the territory for the Serbian people in the RBiH. From the early beginning, there were not discussions about mechanical connection to the Republic of Serbia. The best indicator for that was development of the relations between two ruling parties (SPS and SDS) in the following period. The idea was: in case that Serbian Republic could not become a part of Yugoslavia as a Federal unit (if the World forbids that), than it must have its State territory and other attributes or must function as independent unit within the BiH Federation. The Army of the Serbian Republic never got the marked borders of the future Serbian State, because the politics never elucidated that. The conviction that Serbian Republic does not need integral RBiH was permanently laid open. It was emphasized that the best solution was to separate Serbs from Muslims, and if they had to live together than they could live as neighbours in two States. Momčilo Krajišnik, Plavšić, Ostojić and than Karadžić were the most determined regarding that opinion. Army thought that it was possible to live together and mingled, assuming that Serbian entity had its State and as well as Muslims. In such territories, mutual life was possible."*

3.2.2.6. General Djordje Djukić communicated the following about the preparation and carrying out of combat operations by the Main Headquarters of the Republic of Srpska Army:

*"During the preparations and planning for the carrying out the military actions, Main HQ of the ASR gave directives to the subordinated units.*

*The first of those directives was for the operation Bosanski Brod. Although the operation was carried out by the units of the 1st Krajina Corps (1 KK), the Main HQ of the ASR made the Directive and engaged, beside 1KK, the Air Force and Air Defense Forces. The aim was to take over Bosanski Brod and to expel Croatian Army from this territory across the river Sava. The operation lasted about 10 days, and it was carried out in June 1992. The above mentioned Directive was the first written document on the military operations made by the Main HQ of the ASR. Regarding the Logistics, the mentioned Directive regulated only that the 14th Logistic base was in charge for the logistical support. Regarding the fact that the Directive did not imply the concrete tasks, I, as the Assistant Commander, was in charge to give more concrete obligations in special orders and to provide tasks which would ensure complete and adequate support to the coming military actions. Having in mind all that, I demanded from Commander of the 14th Logistic base, Colonel Škondric Milan, to make plans for the Logistic support, to concrete and organize frontal bases for supply, technical support, teams for pulling out the military technics. From the first step of the realization of this idea, we considered it to be the introduction for the offensive in which the corridor would be broken through and connection of the 1st KK and East-Bosnian Corps established.*

*The 1st KK was designated to be the conveyor of the offensive military operations and it got the order to make plan and to choose the units that would be engaged. For the accomplishment of the task, the Air*

*Forces (AF) and Air Defence Forces (ADF) were put on disposal and they could be used as the Commanders of the 1st KK, AF and ADF agreed.*

*The Main HQ ASR made the second Directive for the breach of the Corridor. The 1st KK was appointed the conveyor of the operation, and beside the units of this Corps, the units of the East - Bosnian Corps, brigades of the Ministry of Interior of the Republic Serbian Krajina, Air Force and Air Defense Forces of the Serbian Republic were also engaged.*

*The special Police brigade of the Serbian Republic took part too. The structure of the forces was not completely known to me, but I knew that following brigades took part: 1st Armored brigade, 5th Kozara, Gradisce brigade, Prnjavor brigade, and from the East-Bosnian Corps: 1st and 2nd Posavina brigades. Beside the support of the combined Artillery Regiment, Air Forces and Air Defense Forces of the Serbian Republic were also engaged. The operation was completed on 26th or 27th of June, 1992. The Directive regulated that 14th Logistic Base provide Logistic support for all forces from the west. Any particular analysis of the operation was not done. The Commander was General Talić, the Commander of the brigade of the Ministry of Interior of the SRK was Milan Martić. The operation was not totally completed when the Command of the 1st KK got the order to continue military operations with a part of the units towards Gradačac, after the breach of the Corridor. The Army was ordered to cease fighting after taking over of this city and to fortify the positions. It was left over to the 1st KK to make plan and determine the required forces. The Command of the AF and ADF got the order to arrange with the Commander of the 1st KK the use of the Air Forces. The military operations were prolonged and when the units reached the suburbs of*

*Gradačac it was already the winter and on suggestion of the Commander of the 1st KK, the units dug in along the reached positions and I think that the situation was not changed till the Dayton Agreement.*

*Beside the 1st Armored brigade, the following brigades were also engaged: Prnjavor brigade, Trebava brigade and I think some parts of the Police, I cannot recall if Srbac brigade or some of its parts took part.*

*During 1993 Directive was made according to which all units of the ASR were completely engaged. The goal was to improve the tactical positions in some parts. This referred especially to Drina Corps and area Cerska Konjević Polje - Bratunac. Beside this area, Brčko region was also pointed out as priority. The intention was to broaden the Corridor. The deployment of the forces was not assumed and done, except for a brigade from the 1st KK which was transferred in zone of the Drina Corps and engaged in the area of Cerska and Konjević Polje. This Directive implied to the East - Bosnian Corps to improve its positions on Majeвица and in the area of Teočak. The First Krajina Corps had to possibly conquer Tešanj or the Communication Doboј - Teslić. If I remember well, the Sarajevo - Romanija Corps had a task to capture Mojmiло hill, to extend the areas around Iliđža and to repeal forces in the zone of Vogošća towards Kobilja Glava. Hercegovina Corps focused its operations towards Konjic in order, if possible, to conquer it.*

*The special preparations on the Military level were not done.*

*As the supply of the material means was equal in all bases, the maneuver of them was not done. The conveyors of the Logistical support for those*

*operations were all four bases for the units within their zone of responsibility. Beside Drina Corps, which expanded its zone, I do not remember that there were any other considerable results, although the military operations lasted longer on all front lines. It was not always easy to motivate soldiers to conquer a new area. It could be heard from a Commander of the Corps or HQ personnel who were on the spot, that soldiers on the question why they did not go further answered that there was no need for casualties when that area belonged to the Muslims anyway.*

*I think that the Main HQ ASR made both directives for the attack on Gorazde, Igman offensive and offensive on Bihać at the end of 1994. I was not present in the Main HQ when the Directives were done, except for the last one. But it did not make any difference, for the decision and plan for actions or operations were not discussed in the HQ.*

*In such occasions, General Mladić would emphasize that it would be necessary to undertake all activities regarding the task which he discussed namely with the Chief of the HQ and the conveyor of the operation. If he had discussed this subject with someone before that, nobody knew. It was possible that he asked one of the Commanders, whom he planned to engage, about the situation in the Corps and if one of his plans could be carried out. I think that he always consulted General Tolimir Zdravko, if he was present. If I was present, he would tell me to check if the bases work properly and depending on the extent of the action or seasons to see if there were enough fuel, shoes or some pairs of clothes.*

*When the Decision for Bihać operation was made in the late autumn of 1994, I was on my*

*Command place in Han Pijesak. At that time, I was asked to come to the main command place Crna Rijeka because, as it was stated, President Radovan Karadžić, Momčilo Krajišnik, Koljević, Kozić, and as far as I can remember, the Minister of Defense, but I am not sure, were coming. The reason for this was the Offensive of the 5th Corps of the Army of the Republic of Bosnia and Herzegovina.*

3.2.2.7. The method of commanding as described by General Djukić is confirmed by the document "Amendment to the Command on Execution of Operation" No.14/93 of 3 November 1993 attached by the Applicant as Annex 152 to the Reply. This document, as quoted by the Applicant in para. 192, p.588 of the Reply, reads:

*"The Command of SRK (VRS Sarajevo-Romanija Corps)  
No. 20/15-1409  
14/93 dated 03.11.1993  
Amendment to the Command on Execution of Operation  
OP No. 14/93 dated 03.11.1993.*

*Copy: Commands of all brigades, TG (Tactical Group) Vogošća, 4th MAR (Mixed Artillery Regiment), IKM (Forward Command Post), PKM (Temporary Command Post), SRK (Sarajevo-Romanija Corps)*

*Attn. of the Commander personally*

*1. According to the amendment of directive No.6 GS (General Staff) of VRS (Bosnian Serb Army) DT No. 02/2-1014 of 14.12.1993 and decision of the highest leaderships of the Serb people of 14.12.1993 SRK (Sarajevo-Romanija Corps) with strengthening forces (1 brigade from the first KK (VRS Krajina Corps), 1 brigade from the RK, MUP (Ministry of Interior) forces up to the size of the battalion - 500 people, special forces of VJ*

*(Yugoslav Army) up to 120 people and department of helicopters), by main forces with crucial defense at larger front area to prevent the outbreak of the enemy from the central Bosnia and Goražde towards Sarajevo, partly by the forces in the regions of Trebević, Mojmilo, Vojkovići and Ilidža (towns, villages, hills southwest of Sarajevo). Carry out smaller effective actions with the aim of (illegible) the enemy. A part of the forces together with other organizational units to carry out attack in the direction: Vogošća - Žuč Pofalići - Lukavica - Hrasnica (towns and suburbs surrounding the city of Sarajevo) with the task to break Muslim forces at the directions of the attacks. To inflict them as more losses as possible, take the hills of Žuč, Orlić and Hum (strategic hills overlooking Sarajevo) under control and if possible Mojmilo as well, and in this way create conditions for undisturbed work of the factories 'Famos', 'Orao', and 'Pretis' (important military factory in Vogošća, (northwest of Sarajevo)). Cut Muslims communication between Sarajevo and Igman (large hill overlooking Sarajevo airport) and further to central Bosnia, prepare conditions for partition of Sarajevo into two parts. The operation is to be executed in two stages:*

- in the first stage take the hills Žuč, Orlić and Hum under control*
- in the second stage take areas of Hrasnica and Butmir under control*

*Readiness for the attack: 19.12.1993".*

The Applicant quotes this document as evidence of the participation of the Army of Yugoslavia in armed conflicts in Bosnia and Herzegovina also after its withdrawal from Bosnia and Herzegovina. However, this document proves something quite different. It is true that mention is made in it of the participation of the special forces of the Army of Yugoslavia, but it is clear that they participate under the command of the Main



Headquarters of the Republika Srpska Army and that the whole operation is carried out on the basis of Directive No.6 of the Main HQ of the Republika Srpska Army and on the basis of the Decision of the top leadership of the Serb people in Bosnia and Herzegovina. Consequently, the special forces of the Army of Yugoslavia do not take part in the operation under the command of the General Staff of the Army of Yugoslavia, if they participated at all, but under the command of the Main Headquarters of the Republic of Srpska Army. This is a fundamental difference concerning the attribution of acts of these special forces. Besides, the military operation for which order was issued has nothing to do with alleged genocide.

### 3.2.3. Final Considerations Concerning Attribution of Acts to the Respondent

3.2.3.1. The position of the Respondent is that the acts alleged to constitute genocide are not attributable to the Respondent and the relevant circumstances are elaborated in Chapters 2,3 and 5 of the Counter-Memorial.

3.2.3.2. Three distinct elements call for examination: (a) The loss of control of the territory of Bosnia and Herzegovina by the JNA in March 1992. (b) The appearance of the Republic of Srpska as an independent state in the period beginning 28 March 1992. (c) The absence of control of the Republic of Srpska by the Government of Yugoslavia.

3.2.3.3. The secession of the Former Yugoslav Republics from the Socialist Federal Republic of Yugoslavia produced a critical situation in which the Yugoslav People's Army (JNA) found itself, without warning, a visitor on the territory of hostile secessionist entities. No orderly transition was agreed and the public order situation was exacerbated by the appearance of armed militias. A three-sided civil war emerged within Bosnia and on 12 and 23 April 1992 the leaders of the three sides

signed two successive cease-fire agreements. The three sides were the Serbs, Muslims and Croats of Bosnia.

3.2.3.4. In face of these rapid developments, involving the premature recognition of new Republics, with disastrous consequences for BiH, the competent authorities of the Respondent decided on 4 May 1992 that the JNA should withdraw from Bosnia. Once that decision had been taken, it was carried into effect as expeditiously as circumstances allowed. There is simple evidence that the Respondent made a significant effort to arrange a peaceful transition and this is confirmed by the Secretary-General's Report of 30 May 1992.

3.2.3.5. The Bosnian Reply constantly distorts the actual circumstances. Given the political reordering of the region then under way, JNA personnel who were associated with the different ethnic groups within Bosnia remained behind and joined the newly formed territorial armed forces. Commanding officers of Muslim and Croat formations in Bosnia and Herzegovina were former officers of the Yugoslav People's Army.

3.2.3.6. The evidence available confirms that the JNA was no longer in general control of Bosnia in March 1992, when Muslim and Croat military formations commenced attacks on JNA units in Bosnia and Herzegovina: see the Counter-Memorial, pp.251-8.

3.2.3.7. As the Counter-Memorial has shown, the foundations of an independent Serb state were laid on 28 February 1992: Counter-Memorial, pp.122-5, paras. 2.4.1.1.-2.4.1.15. Whether or not the new state was recognised, it satisfied the legal conditions of statehood and the withholding of recognition was based on political rather than legal considerations.

3.2.3.8. The independent status of the Republic of Srpska was effectively acknowledged as a consequence of its participation

in the International Conference on the Former Yugoslavia and the resulting Agreement Relating to Bosnia and Herzegovina signed on 30 January 1993: Counter-Memorial, Ann. 137, pp.1063-4.

3.2.3.9. In any event, in the context of attribution, the precise legal status of the Republic of Srpska is not decisive. What is decisive is that, commencing in early March 1992, significant areas of Bosnia were under the control of the armed forces of the Republic of Srpska and not under the control of the JNA. As a matter of final legal analysis, it does not matter whether the Republic of Srpska constituted a State, a State *in statu nascendi*, a belligerent community, or an insurrection. The Republic of Srpska had its own armed forces and was not subordinate to Yugoslavia.

3.2.3.10. As the Counter-Memorial points out, the Secretary-General's report of 30 May 1992 recognised the independence of the armed forces of the Republika Srpska: Counter-Memorial, pp. 129-30, paras. 2.6.1.1.-2.6.1.3.

3.2.3.11. The Reply of the Applicant places very considerable reliance upon the decisions of the ITCFY, but this general policy of reliance is not applied with any real consistency. Thus the Opinion and Judgement of 7 May 1997 in the Tadić case are played down and quoted, if at all, on a very selective basis.

3.2.3.12. In the Tadić case the Trial Chamber, with Judge McDonald dissenting on this issue, held that the Republic of Srpska was not a de facto organ or agent of the Yugoslav Government: Tadić, Opinion of 7 May 1997, pp. 213-28, paras. 584-608. In making this determination, the Trial Chamber relied upon the criteria laid down by the Court in the Merits phase of the Nicaragua case, I.C.J. Reports, 1986, p.14. The key passages from the Judgment in that case are as follows:

*"What the Court has to determine at this point is whether or not the relationship of the contras to the United States Government was so much one of dependence on the one side and control on the other that it would be right to equate the contras, for legal purposes, with an organ of the United States Government, or as acting on behalf of that Government. Here it is relevant to note that in May 1983 the assessment of the Intelligence Committee, in the Report referred to in paragraph 95 above, was that the contras, 'constitute (d) an independent force' and that the 'only element of control that could be exercised by the United States' was 'cessation of aid'. Paradoxically this assessment serves to underline, a contrario, the potential for control inherent in the degree of the contras' dependence on aid. Yet despite the heavy subsidies and other support provided to them by the United States, there is no clear evidence of the United States having actually exercised such a degree of control in all fields as to justify treating the contras as acting on its behalf." (Ibid., p. 62, para. 109). So far as the potential control constituted by the possibility of cessation of United States military aid is concerned, it may be noted that after 1 October 1984 such aid was no longer authorised, though the sharing of intelligence, and the provision of 'humanitarian assistance' as defined in the above-cited legislation (paragraph 97) may continue. Yet, according to Nicaragua's own case, and according to press reports, contra activity has continued. In sum, the evidence available to the Court indicates that the various forms of assistance provided to the contras by the United States have been crucial to the pursuit of their activities, but is insufficient to demonstrate their complete dependence on United States aid. On the other hand, it indicates that in the initial years of United States assistance the contra force was so dependent. However, whether the United States*

*Government at any stage devised the strategy and directed the tactics of the contras depends on the extent to which the United States made use of the potential for control inherent in that dependence. The Court already indicated that it has insufficient evidence to reach a finding on this point. It is a fortiori unable to determine that the contra force may be equated for legal purposes with the forces of the United States. This conclusion, however, does not of course suffice to resolve the entire question of the responsibility incurred by the United States through its assistance to the contras.' (Ibid., pp. 62-63, para 110).*

*"115. The Court has taken the view (paragraph 110 above) that United States participation, even if preponderant or decisive, in the financing, organising, training, supplying and equipping of the contras, the selection of its military or paramilitary targets, and the planning of the whole of its operation, is still insufficient in itself, on the basis of the evidence in the possession of the Court, for the purpose of attributing to the United States the acts committed by the contras in the course of their military or paramilitary operations in Nicaragua. All the forms of United States participation mentioned above, and even the general control by the respondent State over a force with a high degree of dependency on it, would not in themselves mean, without further evidence, that the United States directed or enforced the perpetration of the acts contrary to human rights and humanitarian law alleged by the applicant State. Such acts could well be committed by members of the contras without the control of the United States. For this conduct to give rise to legal responsibility of the United States, it would in principle have to be proved that that State had effective control of the military or paramilitary operations in the course of which the alleged violations were committed.*

*"116. The Court does not consider that the assistance given by the United States to the contras warrants the conclusion that these forces are subject to the United States to such an extent that any acts they have committed are imputable to that State. It takes the view that the contras remain responsible for their acts, and that the United States is not responsible for the acts of the contras, but for its own conduct vis-a-vis Nicaragua, including conduct related to the acts of the contras. (Ibid., pp.64-65)*

3.2.3.13. The evidence presented on behalf of the Applicant State in respect of attribution is completely inconclusive. Media sources predominate. There is a general failure to apply relevant legal criteria and no reference is made to the key determinations of the Trial Chamber in the Tadić case, although there is selective quotation from the Opinion of the majority.

