

**UNITED
NATIONS**

International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
former Yugoslavia since 1991

Case No. IT-95-5/18-PT

Date: 20 May 2009

IN TRIAL CHAMBER III

Before: Judge Iain Bonomy, Presiding
Judge Christoph Flügge
Judge Michèle Picard

Registrar: Mr. John Hocking

THE PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**PROSECUTION'S SUBMISSION OF PROPOSED FOURTH
AMENDED INDICTMENT**

The Office of the Prosecutor:

Mr Alan Tieger
Ms Hildegard Uertz-Retzlaff

The Accused:

Mr Radovan Karadžić

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-95-5/18-PT

THE PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

**PROSECUTION'S SUBMISSION OF PROPOSED FOURTH AMENDED
INDICTMENT**

1. The Prosecution submits as Appendix A, a proposed fourth amended indictment in accordance with the Chamber's Decision on Six Preliminary Motions Challenging Jurisdiction¹ and its Decision on Two Motions Alleging Defects in the Form of the Indictment.² For ease of comparison with the Third Amended Indictment, the proposed amendments to the pleadings have been "tracked" in Appendix A.
2. In accordance with the Jurisdiction Decision, the proposed amendments incorporate a probability *mens rea* standard in relation to foreseeability under the extended form of joint criminal enterprise liability. The Prosecution notes that this aspect of the Jurisdiction Decision is pending a final determination by the Appeals Chamber.³

Word Count: 163



Hildegard Uertz-Retzlaff
Senior Trial Attorney

Dated this 20th day of May 2009
At The Hague
The Netherlands

¹ *Prosecutor v. Karadžić*, IT-95-5/18-PT, Decision on Six Preliminary Motions Challenging Jurisdiction, 28 April 2009 ("Jurisdiction Decision"), paras. 55-56, and 82(c).

² *Prosecutor v. Karadžić*, IT-95-5/18-PT, Decision on Two Motions Alleging Defects in the Form of the Indictment, 12 May 2009, para. 33(c).

³ *Prosecutor v. Karadžić*, IT-95-5/18-PT, Prosecution Appeal of Decision on JCE III Foreseeability, 13 May 2009.

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-95-5/18-PT

**THE PROSECUTOR
OF THE TRIBUNAL**

AGAINST

RADOVAN KARADŽIĆ

PROPOSED FOURTH AMENDED INDICTMENT

The Prosecutor of the International Criminal Tribunal for the former Yugoslavia, pursuant to his authority under Article 18 of the Statute of the International Criminal Tribunal for the former Yugoslavia (“Statute”), charges:

RADOVAN KARADŽIĆ

with **GENOCIDE, CRIMES AGAINST HUMANITY** and **VIOLATIONS OF THE LAWS AND CUSTOMS OF WAR** as set forth below:

THE ACCUSED

1. **Radovan KARADŽIĆ** was born on 19 June 1945 in the municipality of Šavnik, Republic of Montenegro, Federal Republic of Yugoslavia.

2. **Radovan KARADŽIĆ** was a founding member of the Serbian Democratic Party of Bosnia and Herzegovina, *Srpska Demokratska Stranka* (“SDS”), which was established within Bosnia and Herzegovina (“BiH”) on 12 July 1990. He was President of the SDS from 12 July 1990 until his resignation on 19 July 1996.

3. **Radovan KARADŽIĆ** acted as Chairman of the National Security Council of the Serbian Republic of Bosnia and Herzegovina (later the Republika Srpska and hereinafter identified along with Republika Srpska as “RS”), which was created on 27 March 1992. He became a member of the three-member Presidency of the RS on 12 May 1992, the date of its creation. On the same day, he was elected President of the Presidency. From the beginning of June 1992 until 17 December 1992, **Radovan KARADŽIĆ** was also President of the expanded Presidency of the RS. The Presidency, and later the expanded Presidency, was the Supreme Commander of the RS armed forces until **Radovan KARADŽIĆ** became sole President of the RS on 17 December 1992. **Radovan KARADŽIĆ** was sole President of the RS and Supreme Commander of the RS armed forces from 17 December 1992 until about 19 July 1996.

4. From at least March 1992 until about 19 July 1996, **Radovan KARADŽIĆ** was the highest civilian and military authority in the RS.

INDIVIDUAL CRIMINAL RESPONSIBILITY

Article 7(1) of the Statute

5. **Radovan KARADŽIĆ** is individually criminally responsible pursuant to Article 7(1) of the Statute for the crimes referred to in Articles 3, 4, and 5 of the Statute as alleged in this indictment which he planned, instigated, ordered, committed and/or aided and abetted. By using the word “committed” in this indictment, the Prosecutor does not mean that the accused physically committed any of the crimes charged personally. “Committed”, in the context of the accused’s liability under Article 7(1), refers to his participation in a joint criminal enterprise.

Joint Criminal Enterprise

6. **Radovan KARADŽIĆ** committed each of the charged crimes in concert with others through his participation in several related joint criminal enterprises, each of which is described below. **Radovan KARADŽIĆ** and, as of May 1992 Ratko MLADIĆ, were key members of an overarching joint criminal enterprise which lasted from at least October 1991 until 30 November 1995. Their objective was the permanent removal of Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in BiH through crimes charged in this indictment.

7. **Radovan KARADŽIĆ** and Ratko MLADIĆ acted in concert with various other individuals depending on the crimes that were carried out in different locations and at different times as alleged in the indictment in order to achieve their objectives.

8. In particular, at various times during the existence of the overarching joint criminal enterprise, **Radovan KARADŽIĆ** and Ratko MLADIĆ participated in three additional joint criminal enterprises, the objectives of which were (1) to spread terror among the civilian population of Sarajevo through a campaign of sniping and shelling, (2) to eliminate the Bosnian Muslims in Srebrenica, and (3) to take United Nations personnel as hostages. The pursuit of each of these objectives was related to the objective of the overarching joint criminal enterprise to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory in BiH.

a. Crimes Committed to Permanently Remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed Territory

9. From at least October 1991 until 30 November 1995, **Radovan KARADŽIĆ** participated in an overarching joint criminal enterprise to permanently remove Bosnian Muslim and Bosnian Croat inhabitants from the territories of BiH claimed as Bosnian Serb territory by means which included the commission of the following crimes charged in this indictment: genocide (under count 1), persecution, extermination, murder, deportation, and inhumane acts (forcible transfer). **Radovan KARADŽIĆ** shared the intent for the commission of each of these crimes with other members of this joint criminal enterprise.

