

EXCERPTS FROM TIHOMIR BLAŠKIĆ TRIAL CHAMBER JUDGMENT

3 March 2000

Destruction of institutions dedicated to religion or education

Para 15. Under count 14, Tihomir Blaškić was accused of a violation of the laws or customs of war for the destruction or wilful damage done to Bosnian Muslim institutions dedicated to religion or education between August 1992 and June 1993 – in Duhri in August 1992, Busovača, Stari Vitez and Svinjarevo in 1993, Ahmići, Kiseljak, Gromiljak and Kazagići in April 1993, Hercezi, Han Ploča and Tulica in June 1993 and Višnjica in September 1993

Para 419. Several religious edifices were destroyed. The Defence did not deny the destruction of the mosque at Donji Ahmici or of the matif mesjid at Gornji Ahmici. However, it did maintain that the reason for this destruction was that “the school and church in Ahmici became locations of fighting following the attack by the Fourth Military Police Battalion”

Para 420. Conversely, the Prosecutor contended that “both mosques were deliberately mined and given the careful placement of the explosives inside the buildings, they must have been mined after HVO soldiers had control of the buildings”⁸⁷⁵ .

Para 421. The Trial Chamber notes at the outset that according to the witness Stewart, it was barely plausible that soldiers would have taken refuge in the mosque since it was impossible to defend. Furthermore, the mosque in Donji Ahmici was destroyed by explosives laid around the base of its minaret. According to the witness Kaiser, this was “an expert job” which could only have been carried out by persons who knew exactly where to place the explosives. The witness Zec stated that he had heard a Croatian soldier speaking on his radio asking for explosives “for the lower mosque in Ahmici”. The destruction of the minaret was therefore premeditated and could not be justified by any military purpose whatsoever. The only reasons to explain such an act were reasons of discrimination.

Para 422. The Trial Chamber notes that that mosque had just been built. The inhabitants of Ahmici had collected the money to build it and were extremely proud of its architecture

Para 423. It is undeniable that the matif mesjid in Gornji Ahmici was destroyed. The ECMM also noted the destruction of the mosque in the eastern quarter of the village

EXCERPTS FROM DARIO KORDIĆ AND MARIO ČERKEZ TRIAL CHAMBER JUDGMENT

28 February 2001

Destruction and damage of religious or educational institutions

206. This act is the same as the “destruction or willful damage done to institutions dedicated to religion”, a violation of the laws or customs of war enumerated under Article 3(d) of the Statute. This act has therefore already been criminalized under customary international law and the International Tribunal Statute in particular. Moreover, the IMT,²⁶⁷ the jurisprudence of this International Tribunal,²⁶⁸ and the 1991 ILC Report,²⁶⁹ inter alia, have all singled out the destruction of religious buildings as a clear case of persecution as a crime against humanity.

207. This act, when perpetrated with the requisite discriminatory intent, amounts to an attack on the very religious identity of a people. As such, it manifests a nearly pure expression of the notion of “crimes against humanity”, for all of humanity is indeed injured by the destruction of a unique religious culture and its concomitant cultural objects. The Trial Chamber therefore finds that the destruction and willful damage of institutions dedicated to Muslim religion or education, coupled with the requisite discriminatory intent, may amount to an act of persecution.

834 The Trial Chamber finds that in those cases where Kordić participated in the HVO attacks he intended to commit the crimes associated with them and did so. His role was as political leader and his responsibility under Article 7(1) was to plan, instigate and order the crimes. In making this finding the Trial Chamber relies on the evidence already referred to in relation to persecution. As a result, the Trial Chamber finds the accused Dario Kordić liable under Article 7(1) on the following counts:

(d) On Count 43 (destruction or willful damage to institutions dedicated to religion or education) in the following locations: Ahmići and Stari Vitez (April 1993) and Han Ploča (June 1993).