3.2.3.14. The Applicant invokes the arrangements for the Dayton Conference as evidence of an alleged Yugoslav control over the Republic of Srpska: Reply, pages 465-6, para. 23. The assurances given by President Milošević were of a political character and their character is in no way incompatible with the separate existence of the Republic of Srpska. Indeed, the assurances could only make political sense if it be assumed that the Republic of Srpska was a separate entity.

3.2.3.15. The Dayton Accords themselves confirm the political reality of a separate and independent Republic of Srpska which, it was agreed, would become a part of a new State. Within this framework the Republic of Srpska in its own capacity signed a series of trilateral agreements as follows:

*Annex 1-A: Agreement on Military Aspects of the Peace Settlement*

*Annex 1-B: Agreement on Regional Stabilization*

*Annex 2: Agreement on Inter-Entity Boundary Line and Related Issues*

*Annex 3: Agreement on Elections*

*Annex 4: Constitution*

*Annex 5: Agreement on Arbitration*

*Annex 6: Agreement on Human Rights*

*Annex 7: Agreement on Refugees and Displaced Persons*

*Annex 8: Agreement on the Commission to Preserve National Monuments*

*Annex 9: Agreement on Bosnia and Herzegovina Public Corporations*

*Annex 10: Agreement on Civilian Implementation*

*Annex 11: Agreement on International Police Task Force*

3.2.3.16. The outcome of these various trilateral agreements was the General Framework Agreement for Peace concluded in Paris. The basis of these complex arrangements was the assumption that the Republic of Srpska was an independent and viable contracting party to the eleven trilateral agreements listed above.

Besides, the Applicant overlooked the provision in the Preamble of the General Framework Agreement for Peace in Bosnia and Herzegovina which reads:

*"Noting the Agreement of August 29, 1995, which authorized the delegation of the Federal Republic of Yugoslavia to sign, on behalf of the Republic of Srpska, the parts of the peace plan concerning it, with the obligation to implement the Agreement that is reached strictly and consequently".*

Such an agreement implies the existence of two independent and equal entities, namely, that one entity authorizes the other to do something on its behalf. This fact speaks convincingly

about the relations between the Federal Republic of Yugoslavia and the Republic of Srpska.

3.2.3.18. As far as the Applicant's allegation in para. 3, p.465 of the Reply that *"before initialling the Dayton Accords, the Federal Republic of Yugoslavia provided written assurances to the negotiating Parties that it would 'ensure that the Republic of Srpska fully respects and complies with the provisions' of the Agreement"* is concerned, the Applicant failed to draw attention to the letter which the delegation of the Republic of Srpska, comprised of Momcilo Krajišnik, Nikola Koljević and Aleksa Buha, submitted on 20 November 1995 to the delegation of the Federal Republic of Yugoslavia, published on pp.124-5 of the document A/50/790, S/1995/999 and which reads as follows:

*"Mr. President, we are addressing you in connection with the peace agreement and documents which should be initialled at the end of the peace negotiations in Ohio. In view of the fact that in a series of documents which have been prepared for adoption it is requested that the FR of Yugoslavia should be the guarantor of the obligations assumed by the Republika Srpska in the peace process, you are kindly requested to take upon yourself, on behalf of the FR of Yugoslavia, the role of the guarantor that the Republika Srpska shall fulfil all the obligations it has assumed."*

Consequently, the obligation of guarantee has been assumed at the request of the delegation of the Republic of Srpska.

3.2.3.19. The Applicant complains, at considerable length, that the JNA and the Yugoslav Government distributed arms and equipment to Serbs living within Bosnia and Herzegovina: see pages 466 to 498, paras. 7-58. The Respondent will confine the analysis which follows to the legal implications of the facts as alleged by the Applicant.



3.2.3.20. It goes without saying that in the period before Bosnia and Herzegovina became independent, it was perfectly lawful for the Yugoslav Government to provide its armed forces with weapons and ammunition, more especially as the secessionist irregular forces appeared and began to attack both the Yugoslav forces and the Serbian communities established for centuries in the region of Bosnia and Herzegovina. It is necessary, in face of the historical distortions in the Bosnian pleadings, to recall that in 1910, the population of Bosnia and Herzegovina was 43.5 per cent Orthodox in religion, such element being exclusively Serb: United Kingdom, Naval Intelligence Division, Geographical Handbook Series, Jugoslavia, October 1944, Vol. II, p.57.

3.2.3.21. In any event the arms available to the Serb population came for the most part from local sources: Counter-Memorial, pp.102-5, para. 1.3.17. In so far as the political upheavals of the year 1991 involved the redistribution of arms between the various groups involved, this did not involve the breach of any principle of international law and certainly did not constitute evidence of any plan to commit genocide. In this period of rapid destruction and change the various ethnic groups tended to separate out and to arm themselves.

3.2.3.22. After the Republic of Srpska appeared as an independent political unit in February and March 1992, even on the assumption that arms and equipment were received from the Yugoslav armed forces, this would, as a matter of law, not establish the necessary control by Yugoslavia for purposes of attribution. There is the respectable decision to the effect that the provision of logistical support does not constitute a basis for attribution: the decision of the Court in Nicaragua case.

3.2.3.23. A further thesis of the Reply is that the withdrawal of Yugoslav armed forces was somehow unreal. The facts have been reviewed very clearly in the Yugoslav Counter-Memorial, Chapter III, pages 246 to 269. The evidence is overwhelming

and in May 1992 the problem was not the failure of Yugoslavia to withdraw its armed forces but the problem described in United Nations documents as 'deblocking', that is to say, the obstacles to withdrawal created by attacks mounted by Muslim and Croat forces, and in some cases, Serb irregulars opposed to the withdrawal.

3.2.3.24. The Applicant deals with these events by a process of extended obfuscation. The primary element (see the Reply, pages 503 to 505, paras. 70 to 73) is to insinuate that the presence of Yugoslav forces outside Serbia was illegal even when the process of secession and political disintegration was still taking place. A further development is the playing of a game with the chronology, referring to events in 1991 when in fact Yugoslavia still exercised sovereignty and control in Bosnia.

3.2.3.25. The Applicant also complains that in late 1991, as the war in Croatia ended, the Yugoslav armed forces were then redeployed in Bosnia and Herzegovina, then still part of Yugoslavia: Reply p.504, para. 71. What was exceptional about this? Where were the Yugoslav forces supposed to go?

3.2.3.26. Another element alleged to be relevant to the question of attribution is the measures alleged to have been taken in July 1991 by the Yugoslav Government to prevent and to counter secessionist activities then developing in Bosnia and Herzegovina: see the Reply, pp.472-473, para. 21, quoting from the Tadić Opinion, Trial Chamber, 7 May 1997, p.39, para. 107. Such activities could involve no breach of international law and provide no evidence relevant to the issue of responsibility for genocide.

3.2.3.27. The question of attribution is a legal question and involves legal rather than political analysis. It is thus particularly inappropriate for the Reply to rely to a considerable extent upon press reports and the assessments of journalists.

3.2.3.28. Journalists dealing with the Yugoslav crisis have been persistently and mindlessly anti-Serb, and have been heavily influenced by political opinion. The lack of fairness and the absence of even minimal objectivity on the part of the media were especially apparent in the case of the Croatian invasion of the Krajina in August 1995 and the resultant ethnic cleansing, the biggest episode since 1945. The only consequence of this episode was the prosecution of the Krajina Serb leader, Milan Martić, (for firing a rocket at Zagreb (as a response to the invasion)). The media expressed no disapproval of these proceedings and the double standards involved.

3.2.3.29. In the same vein, the Reply gives prominence to the diary of a member of the Serb political party (SDS) in Bosnia: Reply, pp.478-482, paras. 31-36. The diary relates to the period 12 January 1991 to 24 January 1992. The diary is adduced to establish that in this period the lawful Government of Yugoslavia was, at the request of groups of Serbs living in Bosnia who felt threatened by potential developments, willing to supply weapons. There is not the slightest hint in the material quoted by the Bosnian Government either that the requests for arms, or the decision to supply arms, had any connection with a plan involving genocide in any form.

3.2.3.30. These defensive preparations involve reference to specific places: namely, Kalesija and Tuzla. As the Yugoslav Counter-Memorial shows, Muslim attacks in the Kalesija municipality began on 2 May 1992: pp.627-630, para. 7.1.51.0. Many atrocities were committed in the Tuzla region, beginning in May 1992: Counter-Memorial, pp.500-504, 927-932, and 995-998. Reference is also made to people from Zvornik seeking arms. In the Zvornik commune Muslim armed forces first attacked in January and April 1992: see the Yugoslav Counter-Memorial, pp.505-513, and 897-898.

3.2.3.31. It is thus apparent that the desire to acquire means of defence in 1991 reflected an objective threat. And it also

becomes clear that the concerns of the Serb leaders did no more than reflect the justified fears of the Serbs living in Bosnia.

3.2.3.32. The chapter on the question of attribution in the Reply puts emphasis on a series of captured Yugoslav military documents relating, according to their dates, to the period 13 December 1991 to 20 March 1992 (pp. 484-498, paras. 40-58). These documents, it is asserted, prove the JNA's 'massive involvement in the distribution of arms' (p.484).

3.2.3.33. The importance of these documents is difficult to perceive. They tend to confirm the account of the period of transition described in the Yugoslav Counter-Memorial, Chapter III, pp.245-258. After the loss of Croatia and the clear indications of secessionist tendencies in Bosnia, the JNA was involved in various forms of cooperation with the Serb communities in the relevant areas of Bosnia and Herzegovina. None of these activities involved any preparation for activities contrary to principles of international law and, it is necessary to recall, Bosnia and Herzegovina did not become independent at that time. The documents relate exclusively to activities which were lawful and, in all the circumstances, perfectly reasonable.

3.2.3.34. A substantial section of Chapter 8 of the Bosnian Reply is concerned with the military involvement of the JNA in Bosnia and Herzegovina prior to the withdrawal of the JNA: see pp.498-572. In this connection it may be recalled that as a matter of fact the JNA was no longer in general control of Bosnia by March 1992, when Muslim and Croat military formations began attacking JNA units in Bosnia. The final withdrawal of the JNA began in the first half of May 1992.

3.2.3.35. This lengthy section in Chapter 8 of the Reply calls for very cautious evaluation. In particular, the following factors will be found to render the material either irrelevant or seriously unreliable.

3.2.3.36. The account fails to accept that by March 1992 the Yugoslav Government no longer had control of Bosnia as a whole. And, according to the Reply, 'the genocidal conflict' did not erupt until April 1992 (p.501, para. 67). The Report by General Kukanjac, dated March 1992, shows that the JNA was already withdrawing from the Muslim and Croat areas of Bosnia: Reply, Annex 120.

3.2.3.37. The entire period of the secession of the former Yugoslav Republics is caricatured. Every reaction of the JNA to the crisis, which had been engineered externally, is represented as a form of aggression and every redeployment of the JNA is portrayed as a threat. In reality, the JNA was throughout reacting to initiatives, political and military, taken by others.

3.2.3.38. There is no evidence of any preparation for genocidal acts as the Bosnian Reply admits:

*"The main aim of the JNA was, after all, the protection of the Serb people in Bosnia and Herzegovina and the location of the JNA forces was to be adjusted accordingly." (Reply, p.505, para 73).*

In the light of subsequent developments, this policy was fully justified.

3.2.3.39. The various accounts given in the Reply of military activities by JNA units (see pp.518-541, paras. 84-113) relate to episodes in a civil war and nothing more. The numerous documents advanced by the Bosnian Government in this section of the Reply contain no evidence of genocidal intent. In light of the fact that these appear to be official documents of the JNA they constitute direct evidence of the absence of genocidal intent. As the documents make clear, they are concerned exclusively with 'combat activities'; see, for example, the document dated 7 April 1992, pp.524-525, para. 91. The hostile

documents quoted from non-Yugoslav sources refer to 'Muslim resistance forces': see the Reply, p.530, para. 98. The commentary itself constantly refers to 'military operations'.

3.2.3.40. Episode after episode recounted in the Reply relates to the military activities of the JNA in the chaotic period in April 1992 when the Yugoslav forces were on the defensive and were on the point of withdrawal. In the television interview with a former JNA Commander invoked by the Reply, the key point is that the interviewer, speaking on behalf of Bosnian Serbs, is upbraiding Kukanjac for the failure of the JNA to provide adequate protection to the Serb residents of Sarajevo: Reply, p.540, para. 113.

### 3.3. Acts Alleged by the Applicant Cannot be Qualified as Genocidal Acts or Other Acts Prohibited by the Genocide Convention

#### 3.3.1. The Respondent Did Not Plan or Intend to Destroy Non-Serb Population in Bosnia and Herzegovina

3.3.1.1. In para. 6, p.956 of the Reply the Applicant says:

*"... The jurisdiction *ratione materiae* of the Court is strictly defined by the Genocide Convention and covers only State responsibility for genocide and for the other violations related to genocide, as provided by the Convention. Notably, the Court has no jurisdiction to decide on disputes concerning war crimes or crimes against humanity as such, which are beyond the scope of the Genocide Convention. War crimes and crimes against humanity (as many other kinds of criminal acts) could come under the jurisdiction of the Court by virtue of Article IX of the Genocide Convention only when - and in so far as - it is argued that they are elements of a genocidal pattern of conduct, as part of a plan*

*intending 'to destroy, in whole or in part, a national, ethnical, racial or religious group.'*"

3.3.1.2. What makes the crime of genocide different from other similar crimes is the genocidal intent. The Applicant speaks, however, of *"genocidal pattern of conduct, as part of a plan intending to destroy, in whole or in part, a national, ethnical, racial or religious group"*. The Applicant is seeking to prove that there existed a plan to destroy non-Serb population in Bosnia and Herzegovina. According to the Applicant this plan was allegedly called RAM. Consequently, the Applicant is attempting to prove the existence of some plan under the name of RAM, whose purpose is the destruction of non-Serb population in Bosnia and Herzegovina with the aim of creating Great Serbia.

3.3.1.3. The Applicant is trying to prove the existence of this plan by referring to various press reports and publicist works, as well as by pointing to some alleged facts. The Applicant is unable to prove the existence of a plan whose essence is the destruction of non-Serb population in Bosnia and Herzegovina for the simple reason that such a plan did not exist.

3.3.1.4. The existence of this plan cannot be proved by any direct evidence. Although the Applicant has come in possession of a large number of documents of the former Yugoslav People's Army and documents of the Republic of Srpska, none of these documents contains indications of the existence of some plan for the destruction of non-Serb population in Bosnia and Herzegovina.

3.3.1.5. In the absence of direct evidence, the Applicant refers to certain views of journalists, publicists, alleged researchers, etc., who wrote about the existence of a plan under the name of RAM. Thus, the Applicant refers to the writing of one Tim Judah, journalist and author from London. In the book "The Serbs, History, Myth and the Destruction of Yugoslavia", he

devoted one section to the plan RAM which he describes in the following way: (para. 11, p.469 of the Reply)

*"(...) The purpose of the Plan was the organization of the Serbs outside Serbia, taking control of the fledging SDS (Serbian Democratic Parties) parties and the prepositioning of arms and ammunitions."*

3.3.1.6. However, it remains mysterious how Tim Judah had come by the information about the existence of the alleged plan and about its contents. In para. 24, p.474 of the Reply, Judah refers to a small group of people which met at a dinner to discuss its plans. This group of people was allegedly known as "military line". Judah writes:

*"In the words of one source, it was: 'let's arm our people first in Croatia, then Bosnia, so if Croatia and Slovenia want to get out, we won't let them take what we take before them'."*

Consequently, Judah does not assert that he was personally present at the dinner nor does he say who is the source of this information.

3.3.1.7. Bassiouni's Commission, too, mentions some project under the name of RAM. In para. 13, p.470 of the Reply the Applicant quotes the relevant part of the report of Bassiouni's Commission as follows:

*"There is evidence, however, that the JNA, the Republic of Serbia and Serbs in Croatia and BiH were preparing for war as early as 1990. It was then that the Yugoslav military began providing arms to Croatian and Bosnian Serb groups and encouraging unrest in Serb-populated regions of Croatia and BiH. In a project (operating under the acronym "RAM") coordinated from Belgrade, thousands of weapons were reportedly delivered to*



*Serbs in Bosanska Krajina in the north-west (of Bosnia and Herzegovina), Herzegovina in the south-west, and Romanija, a mountainous area east of Sarajevo.*" (United Nations, Final Report of the United Nations Commission of Experts, S/1994/674/Add.2 (Vol. I), 28 Dec. 1994, Annex IV, "The Policy of Ethnic Cleansing", p.27, para. 140).

Bassiouni's Commission does not indicate the evidence that confirms the existence of this project.