10. Alternatively, **Radovan KARADŽIĆ** and the other members' shared objective included at least the crimes of deportation and inhumane acts (forcible transfer). It was foreseeable that the crimes of genocide (under count 1 and/or count 2), persecution, extermination, and murder

~~might~~ would probably be perpetrated by one or more members of this joint criminal enterprise or by persons used by any member of the joint criminal enterprise in order to carry out the *actus reus* of the crimes forming part of the shared objective. With the awareness that such crimes were a possible probable consequence of the implementation of the objective of the joint criminal enterprise, **Radovan KARADŽIĆ** willingly took that risk.

11. **Radovan KARADŽIĆ** acted in concert with other members of this criminal enterprise including: Momčilo KRAJIŠNIK; Ratko MLADIĆ; Slobodan MILOŠEVIĆ; Biljana PLAVŠIĆ; Nikola KOLJEVIĆ; Mićo STANIŠIĆ; Momčilo MANDIĆ; Jovica STANIŠIĆ; Franko SIMATOVIĆ; Željko RAŽNATOVIĆ (aka “Arkan”) and Vojislav ŠEŠELJ. Each of these individuals, by his or her acts or omissions, contributed to achieving their shared objective.

12. Other members of this joint criminal enterprise included: members of the Bosnian Serb leadership; members of SDS and Bosnian Serb government bodies at the republic, regional, municipal, and local levels, including Crisis Staffs, War Presidencies, and War Commissions (“Bosnian Serb Political and Governmental Organs”); commanders, assistant commanders, senior officers, and chiefs of units of the Serbian Ministry of Internal Affairs (“Serbian MUP”), the Yugoslav People’s Army (“JNA”), the Yugoslav Army (“VJ”), the army of the Serbian Republic of BiH, later the army of the RS (“VRS”), the Bosnian Serb Ministry of Internal Affairs (“MUP”) and the Bosnian Serb Territorial Defence (“TO”) at the republic, regional, municipal and local level; and leaders of Serbian and Bosnian Serb paramilitary forces and volunteer units. Alternatively, some or all of these individuals were not members of the joint criminal enterprise, but were used by members of the joint

criminal enterprise to carry out crimes committed in furtherance of its objective as described below.

13. Members of this criminal enterprise implemented their objective by personally committing crimes, and/or through and by using others to carry out crimes committed in furtherance of their objective. Those used to carry out these crimes were members of the Bosnian Serb Political and Governmental Organs; and members of the MUP, VRS, JNA, VJ, TO, the Serbian MUP, Serbian and Bosnian Serb paramilitary forces and volunteer units, and local Bosnian Serbs (“Serb Forces”).

14. **Radovan KARADŽIĆ** significantly contributed to achieving the objective of the permanent removal of Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory through the commission of crimes in one or more of the following ways:

- (a) formulating, promoting, participating in, and/or encouraging the development and implementation of SDS and Bosnian Serb governmental policies intended to advance the objective of the joint criminal enterprise;
- (b) participating in the establishment, support and/or maintenance of Bosnian Serb Political and Governmental Organs and of the VRS, the TO, the MUP, and Bosnian Serb paramilitary forces and volunteer units (“Bosnian Serb Forces”) through which the objective of the joint criminal enterprise was implemented;
- (c) disseminating, encouraging and/or facilitating the dissemination of propaganda to Bosnian Serbs intended to engender in Bosnian Serbs fear and hatred of Bosnian Muslims and Bosnian

Croats or to otherwise win support for and participation in achieving the objective of the joint criminal enterprise including:

- that Bosnian Serbs were in jeopardy of oppression, including genocide, at the hands of Bosnian Muslims and Bosnian Croats; and
- that territories on which Bosnian Muslims and Bosnian Croats resided were Bosnian Serb land;

(d) directing, encouraging, facilitating, and/or authorizing Bosnian Serb Political and Governmental Organs, SDS officials and members, and Serb Forces to carry out acts in furtherance of the objective of the joint criminal enterprise;

(e) participating in the design or formulation of acts carried out by Bosnian Serb Political and Governmental Organs, SDS officials and members, and Serb Forces in furtherance of the objective of the joint criminal enterprise;

(f) obtaining, facilitating, encouraging and/or supporting the participation of JNA/VJ forces and Serbian paramilitary forces to further the objective of the joint criminal enterprise;

(g) failing, while under a duty stemming from his positions described in paragraph 33, to take adequate steps to ensure that Bosnian Serb Political and Governmental Organs and/or Bosnian Serb Forces would act to protect Bosnian Muslims and Bosnian Croats residing in areas under their control;

(h) facilitating and/or encouraging the commission by Serb Forces and Bosnian Serb Political and Governmental Organs of crimes that furthered the objective of the joint criminal enterprise by

failing, while under a duty stemming from his positions described in paragraph 33, to take adequate steps to prevent and/or investigate such crimes, and/or arrest and/or punish the perpetrators of such crimes;

(i) engaging in, supporting and/or facilitating efforts to deny or provide misleading information about crimes against Bosnian Muslims and Bosnian Croats and about the role that Serb Forces had played in those crimes to representatives of the international community, non-governmental organizations, the media and the public, thereby facilitating the commission of crimes in furtherance of the objective of the joint criminal enterprise; and

(j) directing and/or authorizing the restriction of humanitarian aid to Bosnian Muslim and/or Bosnian Croat enclaves located in territory controlled by Bosnian Serb Political and Governmental Organs and/or Bosnian Serb Forces in an effort to create unbearable living conditions for these inhabitants in furtherance of the objective of the joint criminal enterprise.

b. Crimes Committed to Spread Terror among the Civilian Population of Sarajevo through a Campaign of Sniping and Shelling

15. Between April 1992 and November 1995, **Radovan KARADŽIĆ** participated in a joint criminal enterprise to establish and carry out a campaign of sniping and shelling against the civilian population of Sarajevo, the primary purpose of which was to spread terror among the civilian population. This objective involved the commission of the crimes

of terror, unlawful attacks on civilians, and murder charged in this indictment.