EXCERPT FROM RADISLAV KRSTIĆ TRIAL CHAMBER JUDGMENT

2 August 2001

Para 580. The Trial Chamber is aware that it must interpret the Convention with due regard for the principle of nullum crimen sine lege. It therefore recognizes that, despite recent developments, customary international law limits the definition of genocide to those acts seeking the physical or biological destruction of all or part of the group. Hence, an enterprise attacking only the cultural or sociological characteristics of a human group in order to annihilate these elements which give to that group its own identity distinct from the rest of the community would not fall under the definition of genocide. The Trial Chamber however points out that where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group. In this case, the Trial Chamber will thus take into account as evidence of intent to destroy the group the deliberate destruction of mosques and houses belonging to members of the group.

EXCERPT FROM BILJANA PLAVŠIĆ TRIAL CHAMBER JUDGMENT

27 February 2003

Para 44. Some 29 of the 37 municipalities listed in the Indictment possessed cultural monuments and sacred sites that were destroyed. This includes the destruction of over 100 mosques, 2 mektebs and 7 Catholic churches. Some of these monuments were located in the Foča, Višegrad and Zvornik municipalities, and dated from the Middle Ages. They were, quite obviously, culturally, historically and regionally significant sites. As one example, the Prosecution referred to the wanton destruction of the Alid'a mosque in Foča, which had been in existence since the year 1550. According to the witness, this mosque was a "pearl amongst the cultural heritage in this part of Europe". In addition to such destruction, the names of towns, were changed. Indeed, "[e]verything that in any way was reminiscent of the past, [...] was destroyed

EXCERPTS FROM RADOSLAV BRĐANIN TRIAL CHAMBER JUDGMENT

1 September 2004

(b) Destruction or willful damage done to institutions dedicated to religion

Para 640. The Trial Chamber is satisfied beyond reasonable doubt that there was willful damage done to both Muslim and Roman Catholic religious buildings and institutions in the relevant municipalities by Bosnian Serb forces.

Para 641. As a preliminary matter, the Trial Chamber is not satisfied that the destruction or willful damage to the following institutions dedicated to religion alleged in the Indictment, has been proved beyond reasonable doubt, as there is insufficient evidence: Donji Budelj Mosque; Humi}i Mosque; Krasulje Mosque; Sanica Mosque; D'amija Mosque; Ali} Mosque; and the Roman Catholic Churches in the towns of Bosanski Novi and Sanski Most

Para 642. Although the campaign of devastation of institutions dedicated to religion took place throughout the conflict, the Trial Chamber is satisfied that it intensified in the summer of 1992. The Trial Chamber finds that this concentrated period of significant damage to Muslim and Roman Catholic institutions dedicated to religion within the summer months of 1992, across the municipalities concerned, is indicative that the devastation was targeted, controlled and deliberate. These findings are based on the following incidents.

(i) Banja Luka

Para 643. On 9 April 1992, the Franciscan Monastery in Petri}evac was damaged. The investigations carried out established that the Monastery was hit by a missile from a hand held rocket launcher.

(ii) Bosanska Krupa

Para 644. The Bosanska Krupa town mosque was mined by Bosnian Serb forces in April 1992. As a result of ensuing explosion, the minaret fell. The Roman Catholic Church in town was also destroyed. The mosque in the village of Arapu {a was also destroyed by explosives.

(iii) Bosanski Novi

Para 645. In early May or June 1992, the town mosque in Bosanski Novi was shelled and set on fire by Bosnian Serb soldiers. The walls were badly damaged but the minaret remained standing. Heavy machinery was brought from Prijedor in order to knock down the minaret. When the mosque was destroyed, trucks arrived to remove the rubble from the mosque. The site was then flattened and used as a parking lot. The tombs of the cemetery were also removed.

Para 646. Other Muslim institutions dedicated to religion in the municipality of Bosanski Novi were targeted by Bosnian Serb forces. The Vidorije mosque was burned down in May 1992. The mosques in Prekosanje, Urije and Gornji Agi}i were also destroyed. During an attack by Bosnian Serb forces on Suha}a, the two mosques in the village were badly damaged by the shelling. The old wooden mosque in Blagaj Rijeka and its minaret was set on fire. The mosque in Blagaj Japra was also damaged. The minaret on the roof of the mosque in Donji Agi}i was blown off by an explosion and the roof structure collapsed.