3.3.1.8. In para. 14, p.470 of the Reply the Applicant refers to the writing of Misha Glenny and his book "The Fall of Yugoslavia: The Third Balkan War", London, 1992. Misha Glenny does not say in what way he came by the information about the existence of the plan RAM and about its contents.

3.3.1.9. In para. 15, p.470 of the Reply the Applicant alleges that the General Staff of the Yugoslav People's Army issued in the summer of 1991 the order for disarming of the Territorial Defence forces in Bosnia and Herzegovina. Furthermore, the Applicant says: *"This order is very significant, as it deprived the authorities of the Republic of Bosnia and Herzegovina of the necessary military means to defend themselves and the future state."* Similarly, in para. 16, p.470 of the Reply the Applicant says:

*"The order given in the summer of 1991 is an important step in the execution of the RAM plan. It was described by Dr. Milan Vego in his February 1993 contribution to the authoritative Jane's Intelligence Review:*

*The legally elected government in Sarajevo formally controlled the main staff and subordinate district and communal staffs of the Territorial Defence Forces (TDF). However, in the operational chain of command, these forces were subordinate to the General Staff of the*

*former federal army in Belgrade. Because the Serbian-dominated General Staff wanted to deny the Bosnian government any means of effective defence, it ordered in June 1991 that all the weapons of the TDF be put under the federal army's control. As a result, the major part of the 200,000 small arms in the custody of the TDF was returned. The exception was the weaponry of the TDF's staffs in the Croatian-populated western Herzegovina; these elements largely ignored the General Staff's order." This fact is also mentioned by the ICTFY in its 1996 Review of the Indictments of Radovan Karadžić and Ratko Mladić: "It appears that during 1991 some of the units of the Territorial Defence, composed of reservists which were under the partial command of the authorities of the federated Republics were obliged to surrender their military equipment to the JNA, which allegedly deprived the non-Serbian populations of their traditional means of defence."*

3.3.1.10. It is not true that the General Staff of the Yugoslav People's Army issued the order for disarming the Territorial Defence Forces of Bosnia and Herzegovina nor is it true that in this way it deprived the authorities of the Republic of Bosnia and Herzegovina of necessary means of defence. Neither is it true that the Territorial Defence was predominantly used for the defence of the republic to which it belonged. The year 1991 is in question, that is, the time when Bosnia and Herzegovina was still within the legal system of the Socialist Federal Republic of Yugoslavia and when the Constitution and laws of the SFRY were binding upon it. Consequently, to assess the legal status it is necessary to consult the Constitution of the SFRY and the laws in force. According to the Constitution of the SFRY, Article 240, para. 2, the Armed Forces of the Socialist Federal Republic of Yugoslavia make up a unified whole and consist of the Yugoslav People's Army, as the common armed force of all the nations and nationalities and of all working people and citizens, and of Territorial Defence, as the broadest form of

organized total national armed resistance. The Presidency of the SFRY is the supreme body in charge of the administration and command of the Armed Forces of the SFRY in war and peace (Article 313, para. 3 of the Constitution of the SFRY). The quoted provisions clearly show that the armed forces of the SFRY are unified, consequently, that they include the Territorial Defence and that they are subordinate to the Federal State, that is, to Yugoslavia, and not to any republic in particular. Accordingly, the Territorial Defence was no republic army intended for the defence of a particular republic, nor did it belong to the republics. It was an integral part of the armed forces of the SFRY, under the command of the Presidency of the SFRY and intended for the defence of the SFRY. This is even more apparent from the provisions of the Law on Total National Defence of the SFRY, in particular Articles 106, 113 and 115. These articles provide for that the Presidency of the SFRY discharges the affairs of administration and command for the armed forces as a whole, including the Territorial Defence, that the commanders of the Territorial Defence are accountable to military leaders for their work, combat readiness, the use of units and institutions. Also, the Presidency of the SFRY establishes the bases of the plans of development of the armed forces, establishes the bases of armament and equipment of the armed forces, determines the military-territorial division of the country. Finally, the mobilization of the armed forces, consequently, total mobilization, including the Territorial Defence, is ordered by the Presidency of the SFRY. Accordingly, the Territorial Defence of Bosnia and Herzegovina was not established to be used for the defence of Bosnia and Herzegovina. It was established to be used, as an integral part of the armed forces of the SFRY, for the defence of the SFRY and, within the framework of the SFRY, also of Bosnia and Herzegovina.

3.3.1.11. The maintenance of public peace and order was within the competence of the republics, more specifically within the competence of the republic authorities for internal affairs.

Therefore, the function of maintenance of internal peace and order and of the protection of the authorities of Bosnia and Herzegovina was performed by the members of the republic ministry of internal affairs.

3.3.1.12. The assertion that non-Serb population was deprived of traditional means of defence is inappropriate. The weapons of the Territorial Defence were not intended to be used for the defence of one ethnic group in Bosnia and Herzegovina against another ethnic group. Precisely because of the possibility of usurpation of authority to use these means, which belonged to the Territorial Defence and of their use against one's own Federal State, the competent bodies of the SFRY brought decision, in a fully legitimate way, to ensure full control over these means. But these means were not appropriated, but were only placed under unified control, while their use at any moment was ensured in compliance with the Constitution of the SFRY in force. From the material presented by the Applicant it follows that only the units of the Territorial Defence in western Herzegovina with predominantly Croat population did not return the weapons. All the others did, consequently, also those in areas with predominantly Serb population. This fact points to the intention of the Presidency of the SFRY to prevent by this measure the use of the weapons of the Territorial Defence in possible inter-ethnic conflicts in Bosnia and Herzegovina.

3.3.1.13. The general legal principle is that illegally obtained evidence cannot be used in court. In para. 26, p.475 of the Reply the Applicant refers to the alleged telephone conversation between the President of the Republic of Serbia and the President of the Serb Democratic Party of May 1991. This conversation was allegedly tapped by the Ministry of Internal Affairs of Bosnia and Herzegovina. This piece of evidence not only has been obtained in an illegal way but is also falsified.

3.3.1.14. The Applicant has not supplied a single valid piece of evidence that would confirm the existence of some alleged plan

whose purpose was genocide of non-Serb population in Bosnia and Herzegovina. Even the materials which the Applicant has submitted and which refer to the alleged RAM plan do not say that the aim of this plan was the genocide of non-Serb population in Bosnia and Herzegovina.

3.3.1.15. Being unable to supply direct evidence of the existence of the alleged plan, the Applicant attempts to prove the existence of this plan indirectly, by inference. In doing so, the Applicant relies on a certain number of points. Firstly, disarmament of the Territorial Defence units in Bosnia and Herzegovina. Secondly, the alleged arming of the Serb population in Bosnia and Herzegovina by the authorities of the Respondent. Thirdly, the Applicant points to the links between the leaders of the Serb people in Bosnia and Herzegovina and the authorities of the Respondent. In the process, the Applicant's approach to the facts is selective. The Applicant chooses its facts on which to build its thesis, but skips the facts which speak to the contrary. However, from the account of facts reduced in this way which the Applicant attempts to adjust for its thesis it is not possible to draw the conclusion about the existence of some plan devised by the Respondent for the purpose of genocide of non-Serb population in Bosnia and Herzegovina.

3.3.1.16. The Applicant's accusation that the Respondent planned the creation of Great Serbia, ethnically pure, is absurd now that the FR of Yugoslavia alone remains a state with a very heterogenous ethnic pattern, i.e. with a high percentage of inhabitants who are not Serbs or Montenegrins, and when the Muslim-Croat Federation, as well as Croatia, have become territories almost without Serb population. It is true that the Serb population in Croatia and in Bosnia and Herzegovina resisted the secession of these republics from the SFRY and that it wanted to remain within the SFRY. The reason for this demand was not the wish to create ethnically pure Great Serbia, but the justified concern at its own destiny in

independent states of Croatia and Bosnia and Herzegovina. The facts show that this concern was not without foundation.

3.3.1.17. The Federal Republic of Yugoslavia actively supported the conclusion of the General Framework Agreement for Peace in Bosnia and Herzegovina. It supported the new state structure of Bosnia and Herzegovina comprised of two entities. Even before the outbreak of armed conflicts in Bosnia and Herzegovina the leadership of Bosnian Serbs proposed, as an alternative solution, regionalisation of Bosnia and Herzegovina and the creation of several state units within it. These proposals were almost identical with those accepted in Dayton in 1995. Had the Muslim side accepted them before the outset of armed conflicts they would surely not have happened.

### 3.3.2. The Republic of Srpska Did Not Plan and Intend to Destroy Non-Serb Population in Bosnia and Herzegovina

3.3.2.1. In para. 3.2.2.3. of the Rejoinder the Respondent drew attention to the fact that the President of the Presidency of the Serb Republic of Bosnia and Herzegovina, on the basis of the Law on the Army of the Serb Republic of Bosnia and Herzegovina, issued the Decree on Application of Rules of International Law of Armed Conflicts to the Army of the Serb Republic of Bosnia and Herzegovina, published in the "Official Journal of the Serb people in Bosnia and Herzegovina" No.9 of 13 June 1992. This Decree is attached in Annex No. R9, pp. r86, r87/r88. The Decree orders the Army of the Serb Republic of Bosnia and Herzegovina and the Serb Ministry of Internal Affairs to apply the rules of international Law of Armed Conflicts to armed conflicts and to observe them. Military leaders responsible for the application of the rules of international Law of Armed Conflicts were appointed. Also, the proceedings for punishment of violations of the rules of international military law were provided for. Under this Decree the Minister of Defence of the Serb Republic of Bosnia and Herzegovina was authorized to prescribe the Instruction for Treatment of Captured Persons.

Consequently, necessary measures were taken to comply with the rules of armed conflict law by the armed forces of the Serb Republic of Bosnia and Herzegovina. This fact contradicts any allegation about genocidal intent of the Republic of Srpska.

3.3.2.2. In the Counter-Memorial the Respondent pointed to the fact that a large number Muslims and Croats was treated in hospitals in the Republic of Srpska. The documentation confirming this assertion has been attached thereto.

3.3.2.3. That the Republic of Srpska was not intent on becoming an ethnically pure Serb territory is also attested to by the fact that persons of non-Serb nationality were elected to the bodies of the Republic of Srpska. The Decision on the Election of Judges of the Higher Court in Banja Luka, brought by the Presidency of the Serb Republic of Bosnia and Herzegovina, at its session held on 20 July 1992, on the basis of Articles 70 and 71 of the Constitution of the Serb Republic of Bosnia and Herzegovina and Article 5 of the Constitutional Law for the enforcement of the Constitution of the Serb Republic of Bosnia and Herzegovina, as well as Article 10 of the Decision on the Bases of the Organization, Seat and Area of Jurisdiction of Regular Courts, persons of non-Serb nationality were elected to various posts. Thus, Muslims Suada Kotlo, Zehra Kerenović, Asima Krupić and Zinaida Karić were elected judges of the Higher Court in Banja Luka. This Decision was published in the "Official Journal of the Serb Republic of Bosnia and Herzegovina", No.13 of 10 August 1992. (Annex No. R11, pp.r91-r93/r94-r97)

3.3.2.4. Persons of Serb nationality were tried before the courts of the Republic of Srpska for criminal acts committed against Muslims and Croats.

### 3.3.3. Genocidal Intent was Nonexistent

3.3.3.1. The Applicant did not prove in any way whatsoever the existence of genocidal intent. The Applicant tried to prove the existence of the allegedly genocidal plan which it attributes to the Respondent but failed in this undertaking. The Applicant reiterates in many places in the Reply that there existed a pattern of acts but does not explain what it implies under this term. However, the pattern of acts, mass scale, gravity, the number of victims are not facts sufficient to draw the conclusion of the existence of genocidal intent. What is necessary are facts which show that a punishable act was committed against certain persons because those persons belong to a certain ethnic or religious group, with intent to destroy this group, in whole or in part.

3.3.3.2. In spite of the very voluminous documentation submitted to the Court by the Applicant so far, hardly any relevant information has been furnished on alleged specific crimes. Neither this small number of pieces of information indicates anything about the genocidal intent and, if they say something at all about the motives of or reasons for the alleged crimes, then such assertions do not confirm the existence of the genocidal intent.

3.3.3.3. The material on which the Applicant relies points mainly to the motives of and reasons for violations of the rules of humanitarian law, which are quite different from the genocidal intent.

3.3.3.4. Thus, in the introductory part of the Commission's Report relating to detention facilities under Serb control (Final Report of the United Nations Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), Volume IV - Annex VIII, S/1994/674/ Add.2, p.14), it is said:



*"46. A large number of the Bosnian Serb-controlled camps appear to have served as screening stations for the purposes of interrogation and decisions as to how individual prisoners would be disposed of. Interrogation almost always consisted of questions relating to military and strategic information (including the location and possession of weapons), political affiliation, and political belief. Captors also interrogated detainees concerning the personal wealth and family connections of other detainees. Interrogations were commonly accompanied by brutal conduct and humiliation and, in some cases, by torture and killing. Confessions were often forcibly extracted from prisoners and used as a reason for their detention and treatment. The forced confessions on many occasions described some sort of offence or hostile act.*

*47. Reports indicate that upon arrival at the larger camps, prisoners were regularly subjected to random beatings. Reprisals appear to have been carried out against the prisoner population for Bosnian Serb setbacks in battle. Such reprisal activities included beatings, severe torture and killings.*

*Apparently one motivation for the punishment of inmates was retribution for supposed Serb casualties suffered in battle."*

It can be seen from the quoted part that the main purpose of Serb-controlled detention facilities was to detain those who took part armed actions against Serb civilian population and Serb forces. Upon arrival prisoners were interrogated, which is commonly done in all detention facilities also in peacetime. Even if there was violence, as claimed in the Report, the reason for this was retribution. Such a motive for detention and holding of detainees, as well as the fact that

there were also Serbs in these facilities, only confirm that no genocidal intent existed.

3.3.3.5. Further in the text of the same chapter the Commission states:

*"56. There appears to have existed a certain degree of acknowledgement by Bosnian Serb authorities that camps were maintained. The camps appear to have been maintained and operated by a mix of former JNA officers and soldiers, Bosnian Serb Army personnel, various Serb paramilitaries, local volunteer Serbs, local impressed Serbs, members of the various Serb police forces and at least some Montenegrins. There also exists information that civilian Serb politicians were intimately involved with the operation of such places of detention.*

*57. Bosnian Serb authorities often expressed the belief that the above described detention facilities were legitimate. The reasons stated included the necessity of protecting civilians from the dangers of combat, interning those who threatened the security of the detaining forces and detaining those responsible for criminal activity." (Final Report of the United Nations Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), Volume IV - Annex VIII, S/1994/674/Add.2, p.15)*

The statement of the Commission that there was "*a certain degree of acknowledgement by Bosnian Serb authorities that camps were maintained*", as well as the explanation that detention facilities were used because of "*the necessity of protecting civilians from the dangers of combat, interning those who threatened the security of the detaining forces and detaining those responsible for criminal activity*", indicate that there did not exist any genocidal intent whatsoever. The fact

that there was a mix of those who maintained and operated detention facilities shows that there did not exist firm organization in all this established beforehand, still less any plans made in advance. Furthermore, the fact that Bosnian Serb authorities expressed the belief that detention facilities were legitimate shows not only that any genocidal intent was nonexistent, but they were not even aware that they were committing any kind of criminal act.

3.3.3.6. In paras. 313-319, p.200-204 of the Reply, relating to detention facility Batković, the Applicant, according to established pattern, combines extracts from the reports of Mazowiecki, US Department of State and those of the inevitable, abundantly quoted American journalist Roy Gutman, as well as parts of the Report of the Commission of Experts. However, the conclusions drawn from the quoted parts are contradictory. Namely, the alleged statement by Colonel Petar Dmitrović, commander of detention facility Batković, reported by Gutman that only civilians were held there is in contradiction with the statement of a detainee who *"claimed that PoWs received worst treatment, whereas civilian prisoners were not treated as badly."* (S/1994/674 (Vol. IV) Add.2, 28 Dec. 1994, p.63, para. 471).

It can be seen from the same paragraph of the Commission's Report that detained PoWs were mainly abused by soldiers going to or coming from the front, as well as that most harshly were treated those prisoners from areas in which Serbs had suffered losses. According to Bassiouni's Report (S/1994/674 (Vol IV), 28 Dec. 1994, p.63, para. 472) out of a total of 20 persons who died in Batković, allegedly 13 persons succumbed to such beatings. The cause of these deaths, if they happened at all, is obviously revenge and genocidal intent can by no means be attributed to the perpetrators. Besides, it can be seen from the Report of Bassiouni's Commission that Batkovic was some kind of a collection centre for north-eastern Bosnia where PoWs and a certain number of civilians were

brought for prisoner exchange. In para. 475 (Ibid., p.63) listed are the dates and the number of persons taken from Batkovic to be exchanged.