16. **Radovan KARADŽIĆ** shared the intent for the commission of each of these crimes with others who acted in concert with him in this criminal enterprise including: Momčilo KRAJIŠNIK; Ratko MLADIĆ; Biljana PLAVŠIĆ; Nikola KOLJEVIĆ; Stanislav GALIĆ; Dragomir MILOŠEVIĆ; and Vojislav ŠEŠELJ. Each of these individuals, by his or her acts or omissions, contributed to achieving this objective.

17. Other members of this joint criminal enterprise included: members of the Bosnian Serb leadership; republic-level members of Bosnian Serb Political and Governmental Organs; regional, municipal and local level members of Bosnian Serb Political and Governmental Organs with responsibility in or for the Sarajevo area; commanders, assistant commanders, senior officers, and chiefs of JNA, VRS, TO, and MUP units whose areas of responsibility included the Sarajevo area; and leaders of Serbian and Bosnian Serb paramilitary forces and volunteer units operating in or with responsibility over the Sarajevo area. Alternatively, some or all of these individuals were not members of this joint criminal enterprise, but were used by members of the joint criminal enterprise to carry out crimes committed in furtherance of its objective as described below.

18. Members of this joint criminal enterprise implemented their objective by personally committing crimes, and/or through and by using others to carry out crimes committed in furtherance of their objective. Those used to carry out these crimes were: until about 20 May 1992, members of the JNA operating in or with responsibility over the Sarajevo area; members of the VRS, in particular the Sarajevo Romanija Corps; and

members of other elements of the Serb Forces operating in or with responsibility over the Sarajevo area (“Sarajevo Forces”).

19. **Radovan KARADŽIĆ** significantly contributed to achieving the objective of spreading terror among the civilian population of Sarajevo through a campaign of sniping and shelling in one or more of the ways set out in paragraph 14(a) through 14(f), and 14(h) through 14(j) in relation to the objective of spreading terror.

c. Crimes Committed to Eliminate the Bosnian Muslims in Srebrenica

20. Commencing in the days immediately preceding the 11 July 1995 implementation of the plan to eliminate the Bosnian Muslims in Srebrenica and continuing until 1 November 1995, **Radovan KARADŽIĆ** participated in a joint criminal enterprise to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children and some elderly men from Srebrenica. This objective amounted to or included the commission of the crimes of genocide (under count 2), persecution, extermination, murder, deportation, and inhumane acts (forcible transfer) charged in this indictment.

21. **Radovan KARADŽIĆ** shared the intent for the commission of each of these crimes with other members of this joint criminal enterprise including Ratko MLADIĆ. Each of these members, by his acts or omissions, contributed to achieving this objective.

22. Other members of this joint criminal enterprise included: republic-level members of Bosnian Serb Political and Governmental Organs; regional, municipal and local level members of Bosnian Serb Political and Governmental Organs with responsibility in or for the Srebrenica, Vlasenica, Bratunac and/or Zvornik areas; and commanders, assistant commanders, senior officers, and chiefs of the VRS and MUP operating in or with responsibility over territory within the Drina Corps area of responsibility and/or Trnovo municipality; and members of a Serbian MUP unit called the Scorpions. Alternatively, some or all of these individuals were not members of the joint criminal enterprise, but were used by members of the joint criminal enterprise to carry out crimes committed in furtherance of its objective as described below.

23. Members of this criminal enterprise implemented their objective by personally committing crimes, and/or through and by using others to carry out crimes committed in furtherance of their objective. Those used to carry out these crimes were members of the VRS and MUP operating in or with responsibility over territory within the Drina Corps area of responsibility and/or Trnovo municipality and a Serbian MUP unit called the Scorpions (“Srebrenica Forces”). The Scorpions only operated and committed crimes in Trnovo municipality.

24. **Radovan KARADŽIĆ** significantly contributed to achieving the objective of eliminating the Bosnian Muslims in Srebrenica by killing the men and boys and forcibly removing the women, children and some elderly men in one or more of the ways set out in paragraph 14(a) through 14(e) and 14(g) through 14(j) in relation to the objective of eliminating the Bosnian Muslims in Srebrenica.

d. Crime of Taking Hostages

25. During May and June 1995, **Radovan KARADŽIĆ** participated in a joint criminal enterprise to take United Nations (“UN”) personnel hostage in order to compel the North Atlantic Treaty Organization (“NATO”) to abstain from conducting air strikes against Bosnian Serb military targets. This objective involved the commission of the crime of the taking of hostages charged in this indictment.

26. **Radovan KARADŽIĆ** shared the intent for the commission of this crime with other members of this joint criminal enterprise including Ratko MLADIĆ. Each of these members, by his acts or omissions, contributed to achieving this objective.

27. Other members of this joint criminal enterprise included: members of Bosnian Serb Political and Governmental Organs; and commanders, assistant commanders, senior officers, and chiefs of the VRS and MUP. Alternatively, some or all of these individuals were not members of the joint criminal enterprise, but were used by members of the joint criminal enterprise to carry out the crimes committed in furtherance of its objective as described below.

28. Members of this criminal enterprise implemented their objective by personally committing crimes, and/or through and by using members of the VRS and the MUP to carry out crimes committed in furtherance of their objective.

29. **Radovan KARADŽIĆ** significantly contributed to achieving the objective of taking hostages in one or more of the ways set out in paragraph 14(a), (b), (d), (e), and (h) in relation to the objective of taking hostages.

Planning, Instigating, Ordering, and/or Aiding and Abetting

30. In addition to his liability through his participation in these joint criminal enterprises, **Radovan KARADŽIĆ** is individually criminally responsible for planning, instigating, ordering and/or aiding and abetting the crimes charged in this indictment through the acts and omissions described in paragraph 14.

31. **Radovan KARADŽIĆ** planned (through acts including those described in paragraph 14(a), and/or (e) in relation to the individual crimes charged), instigated (through acts and omissions including those described in paragraph 14(a), (b), (c), (d), (e), (f), and/or (h) in relation to the individual crimes charged), and ordered (through acts including those described in paragraph 14(d) and/or (j) in relation to the individual crimes charged) each of the crimes charged in this indictment. He directly intended or was aware of the substantial likelihood that the execution of his plans and orders, and/or the carrying out of the acts and conduct which he instigated, would involve or result in the crimes charged in this indictment. **Radovan KARADŽIĆ** aided and abetted the crimes charged in this indictment through acts and omissions including those described in paragraph 14(a), (b), (c), (d), (e), (f), (g), (h), (i) and/or (j) in relation to the individual crimes charged. He was aware of the probability that the crimes charged would be committed and that his acts or omissions would contribute to their commission.