(iv) Bosanski Petrovac

Para 647. The mosques in the centre of Bosanski Petrovac town, named Donji Bi}}ani and Srednji Bi} }ani were damaged by Bosnian Serb forces in July 1992. Following explosions, the minarets of the Donji Bi} }ani and Srednji Bi} }ani mosques fell to the ground. The

following days the rubble was cleared away by trucks. The minaret of the Rašinovac mosque was also blown up by Bosnian Serb forces.

(v) Čelinac

Para 648. The old wooden mosque in the town of Čelinac was mined. After the explosion, trucks cleared away what was left. The smaller mosque in town and the little Catholic Chapel at the exit from town were also destroyed by Bosnian Serb forces. The latter was destroyed in mid 1992.

(vi) Donji Vakuf

Para 649. The three mosques in the town of Donji Vakuf were targeted by Bosnian Serb forces. The main mosque called Baš-džamija was mined and as a result was completely destroyed. The rubble of this mosque was loaded on trucks and thrown in the river Vrbas and on its banks. The location of the mosque was subsequently turned into a parking lot. The other two mosques in town were set on fire. A number of mosques were also destroyed by Bosnian Serb forces in the municipality. Three of the four mosques in the village of Prusac were damaged in August or September 1992. The mosques were riddled with bullets and some of the minarets were destroyed. The mosque in the hamlet of [eherd`ik was destroyed by men wearing JNA uniforms on 9 August 1992. Due to the explosion, the walls of the mosque collapsed but part of the minaret was left standing. The mosque in the village of Sokolina was set on fire by men wearing olive grey uniforms in June 1992.

(vii) Ključ

Para 650. Mosques and other institutions dedicated to religion were destroyed in Ključ by Bosnian Serb forces. The Ključ town mosque and its minaret was destroyed in August 1992, during the night. The Biljani Mosque was set on fire in the morning of 10 July 1992 when the village was attacked by Bosnian Serb forces.

(viii) Kotor Varoš

Para 651. During attacks on villages in Kotor Varoš by Bosnian Serb forces in June and July 1992, the mosques in the villages of Vrbanjci and Hanifići were set on fire and mined. The Roman Catholic Church in the town of Kotor Varoš was also set on fire.

(ix) Prijedor

Para 652. The most systematic and brutal infliction of damage to both Muslim and Catholic institutions dedicated to religion occurred in Prijedor. In late August 1992 Bosnian Serb soldiers broke into the Roman Catholic Church in Prijedor to plant explosives in it. At 0100 hours the explosives detonated and destroyed the church. The police appeared indifferent to the reports on the events.

Para 653. In areas surrounding Prijedor town, institutions dedicated to religion were targeted by Bosnian Serb forces. In Briševo, the Bosnian Serb military burned down the Roman Catholic church. In Kamičani, the mosque was set on fire. The Mutnik mosque in Kozarac was destroyed in mid 1992. The minaret of the mosque in Kozaruša was badly damaged. The mosque in Gornja Puharska was razed to the ground. The new mosque in Kevljani was

completely destroyed by mines. The minaret and the mosque were blown up with explosives. The Gornji Jakupovići mosque's minaret was badly damaged by mines.

(x) Prnjavor

Para 654. The town mosque in Prnjavor was targeted twice. On the first occasion it was damaged, and on the second it was razed to the ground. Attacks by Bosnian Serb forces also took place in Prnjavor municipality. The mosque in Lišnja was damaged by shelling and set on fire in 1992, by Bosnian Serb forces. The mosque in Purači was blown up.

(xi) Sanski Most

Para 655. Mosques in Sanski Most were also subject to major damage by Bosnian Serb forces. The mosques in the villages of Čapalj, Hrustovo, Lukavice, Kamengrad and Tomina were destroyed in 1992 by the Bosnian Serb forces.

(xii) Šipovo

Para 656. In Šipovo, the Staro Šipovo, Bečnjevo and Pljeva mosques were bombed during the night on 7 August 1992 by Bosnian Serb forces. The mosques and their minarets were completely destroyed and the tombstones in the vicinity were also damaged.