3.3.3.7. In para. 90, p.523 of the Reply the Applicant presents information about the events in Bijeljina in early April 1992, in which it is stated:

*"350. A number of reports stated that Arkan's troops harmed residents and property after capturing the town. According to one report, Arkan's men roamed Bijeljina after it fell, shooting young men suspected of carrying arms. Yugoslav army troops at the local barracks did not intervene. They later issued a statement that they had received no orders from Belgrade to do so. One report says that citizens of Bijeljina phoned Sarajevo radio to say that Arkan's people were terrorizing the town, breaking into apartments, searching for arms and robbing and harassing citizens. In another report, residents of Bijeljina said that in the first week of April 1992 Serbian paramilitary troops belonging to Arkan and Jović harassed the town's population.*

*351. It was reported that sporadic gunfire continued on 4 April 1992." United Nations, Final Report of the United Nations Commission of Experts, S/1994/674/Add.2 (Vol. I), 28 Dec. 1994, Annex III.A, "Special Forces", p.136, paras. 344-351, emphasis added."*

Assuming that this information is correct, it can be said to speak against the existence of genocidal intent. According to the information there existed two motives: neutralization of military adversaries and forced, unauthorized taking of property. This is by all means a criminal act but not genocide.

3.3.3.8. In paragraph 113, p.540 of the Reply the Applicant quotes the text of the statement of General Kukanjac given to

radio television of the Republic of Srpska. In the interview General Kukanjac says that it is no problem to destroy Sarajevo but it is not humane to destroy urban settings. This statement speaks precisely against the existence of genocidal intent.

3.3.3.9. In paragraph 214, p.600 of the Reply the Applicant invokes the testimony of Fikret Kadilić, commander of the militia station in Prijedor until 1991, who was allegedly arrested in Prijedor on 24 May 1992 and taken to the militia station. He testifies to having seen people being brought to the militia station and heard their screams. At the same time he also heard curses of those who beat the arrested men; it can be understood from these curses that the reason for beating was that the men brought in were considered enemies by those who beat them and that the latter believed them to be associated with the Ustashi, which precludes genocidal intent.

3.3.3.10. Some other cases pointed out by the Applicant such as, for example, in paragraph 215, p.600 of the Reply, show that violence was resorted to selectively, only towards men who could be or were potential military enemies.

3.3.3.11. In paragraph 267, p.626 of the Reply the Applicant refers to the Opening Statement of Grant Niemann, Prosecutor of the International Criminal Tribunal in the Tadić case, who says:

*"The terror served to intimidate and discourage resistance and to compel non-Serbs to leave the area."*

If this is correct, it rules out the existence of genocidal intent.

*3.3.4. Crimes Alleged by the Applicant Did Not Happen or Did Not Happen in the Way Alleged by the Applicant*

3.3.4.1. The pieces of information about detention camps alleged by the Applicant are substantially different from one another and some are contradictory.

3.3.4.2. In paragraph 301, p.191 of the Reply, under the title "Camps", the Applicant lists the alleged camps maintained by Serbs. Thus, in para. 301 of the Reply, the Agricultural School in Bijeljina is mentioned as an alleged camp reported by the European Community. Referring to the same source Bassiouni's Commission also mentions this school treating it as a camp, although the Report itself says:

*"481. Agricultural School , Bijeljina.: On Tuesday, 6 July 1993, 48 Muslims were taken from Doboј to Bijeljina. They had volunteered to be exchanged in order to be reunited with their families. They were fed and well treated in an agricultural school on the outskirts of the town, where they spent three to four days. They were locked up only at night and were guarded by policemen during the day. Those who could afford to spend the night in a hotel were allowed to do so." (S/1994/674 (Vol. IV) Add.2, 28 Dec. 1994, p.64, para. 481)*

In paragraph 78, p.104 of the Reply the Applicant claims that only a few prisoners from Omarska and Keraterm survived and in support quotes a part from the Final Report of the Commission of Experts: *"Since only 1,503 were moved to Manjača camp ..., a limited number transferred to the Trnopolje camp and almost none released, it may be assumed that the death toll was extremely high."* (S/1994/674 (Vol.I), 28 Dec. 1994, p.41, para. 170). In the same Report, in the part directly relating to Manjača, the mass transfer of prisoners from Omarska in July and August 1992 is described in the following way:

*"A subject who had been at Manjača from June through the end of 1992 reported that on the evening of 19 July 1992, 1,200 Muslims from the Omarska area were brought into Manjača by bus and parked outside the perimeter. The next morning the captives were unloaded and formed into groups for processing." (S/1994/674, Add.2 (Vol. IV), 28 Dec. 1994, p.45, para. 324)*

*"Below are summaries of reports which allege that there was a mass transfer of prisoners from the Omarska camp to Manjača during the period from 6-8 August 1992. There was also a smaller transfer of Omarska prisoners to Manjača in late August 1992". (Ibid., p.42, para. 316)*

*"Another subject reported that on 6 August 1992, approximately 1,000 prisoners were transported from Omarska to Trnopolje and that another 1,300, including the subject, were transported in 17 buses to Manjača." (Ibid., p.43, para. 316(e))*

*"One subject who was included in the transfer reported that on 7 August 1992, 2,300 prisoners were transferred to Manjača from Omarska. He said that Manjača camp officials had what appeared to be a computerized list of the incoming prisoners' names when they arrived. He stated that further 2,000 of the prisoners were admitted and that an additional 300 were taken elsewhere." (Ibid., p.44, para. 316(f))*

Consequently, in one part of the Report (Vol. I) it is stated that "only 1,503 " persons were transferred from Omarska to Manjača while from another part (Vol. IV) it could be calculated that there were about 6,500. In Vol. I it is said that "a limited number (were) transferred to the Trnopolje camp", and in Vol.IV of the same document, that about 1,000 persons were

transferred from Omarska only in one day. Finally, although the figures mentioned in the quoted parts of the Report should be taken with great reserve, it is not possible at all to draw the conclusion from these data that there is only a small number of survivors. In any case, it is clear that the figures quoted in the Report, which the Applicant uses to corroborate its allegations, are extremely unreliable and that the conclusions drawn are unfounded, because the figures mentioned in one part of the Report are quite different from those contained in another part of the same Report.

3.3.4.3. A similar "arithmetic" and play with numbers in the Report of the Commission of Experts are also applied when the dates are in question. For example, when referring to the first ICRC visit to Manjača in para 287 (Vol. IV), it is stated that it took place on 14 July 1992; only two paragraphs later, in para. 289, 19 July 1992 is mentioned and in para. 333 of the same Volume it is stated that the first visit took place in August. A less harmless play with the dates is applied in the case of alleged rapes in Manjača. With a reserve that there are only two reports on the presence of women in Manjača, in para. 393 (Vol. IV) an alleged rape is referred to, which took place between 12 and 18 April 1992. However, the fact is that Manjača was turned into a detention facility only in the middle of June 1992 and that is why there are no data anywhere in the Report, except the one about alleged rape mentioned above, which would indicate that Manjača was operated before June.

### 3.3.5. Alleged Rapes

3.3.5.1. The Applicant compares the data in para. 20, p.379 of the Reply, obtained by statistical research into the number of abortions by a medical team (Mazowiecki) in Sarajevo (redoubled number of abortions), inferring from this that involved here is the consequence of the increased number of rapes. Furthermore, it is claimed, without any data in support, that the



situation in Belgrade and Zagreb remained unchanged in comparison to the prewar period.

However, it follows from the text that research was undertaken only in Sarajevo, which was under Muslim control, therefore the blame for the alleged increase in the number of rapes can in no case be placed on Serbs. Also, a logical conclusion is that the number of abortions had increased primarily because of the feeling of insecurity caused by war operations.

3.3.5.2. In para. 38, p.384 of the Reply the Applicant states as authoritative documents the indictments of the International Criminal Tribunal for the Former Yugoslavia which, inter alia, relate to rapes and in which Serbs are accused. The acts (amongst others, rapes and/or sexual abuse) with which Serbs are charged under these indictments are qualified as genocide, crime against humanity, grave violations of the Geneva Conventions for the protection of the victims of war and as breach of the laws or customs of war. All alleged acts of rape are qualified, when Serbs are in question, also as crimes against humanity. The indictments of the Tribunal represent but unproven assertions of the Prosecutor, i.e. unconfirmed assumptions. Also, until the moment of the submission of the Reply not a single trial has taken place (except the D. Tadić case) on the grounds of the indictments mentioned above.

3.3.5.3. The credibility of the indictments is sufficiently illustrated by the fact that some of them have been changed in the meanwhile and that many of the accused have been acquitted ("Omarska" and "Keraterm" indictments). Namely, eleven persons from the "Omarska" indictment have been acquitted, while five persons from the "Keraterm" indictment have also been acquitted. Among others, three persons originally accused under the "Omarska" indictment, i.e. Gruban, Mirko Babić and Predrag Kostić, have been acquitted precisely of the charges of rape of one "F", which was qualified also as a crime against

humanity. It is also indicative that the Prosecutor should resort to withdrawal of charges from the indictments drawn up as long ago as 1995, precisely at the time when the beginning of the trial is pending because of the arrests of some persons accused under these indictments, carried out only in 1998.

3.3.5.4. Out of all the indictments mentioned in para 38, p.384 of the Reply only Indictment "Gagović & others - Foča" describes several acts of rape and other sexual abuses. The other indictments either do not mention rapes and sexual abuses (Indictment "Nikolić & others"), or describe only one case of sexual abuse each (Indictments "Sikirica & others" and "Miljković & others"), or rapes are mentioned only in the general description of the responsibility of the superiors (Indictment against Karadžić and Mladić, Indictment against Drljača and Kovacević), while only Indictment "Meakić & others" relates, inter alia, to the case of fivefold rape of the same person.

3.3.5.5. It is interesting to note that the Applicant mentioned in this chapter Indictment against and Judgement passed on D. Tadić, while it is known that the Prosecutor withdrew the charge against Tadić for the rape of "F" referred to above, qualified, inter alia, also as a crime against humanity. This has probably been done because the final version of the indictment has never been made known. Also, it is only stated in the indictment that the Prosecutor withdrew three charges from the indictment, without specifically mentioning them, and precisely these three charges relate to the alleged rape. Only paragraph 5 of the indictment, which contains these three charges in connection with one act of rape, is not mentioned anywhere in Judgement. The Respondent wishes to draw attention to the fact that in annexes to Judgement (Annex I) attached is the text of Indictment from which paragraph 5 referred to above has not been omitted either.

3.3.5.6. A comparison of the allegations in the indictments listed by the Applicant in this paragraph with the only indictment of

the Tribunal in which Serbs are the wronged party ("Čelebići") leads to the conclusion that these documents of the Tribunal can by no means be accepted in the sense of any corroboration whatsoever of the Applicant's allegations, first and foremost because of the obvious lack of objectivity and the acceptance of a policy of double standards on the part of the Tribunal's Prosecution. The most eloquent example for this assertion, especially when acts from Chapter VII of the Reply (rapes and sexual abuses) are in question, is the comparison of the description and qualification of criminal acts when wronged Serbs are in question (Indictment "Čelebići" - the accused H. Delić) with the description and qualification of criminal acts when Muslims (Indictment "Omarska - the accused M. Radić) are involved. Although it is not proposed to merely quote the indictments of the Tribunal, the Respondent has singled out the following striking example:

*"INDICTMENT 'OMARSKA'"*

*THE PROSECUTOR VS. "..., Mladen RADIĆ, ..."*

*22.1. During June and July, 1992, Mladen RADIĆ repeatedly subjected "A" to forcible sexual intercourse. The first occasion was on or about the night of 25 June 1992. Mladen RADIĆ took "A" to a room downstairs in the administration building, forced her on a table and subjected her to forcible sexual intercourse. Two or three nights later, RADIĆ again called "A" out of the room where she slept and again subjected her to forcible sexual intercourse. On at least three more occasions during June and July 1992, Mladen RADIĆ called "A" out of the room in the administration building where she slept and subjected her to forcible sexual intercourse. These crimes are charged separately below:*

### *First Incident*

22.2. *Around 25 June 1992, Mladen RADIĆ wilfully caused "A" great suffering by subjecting her to forcible sexual intercourse, a GRAVE BREACH recognised by Article 2(c) of the Statute of the Tribunal or;*

22.3. *Alternatively, around 25 June 1992, Mladen RADIĆ subjected "A" to cruel treatment by forcible sexual intercourse, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR recognised by Article 3 of the Statute of the Tribunal and Article 3 (1)(a) of the Geneva Conventions.*

22.4. *Around 25 June 1992, Mladen RADIĆ raped "A", a CRIME AGAINST HUMANITY recognised by Article 5(g) of the Statute of the Tribunal.*

### *Second Incident*

22.5. *Around 27 June 1992, Mladen RADIĆ wilfully caused "A" great suffering by subjecting her to forcible sexual intercourse, a GRAVE BREACH recognised by Article 2(c) of the Statute of the Tribunal, or;*

22.6. *Alternatively, around 27 June 1992, Mladen RADIĆ subjected "A" to cruel treatment by forcible sexual intercourse, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR recognised by Article 3 of the Statute of the Tribunal and Article 3(1)(a) of the Geneva Conventions.*

22.7. *Around 27 June 1992, Mladen RADIĆ raped "A", a CRIME AGAINST HUMANITY recognised by Article 5(g) of the Statute of the Tribunal.*

### *Third Incident*

22.8. *During July, 1992, Mladen RADIĆ wilfully caused "A" great suffering by subjecting her to forcible sexual intercourse, a GRAVE BREACH recognised by Article 2(c) of the Statute of the Tribunal, or;*

22.9. *Alternatively, during July 1992, Mladen RADIĆ subjected "A" to cruel treatment by forcible sexual intercourse, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR recognised by Article 3 of the Statute of the Tribunal and Article 3(1)(a) of the Geneva Conventions.*

22.10. *During July, 1992, Mladen RADIĆ raped "A", a CRIME AGAINST HUMANITY recognised by Article 5(g) of the Statute of the Tribunal.*

### *Fourth Incident*

22.11. *During late July 1992, Mladen RADIĆ wilfully caused "A" great suffering by subjecting her to forcible sexual intercourse, a GRAVE BREACH recognised by Article 2(c) of the Statute of the Tribunal, or;*

22.12. *Alternatively, during July, 1992, Mladen RADIĆ subjected "A" to cruel treatment by forcible sexual intercourse, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR recognised by Article 3 of the Statute of the Tribunal and Article 3(1)(a) of the Geneva Conventions.*

22.13. *During late July 1992, Mladen RADIĆ raped "A", a CRIME AGAINST HUMANITY recognised by Article 5(g) of the Statute of the Tribunal.*

#### *Fifth Incident*

*22.14. During late July 1992, Mladen RADIĆ wilfully caused "A" great suffering by subjecting her to forcible sexual intercourse, a GRAVE BREACH recognised by Article 2(c) of the Statute of the Tribunal, or;*

*22.15. Alternatively, during late July 1992, Mladen RADIĆ subjected "A" to cruel treatment by forcible sexual intercourse, a VIOLATION OF THE LAWS OR CUSTOMS OF WAR recognised by Article 3 of the Statute of the Tribunal and Article 3(1)(a) of the Geneva Conventions.*

*22.16. During late July 1992, Mladen RADIĆ raped "A", a CRIME AGAINST HUMANITY recognised by Article 5(g) of the Statute of the Tribunal.*

*(ICTY, Indictment, Prosecutor v. Meakić & others ("Omarska camp"), Case No. IT-95-4-I, 13 Feb. 1995)*

#### *INDICTMENT 'ČELEBIĆI'*

*PROSECUTOR VS. ZEJNIL DELALIĆ, ZDRAVKO MUCIĆ, HAZIM DELIĆ, ESAD LANDŽO*

#### *COUNTS 18 to 20*

*Torture and Rape of Grozdana ČEĆEZ*

*24. Sometime beginning around 27 May 1992 and continuing until the beginning of August 1992, Hazim Delić and others subjected Grozdana ČEĆEZ to repeated incidents of forcible sexual intercourse. On one occasion, she was raped in front of other persons, and*

*on another occasion she was raped by three different persons in one night. By his acts and omissions, Hazim DELIĆ is responsible for:*

*Count 18. A Grave Breach punishable under Article 2(b) (torture) of the Statute of the Tribunal;*

*Count 19. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) of the Geneva Conventions; or alternatively*

*Count 20. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) (cruel treatment) of the Geneva Conventions.*

*COUNTS 21 to 23*

*Torture and Rape of Witness A*

*25. Sometime beginning around 15 June 1992 and continuing until the beginning of August 1992, Hazim DELIĆ subjected a detainee, here identified as Witness A, to repeated incidents of forcible sexual intercourse, including both vaginal and anal intercourse. Hazim DELIĆ raped her during her first interrogation and during the next six weeks, she was raped every few days. By his acts and omissions, Hazim Delić is responsible for:*

*Count 21. A Grave Breach punishable under Article 2(b) (torture) of the Statute of the Tribunal;*

*Count 22. A Violation of the Laws and Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) (torture) of the Geneva Conventions; or alternatively*

*Count 23. A Violation of the Laws or Customs of War punishable under Article 3 of the Statute of the Tribunal and recognised by Article 3(1)(a) (cruel treatment) of the Geneva Conventions."*

*(ICTY, Indictment, Prosecutor v. Delalić & others ("Čelebići camp"), Case No. IT-96-21-I, 21 Mar. 1996)*

3.3.5.7. From the quoted example it follows clearly that, due to the policy of double standards of the Tribunal's Prosecution mentioned above, the same acts are qualified differently and that the description of the alleged acts of Serbs is considerably more detailed in relation to the really more serious acts of Muslim perpetrators. (For fivefold rape of the same person M. Radić has been charged with a total of 10 counts, five of which have been qualified as a crime against humanity, while H. Delić, for multiple rapes of two persons under extremely difficult circumstances (group raping, raping in front of other prisoners, anal intercourse), has been accused of four counts under the indictment (none of which relates to the crime against humanity). Also, it should be borne in mind that the responsibility of H. Delić is greater because he was the deputy commander and later on commander of Čelebići camp.