Article 7(3) of the Statute

32. In addition, **Radovan KARADŽIĆ** is individually criminally responsible as a superior pursuant to Article 7(3) of the Statute for the crimes charged.

33. From at least March 1992 until about 19 July 1996, **Radovan KARADŽIĆ** was the highest civilian and military authority in the RS. In his capacities as President of the SDS, member of the National Security Council of the RS, member and President of both the Presidency and the expanded Presidency of the RS, and President of the RS and Supreme Commander of the RS armed forces, and pursuant to his *de facto* authority as the acknowledged leader of the Bosnian Serbs, he was the superior of, and had effective control over, the Bosnian Serb Forces and Bosnian Serb Political and Governmental Organs that participated in the crimes alleged in this indictment.

34. **Radovan KARADŽIĆ** knew or had reason to know that crimes were about to be committed or had been committed by members of the Bosnian Serb Forces and/or Bosnian Serb Political and Governmental Organs through numerous sources, including:

- (a) his own involvement in the preparation, design, and/or execution of such crimes;
- (b) his receipt of information about the commission of such crimes from members of the Bosnian Serb Forces, Bosnian Serb leadership, Bosnian Serb Political and Governmental Organs and

the international community, the media, and/or other persons;
and/or

(c) his personal observation of evidence of the commission of such crimes.

35. **Radovan KARADŽIĆ** failed to take the necessary and reasonable measures to prevent the commission of crimes by members of the Bosnian Serb Forces and/or Bosnian Serb Political and Governmental Organs and/or to punish the perpetrators thereof. The term “committed”, as used in the context of Article 7(3) of the Statute, includes all modes of liability covered by Articles 7(1) and 7(3) of the Statute. The acts and omissions of **Radovan KARADŽIĆ** that demonstrate his failure to take such necessary and reasonable measures include:

(a) his failure to order or initiate genuine or adequate investigations into credible allegations of the commission of crimes by Bosnian Serb Forces and/or Bosnian Serb Political and Governmental Organs;

(b) his failure to report information about the commission or possible commission of crimes by Bosnian Serb Forces and/or Bosnian Serb Political and Governmental Organs to the appropriate authorities;

(c) his failure to discipline, dismiss, demote or refrain from promoting or rewarding members of the Bosnian Serb Forces and/or Bosnian Serb Political and Governmental Organs who were involved in the commission of crimes and/or who failed to prevent or punish the commission of crimes by their subordinates; and/or

(d) his failure to issue the orders that were necessary and reasonable in the circumstances to prohibit or put a stop to the commission of crimes by Bosnian Serb Forces and/or Bosnian Serb Political and Governmental Organs.

THE CHARGES

COUNT 1 GENOCIDE

36. **Radovan KARADŽIĆ** committed in concert with others, planned, instigated, ordered and/or aided and abetted genocide against a part of the Bosnian Muslim and/or Bosnian Croat national, ethnical, and/or religious groups as such. In addition, **Radovan KARADŽIĆ** knew or had reason to know that genocide was about to be or had been committed by his subordinates, and he failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof.

37. As alleged in paragraphs 9 to 14, **Radovan KARADŽIĆ** participated in a joint criminal enterprise to permanently remove Bosnian Muslims and Bosnian Croats from the territories of BiH claimed as Bosnian Serb territory.

38. The objective of this joint criminal enterprise was primarily achieved through a campaign of persecutions as alleged in this indictment. In some municipalities, between 31 March 1992 and 31 December 1992 this campaign of persecutions included or escalated to include conduct that

manifested an intent to destroy in part the national, ethnical and/or religious groups of Bosnian Muslims and/or Bosnian Croats as such. In such municipalities, a significant section of the Bosnian Muslim and/or Bosnian Croat groups, namely their leaderships, as well as a substantial number of members of these groups were targeted for destruction. The most extreme manifestations of an intent to partially destroy these groups took place in Bratunac, Brčko, Foča, Ključ, Kotor Varoš, Prijedor, Sanski Most, Višegrad, Vlasenica and Zvornik.

39. Members of this joint criminal enterprise shared the intent to partially destroy these groups. Alternatively, as alleged in paragraph 10, it was foreseeable that genocide ~~might~~ would probably be perpetrated by one or more members of this joint criminal enterprise and/or by persons used by any such member(s) to carry out the crimes of deportation and forcible transfer. **Radovan KARADŽIĆ** was aware that genocide was a possible probable consequence of the implementation of the objective to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territories and willingly took that risk.

40. Between 31 March 1992 and 31 December 1992, Bosnian Serb Political and Governmental Organs and Serb Forces carried out the following acts against Bosnian Muslims and Bosnian Croats:

- (a) the killing of Bosnian Muslims and Bosnian Croats, including leading members of these groups. These killings include:
 - i. killings carried out during and after takeovers, including those listed in **Schedule A**; and
 - ii. killings related to detention facilities, including those listed in **Schedule B**, as well as killings committed during, and deaths

resulting from, cruel and inhumane treatment at detention facilities listed in **Schedule C**.

(b) the causing of serious bodily or mental harm to thousands of Bosnian Muslims and Bosnian Croats, including leading members of these groups, during their confinement in detention facilities, including those listed in **Schedule C**. At these locations, detainees were subjected to cruel or inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence and beatings; and

(c) the detention of thousands of Bosnian Muslims and Bosnian Croats, including leading members of these groups, in detention facilities, including those listed in **Schedule C**, under conditions of life calculated to bring about their physical destruction, namely through cruel and inhumane treatment, including torture, physical and psychological abuse, rape, other acts of sexual violence, inhumane living conditions, forced labour and the failure to provide adequate accommodation, shelter, food, water, medical care or hygienic sanitation facilities.

Radovan KARADŽIĆ is criminally responsible for:

Count 1: GENOCIDE, punishable under Articles 4(3)(a), and 7(1) and 7(3) of the Statute.