(xiii) Teslić

Para 657. In the town of Teslić, the Roman Catholic Church was demolished during an attack by the Serb forces in mid 1992. The mosques in the surrounding villages of Barići and Ruđevići were also destroyed by Bosnian Serb forces.

(xiv) Conclusions

Para 658. The Trial Chamber is satisfied beyond reasonable doubt that during the period covered in the Indictment, Bosnian Serb forces deliberately targeted the Muslim and Roman Catholic religious institutions mentioned above. The evidence has shown that such religious institutions were not used for military purposes. The Trial Chamber therefore finds that the damage to Muslim and Roman Catholic religious institutions in the above municipalities were in violation of Article 3(d) of the Statute.

Para 1022. Earlier in this judgement, the Trial Chamber established the extensive destruction and appropriation of non-Serb property located in areas predominantly inhabited by Bosnian Muslims and Bosnian Croats during the period relevant to the Indictment.²⁵⁷³ The Trial Chamber also found that Muslim and Roman Catholic institutions dedicated to religion were targeted and suffered severe damage during the summer months of 1992. Unlike non-Serb property, Bosnian Serb property was systematically left intact and only sporadically damaged. The Trial Chamber, therefore, finds that the destruction and appropriation of non-Serb property and religious buildings was discriminatory in fact.

Para 1023. The Trial Chamber is satisfied that the destruction, willful damage and looting of residential and commercial properties in the parts of towns, villages and other areas inhabited

predominantly by a Bosnian Muslim and Bosnian Croat population and destruction of, or willful damage to, Bosnian Muslim and Bosnian Croat religious and cultural buildings in the instant case occupy the same level of gravity as the other crimes enumerated in Article 5 of the Statute.

Para 1024. With regard to the requisite mens rea, the Trial Chamber finds that the circumstances surrounding the commission of the acts of destruction and appropriation of property and the destruction or damage to religious buildings, such as the marking of Bosnian Muslim and Bosnian Croat houses to be destroyed and the destruction and subsequent flattening of non-Serb religious sites and their subsequent use as parking lots, are indicative that the acts were carried out with the intent to discriminate on racial, religious or political grounds

EXCERPTS FROM ENVER HADŽIHASANOVIĆ I AMIR KUBURA TRIAL CHAMBER JUDGMENT

15 March 2006

Para 57. The Chamber subscribes to the definition of the Kordić Chamber according to which the crime of destruction or willful damage to institutions dedicated to religion is constituted when “the destruction or damage is committed willfully and the accused intends by his acts to cause the destruction or damage of institutions dedicated to religion (...) and not used for a military purpose.”

Para 58. The Chamber considers that the elements of the offence of destruction or willful damage to institutions dedicated to religion exist under Article 3(d) of the Statute when: (i) a religious institution is destroyed or damaged; (ii) the damaged or destroyed property was not used for military purposes and, (iii) the act was carried out with the intent to damage or destroy the property in question.

Para 59. The Chamber considers the willful nature of the destruction or damage to be established when the perpetrator acted intentionally, with the knowledge and will of the proscribed result, or in reckless disregard of the likelihood of the destruction.

Para 60. The Chamber notes that it is sufficient for the damaged or destroyed institution to be an institution dedicated to religion, and that there is no need to establish whether it represented the cultural heritage of a people. The Hague Regulations of 1907, which form part of customary international law and provide the basis for Article 3 of the Statute, afford protection to “buildings dedicated to religion, art, science, or charitable purposes, historic monuments (...) provided they are not being used at the time for military purposes”, without requiring that these buildings represent the cultural heritage of a people.

Para 61. The Chamber considers that the provisions of the Hague Convention of 1954 and the Additional Protocol dealing with cultural property have scopes of application different from Article 3(d) of the Statute. Unlike the Statute, Article 53 of the Additional Protocol I and Article 1 of the Hague Convention of 1954 afford protection solely to property which “constitute[s] the cultural or spiritual heritage of peoples” or which is “of great importance to the cultural heritage of every people”. Moreover, the protection afforded by the Hague Convention of 1954 and by Additional Protocol I is broader than that afforded by Article 3(d) of the Statute. While Tribunal case law at times waives the principle of protection of religious institutions when they are used for military purposes, Additional Protocol I prohibits all acts of hostility against protected property, thereby providing no such waiver. The Hague Convention of 1954 waives the obligation to protect only in cases where military necessity imperatively requires such a waiver.