3.3.5.8. The Respondent also wishes to note that the alleged acts of rape of which Serbs are accused under all the indictments referred to by the Applicant, the same as in the quoted case ("Omarska"), have been qualified also as a crime against humanity, while in the only opposite case where Serbs appear as victims ("Čelebići") the same acts have been qualified only as grave breaches of the Geneva Conventions for the protection of victims of war and as violations of the laws or customs of war.

3.3.5.9. In para. 58, p.392 of the Reply the Applicant quotes a part of the United States reports of 5 November 1992 relating



to the alleged rapes and sexual abuse of "several" men in five detention centres in the region of Bosanski Šamac. However, Indictment "Miljković & others", which also relates to the alleged acts committed in these detention centres describes only one case of sexual abuse of prisoners committed in the Secretariat of Internal Affairs building in Bosanski Šamac.

3.3.5.10. In para. 59, p.393 of the Reply the Applicant quotes a part of the Final Report of the UN Commission of Experts: "*Male prisoners were forced to rape women and each other*" in Omarska. It is strange that no such case has been described in the Tribunal's Indictment "Meakić & others" which relates exclusively to alleged crimes committed precisely in Omarska. This Indictment describes only the already mentioned fivefold rape of the same, female, person (see the part of Indictment against Radić for alleged rape of "A" quoted above).

3.3.5.11. In para. 61, p.394 of the Reply the Applicant quotes the statement of Christine Cleiren who appeared before the Trial Chamber of the Tribunal in the capacity as *amicus curiae* during the Hearings in the Karadžić and Mladić cases. However, in the same statement C. Cleiren expresses some reservation:

*"... In this Commission some tasks were shared, and that often with regard to that tasks it is useful to say here that I was not explicitly responsible for the sexual assault investigation or sexual assault studies. On the contrary, most of that responsibility for the sexual assault investigation was with the Chairman, Professor Bassiouni, and the only responsibility I had for this special team, this special subject, was the legal study that is part of the annexes of the final report of the Commission. ..."*

*"... I will present you the patterns of rape and sexual assault which, according to the Commission's*

*Final Report, can be identified by these findings, and the common threads run through the cases reported and the systematic character of at least part of these cases, but not before expressing some reservation and some caution with regard to these findings.*

*In the first place, the Commission did not have a complete view on the full extent of sexual violence for, among others, the following reasons. The Commission did its work while the conflict was ongoing. Second, we all know that reporting sexual violence is difficult and this problem is exaggerated in war where there is a breakdown in law and order and perpetrators are often soldiers. The victims may have little confidence in finding justice and many seem to be reluctant to report their experience. Victims and witnesses fear the attackers. They are ashamed and humiliated by what happened and many of them do not dare to talk fearing the traumatic experience of passing through again.*

*Another reason for being cautious is that the information the Commission received contained allegations. However, the reliability and the credibility of reports and testimonies could not be verified by the Commission caused by various reasons.*

*Consequently, one must be extremely careful to draw conclusions based on individual cases, among others, for the following reasons. Individuals, as well as groups, may be driven by political or personal revenge or by encouraging groups to report sexual violence.*

*Second, as time goes by, it becomes increasingly difficult to sort out the true stories from the false ones. It is well known phenomenon and also occurred in the Yugoslavian case that some people identified themselves that extreme with victims of sexual*

*violence that they state de auditu-stories as their own experience.*

*There are indications that sexual violence was reported by the parties in the conflict as an element of propaganda. The information in the reports was second or third hand, and much of this of it was very general. ..."*

*"...THE PRESIDING JUDGE: Before I go to the Prosecutor, I would like to ask you two or three questions: you were not there on the site yourself, were you, not in the case of the rapes; is that correct? Were you actually there?*

*A. Sorry, can you repeat?*

*Q. Yes. As I am preparing my question, I wanted to be quite sure you were not on the site to carry out the investigation yourself. Were you actually there carrying out the investigations?*

*A. No, I was not there. I was present at part of the investigation that was held by the Commission in Zagreb and I was present at several testimonies, testimonies also from the rape cases, but I did not do it myself. So I was there only -- my task there was only, let us say, to protect the rules that the Commission made before and to see if all things were OK and to represent the Commission in Zagreb and in Split. ..."*

(ICTY, Trial Chamber, Prosecutor v. Karadžić and Mladić, Cases No. IT-95-5-R61 and IT-95-18-R61, Testimony Cleiren, 2 July 1996, pp.7,8,9,19,20)

3.3.5.12. In para. 66, p.396 of the Reply the Applicant points out that rapes have been reported in many detention camps

and quotes the following: Omarska, Mrakovica, Trnopolje, Keraterm, Luka, Sušica, Penal-Correctional Institution Foča. However, an insight into the indictments of the Tribunal has led to the conclusion that in the PCI Foča ("Milorad Krnojelac") and in Sušica ("Nikolić & others") there were no cases of either rape or sexual abuse; that in Luka ("G. Jelisić & others") and in Keraterm ("Sikirica & others") there were no rapes, but one case of sexual abuse of male prisoners in each has been described, while the alleged crimes in Trnopolje are mentioned only in general terms in Indictment "Kovačević", without any description of a single concrete case of crime, victim or perpetrator. Also, alleged detention camp Mrakovica is not mentioned in any of the indictments or in the proceedings conducted before the Tribunal, although it is located in the area of Prijedor, and it is known that four indictments of the Tribunal's Prosecution are related to this area.

3.3.5.13. In para. 71, p.400, para. 98, p.410, para. 144, p.423 and para. 165, p.431 of the Reply the Applicant uses the allegations from Judgement passed on D. Tadić by the Tribunal to confirm alleged rapes in Trnopolje camp. It should be noted that the Prosecution used the testimonies on alleged rapes in Trnopolje to prove the so-called systematic character and mass scale of attacks on the civilian population; that the advocates of D. Tadić decided on the defence based on alibi, and that from the moment D. Tadić was acquitted of the charge of rape the advocates did not enter into cross-examination of these witnesses at all, which resulted in the Trial Chamber's acceptance of the assertions of the Prosecution.

3.3.5.14. In connection with the quoting of the information from the Report of Bassiouni's Commission in para. 72, p.400 of the Reply, it is indicative that the Tribunal's Prosecution, despite the very extensive investigations in the area of Prijedor, which resulted in Indictments "Meakić & others" - Omarska, "Sikirica & others" - Keraterm, "Tadić & Borovnica" and "Kovačević & Drljača", did not opt for bringing in indictment also for alleged

acts in Trnopolje, because only on the basis of a large number of materials used by the Applicant in the Reply it could be concluded that he had sufficient evidence for doing so. The Respondent is of the opinion that the Prosecution gave up such an intention precisely because of the problems arisen during the said investigation, that is, because of the lack of evidence that the alleged crimes in Trnopolje had indeed been committed.

3.3.5.15. The case described in para. 74, p.401 and para. 85, p.404 of the Reply relating to the alleged fivefold rape of the same person is the only charge of rape under Indictment "Meakić & others" - Omarska. The person involved testified in the Tadić case, but because of Tadić's advocates' strategy mentioned above that person was not cross-examined. Yet, the Trial Chamber establishes in its Judgement passed on Tadić, on the basis of that testimony alone, that: *"Women who were held at Omarska were routinely called out of their rooms at night and raped."*

3.3.5.16. The Respondent notes that the event described in para. 75, p.401 of the Reply represents the only case of sexual abuse referred to in Indictment "Miljković & others" - Bosanski Šamac.

3.3.5.17. As the Respondent has already mentioned, alleged detention camp "Mrakovica" referred to by the Applicant in para. 78, p.402 of the Reply is not mentioned in any of the Tribunal's indictments relating to the area of Prijedor nor in its Judgement passed on D. Tadić.

3.3.5.18. It is surprising that not a single one of the extremely grave crimes described in paras. 94-117, pp.408-415 of the Reply found a place in any of the indictments of the International Criminal Tribunal. The Respondent believes that the Prosecutor would by no means miss the opportunity to include at least some of these "charges" in some of the existing indictments, or even to deal with them in separate indictments.

This is especially confirmed by the Applicant's concrete allegations relating to the areas covered by the Tribunal's indictments.

The case described in para. 99, p.410 of the Reply is not included in Indictment "Meakić & others" relating precisely to Omarska;

The case described in para. 101, p.411 of the Reply has not found a place in Indictment "Miljković & others" not relating precisely to Luka camp;

The case described in para. 103, p.412 of the Reply relating to Luka camp is not described in Indictment "Miljković & others" either;

The event described in para 108, p.413 of the Reply is not mentioned in Indictment "Sikirica & others" relating precisely and exclusively to events in Keraterm.

3.3.5.19. Irma Oesterman is certainly not an expert who could offer a professional answer to the question of the consequences of rape referred to in para. 141, p.422 of the Reply nor did she act in the capacity as a court expert but as an officer of the Prosecutor's office (investigator).

*"Q: Before I ask you to tell us about your findings, I will ask you what did you do previously to come to our Tribunal?"*

*A: I worked for 14 years as police officer in the Netherlands. Before I joined the Tribunal I was a general investigator."*

(ICTY, Trial Chamber, Prosecutor v. Karadžić and Mladić, Cases No. IT-95-5-R61 and IT-95-18-R61, Testimony Oosterman, 2 July 1996, p.24)

3.3.5.20. The conclusion of the Applicant: "..., *showing that rape and sexual assault were an integral part of the overall policy ...*"; stated in para. 154, p.427 of the Reply, is vague, because not a single case of rape is mentioned in this indictment, but only one case of alleged sexual abuse (Indictment "Miljković & others" - Bosanski Šamac). The fact that the Prosecutor of the Tribunal, obviously in a biased way, refers also to sexual abuses on the basis of only that single alleged case in the so-called general part of the indictment only shows the endeavour of the Prosecutor to ascribe also this case, when accused Serbs are involved, to the allegedly widespread and systematic attacks on civilian population in order to ensure grounds for qualifying even such an alleged act as a crime against humanity. For a better understanding of this view of the Respondent suffice it to compare this case with the already mentioned qualification of multiple rapes of several persons and sexual abuse (as well as of all other committed acts) in Indictment "Čelebići" (where Serbs are victims and Muslims and a Croat accused) as only grave breaches of the Geneva Conventions and violations of the laws and customs of war. For these reasons the Prosecutor in the proceeding under Indictment "Čelebići" makes it impossible himself for his witnesses, victims of crimes, to testify to the mass scale and systematic character of the attacks on Serb civilians in the municipality of Konjic, where Čelebići camp was only one of 29 camps under Muslim or Croat control (Annexes to the Final Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992), Volume IV - Annex VIII, para. 114, p.20), whose existence resulted, among others, in the reduction of the number of Serbs in the municipality of Konjic from 7,700 in the prewar period to about 200 at present. At the same time, in this same proceeding the Prosecutor of the Tribunal exerts himself to prove the existence of "a state of international armed conflict and partial occupation of BiH" and the responsibility of Serbs for that situation, while the "experts" invited by the Prosecutor assert, among others, that Bosnian

Serbs (in this case victims, supposed to be protected by the Prosecutor) acted as "agents of another state". Such a conduct of the Prosecutor caused the refusal of many Serb victims from Čelebići camp even to appear and give testimony before the Tribunal. Furthermore, in this proceeding the Prosecutor invites, as his witnesses also Generals of the Army of BiH (General Arif Pašalić and General Jovan Divjak) who, at the time to which the indictment relates, were direct superiors of the accused and obviously at least *"knew or had the possibility of knowing that their subordinates were connected with perpetration of the crime or that they perpetrated it, and the superiors (the Prosecutor's witnesses) failed to take necessary and reasonable measures to prevent such acts or to punish perpetrators of such acts"* (Article 7(3) of the Statute of the Tribunal). Also, in the same proceeding the Defence of the accused freely invites as witnesses persons who, at the time to which the indictment relates, occupied the most senior military and civilian posts in the municipality of Konjic (for example, the testimony of Dr. Rusmir Hadžihuseinović, president of the Municipal Assembly of Konjic, president of the War Presidency of Konjic and president of the SDA of the municipality of Konjic). The Respondent notes that persons of Serb nationality who held similar or lower-level posts in municipalities - the subject of other indictments of the Tribunal - were indiscriminately accused, on the grounds of the so-called responsibility (Article 7(3) of the Statute of the Tribunal), of alleged crimes against humanity (for example, Blagoje Simić - "Miljković & others" - Bosanski Šamac), and even of genocide (Milan Kovačević - "Kovačević & Drljača").

3.3.5.21. The Applicant's allegations contained in paras 157-160, pp.428-429 of the Reply are quotations from various rulings of the Tribunal brought on the basis of Rule 61 of the Rules of Procedure and Evidence. The Respondent explained earlier that during this proceeding there was no cross-examination because the Defence of the accused could not participate in it. In the above cases referred to by the Applicant there was a certain



competition between the Prosecutor of the Tribunal and the Judges of the Tribunal in who will accuse more the suspected person of Serb nationality or in who will accuse him of more serious crimes.

3.3.5.22. In para. 162, p.430 of the Reply the Applicant concludes that "*The fact that the goal was the destruction of the group ...*", supporting this assertion with the example of alleged crimes in Jajce. However, it is indeed strange that these horrible examples found by the Applicant in the Report of Bassiouni's Commission, in Mazowiecki's reports and from other sources have not found place in any of the Tribunal's indictments, a fact which cannot but lead to the conclusion that there is no evidence for these alleged crimes.

3.3.5.23. The Applicant's allegations in paras 173-186, pp.434-437 of the Reply are completely illogical; moreover, they are contrary to common sense (para. 180) and are indeed the result of the media campaign pursued against Serbs at one time. Some of the authors referred to by the Applicant admit that their assertions are illogical (Beverly Allen, para. 180), although even for this they try to find an even less logical explanation. Namely, the Applicant claims that the raped Muslim women were released from alleged Serb camps in an advanced stage of pregnancy with the intention of changing the "ethnic character of the population" and in order "to give birth to Serbian babies". However, the children born in such circumstances, if there were any at all, besides the fact that they can by no means be "Serbian babies", they would certainly not be brought up in the Serbian spirit, at least because of the fact that they were born after their mothers' release, i.e. on the territories on which Serbs had no control. The children born in such circumstances could be brought up either under the influence of their mother's customs, i.e. Muslim, or (in case of being abandoned by their mother) under the influence of their adoptive parents, who would very probably not be Serbs. Unless of course the Prosecutor of the Tribunal, the same as

the Applicant, believes that the Serb culture is conveyed via genes. This example shows that the Applicant and the Prosecutor of the Tribunal tend to rashly advance their accusations.

3.3.5.24. In connection with the claim that *"rape is not a minor part of the genocide ..., but a major component of an overall policy ..."*, contained in para. 203, p.443 of the Reply, the Respondent wishes to stress that out of a total of forty (40) accused Serbs from BiH, thirteen (13) are accused of having committed sexual assaults, of whom as many as eight (8) under Indictment "Gagović and others" - Foča. If the eight (8) accused under this indictment ("Foča"), which is obviously a separate case, are excepted, there remains a total of five (5) persons of Serb nationality who are indicted on charges of concrete sexual assaults. Because of the Applicant's claim that these acts confirm its allegations, a brief description of all of these acts from the Tribunal's indictments is given below:

Indictment "Sikirica & others" - two indicted Serbs on a charge of forcing three prisoners to fellatio.

However, another four (4) persons (commander of the detention camp and all three commanders of guards' shifts) have been accused of these alleged acts, on the basis of command responsibility.

Indictment "Miljković & others" (Bosanski Šamac) - one person indicted on a charge of sexual abuse.

Another person - the president of the municipality of Bos. Šamac - has been accused of this act on the basis of command responsibility.

Indictment "Jelisić & Češić" - one person indicted on a charge of sexual abuse of two prisoners.

Indictment "Meakić & others" - one person indicted on a charge of fivefold rape of the same person.

Another five persons (commander of the detention camp, his two deputies and two commanders of guards' shifts) have also been indicted for the same act.

The Respondent notes that a total of 17 persons of Serb nationality has been indicted under the Tribunal's indictments on charges of sexual assaults, on the basis of command responsibility; some of them in the above described way and others on the basis of general accusations, without any description of acts at all. All these acts, when accused Serbs are involved, are qualified as a crime against humanity, and even genocide.

3.3.5.25. In regard to the Applicant's allegation contained in para. 208, p.444 of the Reply "... that the rapes were carried out in a way which would have particularly destructive effects on the group.", supporting it with the example from Omarska: "the women raped in Omarska were intellectuals and prominent members of the community", the Respondent notes that Indictment "Meakić & others" relating exclusively to detention camp Omarska describes only the rape of one Suada Ramić (case of fivefold rape mentioned above several times; the alleged victim is identified as witness "A"), who testified in the case of the accused D. Tadić and who is a driver by occupation.