COUNT 2

GENOCIDE

41. **Radovan KARADŽIĆ** committed in concert with others, planned, instigated, ordered and/or aided and abetted genocide against a part of the Bosnian Muslim national, ethnical, and/or religious group as such. In addition, **Radovan KARADŽIĆ** knew or had reason to know that genocide was about to be or had been committed by his subordinates, and he failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof.

42. As alleged in paragraphs 20 to 24, **Radovan KARADŽIĆ** participated in a joint criminal enterprise to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys of Srebrenica and forcibly removing the women, young children and some elderly men from Srebrenica. **Radovan KARADŽIĆ** intended to destroy the Bosnian Muslims in Srebrenica as part of the Bosnian Muslim national, ethnical and/or religious group. He shared this intent with other members of this joint criminal enterprise.

43. Alternatively, as alleged in paragraph 10, it was foreseeable that one or more members of the overarching joint criminal enterprise to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory, and/or persons used by any such member(s) to carry out the crimes of deportation and forcible transfer, ~~might-would~~ probably perpetrate genocide against the Bosnian Muslims of Srebrenica. **Radovan KARADŽIĆ** was aware that such genocide was a probable ~~possible~~ consequence of the implementation of this overarching objective, and willingly took that risk.

44. In March 1995, **Radovan KARADŽIĆ**, in concert with others, implemented, and/or used others to implement, a plan to take over the Srebrenica enclave and forcibly transfer and/or deport its Bosnian Muslim population. Such action was part of their objective as members of the joint criminal enterprise to permanently remove the Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory.

45. On about 6 July 1995, Bosnian Serb Forces attacked the Srebrenica enclave. Within days of the attack, **Radovan KARADŽIĆ**, and others formed the shared objective to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys and forcibly removing the women, young children and some elderly men. By 11 July 1995, **Radovan KARADŽIĆ** and others began to implement and/or use others to implement, their shared objective: to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys and forcibly removing the women, young children and some elderly men from the enclave.

46. Between 11 and 13 July 1995, Srebrenica Forces terrorised and abused the Bosnian Muslims present in Potočari. On 12 July 1995, Srebrenica Forces began to separate the men and boys of Srebrenica from the women and young children. Some elderly men were permitted to remain with their families. Over one thousand men and boys were separated and detained in Potočari. The same day, Srebrenica Forces began to force the women, young children and some elderly men out of the enclave. During and after the forcible transfer operation, Bosnian Muslim men and boys were executed through “opportunistic” killings. In addition to the over one thousand men and boys who were separated and detained in Potočari, thousands of men and boys who had attempted to

flee the enclave were captured by, or surrendered to, Srebrenica Forces. Men and boys were beaten prior to their execution. On 13 July 1995, Srebrenica Forces began the organised executions of the men and boys who had been separated and detained, and those who had surrendered or been captured. The victims of the executions were buried; some were subsequently exhumed and reburied in an effort to conceal the crimes.

47. Between 11 July 1995 and 1 November 1995, Srebrenica Forces carried out the following acts:

(a) killing over 7,000 Bosnian Muslim men and boys of Srebrenica through both organised and opportunistic executions, including those listed in **Schedule E (Part 1)** and **Schedule E (Part 2)**; and

(b) causing serious bodily or mental harm to thousands of female and male members of the Bosnian Muslims of Srebrenica, including but not limited to the separation of men and boys from their families and the forcible removal of the women, young children and some elderly men from the enclave.

Radovan KARADŽIĆ is criminally responsible for:

Count 2: GENOCIDE, punishable under Articles 4(3)(a), and 7(1) and 7(3) of the Statute.

COUNT 3

PERSECUTIONS

48. **Radovan KARADŽIĆ** committed in concert with others, planned, instigated, ordered, and/or aided and abetted persecutions on political and/or religious grounds against Bosnian Muslims and/or Bosnian Croats. **Radovan KARADŽIĆ** is specifically charged for persecutions in the following municipalities: Banja Luka; Bijeljina; Bosanska Krupa; Bosanski Novi; Bosanski Petrovac; Bratunac; Brčko; Čajnice; Donji Vakuf; Foča; Hadžići; Ilidža; Ilijaš; Kalinovik; Ključ; Kotor Varoš; Novi Grad; Novo Sarajevo; Pale; Prijedor; Rogatica; Sanski Most; Sokolac; Višegrad; Vlasenica; Vogošća and Zvornik (“Municipalities”), as well as persecutions of the Bosnian Muslims of Srebrenica. In addition, **Radovan KARADŽIĆ** knew or had reason to know that these persecutions were about to be or had been committed by his subordinates, and he failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof.

49. Such persecutory acts were committed as part of the objective to permanently remove Bosnian Muslims and/or Bosnian Croats in the Municipalities, as well as part of the objective to eliminate the Bosnian Muslims in Srebrenica. **Radovan KARADŽIĆ** acted in concert with various other individuals, depending on the time period and location, to achieve these objectives through the commission of the crime of persecutions.

50. As alleged in paragraphs 9 to 14, **Radovan KARADŽIĆ** participated in a joint criminal enterprise to permanently remove Bosnian Muslims and Bosnian Croats from the territories of BiH claimed as Bosnian Serb territory through the commission of crimes, including

persecution. Members of this joint criminal enterprise shared the intent to commit the persecutory acts enumerated in paragraph 60 in the Municipalities on political and/or religious grounds. Alternatively, as alleged in paragraph 10, it was foreseeable that such persecutory acts ~~might~~ would probably be perpetrated by one or more members of this joint criminal enterprise and/or by persons used by any such member(s) to carry out the crimes of deportation and forcible transfer. **Radovan KARADŽIĆ** was aware that persecution was a probable possible consequence of the implementation of the objective to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territories and willingly took that risk.

51. The persecutory acts carried out in the Municipalities and against Bosnian Muslims in Srebrenica are illustrative of the wider persecutory campaign implemented in large areas of BiH pursuant to the objective to permanently remove Bosnian Muslims and Bosnian Croats from the territories of BiH claimed as Bosnian Serb territory.

52. Pursuant to this objective, beginning in March 1992, Serb Forces and Bosnian Serb Political and Governmental Organs attacked and/or took control of towns and villages in the Municipalities. Most of these takeovers were carried out during 1992, but they continued thereafter. The enclave of Srebrenica was taken over in July 1995.