Para 62. The Chamber is of the opinion that to constitute an offence punishable by Article 3 of the Statute, the destruction of or damage to institutions dedicated to religion need not be carried out in the context of military action. It is sufficient for the offence stipulated in Article 3(d) of the Statute to be closely linked to the hostilities.

Para 63. The Chamber recalls that the crime of destruction or willful damage to institutions dedicated to religion must satisfy the conditions for applying Article 3 of the Statute, particularly that dealing with the gravity of the offence. That condition is met when the damage or destruction constitutes a breach of a rule protecting important values and involves grave consequences for the victim. The Chamber notes that while civilian property is afforded general protection under customary international law, special attention is paid to certain property, namely religious buildings, owing to their spiritual value. Because those values go beyond the scope of a single individual and have a communal dimension, the victim here must not be considered as an individual but as a social group or community. The Chamber considers that the destruction of or damage to the institutions referred to in Article 3(d) of the Statute constitutes grave breaches of international law when the destruction or damage is sufficiently serious to constitute desecration. The Chamber considers that the seriousness of the crime of destruction of or damage to institutions dedicated to religion must be ascertained on a case-by-case basis, and take much greater account of the spiritual value of the damaged or destroyed property than the material extent of the damage or destruction.

Para 64. The Chamber finds that the offence of destruction of or damage to institutions dedicated to religion is constituted when a religious building not being used for military purposes has been willfully damaged or destroyed. Religious institutions are protected under Article 3(d) of the Statute, regardless of whether they are part of the cultural heritage of peoples.

EXCERPTS FROM [MOMČILO KRAJIŠNIK TRIAL CHAMBER JUDGMENT](#)

27 September 2006

Persecution as a crime against humanity

(k) Destruction of cultural monuments and sacred sites

Para 780. Paragraph 19(k) of the indictment charges the Accused with persecution through “intentional or wanton destruction of ... public property, including cultural monuments and sacred sites listed in Schedule D”.

Para 781. The destruction of cultural property may have a severe impact on persons who value that property. The Kordić and Čerkez Trial Chamber held that the destruction of religious property, “when perpetrated with the requisite discriminatory intent, amounts to an attack on the very religious identity of a people. As such, it manifests a nearly pure expression of the notion of ‘crimes against humanity’”.

Para 782. The Chamber considers that the destruction of cultural property as an underlying act of persecution is to be understood as destruction or damage of an institution dedicated to religion, charity, education, or the arts and sciences, historic monuments and works of art and science, when the perpetrator acted with the intent to destroy or damage that property or in the reckless disregard of the substantial likelihood of the destruction or damage.

(d) Forced transfer or deportation

Para 808. The Chamber further finds that Muslims and Croats were forced to leave or were expelled from the municipalities on the basis of their ethnicity. As was described in part 5.3.2, above, many Muslims and Croats were forced to leave their homes due to the discriminatory measures instituted by Serb authorities and the violence directed specifically at them. Their expulsion was often accompanied by the destruction of religious sites and property of significance to these groups. In a number of municipalities, Muslims and Croats were forced to sign over their property to Serb authorities, as a precondition for their departure. Orthodox churches were never destroyed and Serb property was not looted or confiscated.

Legal findings / Destruction of cultural monuments and sacred sites

Para 836. The Chamber finds that more than 200 cultural or religious sites, mainly mosques, but also Catholic churches, the majority of which are referred to in schedule D of the indictment, were heavily damaged or destroyed by Serb forces in 26 municipalities, namely Bijeljina, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Bratunac, Brčko, Čajniče, Čelinac, Doboј, Foča, Ilijaš, Kalinovik, Ključ, Kotor Varoš, Nevesinje, Novi Grad, Prijedor, Prnjavor, Rogatica, Sanski Most, Sokolac, Teslić, Trnovo, Višegrad, Vogošća, and Zvornik. The Chamber did not receive sufficient evidence to conclude that several of the mosques

listed in schedule D of the indictment were destroyed by Serb forces, during the period of the indictment, or within an indictment municipality.