*"Q. Was your occupation a driver and conductor for Auto Transport Prijedor?"*

*A. Yes.*

*Q. How long did you work for Auto Transport Prijedor?"*

*A. From 1978 to 1992, until 1992.*

*Q. Did you know a man by the name of Dule or Duško Tadić?"*

*A. In passing.*

*Q. You knew this man to recognise him when you saw him?*

*A. Yes.*

*Q. In 1991 did you perform duties as a Reserve Police driver and drive to areas that were within a few kilometres of the confrontation lines with Croatia?*

*A. Yes.*

(ICTY, Trial Chamber, Prosecutor v. Tadić, Case No. IT-94-1-T, Testimony Ramić, 18 July 1996, pp.2461, 2462)

3.3.5.26. In connection with the Applicant's allegations contained in paras 209-212, pp.444-445 of the Reply, the Respondent points out that not even the International Criminal Tribunal which, since its establishment, has brought in indictments against 13 persons of Serb nationality on charges of sexual assault, as mentioned above, has sentenced any person so far on these grounds.

3.3.5.27. Regarding the Applicant's allegations in paras 213-216, pp.445-446 of the Reply, ("Intent - the existence of orders to rape") the Respondent notes that not a single indictment of the Tribunal mentions any case of the order for performing rape or other form of sexual abuse.

3.3.5.28. Indictment "Meakić & others" invoked by the Applicant in paras 223-224, pp.448-449 of the Reply, as well as other indictments of the Tribunal have been drawn up in an arbitrary way in the opinion of the Respondent. Namely, as already noted by the Respondent before, the indictments are comprised of introduction, generalized allegations and concrete charges. In this context, the Respondent points out that the Applicant throughout this part mainly sets forth the so-called generalized allegations in which the Prosecutor of the Tribunal claims that acts have been committed, among others, in the way described by the Applicant (among which also are listed sexual assaults). However, in concrete charges under these same indictments

there is no description of such acts. This is quite obvious in the example given by the Applicant itself. Namely, in the general allegations it is mentioned, among others, in very general terms that *"During the operation of the Omarska camp, camp guards and others who were subordinate to Željko Meakić (...) regularly and openly (...) raped"*. However, in concrete charges the rape of only one person is mentioned, which is also stated by the Applicant (para. 224), but which cannot in any case serve to confirm the views of the Tribunal's Prosecutor contained in the general allegations of the indictment. The others mentioned in the same paragraph by the Applicant (Gruban, Kostić, Babić) have been acquitted of the charges. The Respondent's impression is that the arbitrary charges in the general allegations serve the Tribunal's Prosecutor solely to introduce through the side door the thesis about the systematic character, mass scale, etc., of alleged crimes in order to qualify these acts as crimes against humanity; however, as can be seen from the indictments themselves, the Tribunal's Prosecutor himself denies general allegations when describing acts in concrete charges, acts which are either non-existent or are very rare indeed.

3.3.5.29. In para. 226, p.450 of the Reply the Applicant also refers to Indictment "Sikirica & others - Keraterm" under which D. Sikirica is accused of genocide. As far as acts of sexual crimes are concerned, the same indictment contains only a case of forcing three prisoners to fellatio.

3.3.5.30. In connection with the Applicant's allegations stated in paras 227-229, pp.450-451 of the Reply which are related to Indictment "Nikolić & others", the Respondent notes that this indictment does not contain a single case of any sexual crimes. With respect to the suggestions of the Trial Chamber, contained in the Decision based on Rule 61, in which the Trial Chamber proposes to the Tribunal's Prosecutor to extend Nikolić's charges so as to include rapes, and to qualify the acts he is charged with as genocide, the Respondent points out that from

October 1995 when this Decision was brought to the present day the Prosecution has not amended the indictment. Which only speaks about the quality of alleged proofs offered at the time (October 1995) to the Chamber, i.e. about the lack of evidence in support of amending the indictment.

3.3.5.31. Regarding the Applicant's allegations contained in para. 231, p. 452 of the Reply, the Respondent emphasizes that the second indictment issued against Radovan Karadžić and Ratko Mladić makes no mention of any sexual crimes.

3.3.5.32. As for the "Kovačević and Drljača" indictment to which the Applicant refers in para. 238, p. 454 of the Reply, the Respondent states that Simo Drljača was killed during the operation to arrest him, whereas Milan Kovačević died in the UN Detention Unit soon after his trial opened in the Hague. This brought the proceedings instituted against the two men to an end. The Applicant, however, makes references in the above-mentioned paragraph to those parts of the indictment concerned, relating to alleged rapes and other sexual assault. For the sake of straightening things out, the Respondent points out that the two individuals were indicted, on the basis of their command responsibility, for alleged crimes committed by their "subordinates", mainly in the detention camps of "Omarska", "Keraterm" and "Trnopolje". However, separate indictments were issued for alleged crimes committed in Omarska ("Meakić et al.") and Keraterm ("Sikirica et al.") which, as previously stated by the Respondent, refer only to one rape case (in Omarska) and to a fellatio imposed on three prisoners (in Keraterm). Moreover, as in the trial of Dušan Tadić, the Prosecutor affirms that the largest number of rapes and sexual abuse occurred at Trnopolje and, more importantly, that this detention camp specifically served to commit rape. Consequently, it is not clear why the Prosecutor did not draw up a separate charge sheet for Trnopolje only, in the light of the most serious nature of alleged crimes committed there, as transpiring from the generally-worded indictments. The Respondent believes that the

reason for such a conduct on the part of the Prosecutor is not only the lack of evidence, but also the evidence to the contrary which has been gathered in the meantime. Namely, some eyewitnesses testifying at the trials of Dušan Tadić and Milan Kovačević said themselves that Trnopolje was an open-type collection point. A video of Trnopolje, which was suggested as an exhibit by the prosecution, shows that what the Prosecutor describes as a detention camp had no perimeter fence whatsoever and that civilians freely moved in and out. This part of the Respondent's Rejoinder is also relevant to many other paragraphs of the Reply dealing also with Trnopolje and which are, because of the sources used by the Applicant, even more serious, thus further questioning the authenticity of the sources (e.g. 70 rape victims at Trnopolje, etc.).

3.3.5.33. The Applicant refers again in para. 241, on page 456 of the Reply, to an excerpt from C. Cleiren's testimony before the Tribunal. However, the Applicant fails to quote the sentence immediately following the passage quoted by it, which reads as follows: "*For the general conclusions of the Commission on this subject, I will cite some elements of paragraphs 251 and 253: "Rape has been reported to have been committed by all sides to the conflict. However, the largest number of reported victims have been Bosnian Muslims, and the largest number of alleged perpetrators have been Bosnian Serbs. There are few reports of rape and sexual assault between members of the same ethnic group".*

(ICTY, Trial Chamber, Prosecutor v. Karadžić and Mladić, Cases No. IT-95-5-R61 and IT-95-18-R61, Testimony Cleiren, 2 July 1996, p. 13)

The Respondent here has in mind that the Bassiouni Commission and other sources cited by the Applicant (in para. 243, Reply) were evidently under pressure from some international factors aiming to project a certain picture of events in BiH, portraying Bosnian Serbs as the chief villains of the

piece. The same goals were pursued in a campaign, conducted simultaneously, in the media of alleged detention camps and rape in Bosnia and Herzegovina, which the Tribunal used as a basis for its "investigations" related to events in Serb-controlled areas. This has resulted in the double standards already mentioned above and in their subsequent artful use by the Applicant in para. 245 and elsewhere in the Reply.

3.3.5.34. In paragraph 249, on page 458 of the Reply, the Applicant refers to "five patterns of rape" as described in the Bassiouni Commission's Report. In describing each of these alleged "patterns", the author cites examples of horrible sexual crimes. It is odd, however, that the indictments issued by the Tribunal, whatever they are, are empty of such graphically described crimes. Meanwhile, more significantly, the Prosecutor vacated the indictments of all sex crime charges. In fact, the accused Tadić, Gruban, P. Kostić and M. Babić of the "Meakić et al" indictment were successively acquitted of these charges. It is indicative that in this case, all the four accused were charged with statutory rape of the same person, a certain "F", a witness protected by the prosecution.

3.3.5.35. UNSC and UNGA Resolutions to which the Applicant refers in paras. 250-254, pp. 459-461 of the Reply, either do not relate to rape and sexual assault or, if they do, they generally refer to the occurrence of such crimes without blaming any of the parties to the conflict.

3.3.5.36. The Respondent has affirmed that the indictments issued by the Prosecutor cannot be taken as evidence. The Respondent has used them in this section relating to alleged rapes just to show how dubious and little credible are other sources of information on which the Applicant relies.



### 3.3.6. Alleged Ethnic Cleansing in the Territory of Yugoslavia

3.3.6.1. With regard to the allegations made by the Applicant in para. 477. p. 754 of the Reply, concerning the alleged tragic plight of Bosnian refugees in Yugoslavia, it is pointed out that from the outbreak of war in BiH to the signing of the Dayton Agreement, a number of Bosnian Muslims voluntarily left BiH for the Federal Republic of Yugoslavia, primarily those avoiding call-up and fleeing fighting. These people enjoyed refugee status in the FRY under the applicable international standards and, accordingly, they were provided appropriate housing and food in reception centres, and they were conferred on the other rights available to them as refugees.

3.3.6.2. All Muslim refugees wishing it, were, in the relevant period, allowed to leave the FRY territory to go to a new country of residence of their own choosing. This was also true of a number of combatants from Žepa and Srebrenica areas, who were part of Muslim armed forces and who are believed to have committed war crimes.

3.3.6.3. Indeed, the report submitted by Special Rapporteur of the Commission on Human Rights Elizabeth Rehn, which the Applicant invokes, is uneven-handed, biased and to a large extent inaccurate, being only based on information provided by SDA party radicals Sulejman Ugljanin and Rasim Ljajić.

3.3.6.4. A separate report on minorities, as submitted by Special Rapporteur Rehn, to which the Applicant refers in para. 478, p. 754 of the Reply, describing the predicament and abuse of the human rights of Sandžak Muslims following the secession of former Yugoslav republics - relies entirely on the statements made by Sulejman Ugljanin and Šefko Alomerović, Chairman of the Helsinki Human Rights Committee for Sandžak.

3.3.6.5. On 1 September 1993, the Interior Ministry of the Republic of Serbia filed charges with the District Public Prosecutor's Office in Novi Pazar against Sulejman Ugljanin and 26 other Muslims for the criminal offence of undermining territorial integrity, as punishable under Article 116 of the Penal Code of the Federal Republic of Yugoslavia in connection with Article 138 of the Code, namely preparation for this criminal offence. On the basis of these charges, the Prosecutor's Office issued an indictment on 18 October 1993 against 24 persons for the criminal offence mentioned above. Four of the accused including Ugljanin himself were tried in absentia. On 11 October 1994, the District Court of Novi Pazar, acting as the first-instance court, sentenced them to imprisonment ranging from one to six years. On 25 March 1996, the Supreme Court of Serbia, upon the appeal lodged by the counsels for the defence, quashed the judgment of the District Court on grounds of violation of the criminal procedure provisions and referred the case back to the first-instance for a re-trial.

For the reasons stated above, the information presented in Elizabeth Rehn's report is one-sided, unverified and unsubstantiated.

3.3.6.6. Paragraph 478, p. 754 of the Reply, also arbitrarily states that the Yugoslav authorities systematically terrorized the Muslims of the Raška region. This assertion is in total contradiction with the data on the amount of weapons confiscated from Muslims in the Raška region. This amount is disproportionate to the number of those prosecuted and sentenced on illegal possession charges. Thus, for instance, from May 1993 up to now, 1,842 various weapons, including 1,117 long-barrelled and 725 side weapons as well as 100 hand grenades, were confiscated from Muslims in the Raška area. Only in 53 cases were charges pressed against 56 individuals, including 24 Serbs, for an offence under Article 33, paragraph 3, of the Law on arms and munitions (i.e. unauthorized acquisition, possession, holding, manufacture,

transfer or sale of a firearm, munitions or an explosive). This action was taken because the vast majority of Raška Muslims armed themselves, being intoxicated by the propaganda launched by the leaders of the SDA party of Sandžak and by the militants of SDA top leadership and of the Islamic core in BiH.

3.3.6.7. Large quantities of weapons reached the Raška region from BiH and partly from Croatia even before war broke out.

3.3.6.8. Allegations contained in paragraph 479, p. 755 of the Reply, based on the report of the Helsinki Human Rights Committee of May 1994, Annex 270, concerning the responsibility of the FRY for the horrors visited upon the Sandžak Muslims prior to the publication of the report - are totally unfounded and untrue. This is unequivocally confirmed by the fact that apart from these 24 Muslim extremists there were no other incarcerations.

In contrast, this period witnessed an intensified secessionist activity of the SDA leadership of Sandžak, directed from the very establishment of this party on 29 July 1990, by the top SDA leadership in BiH and under the direct influence of Alija Izetbegović and his positions expressed at some point in the "Islamic Declaration".

3.3.6.9. Following the example of the BiH Patriotic League, Ugljanin initiated, on 11 May 1991, the establishment of a Muslim National Council of Sandžak (MNCS), a para-statal formation, entrusted with the task of acting as the Government and "Presidency of Sandžak", and Sulejman Ugljanin was elected President of that presidency. At a press briefing held on 19 May 1991, Ugljanin proclaimed a MNCS declaration, thus unilaterally suspending the legitimate authorities in the Raška region. The Declaration defined the MNCS as the sole legitimate representative of the Muslim people in the Raška region, competent to make decisions on the status of "Sandžak"

in a future Yugoslavia, and *"in case Yugoslavia disintegrates, MNCS will declare self-rule for Sandžak, which was suppressed on 29 March 1945"*.

3.3.6.10. On 25-27 October 1991, MNCS and its president Ugljanin held an illegal referendum in Raška to decide on a full political and territorial autonomy for "Sandžak", whereupon the MNCS informed international institutions that more than 95 per cent of Muslims voted in favour.

3.3.6.11. Immediately after the referendum was held, a "Constitution of the Republic of Sandžak" was drawn up, containing all common statehood attributes. Article 2 thereof provides that the *"Republic of Sandžak shall be a sovereign state"*; *"the sovereignty of the Republic of Sandžak shall be inviolable, indivisible and non-transferable"*, while the territories of the "Republic of Sandžak" include the following areas: Novi Pazar, Sjenica, Tutin, Prijepolje, Nova Varoš, Priboj, Pljevlja, Bijelo Polje, Rožaje, Berane, Plav and Andrijevisa. During the course of 1992 MNCS also adopted para-statal symbols: the flag and the coat-of-arms of the so-called Republic of Sandžak.

3.3.6.12. On 15 August 1992, the MNCS assembly decided to recall SDA deputies from the Assemblies of Serbia and Montenegro and to cease all official contacts with the authorities in Serbia and Montenegro, which was done. The MNCS assembly also announced the adoption of a "Memorandum on the establishment of a special status for Sandžak", which was endorsed in June 1993. Under the Memorandum, power structure of the "State of Sandžak" is divided into legislative, executive and judicial, and respective Ministries were set up, among others, the Ministries of Defence and Police.

3.3.6.13. Parallel with this, SDA leaders acted to organize the Muslims of Raška into para-military and para-police forces, with a view to seceding Sandžak from the FRY. In addition to a stepped-up arming of all its members and supporters, the local

SDA set up main Crisis Staffs for the defence of Sandžak, comprising SDA party members, mainly former JNA officers. Similar Crisis Staffs were established in communes, towns and local communities. A global defence plan was put together, as a result of numerous pre-war contacts on BiH territory of SDA extreme elements with the commanding officers of the Bosnian Muslim Army, who prepared the final version of the plan. Hajriz Kolašinac was appointed Commander of the Supreme Headquarters and Soko Ahmetović his deputy. In these capacities, they both visited Sarajevo on several occasions and talked with former commander of the Bosnian Muslim Army Sefer Halilović (also coming from "Sandžak") and with other serving command staff of that army.

Also, the SDA of Sandžak established a department of security as a forerunner of law enforcement authorities, which played a large role in arming SDA and other para-military units.

3.3.6.14. According to the global defence plan, besides the main headquarters, each town in Sandžak had to set up its own defence headquarters with sub-divisions in local communities and villages. These headquarters were tasked to organize medical corps, rear departments consisting of 10-15 persons each of all professions, scout service departments comprising 10 persons, communications departments, infantry units, dispatch service, evacuation departments, etc.

Apart from para-military units, the so-called 10-plus-1 units were formed to perform law enforcement duties and to protect property and people at a given moment.

3.3.6.15. At the instance of the Supreme Headquarters, sabotage groups were also formed under its immediate direction. Members of these groups were trained around Novi Pazar. By January 1993, SDA sent through its local communities Muslim young men abroad to receive specialized military training there.

3.3.6.16. The Applicant's objections as to the existence and alleged cruel treatment by Serbian para-military groups in Raška, as contained in para. 480, p. 755 of the Reply, are untrue and without any foundation whatsoever. Such groups never existed in this region, nor was there any ethnic friction at the time. Quite the contrary. According to the statistical indicators provided by the Serbian Interior Ministry, from 1991 onwards the Raška region has seen, in terms of percentages, fewer criminal offences and violations of public order and peace than the rest of the Republic of Serbia.

3.3.6.17. The Applicant's claims, also contained in this paragraph, that the Yugoslav authorities allowed armed Bosnian Serbs to cross over freely into Yugoslavia, are unsubstantiated and baseless, considering that such crossings did not take place at all.