53. During and after these takeovers and continuing until 30 November 1995, Serb Forces and Bosnian Serb Political and Governmental Organs carried out persecutory acts against Bosnian Muslims and Bosnian Croats including the imposition of restrictive and discriminatory measures, arbitrary searches, arbitrary arrest and detention, harassment, torture, rape

and other acts of sexual violence, killing, and destruction of houses, cultural monuments and sacred sites.

54. Serb Forces and Bosnian Serb Political and Governmental Organs also established and controlled detention facilities in the Municipalities where Bosnian Muslims and Bosnian Croats were detained and subjected to persecutory acts including killing, cruel treatment, torture, rape and other acts of sexual violence, forced labour, unlawful detention and inhumane treatment.

55. These acts as well as the threat of further such acts caused Bosnian Muslims and Bosnian Croats to flee the Municipalities in fear. Others were physically driven out.

56. Thousands of Bosnian Muslims who were forcibly displaced from their homes in Eastern Bosnia fled to the Srebrenica enclave.

57. In March 1995, **Radovan KARADŽIĆ** and those he acted in concert with to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory implemented, and/or used others to implement, a plan to take over the Srebrenica enclave and forcibly transfer and/or deport its Bosnian Muslim population. Prior to the takeover, humanitarian aid was restricted to the enclave and civilian targets were shelled and sniped in an effort to make life impossible for the inhabitants of the enclave and to remove its population.

58. As described in paragraphs 45 to 46, in the days immediately preceding 11 July 1995, **Radovan KARADŽIĆ**, and others formed the shared objective to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys and forcibly removing the women, children and some of

the elderly men. The objective of its members was implemented between 11 July 1995 and 1 November 1995 through the killing of the men and boys of Srebrenica and the forcible removal of women, young children and some elderly men from the enclave. The forcible transfer and/or deportation of the women, young children and some elderly men from Srebrenica, the terrorising and abuse of Bosnian Muslims in Potočari, and the beating of men and boys prior to their execution, and the “opportunistic” and organised executions of men and boys formed part of the objective of the joint criminal enterprise to eliminate the Bosnian Muslims in Srebrenica. Members of this joint criminal enterprise shared the intent to commit these acts on political and/or religious grounds.

59. Alternatively, as alleged in paragraph 10, it was foreseeable that one or more members of the overarching joint criminal enterprise to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory through deportation and forcible transfer, and/or persons used by any such member(s) to carry out such crimes, ~~might~~ would probably perpetrate persecutions against the Bosnian Muslims of Srebrenica. Persecutions were carried out through one or more of the acts of the terrorising and abuse of Bosnian Muslims in Potočari, the beating of men and boys prior to their execution, the “opportunistic” and organised executions of men and boys and the forcible transfer and/or deportation of the women, young children and some elderly men from Srebrenica. **Radovan KARADŽIĆ** was aware that one or more of these persecutory acts were a probable ~~possible~~ consequence of the implementation of this overarching objective, and willingly took that risk.

60. Acts of persecution carried out by members of the Serb Forces and Bosnian Serb Political and Governmental Organs pursuant to one or more of the joint criminal enterprises included:

- (a) killings, including:
- i. killings during and after takeovers in the Municipalities, including those listed in **Schedule A**;
 - ii. killings related to detention facilities in the Municipalities, including those listed in **Schedule B**, as well as killings committed during, and deaths resulting from, cruel and inhumane treatment at detention facilities listed in **Schedule C**;
 - iii. organised killings of Bosnian Muslims from Srebrenica during July and August 1995, including those listed in **Schedule E (Part 1)**; and
 - iv. opportunistic killings of Bosnian Muslims from Srebrenica during July and August 1995, including those listed in **Schedule E (Part 2)**;
- (b) torture, beatings, and physical and psychological abuse during and after takeovers in the Municipalities and in detention facilities in the Municipalities, including those detention facilities listed in **Schedule C**, as cruel or inhumane treatment;
- (c) rape and other acts of sexual violence during and after takeovers in the Municipalities and in detention facilities in the Municipalities, including those detention facilities listed in **Schedule C**, as cruel and inhumane treatment;
- (d) the establishment and perpetuation of inhumane living conditions in detention facilities in the Municipalities, including those listed in **Schedule C**, as cruel or inhuman treatment. The

inhumane living conditions established and perpetuated in detention facilities included the failure to provide adequate accommodation, shelter, food, water, medical care, or hygienic sanitation facilities;

(e) the terrorising and abuse of Bosnian Muslims of Srebrenica in Potočari and the beating of men and boys of Srebrenica prior to their execution, as cruel or inhumane treatment;

(f) forcible transfer or deportation of Bosnian Muslims and Bosnian Croats from their homes within the Municipalities and from Srebrenica;

(g) unlawful detention in detention facilities in the Municipalities, including those listed in **Schedule C**;

(h) forced labour including digging graves and trenches and other forms of forced labour at front lines and the use of Bosnian Muslims and Bosnian Croats as human shields;

(i) the appropriation or plunder of property, during and after takeovers in the Municipalities, during arrests and detention, and in the course of or following deportations or forcible transfers. The appropriation of property included the practice of forcing Bosnian Muslims and Bosnian Croats to sign documents turning over their property to Bosnian Serb Political and Governmental Organs in order to be allowed to leave the Municipalities;

(j) the wanton destruction of private property including homes and business premises and public property, including cultural monuments and sacred sites listed in **Schedule D**; and/or

- (k) the imposition and maintenance of restrictive and discriminatory measures including:
- i. the denial of freedom of movement;
 - ii. the removal from positions of authority in local government institutions and the police and the general dismissal from employment;
 - iii. the invasion of privacy through arbitrary searches of homes;
 - iv. unlawful arrest and/or the denial of the right to judicial process; and/or
 - v. the denial of equal access to public services.

Radovan KARADŽIĆ is criminally responsible for:

Count 3: Persecutions on Political, Racial and Religious Grounds, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(h), and 7(1) and 7(3) of the Statute.