Para 837. The Chamber finds that Serb forces intentionally and wantonly destroyed the mosques, churches, and other religious monuments referred to above. Mosques were often destroyed using explosives and then further demolished with heavy machinery.

Para 838. As the monuments and sites were Muslim and, in some instances Croat, the Chamber finds that destruction was discriminatory in fact. The Chamber finds that the Muslim and Croat monuments and sites were targeted specifically as religious symbols for the respective ethnic groups. For example, the Hasanbegova mosque in Sanski Most was destroyed by members of the 6th Krajina Brigade, and afterwards a parking lot was laid on top of the cemetery. When a mosque in the centre of Brčko town was burning, soldiers expressed satisfaction at the mosque's destruction and told firemen not to put out the fire. The Chamber finds that Serb forces destroyed mosques in order to wipe out traces of the Muslim culture and religion.

Para 839. The Chamber also finds that the destruction of the cultural monuments and sacred sites was committed in the context of a wider discriminatory attack against Muslims and Croats in the indictment municipalities, as described in part 5.1.2, above. In conclusion, the Chamber finds that the destruction was carried out on discriminatory grounds. 840. The Chamber finds that the destruction of cultural monuments and sacred sites was part of the widespread and systematic attack against the Muslim and Croat civilian population. The Chamber therefore finds that the destruction of cultural monuments and sacred sites constitutes persecution as a crime against humanity.

EXCERPTS FROM MIĆO STANIŠIĆ AND STOJAN ŽUPLJANIN TRIAL
CHAMBER JUDGMENT Vol 1 of 3

27 March 2013

Wanton destruction of towns and villages, including destruction or willful damage done to institutions dedicated to religion and other cultural buildings.

Para 86. Wanton destruction of towns or villages is a war crime under Article 3(b) of the Statute. Destruction or willful damage done to institutions dedicated to religion and other cultural buildings is a war crime under Article 3(d). Destruction of property, depending on the nature and extent of the destruction, may constitute a crime of equal gravity to other crimes listed in Article 5(h). Moreover, where the wanton destruction is committed on discriminatory grounds, it may constitute persecution.

Para 87. In order to prove wanton destruction of towns or villages as persecution, as a crime against humanity, the Prosecution must prove the general requirements of a crime against humanity, the specific requirements of persecution, and the following elements of the underlying offence:

- (d) the destruction of property occurs on a large scale
- (e) the destruction is not justified by military necessity; and,
- (f) the perpetrator acted with the intent to destroy the property in question or in reckless disregard of the likelihood of its destruction.

Para 88. The Appeals Chamber in *Blaškić* has implicitly held that the destruction of religious or cultural property as persecution, as a crime against humanity, is subsumed under the broader category of “destruction of property”, otherwise known as “wanton destruction”. In *Milutinović et al.*, the Trial Chamber extrapolated the elements of the destruction or damage of religious or cultural property as persecution, as a crime against humanity, from the Tribunal’s jurisprudence regarding the elements of Article 3(d) of the Statute, as well as the jurisprudence dealing with destruction of property as an underlying offence of persecution as a crime against humanity. This Trial Chamber follows the same approach and finds that, in order to prove the destruction or willful

damage done to institutions dedicated to religion and other cultural buildings as persecution, as a crime against humanity, the Prosecution must prove the general requirements of crimes against humanity, the specific requirements of persecution, and the following elements of the underlying offence:

- (a) the destruction or damage of the religious or cultural property occurs on a large scale;
- (b) the destruction or damage of the religious or cultural property is not justified by military necessity; and,
- (c) the perpetrator acted with the intent to destroy or damage the religious or cultural property or in reckless disregard of the likelihood of its destruction or damage.