3.3.6.18. Also untrue is information about the intent and participation of Serbian authorities in the ethnic cleansing of the Raška region which borders on Bosnia and Herzegovina. It is true only that as a result of the fighting in the immediate neighbourhood (Sjeverin), the residents of several villages in the border areas with Bosnia moved away for reasons of personal safety, but they returned to their homes soon after the cessation of hostilities. These facts may be checked by looking into the records of local state authorities. Only a fraction of these inhabitants have taken advantage of the situation to seek residence and work permits in Western Europe. They, however, frequently come to visit their relatives or to build family homes on the territory of Raška.

3.3.6.19. As pointed out earlier, there were no armed conflicts in the Raška region in the period under review. Therefore, the Applicant's claims in para. 481, p. 756 of the Reply, that *"the participation of the Yugoslav police became more open as the conflict went on"*, are absurd.

The assertion that the Yugoslav authorities targeted Muslim political leaders in Raška, who were allegedly arrested and harassed, is not true either. This can be proved by the fact that within the legal measures taken to stop the activities of SDA para-military and para-police units and to disarm local Muslim populations, criminal proceedings were only started against Sulejman Ugljanin as a political leader. Besides him, prosecution also included commanding officers of SDA para-military and para-police forces for the criminal offence of undermining the territorial integrity of the country, under Article 116, para. 1 of the FRY Penal Code in connection with Article 138 thereof (preparation).

3.3.6.20. In view of the above, the allegations made by the Applicant in para. 481, p. 756 of the Reply, that the Yugoslav police transported some of the arrested leaders across the border, where they were allegedly subjected to torture until they were transferred back into custody in Montenegro - are completely arbitrary and absurd. According to verified information, the Helsinki Watch Report, to which the Applicant refers in para. 482, p. 757 of the Reply, and according to which Yugoslav authorities conducted a campaign of ethnic cleansing in the Raška region, was based entirely on the report of the Chairman of the Sandžak Helsinki Human Rights Committee Šefko Alomerović, who made unsubstantiated allegations that were not verified at all.

3.3.6.21. The allegations contained in the paragraph above that due to the violence by Yugoslav authorities 60,000-80,000 Muslim inhabitants have left the region, are wholly untrue and arbitrary. As a matter of fact, in terms of percentages, far more Serbs than Muslims have left in the reviewed period. From 1 January 1989 through 1 December 1995, 4,185 Muslims settled in the region of Raška and 4,888 Muslims moved to other areas. In comparison, during the same period 913 Serbs settled there and 2,443 left. It is worth noting that Serbs chiefly

migrated out of the area while all Muslim migrations were within the area.

3.3.6.22. The public sector in the region employs 12,436 persons, including 8,961 Muslims and 3,475 Serbs, whereas the cultural sector in local towns with a Muslim majority (e.g. Novi Pazar, Sjenica, Tutin) employs 54 Muslims and 32 Serbs. On the other hand, the ethnic structure of health workers is as follows: of a total of 989 employed, 568 are Muslims and 421 Serbs. Also, out of a total of 2,953 private companies 2,811 are owned by Muslims, 122 by Serbs and 20 by ethnic Albanians. It needs to be pointed out as well that in communities where Muslims constitute a majority, over 80 per cent of all educators and staff in the administration of justice are Muslims. This shows that Muslims in the FR of Yugoslavia are equal citizens.

### 3.3.7. Alleged Detention Camps in the Territory of the Respondent

3.3.7.1. The Applicant's allegations on reported detention camps on the territory of the Respondent, in which the genocide of Muslims or of any other populations was perpetrated, are entirely without foundation. These allegations are purely and simply untrue. The Applicant has based them on the Bassiouni Commission's reports. Herein earlier, it was pointed out that such reports could not be regarded as reliable evidence. The Applicant affirms that the relevant parts of Bassiouni's reports are based on independent sources, namely the ICRC and foreign governments. The Applicant has not, however, enclosed the relevant ICRC reports, nor has it said anything about how foreign governments have come into possession of information on detention camps in the FRY, where the alleged genocide has taken place. The Respondent has done what it could by submitting the report of the OSCE mission which visited the sites or most of the sites of alleged detention camps and which was unable to confirm their existence. The Respondent has suspended its cooperation with the OSCE not to prevent a new



mission of the Organization from locating any possible detention camps, but because of its reluctance to accept in its territory any long-term or ad hoc missions of an organization which denies the Respondent the exercise of its rights as a member.

3.3.7.2. Information about the location of alleged camps in the territory of the Respondent where alleged genocide has been committed, has most probably come from the Applicant itself. The Agent for the Applicant, Mr. Sacirbay, in his capacity as Head of the Applicant's Mission to the United Nations in New York, wrote a letter to the Security Council, which he read out at a press briefing on 26 February 1998 and in which he accused the Respondent of holding 40 of the 50 missing residents of Srebrenica in custody in the Sremska Mitrovica penitentiary, on the territory of the Respondent. Mr. Sacirbay once again invoked two independent sources (Annex No. R12, p. r98-r101).

3.3.7.3. The Respondent encloses herewith a copy of the letter from the head of the ICRC delegation in Yugoslavia to the Serbian Justice Minister, dated 25 May 1998, which reads:

*"Your Excellency,  
As you are aware, the International Committee of the Red Cross (ICRC) has been involved in the question of persons missing in connection with the conflicts on the territory of the former Yugoslavia. Allegations regularly appear about persons being held in 'hidden detention'. In order to follow up on such allegations and to ease the doubts of the families of missing persons the ICRC has obtained from the highest authorities of the relevant countries the possibility to make unannounced detention visits, in addition to its regular visits, in the concerned countries. In as far as the Federal Republic of Yugoslavia (FRY) is concerned, the agreement for such visits was given by H.E. President Slobodan Milošević in his meeting with the President of the ICRC Dr. Cornelio*

*Sommaruga, in June 1997. The agreement was publicly re-confirmed by H.E. President Milošević during the visit of the International Commission for Missing Persons (ICMP) chaired by Senator (ret.) Robert Dole in January 1998.*

*Three such unannounced ICRC visits have now taken place in penitentiary institutions of the Republic of Serbia. The concerned penitentiaries are those of Sremska Mitrovica, Požarevac and Niš. The ICRC had free access to any premises or persons it wished to visit, as well as to the prison registers. Private talks with expatriate translators were held with detainees of the ICRC's choice. In none of the mentioned prisons were the allegations of hidden detention confirmed." (Annex, No. R13, pp. r102-r103/r104-r105)*

3.3.7.4. The Respondent reiterates that no camps of genocide against any persons ever existed in its territory.

### 3.3.8. The Respondent Has Not Violated Its Obligation to Punish under the Convention on the Prevention and Punishment of the Crime of Genocide

3.3.8.1. In para. 69 and the ensuing paragraphs on pages 845-865 of the Reply, the Applicant expounds its assertions that the Respondent has failed to punish those responsible for the commission of the crime of genocide and other crimes prohibited by the Genocide Convention. All these claims are groundless. The Respondent is not able to fulfil its obligation to punish under the Convention. The said Convention obliges the State on the territory of which genocide or another prohibited act was committed, to punish the perpetrator. Whereas such acts were not committed on the territory of the Respondent, there was no obligation in this respect.

3.3.8.2. The claim of the Applicant, contained in para. 74, p. 855 of the Reply, that the hearing of Dušan Vučković before the Respondent's Court in Šabac on war crime charges was adjourned indefinitely, is not true. The truth of the matter is that the accused Dušan Vučković was found guilty of war crimes by the District Court of Šabac and sentenced on 8 July 1996 to seven years' imprisonment. Dissatisfied with the length of the term, the District Public Prosecutor appealed on 8 October 1996 to the Serbian Supreme Court, asking for a more severe punishment.

## PART THREE

### 4. CONSIDERATION OF RELEVANT LEGAL RULES

#### 4.1. Attribution of Acts to the State

##### 4.1.1. Perpetrator of the Crime of Genocide and the Responsibility of the State under the Genocide Convention

4.1.1.1. In para. 19, page. 960 of the Reply, the Applicant says:

*"Bosnia and Herzegovina cannot but declare to the Court its strong surprise of being accused by the Respondent of acts of genocide, when one of the bases of the Respondent's defence in Part One of its Counter-Memorial is precisely that "according to the 1948 Genocide Convention a State cannot commit genocide and other punishable acts", (see Counter-Memorial, pp. 308-312, Section 4.10.) As it was clearly explained in the previous pages of this Reply (See above, Chapter 2, Section 4; and Chapter 6, Section 4), Bosnia and*

*Herzegovina does not accept this latter interpretation, but it considers that such blatant contradiction in terms between the response to the Applicant's claim and the counter-claims reveals with absolute clarity, once again, the evident mala fides of the Respondent in the whole proceedings of this case and how the only real purpose of its counter-claims is the intent to delay the procedure and cloud the entire issue at stake. By doing so, by blowing hot and cold in the same written pleading, the Respondent is scorning the most basic principles of good faith which should inspire the behaviour of the parties in all proceedings before the Court and serve the interests of the proper administration of justice."*

4.1.1.2. The Applicant's reaction is over-exaggerated. The matter is pure and simple: Under Article 4 of the Genocide Convention all persons who have committed an act of genocide or any other act referred to in Article 3 shall be punished, regardless of whether they are governors, officials or ordinary citizens. The Convention has thus named individuals as possible perpetrators of the crime of genocide and other punishable acts. The Respondent challenges the Applicant to quote the provisions of the Genocide Convention referring to the State as the perpetrator of genocide or of any other punishable acts.

4.1.1.3. The responsibility of a State is quite another matter. The State is bound to fulfil its obligations under the Convention and it is doing so through individuals having the status of organs. The State is responsible for the acts committed by its organs, for their acts or omissions. According to the Respondent's understanding of the Genocide Convention and the rules governing the responsibility of the State, the State cannot be the perpetrator of the crime of genocide, but it can be responsible if its organs failed to prevent the commission of this crime in its territory or if they committed it themselves.

4.1.1.4. This difference in the understanding of law between the Respondent and the Applicant is not so important as to merit the Applicant's building upon it its thesis *"that such blatant contradiction in terms between the response to the Applicant's claim and the counter-claims reveals with absolute clarity, once again, the evident mala fides of the Respondent in the whole proceedings of this case and how the only real purpose of its counter-claims is the intent to delay the procedure and cloud the entire issue at stake."*

#### 4.1.2. Attribution to the State of the Acts of An Insurrectional Movement

4.1.2.1. The International Law Commission, in its draft rules concerning an internationally wrongful act as a source of international responsibility of State, noted the existence of a customary rule on the attribution to the State of the acts of a successful insurrection, which reads as follows:

*"Attribution to the State of the act of an insurrectional movement which becomes the new movement of a State or which results in the formation of a new State.*

*1. The act of an insurrectional movement which becomes the new government of a State shall be considered as an act of that State. However, such attribution shall be without prejudice to the attribution to that State of conduct which would have been previously considered as an act of the State by virtue of articles 5 to 10.*

*2. The act of an insurrectional movement whose action results in the formation of a new State in part of the territory of a pre-existing State or in a territory under its*

*administration shall be considered as an act of the new State." (Report of the International Law Commission on the work of its thirty-first session, 14 May-3 August 1979, page 242)*

4.1.2.2. Mr. Roberto Ago, Special Rapporteur on the subject, summed up in his report, containing an analysis of State practices, the views of scholars and previous sets of unofficial rules regarding the responsibility of State, in the following way:

*"211. We have just said that international scholars most uniformly extol the principle of the responsibility of a State endowed with a government resulting from a successful revolution for the act committed by organs of the revolutionary movement before the final triumph of the latter. We might specify that those who have gone most deeply into the question do not hesitate to speak explicitly, and rightly, of "attribution to the State" of the acts of the insurrectional movement or, at least, imply that they view the situation in that light, since, in one way or another, most of them assimilate, a posteriori, the organs of the insurrectional movement which has become successful, to organs of the State. There is no doubt, therefore, that, with a few exceptions, the authors of the theoretical works on international law generally subscribe to the idea that the acts in question are to be regarded, retroactively, as "acts of the State". We do not feel that it is necessary to revert, on this subject, to the question of the "justifications" for that idea; we have already indicated above, the justifications most frequently invoked and the comments which they call for.*

*212. Basis of discussion No. 22 (c) drawn up by the Preparatory Committee for the 1930 Conference, has been considered above. Apart from that text, the question of the attribution to the State, as a source of responsibility, of the acts of organs of insurrectional*

*movements which have subsequently become the government of a State has been explicitly taken into consideration in five codification drafts: the two emanating from Harvard Law School, that of the Inter-American Juridical Committee reflecting the concept of the United States, and the two drawn up by Garcia Amador for the International Law Commission. The Harvard draft of 1929, that of the Inter-American Juridical Committee of 1965, and that of Garcia Amador of 1958 speak in general of State responsibility for the acts of a successful insurrection. The Harvard draft of 1961 expresses more precisely the idea of attributing to a State the acts of organs of an insurrectional movement which has subsequently become the government of that State. Only Garcia Amador's revised draft of 1961 departs inexplicably from the others, since it seems to try to limit - in very obscure terms, moreover - the attribution to the State of the acts or omissions of revolutionaries during a civil war, even where the revolution is successful, to cases in which there has been negligence on the part of the "legitimate" organs of the State.*

*213. On the basis of the analysis made in the preceding paragraphs, we can now apply ourselves to the definition of the rule governing the situations examined in this section. The principle to be established is clear; all that remains is to find a sufficiently precise formula to encompass the different situations likely to arise in the context of the success of a revolutionary or insurrectional movement: (a) the installation, or even merely the participation of the said movement in the government of the State, whose continuity is not affected; (b) the establishment of a new State within the same territorial boundaries as the pre-existing State; (c) the establishment, following a successful insurrection, of a new State in part of the territory formerly under the*

*sovereignty of the pre-existing State. It might be useful, in order to avoid any possible confusion, to adopt a text consisting of two separate paragraphs. It is also necessary to ensure that the wording of the rule shows that there is no other condition for attribution to the State, as a potential source of international responsibility, of the conduct of organs of the insurrectional movement than the mere existence of that movement. It is in no way required, although such is frequently the case, that the movement in question should possess international personality. Accordingly, attribution to the State is retroactive to the very first moment of the movement's existence. Lastly, it appears essential to indicate explicitly that, where a subversive movement only achieves the installation of a new government of a State, whose identity does not in itself change, the retroactive attribution to that State of the conduct of organs of the movement in question in no way precludes the parallel attribution to that State of the conduct engaged in during the same period by organs of the government which was then regarded as "legitimate". (Yearbook of the International Law Commission, 1972, Volume II, pp. 150-151)*

*214. In the light of the foregoing, we believe that we may suggest the adoption of the following text:*

*"Article 13 - Retroactive attribution to a State of the acts of organs of a successful insurrectional movement*

*1. The conduct of a person or group of persons who, at the time when such conduct was engaged in, were organs of an insurrectional movement whose structures have subsequently become the structures of a new State constituted in all or part of the territory formerly under the sovereignty of the pre-existing State is*



*retroactively considered to be an act of the newly constituted State.*

*2. The conduct of a person or group of persons who, at the time when such conduct was engaged in, were organs of an insurrectional movement whose structures have subsequently been integrated, in whole or in part, with those of the pre-existing State is retroactively considered to be an act of that State. However, such attribution does not preclude the parallel attribution to the said State of the conduct of a person or group of persons who, at the aforementioned time, were organs of the movement which was at that time considered to be legitimate (Yearbook of the International Law Commission, 1972, Volume II, pp. 150-151).*

#### 4.1.3. Attribution to the State of the Acts of Organs Placed at Its Disposal

4.1.3.1. The International Law Commission, in codifying the rules governing responsibility of the State, has come up with the following wording for the rule of customary law of attributing to the State of the conduct of organs placed at its disposal by another State or by an international organization:

*"The conduct of an organ which has been placed at the disposal of a State by another State or by an international organization shall be considered as an act of the former State under international law, if that organ was acting in the exercise of elements of the governmental authority of the State at whose disposal it has been placed." (Report of the International Law Commission on the work of its thirty-first session, 14 May -3 August 1979, page 241)*

4.1.3.2. In his report on the aforementioned rule, Robert Ago pointed out the following:

*"199. There is one point which must first be elucidated in order to make it quite clear what we are discussing. The situations we have in mind are those in which a State or an international organization places one of its organs, whether individual or collective, at the disposal of another State in order that that other State may use it within its own system to perform in conjunction with its own machinery, a specific public task or function or to provide a public service for which its own organization is not suitably or sufficiently equipped. There is therefore a clear distinction between situations of this kind and situations in which organs of a State are performing some of their own functions which, either in the ordinary course of events or exceptionally, have to be exercised in foreign territory. Functions of that kind are, and continue to be, functions of the State to which the organs belong, and there is therefore no connexion between these organs and the machinery of the State in whose territory they are acting.*

*200. Once this has been clear, it is easy to envisage possible instances of organs being "lent" by one State to another State or by an international organization to a State. A State may place at the disposal of another State a contingent of its police or armed forces so that, together with the forces of the beneficiary State, it may assist that State in putting down an insurrection or resisting foreign aggression. It may send to the other State a detachment of its health, hospital or other services to provide assistance when there is an epidemic or other natural disaster. It may authorize some of its officials to administer in the territory of a third State a service of another State in cases where the officials of the other State are unable for one reason or another to do so. It may second specialists from its administration to help another State to organize or*