COUNTS 4, 5 and 6

EXTERMINATION, MURDER

61. **Radovan KARADŽIĆ** committed in concert with others, planned, instigated, ordered, and/or aided and abetted the extermination and murder of Bosnian Muslims and Bosnian Croats in the Municipalities, the extermination and murder of Bosnian Muslims from Srebrenica, and the murder of members of the civilian population of Sarajevo and/or persons not taking active part in the hostilities. In addition, **Radovan**

KARADŽIĆ knew or had reason to know that extermination and murder were about to be or had been committed by his subordinates, and he failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof.

62. As alleged in paragraphs 9 to 24, **Radovan KARADŽIĆ** participated in a joint criminal enterprise to permanently remove Bosnian Muslims and Bosnian Croats from territories of BiH claimed as Bosnian Serb territory; he participated in a joint criminal enterprise to spread terror among the civilian population of Sarajevo through a campaign of sniping and shelling; and he participated in a joint criminal enterprise to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys and forcibly removing the women, children and some elderly men. The crimes of extermination and/or murder formed part of the objectives of all three of these criminal enterprises.

63. The acts of extermination and murder that formed part of the objective to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory were carried out between March 1992 and 30 November 1995 by members of the Serb Forces and Bosnian Serb Political and Governmental Organs. They include:

- (a) killings during and after takeovers in the Municipalities including those listed in **Schedule A**; and
- (b) killings related to detention facilities in the Municipalities, including those listed in **Schedule B**, as well as killings committed during, and deaths resulting from, cruel and inhumane treatment at detention facilities listed in **Schedule C**.

64. Alternatively, as alleged in paragraph 10, if extermination and/or murder did not form part of this objective, it was foreseeable that such crimes ~~might~~ would probably be perpetrated by one or more members of the joint criminal enterprise to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory and/or by persons used by any such member(s) to carry out the crimes of deportation and forcible transfer. **Radovan KARADŽIĆ** was aware that extermination and/or murder were a probable ~~possible~~ consequence of the implementation of the objective to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territories and willingly took that risk.

65. The acts of murder that formed part of the objective to spread terror among the civilian population of Sarajevo through a campaign of sniping and shelling were carried out between April 1992 and November 1995 by members of the Sarajevo Forces. They include the deaths caused by sniping and shelling described in **Schedule F** and **Schedule G**.

66. The acts of extermination and murder that formed part of the objective to eliminate the Bosnian Muslims in Srebrenica were carried out between 11 July 1995 and 1 November 1995 by members of the Srebrenica Forces. They include:

- (a) organised executions, including those listed in **Schedule E (Part 1)**; and
- (b) opportunistic killings, including those listed in **Schedule E (Part 2)**.

67. Alternatively, as alleged in paragraph 10, it was foreseeable that one or more members of the overarching joint criminal enterprise to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory, and/or persons used by any such member(s) to carry out the crimes of deportation and forcible transfer, would probably ~~might~~ perpetrate these crimes of extermination and murder. **Radovan KARADŽIĆ** was aware that such acts of extermination and/or murder were a probable ~~possible~~ consequence of the implementation of this overarching objective, and willingly took that risk.

Radovan KARADŽIĆ is criminally responsible for:

Count 4: Extermination, a **CRIME AGAINST HUMANITY** punishable under Articles 5(b), and 7(1) and 7(3) of the Statute;

Count 5: Murder, a **CRIME AGAINST HUMANITY**, punishable under Articles 5(a), and 7(1) and 7(3) of the Statute; and

Count 6: Murder, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Articles 3, and 7(1) and 7(3) of the Statute.

COUNTS 7 and 8

DEPORTATION, INHUMANE ACTS

68. **Radovan KARADŽIĆ** committed in concert with others, planned, instigated, ordered, and/or aided and abetted the forcible transfer and

deportation of Bosnian Muslims and Bosnian Croats from the Municipalities and from Srebrenica. In addition, **Radovan KARADŽIĆ** knew or had reason to know that forcible transfer and deportation were about to be or had been committed by his subordinates, and he failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof.

69. As described below, between March 1992 and 30 November 1995, Serb Forces and Bosnian Serb Political and Governmental Organs forcibly displaced Bosnian Muslims and Bosnian Croats from areas within the Municipalities and within Srebrenica in which they were lawfully present either across a *de facto* or *de jure* border or internally without the crossing of a *de facto* or *de jure* border.

70. As alleged in paragraphs 9 to 14 **Radovan KARADŽIĆ** participated in a joint criminal enterprise to permanently remove Bosnian Muslims and Bosnian Croats from the territories of BiH claimed as Bosnian Serb territory by means which included the crimes of forcible transfer and deportation.

71. Beginning in March 1992, restrictive and discriminatory measures, arbitrary arrest and detention, harassment, torture, rape and other acts of sexual violence, killing, and destruction of houses and cultural monuments and sacred sites, all targeting Bosnian Muslims and Bosnian Croats in the Municipalities, as well as the threat of further such acts, caused Bosnian Muslims and Bosnian Croats to flee in fear. Others were physically driven out.

72. As a result of these acts, most of the Bosnian Muslims and Bosnian Croats from the Municipalities had been forcibly displaced by the end of

1992. However, acts of forcible displacement continued thereafter, including between January and March 1993 when Serb Forces attacked the Cerska (Vlasenica municipality) and Konjević Polje (Bratunac municipality) areas in eastern BiH, causing thousands of Bosnian Muslims to flee.

73. Many Bosnian Muslims who were forcibly displaced from their homes in Eastern Bosnia both during and after 1992, fled to the Srebrenica enclave. On 16 April 1993, the UN Security Council declared Srebrenica, Žepa, Goražde and Sarajevo (and their surroundings) as “safe areas” which were to be free from armed attack or any other hostile act.

74. Beginning in March 1995, with the objective of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory, **Radovan KARADŽIĆ** in concert with other members of this joint criminal enterprise implemented, and/or used others to implement, a plan to take over the Srebrenica enclave and forcibly transfer and/or deport its Bosnian Muslim population. Prior to the take over, humanitarian aid was restricted to the enclave, and civilian targets were shelled and sniped in an effort to make life impossible for the inhabitants of the enclave and to remove its population.