Para 89. In order to rise to the level of equal gravity of the enumerated crimes under Article 5 of the Statute, and therefore constitute persecution, Trial Chambers have held that the impact of the deprivation of destroyed property must be serious, such as where the property is indispensable, a vital asset to the owners, or the means of existence of a given population. Therefore, if the property in question is not destroyed, the damage to it must be on a large scale in order to satisfy the equal gravity requirement. In this context, the terms “destruction” and “damage” are given their plain and common meanings, where the former term signifies demolition or reduction to a useless form, and the latter refers to physical injury or harm to an object that impairs its usefulness or value.

27 March 2013

Župljanin's conduct in relation to commission of crimes against non-Serbs in ARK Municipalities

Para 527. The Trial Chamber is satisfied that the possibility that Serb Forces could carry out the wanton destruction and damage of religious and cultural property of Muslims and Croats in a concerted effort to eliminate their historical moorings during and following the takeover of the ARK Municipalities was also sufficiently substantial as to be foreseeable to Stojan Župljanin and that he willingly took the risk.

Para 528. The Trial Chamber has found that the imposition and maintenance of discriminatory measures; the unlawful detentions; the killings; the establishment and perpetuation of inhumane living conditions; the torture, cruel treatment, and inhumane acts; the plunder of property; and the wanton destruction and damage of religious and cultural property in the ARK Municipalities were committed with a discriminatory intent. Considering the ethnically charged character of the armed conflict, the existence of a widespread and systematic attack against the Muslim and Croat population, and Župljanin's knowledge of such an attack, the Trial Chamber finds that the possibility that Serb Forces could commit these crimes with a discriminatory intent, thereby committing the crime of persecution as a crime against humanity, was sufficiently substantial as to be foreseeable to Stojan Župljanin and that he willingly took that risk

Stanišić's responsibility for crimes outside scope of JCE

Para 778. Finally, the Trial Chamber finds that the wanton destruction and damage of religious and cultural property found to be carried out in a concerted effort to eliminate the historical moorings of the Bosnian Muslims and Bosnian Croats during and following the takeover of the Municipalities was foreseeable to Mićo Stanišić in the course of the execution of the common plan. The Trial Chamber is satisfied that the possibility that these crimes could be committed with a discriminatory intent in the execution of the common plan was sufficiently substantial as to be foreseeable to Mićo Stanišić and that he willingly took that risk.

Para 779. Considering that the Trial Chamber has found that the crimes of unlawful detention; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts; establishment and perpetuation of inhumane

living conditions in the detention facilities; appropriation of property and plunder; and wanton destruction and damage of religious and cultural property were all committed with a discriminatory intent, the Chamber further is satisfied that they comprise underlying acts of persecution, the possibility of which was sufficiently substantial as to be foreseeable to Mićo Stanišić and that he willingly took that risk.

EXCERPTS FROM [RADOVAN KARADŽIĆ TRIAL CHAMBER JUDGMENT](#)

24 March 2016

Para 553. The Genocide Convention and customary international law prohibit only the physical and biological destruction of a group, not attacks on cultural or religious property or symbols of the group. However, while such attacks may not constitute underlying acts of genocide, they may be considered evidence of intent to physically destroy the group.

Scheduled Incident D.22

The Indictment refers to the destruction of at least 28 mosques in Zvornik between April and November 1992.

Para 1355. By the morning of 9 April 1992, a Serbian flag was flying “over the main Mosque at the market place in Zvornik” and Serbian music was played through the loudspeakers on the Minarets. The minarets from two other mosques were destroyed in the shelling of the previous day. In April 1992, Serb Forces also entered Kamenica and destroyed four mosques.

Para 1356. On or about 18 July 1992, some of the mosques in the surrounding area of Zvornik and the mosque in the centre of Zvornik were demolished by a group of men described as “saboteurs” from Pančevo; they loaded the copper from the demolished mosques and took it in vehicles to Serbia under the escort of army commandos.

Para 1357. According to Riedlmayer’s report, a total of 29 mosques and two Muslim shrines were damaged in Zvornik during the course of the war. The Chamber notes that with respect to three of these mosques, Riedlmayer describes them as “lightly damaged”. The Chamber therefore finds that at least 26 mosques in Zvornik were heavily damaged, almost destroyed, or completely destroyed. Riedlmayer identified a number of mosques in Zvornik municipality which have now been razed and used as dumping sites for garbage or other constructions. With respect to the Divič mosque, a Serbian Orthodox church was built on the site of the destroyed mosque.