*reorganize a service, to install a plant and put into operation a structural reform, and so forth. Obviously, assistance of this nature may be provided not by another State but by an international organization or institution; and it goes without saying that situations of this kind are likely to become increasingly frequent in the widening framework of bilateral or multilateral assistance programmes.*

*214. Consequently, irrespective of whether an organ is "lent" or "transferred" by one State to another, by a State to an international organization or by an international organization to a State, only one principle can be applied: the beneficiary of the "loan" or "transfer" must be held responsible for any violations of international law committed by the organ placed at its disposal, when the acts of that organ are genuinely performed in the name and on behalf of the beneficiary and in accordance with orders issued by the beneficiary alone. As we have seen, if this principles had not been confirmed by international practice, it would have to be applied for reasons of legal logic, effectiveness and equity. In view of the increasing number of cases in which it may have to be applied in future, especially in relations between States and international organizations, to formulate the principle more clearly will contribute to the progressive development of international law. Our task now therefore is to find a definition which expresses the criterion adequately and indicates clearly the essential requirement which must be fulfilled before it is possible to consider as acts of another State, the acts or omissions of a person belonging to the apparatus of another State or, more generally, of another subject of international law. In the light of the various elements which have to be taken into consideration, we envisage the following formulation:*

*Article 9. Attribution to the State, as a subject of international law, of the acts of organs placed at its disposal by another State or by an international organization*

*The conduct of a person or group of persons having, under the legal order of a state or of an international organization, the status of organs who have been placed at the disposal of another State, is considered to be an act of that State in international law, provided that those organs are actually under the authority of the State at whose disposal they have been placed and act in accordance with its instructions." (Yearbook of the International Law Commission, 1971, Vol. II, Part One, pp. 267-274)*

#### 4.2. Definition of the Crime of Genocide

4.2.1. The United Nations Diplomatic Conference to establish the International Criminal Court, held in Rome in 1998, changed nothing in the definition of genocide as set forth in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Article 6 of the Rome Statute of the International Criminal Court reads:

*"For the purpose of this Statute, 'genocide' means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:*

- (a) Killing members of the group;*
- (b) Causing serious bodily or mental harm to members of the group;*
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*

- (d) Imposing measures intended to prevent births within the group;*
- (e) Forcibly transferring children of the group to another group."*

4.2.2. The Applicant's assertions contained in the Memorial (paras 5.5.1.1. - 5.5.6.5., pp. 235-242) on alleged progressive development of the definition of genocide have not been confirmed. Quite the opposite. Had the definition of genocide developed progressively, that would have naturally resulted in its modification, which has not been the case. Consequently, not even the practices of two ad hoc criminal tribunals have had an effect on the definition itself.

4.2.3. Article 7 of the Rome Statute of the International Criminal Court contains the following definition of crimes against humanity:

*"1. For the purpose of this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against civilian population, with knowledge of the attack::*

- (a) Murder;*
- (b) Extermination;*
- (c) Enslavement;*
- (d) Deportation or forcible transfer of population;*
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;*
- (f) Torture;*
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;*
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural,*

*religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;*

*(i) Enforced disappearance of persons;*

*(j) The crime of apartheid;*

*(k) Other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health.*

*2. For the purpose of paragraph 1:*

*(a) 'Attack directed against any civilian population' means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organized policy to commit such attack;*

*(b) 'Extermination' includes the intentional infliction of conditions of life, inter alia, the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;*

*(c) 'Enslavement' means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;*

*(d) 'Deportation or forcible transfer of population' means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;*

*(e) 'Torture' means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;*

*(f) 'Forced pregnancy' means the unlawful confinement, of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;*

*(g) 'Persecution' means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;*

*(h) 'The crime of apartheid' means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;*

*(i) 'Enforced disappearance of persons' means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.*

*3. For the purpose of this Statute, it is understood that the term 'gender' refers to the two sexes, male and*

*female, within the context of society. The term 'gender' does not indicate any meaning different from the above."*

4.2.4. An essential element of the definition of crime against humanity is that the act is "*committed as part of a widespread or systematic attack directed against any civilian population*". The facts constituting "*a widespread or systematic attack directed against any civilian population*" are not sufficient to draw a conclusion about the existence of a genocidal intent, because in that case no distinction would be made between genocide and crimes against humanity. Therefore, the assertions contained in para. 40, p. 362 of the Reply, do not hold.

4.2.5. "*Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court*" is a kind of crime against humanity. This precludes the Applicant's assertion as contained in para. 43, p. 363 of the Reply, that "*the constitutive intent of the crime of genocide may be inferred from the very gravity of those discriminatory acts.*" If not, there will be no distinction between the crime of genocide and crimes against humanity.

4.2.6. Of importance also is the provision defining the term "extermination" which reads as follows: "*Extermination includes the intentional infliction of conditions of life, inter alia, the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population.*" Indeed, acts constituting the crime of genocide and a crime against humanity can be very similar or identical. There is just one essential element which distinguishes the two and that is genocidal intent.

4.2.7. Professor Shaw noted as follows:



*"It is clear that the weight of the definition in the Convention is upon the factor of intention. Actual physical destruction is not required; what is essential is the need to demonstrate the subjective element. In the context of the bureaucratic and often diffuse character of the modern State apparatus this will often be rather difficult to do. Few regimes are likely to be as clear and open as the Nazi regime in its elucidation of motives and intentions. Objective facts may be selectively easy to verify; ascertaining the subjective intent to destroy is much harder to accomplish. It could, of course, also be argued that a State having indulged in group homicidal activities may too easily refute genocidal behaviour by asserting the absence of the necessary element of intention. It was with the aim of dealing with this very real problem that attempts were made during the debates in the UN Sixth Committee to replace the words committed with the 'intent to destroy' the phrase 'aimed at the physical destruction of groups'. This, however, was not accepted. The major reason for this was the valid contention that without clear reference to the intent criterion, the distinction between genocide and ordinary murder would be eroded, as well as that between genocide on the one hand and wars and crimes against humanity on the other."*

(Essay in Honour of Shabtai Rosenne, 1989, p. 797 at p. 805).

4.2.8. It is also relevant to recall the text of two of the understandings which accompanied the US ratification of the Genocide Convention in 1988:

*"(1) That the term intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such" appearing in article II means specific intent to destroy, in whole or in substantial part, a national, ethnical, racial or religious group as such by the acts specified in article II.  
(...)*

*(4) That acts in the course of armed conflicts committed without the specific intent required by article II are not sufficient to constitute genocide defined by this Convention".*

This emphasis on the specific nature of the intention is to be found in the Message to the Senate of President Truman, 16 June 1949; Whiteman, Digest of International Law, Vol. XI, p. 851 at p. 854.

4.2.9. This understanding accompanying the US ratification of the Genocide Convention was justifiable. The suffering of the civilian population in armed conflicts is a highly complex legal and factual issue. Civilians enjoy protection in armed conflicts, but they lose it if they find themselves in or near a military installation or next to a military unit. Furthermore, they enjoy protection as long as they are not directly involved on the enemy side.

4.2.10. Concerning the element of intent, the International Court of Justice said:

*"Some States also contended that the prohibition against genocide, contained in the Convention of 9 December 1948 on the Prevention and Punishment of the Crime of Genocide, is a relevant rule of customary international law which the Court must apply. The Court recalls that in Article II of the Convention genocide is defined as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:*

*(a) Killing members of the group*

*(b) Causing serious bodily or mental harm to members of the group*

- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part*
- (d) Imposing measures intended to prevent births within the group*
- (e) Forcibly transferring children of the group to another group."*

*It was maintained before the Court that the number of deaths occasioned by the use of nuclear weapons would be enormous; that the victims could, in certain cases, include persons of a particular national, ethnic, racial or religious group; and that the intention to destroy such groups could be inferred from the fact that the user of the nuclear weapon would have omitted to take account of the well known effects of the use of such weapons.*

*The Court would point out in that regard that the prohibition of genocide would be pertinent in this case if the recourse to nuclear weapons did indeed entail the element of intent, towards a group as such, required by the provision quoted above. In the view of the Court, it would only be possible to arrive at such conclusion after having taken due account of the circumstances specific to each case." (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996,p. 240)*

## CONCLUSIONS

5.1. The Counter-Claim is based on facts and law. The acts of incitement to genocide, the other acts enumerated in Article III of the Genocide Convention and the crimes of genocide against Serbs in Bosnia and Herzegovina have been committed. These acts are attributable to the Applicant in accordance with the rules of international law. By the acts or omissions of its organs, the Applicant has violated its obligations established by the Genocide Convention and it is therefore responsible.

5.2. The policy aiming at the destruction of Serbs as a group is an element of radical Islamism. It can be inferred from the idea "there can be no peace or coexistence between Islamic faith and the non-Islamic social and political institutions", expounded by the Islamic declaration; from refusal of Alija Izetbegović to accept any offer for peaceful arrangements in Bosnia and Herzegovina, so that the basic interests of Serbs, Croats and Muslims be protected; from denying the rights of the Serb people to self-determination, within the framework of Bosnia and Herzegovina; from the creation of paramilitary units of Muslims; from incitement to genocide; from acts of genocide; and from disregard for the basis of the new Dayton Constitution of Bosnia and Herzegovina.

5.3. In some cases the intent to commit genocide was verbally expressed by the perpetrators. In other cases the intent to commit genocide can be inferred from the killings of civilians done on Serb religious holiday days, by cutting off three fingers of the right hand with which Serbs cross themselves, by carving in a cross symbol of Christian faith on the bodies of Serb victims, by circumcising Serbs according to Muslim customs, forcing Serb victims to salute Ustashi symbol under which the Serb people suffered genocide in the Second World War in the so-called Independent State of Croatia, by forcing victims to curse their own saints.

5.4. The Respondent has proved the existence of all elements of the crime of genocide: killing of Serbs, causing serious bodily or mental harm to Serbs, deliberately inflicting on Serbs conditions of life calculated to bring about their physical destruction, in whole or in part as well as that all these acts were committed with the intent to destroy, in whole or in part, the Serb ethnic and religious group as such.

5.5. The Respondent has proved the existence of acts of direct and public incitement to commit genocide, as well as other punishable acts under Article III of the Genocide Convention.

5.6. The Respondent has proved that the Applicant has breached its obligations established under the Genocide Convention, i.e. it has not prevented commission of acts of genocide and other acts punishable under Article III of the Genocide Convention, nor has it punished the perpetrators of the mentioned acts. Quite the opposite, its organs have committed these acts. The Applicant is responsible for the breaches of the obligations established under the Genocide Convention.

5.7. Accordingly, the Applicant is obliged to punish persons responsible for acts of genocide and other punishable acts under Article III of the Genocide Convention. It is obliged to take necessary measures so that the said acts would not be repeated in the future. It is obliged to eliminate all consequences of the violations of obligations established by the Genocide Convention and to provide adequate compensation.

5.8. The Applicant has not supported its Claim with sufficient concrete information. The allegations of the Applicant are general in such a measure that they are not suitable for legal test imposed by the Genocide Convention and the subject-matter of the dispute. It is quite inadequate that the Applicant quotes in a Chapter of its Reply documents on alleged numbers of killed people or raped women and that it quotes in another Chapter

documents on alleged involvement of the JNA in some events in Bosnia and Herzegovina. Instead of this, the Applicant should prove commission of a concrete act prohibited by Articles II or III of the Genocide Convention, the existence of an intent as defined by Article II of the Genocide Convention and that the act has been committed on the territory of the FR of Yugoslavia or that the act can be attributed to the FR of Yugoslavia pursuant to the rules of international law.

5.9. The Applicant has not proved its allegations. The submitted evidence is not a source of reliable information nor did it support the Applicant's allegations.

5.10. The acts alleged by the Applicant cannot be qualified as crimes of genocide or acts punishable under Article III of the Genocide Convention because they were not committed at all nor were they committed in the way alleged by the Applicant, or because they were not committed with a genocidal intent.

5.11. No organ of the FR of Yugoslavia has committed any act of genocide or any other act punishable under Article III of the Genocide Convention on the territory of Bosnia and Herzegovina.

5.12. No act of genocide or any other act punishable under Article III of the Genocide Convention was committed on the territory of the FR of Yugoslavia.

5.13. Even if any acts of genocide or any of the acts enumerated in Article III of the Genocide Convention were committed against non-Serb groups in Bosnia and Herzegovina, such acts and any relevant breaches of the obligations established by the Genocide Convention cannot be imputed to the FR of Yugoslavia.

5.14. Therefore, the Respondent is not responsible in terms of the provisions of the Genocide Convention and related rules on State responsibility.

## S U B M I S S I O N S

The Federal Republic of Yugoslavia requests the International Court of Justice to adjudge and declare:

1. In view of the fact that no obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide have been violated with regard to Muslims and Croats,

- since the acts alleged by the Applicant have not been committed at all, or not to the extent and in the way alleged by the Applicant, or

- if some have been committed, there was absolutely no intention of committing genocide, and/or

- they have not been directed specifically against the members of one ethnic or religious group, i.e. they have not been committed against individuals just because they belong to some *ethnic or religious group*,

consequently, they cannot be qualified as acts of genocide or other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, and/or

2. In view of the fact that the acts alleged by the Applicant in its submissions cannot be attributed to the Federal Republic of Yugoslavia,

- since they have not been committed by the organs of the Federal Republic of Yugoslavia,

- since they have not been committed on the territory of the Federal Republic of Yugoslavia,
- since they have not been committed by the order or under control of the organs of the Federal Republic of Yugoslavia,
- since there are no other grounds based on the rules of international law to consider them as acts of the Federal Republic of Yugoslavia,

therefore the Court rejects all the claims of the Applicant, and

3. Bosnia and Herzegovina is responsible for the acts of genocide committed against Serbs in Bosnia and Herzegovina and for other violations of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide,

- because it has incited acts of genocide by the "Islamic Declaration", and in particular by the position contained in it that *"there can be no peace or coexistence between 'Islamic faith' and 'non-Islamic' social and political institutions"*,
- because it has incited acts of genocide by the "Novi Vox", paper of the Muslim youth, and in particular by the verses of a "Patriotic Song" which read as follows:

*"Dear mother, I'm going to plant willows,  
We'll hang Serbs from them.  
Dear mother, I'm going to sharpen knives,  
We'll soon fill pits again".*

- because it has incited acts of genocide by the paper "Zmaj od Bosne", and in particular by the sentence in an article published in it that *"Each Muslim must name a Serb and take oath to kill him"*;



- because public calls for the execution of Serbs were broadcast on radio "Hajat" and thereby acts of genocide were incited;

- because the armed forces of Bosnia and Herzegovina, as well as other organs of Bosnia and Herzegovina have committed acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (enumerated in Article III), against Serbs in Bosnia and Herzegovina, which have been stated in Chapter Seven of the Counter-Memorial;

- because Bosnia and Herzegovina has not prevented the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (enumerated in Article III), against Serbs on its territory, which have been stated in Chapter Seven of the Counter-Memorial.

4. Bosnia and Herzegovina has the obligation to punish the persons held responsible for the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

5. Bosnia and Herzegovina is bound to take necessary measures so that the said acts would not be repeated in the future.

6. Bosnia and Herzegovina is bound to eliminate all the consequences of violation of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and to provide adequate compensation.

Agent of the FR of Yugoslavia

**Ambassador Milan Grubic**  
**Co-Agent of the FR of Yugoslavia**  
**(signed)**

Rodoljub Etinski

## LIST OF ANNEXES TO REJOINDER

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- Annex No. R2, Milovan Đilas, Nadežda Gaće - “Adil Zulfikarpašić Bošnjak”/Milovan Đilas, Nadežda Gaće, “Bosniac Adil Zulfikarpašić”, Bosniac Institute, Zurich, 1994, pp. r10-r18/r19-r24
- Annex No. R3, Milovan Đilas, Nadežda Gaće - “Adil Zulfikarpašić Bošnjak”/Milovan Đilas, Nadežda Gaće, “Bosniac Adil Zulfikarpašić”, Bosniac Institute, Zurich, 1994, pp. r25-r35/r36-r50
- Annex No. R4, Sarajevske dnevne novine “Oslobođenje”/The Sarajevo daily “Oslobođenje” (“Liberation”), pp. r51-r52/r53-r54
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- Annex No. R7, nedeljni magazin “NIN”, broj: 2497, od 05. novembra 1998. – “Delo i lik Roja Gatmana”/“Work and Image of Roy Gutman”, NIN Weekly Informative Magazine, issue No. 2497, 5 November 1998, pp. r72-r74/r75-r82

- Annex No. R8, Službeni glasnik srpskog naroda u BiH, Odluka o formiranju Vojske Srpske Republike Bosne i Hercegovine/The Decision on Forming the Army of the Serb Republic of Bosnia and Herzegovina, pp. r83/r84-r85
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- Annex No. R10, Službeni glasnik srpskog naroda u BiH, Odluka o zabrani formiranja i delovanja naoružanih grupa i pojedinaca na teritoriji Republike koje nisu pod jedinstvenom komandom vojske ili policije/The Decision on Prohibition of Forming and Activities of Armed Groups and Individuals in the territory of the Republic, which are not under the Unique Command of the Army or Militia, r89-r90
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