75. As described in paragraphs 45 to 46, in the days immediately preceding 11 July 1995, **Radovan KARADŽIĆ**, and others formed the shared objective to eliminate the Bosnian Muslims in Srebrenica by killing the men and boys and forcibly removing the women, children and some elderly men. The objective of its members was implemented between 11 July 1995 and 1 November 1995 through the killing of the men and boys of Srebrenica and the forcible removal of women, young children and some elderly men from the enclave. These acts of forcible transfer formed

part of the objective to eliminate the Bosnian Muslims in Srebrenica. Alternatively, these acts of forcible transfer formed part of the overarching objective to permanently remove Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory.

Radovan KARADŽIĆ is criminally responsible for:

Count 7: Deportation, a **CRIME AGAINST HUMANITY** punishable under Articles 5(d), and 7(1) and 7(3) of the Statute; and

Count 8: Inhumane Acts (forcible transfer), a **CRIME AGAINST HUMANITY** punishable under Articles 5(i), and 7(1) and 7(3) of the Statute.

COUNTS 9 and 10

TERROR, UNLAWFUL ATTACKS

76. **Radovan KARADŽIĆ** committed in concert with others, planned, instigated, ordered, and/or aided and abetted the crimes of terror and unlawful attacks on civilians. In addition, **Radovan KARADŽIĆ** knew or had reason to know that his subordinates were committing the crimes of terror and unlawful attacks on civilians or had done so. **Radovan KARADŽIĆ** failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

77. As alleged in paragraphs 15 to 19, **Radovan KARADŽIĆ** participated in a joint criminal enterprise to establish and carry out a campaign of sniping and shelling against the civilian population of Sarajevo, the primary purpose of which was to spread terror among the civilian population. This campaign included the crimes of terror and

unlawful attacks on civilians, as well as murder as alleged in paragraph 65. Members of this joint criminal enterprise shared the intent to spread terror among the civilian population of Sarajevo as the primary purpose of the campaign.

78. Armed hostilities broke out in Sarajevo around the time BiH was internationally recognised as an independent state on 6 April 1992. Around the same time, the city was subjected to blockade, bombardment and sniper attacks.

79. Between April 1992 and November 1995, **Radovan KARADŽIĆ** in concert with other members of this joint criminal enterprise, established and implemented, and/or used members of the Sarajevo Forces to establish and implement a military strategy that used sniping and shelling to kill, maim, wound and terrorize the civilian inhabitants of Sarajevo. The sniping and shelling killed and wounded thousands of civilians of both sexes and all ages, including children and the elderly.

80. The sniping and shelling campaign comprised direct attacks on the civilian population or on individual civilians not taking direct part in hostilities. Such attacks included indiscriminate attacks and excessive attacks which were disproportionate in relation to the concrete and direct military advantage anticipated.

81. The Sarajevo Forces sniped and shelled civilians as they conducted every-day civilian activities. People were injured and killed inside their homes. The lack of gas, electricity or running water, forced people to leave their homes, thereby increasing the risk of death. The constant threat of death and injury caused trauma and psychological damage to the civilian inhabitants of Sarajevo.

82. Specific instances of the sniping and shelling attacks forming part of the campaign, by way of illustrative examples, include the incidents set forth in **Schedule F** and **Schedule G** respectively.

Radovan KARADŽIĆ is criminally responsible for:

Count 9: Acts of Violence the Primary Purpose of which is to Spread Terror among the Civilian Population, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3, and 7(1) and 7(3) of the Statute; and

Count 10: Unlawful Attacks on Civilians, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, punishable under Articles 3, and 7(1) and 7(3) of the Statute.

COUNT 11

TAKING OF HOSTAGES

83. **Radovan KARADŽIĆ** committed in concert with others, planned, instigated, ordered, and/or aided and abetted the taking of UN military observers and peacekeepers as hostages. In addition, **Radovan KARADŽIĆ** knew or had reason to know that the taking of hostages was about to be or had been committed by his subordinates, and he failed to take the necessary and reasonable measures to prevent such acts or punish the perpetrators thereof.

84. As alleged in paragraphs 25 to 29, **Radovan KARADŽIĆ** participated in a joint criminal enterprise to take hostages in order to

compel NATO to abstain from conducting air strikes against Bosnian Serb military targets. Members of the joint criminal enterprise shared the intent to take hostages in order to compel NATO to abstain from air strikes.

85. In response to shelling attacks on Sarajevo and other areas of BiH by Bosnian Serb Forces, NATO forces carried out air strikes against Bosnian Serb military targets in BiH on 25 and 26 May 1995.

86. Between approximately 26 May 1995 and 19 June 1995, Bosnian Serb Forces detained over two hundred UN peacekeepers and military observers in various locations, including Pale, Sarajevo, Banja Luka, and Goražde and held them at various locations in the RS, including locations of strategic or military significance in order to render the locations immune from NATO air strikes and to prevent air strikes from continuing. Threats were issued to third parties, including NATO and UN commanders, that further NATO attacks on Bosnian Serb military targets would result in the injury, death, or continued detention of the detainees. Some of the detainees were assaulted or otherwise maltreated during their captivity.

87. During and after negotiations with Serbian and Bosnian Serb leaders, including **Radovan KARADŽIĆ**, the detainees were released in stages between 3 and 19 June 1995.

Radovan KARADŽIĆ is criminally responsible for:

Count 11: Taking of Hostages, a **VIOLATION OF THE LAWS OR CUSTOMS OF WAR**, as recognised by Common Article 3(1)(b) of the

Geneva Conventions of 1949, punishable under Articles 3, and 7(1) and 7(3) of the Statute.

GENERAL ALLEGATIONS

88. All acts and omissions charged as crimes against humanity, except those that formed part of the sniping and shelling campaign in Sarajevo, were part of a widespread or systematic attack directed against Bosnian Muslim and Bosnian Croat civilian populations of BiH. All acts and omissions charged as crimes against humanity that formed part of the sniping and shelling campaign in Sarajevo were part of a widespread or systematic attack directed against the civilian population of Sarajevo.

89. At all times relevant to this indictment, a state of armed conflict existed in BiH.

90. For all crimes charged as violations of Common Article 3 of the Geneva Conventions of 1949, the victims were persons taking no active part in hostilities.

91. **Radovan KARADŽIĆ** was required to abide by the laws and customs governing the conduct of armed conflicts, including the Geneva Conventions of 1949 and the Additional Protocols thereto.

Serge Brammertz
Prosecutor

Dated 20 May 2009
At The Hague
The Netherlands