Para 1358. The Chamber has considered the evidence it has received which identified Serb Forces as responsible for the destruction of specific mosques in Zvornik town and

surrounding villages. It has also had regard to the fact that with very few exceptions, almost all mosques in the municipality sustained serious damage or were completely destroyed after Serb Forces took over power. Finally, the Chamber has assessed the evidence received with respect to the surrounding circumstances in Zvornik, including the attacks on and take-over of multiple Bosnian Muslim villages by Serb Forces in the relevant time frame. Having weighed these factors, the Chamber is satisfied beyond reasonable doubt that Serb Forces were responsible for the attacks on and destruction of mosques in Zvornik.

Para 1359. Therefore, the Chamber finds that at least 26 mosques were heavily damaged, almost destroyed or completely destroyed by Serb Forces from April 1992.

Para 2552. The Chamber recalls its finding that Serb Forces completely destroyed, almost destroyed, or heavily damaged multiple mosques, Catholic churches and other cultural monuments and sacred sites in Bratunac, Bosanski Novi, Foča, Ključ, Novi Grad, Prijedor, Rogatica, Sanski Most, Sokolac, and Zvornik. The Chamber finds that the Serb Forces intended to destroy these monuments and sites. In reaching that conclusion the Chamber had regard to the nature and extent of the damage to these monuments and sites and the manner in which they were destroyed. For example, the Chamber notes evidence that Bosnian Serb fire brigades stood by and watched while mosques were burnt in Foča. Many of the mosques were completely destroyed by explosives; the rubble was removed from the site and the location was later used for other purposes including as garbage dumps and parking lots.

Para 2554. The Chamber finds that the destruction of these mosques, cultural monuments, and sacred sites was not justified by military necessity. For example, with regard to Foča, where the Accused argued that certain mosques were used for military purposes in Foča, the Chamber concluded that this evidence was unreliable and further that there was no other indication that the mosques were used for military purposes.

Para 2555. The Chamber also finds that these acts of wanton destruction of private and public property, including cultural monuments and sacred sites, were carried out with discriminatory intent against Bosnian Muslims and Bosnian Croats. In reaching that conclusion the Chamber noted that in some cases adjacent Bosnian Serb homes were untouched and there were notes which identified them as Serb property that should not be torched. In addition, fire engines were used to protect Bosnian Serb houses while Bosnian Muslim houses burned. In an attack on a Bosnian Muslim village in Vlasenica, Serb Forces were specifically ordered to torch all Bosnian Muslim houses and told “you can see for yourselves that if we don’t set fire to these houses, they’ll return later on”.

Para 2556. With respect to the cultural monuments and sacred sites, the Chamber found that the sites destroyed were targeted given their significance to the Bosnian Muslim or Bosnian

Croat people in those locations and were discriminatory in fact and were carried out with discriminatory intent.

Para 2557. Having considered the nature and extent of the private and public property destroyed, the Chamber finds that the impact of the destruction was serious given that it affected indispensable and vital assets of the population, including homes and religious sites. The Chamber therefore finds that these acts of wanton destruction of private and public property amounted to a denial of or infringement upon a fundamental right and were of equal gravity to the other crimes listed under Article 5 of the Statute.

Para 2558. Further, the Chamber found that there was a widespread and systematic attack against the Bosnian Muslim and Bosnian Croat civilian populations of BiH. The Chamber finds that the acts of wanton destruction were part of this widespread and systematic attack and the perpetrators of these acts knew of the attack and that their crimes were part of it. In reaching that conclusion the Chamber considered the locations, time period, and the identity of the victims of these acts, which correspond with the scope of the widespread and systematic attack, as well as the magnitude and systematic nature of the attack on the Bosnian Muslim and Bosnian Croat civilian populations of BiH.

Para 2559. The Chamber therefore finds that these incidents of wanton destruction of private and public property, including cultural monuments and sacred sites, constitute acts of persecution as a crime against humanity.

