

**UNITED  
NATIONS**

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

Case No. IT-06-90-A  
Date: 10 August 2012

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**IN THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, Presiding  
Judge Carmel Agius  
Judge Patrick Robinson  
Judge Mehmet Güney  
Judge Fausto Pocar

**Registrar:** Mr. John Hocking

**THE PROSECUTOR**

v.

**ANTE GOTOVINA  
MLADEN MARKAČ**

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**PUBLIC**

**PROSECUTION SUPPLEMENTAL BRIEF ON ALTERNATIVE  
MODES OF LIABILITY FOR ANTE GOTOVINA**

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**THE INTERNATIONAL CRIMINAL TRIBUNAL  
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**I. OVERVIEW**

1. If the Chamber erred in finding Gotovina “liable for unlawful artillery attacks or [...] a member of a [JCE]”,<sup>1</sup> the Appeals Chamber should still find Gotovina liable under Counts 1-2, 4-9 of the Indictment for the crimes of persecutions, deportation, murder, wanton destruction, plunder, other inhumane acts and cruel treatment. While the Chamber did not make express findings on modes of liability other than JCE,<sup>2</sup> its findings (and the evidence it relied upon) establish Gotovina’s liability for these crimes under aiding and abetting and Art.7(3).

2. The Chamber found that the fear instilled by the shelling attack during Operation Storm (“Storm”) was the primary and direct cause<sup>3</sup> of the mass flight of more than 20,000 Serb civilians from the Krajina and that the HV and SP committed deportation.<sup>4</sup> Tuđman and other senior leaders shared an intent to drive the Serb civilians out of the Krajina,<sup>5</sup> and used the HV and SP to implement their criminal

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<sup>1</sup> Appeals Chamber’s Order of 20 July 2012 (“Order”).

<sup>2</sup> Judgement, para.2375.

<sup>3</sup> Judgement, paras.1743-1744.

<sup>4</sup> Judgement, paras.1710, 2305.

<sup>5</sup> Judgement, para.1995; *generally* Judgement, 6.2.3.

objective through Storm.<sup>6</sup> Gotovina knew that the intent behind the attack was to force the Serbs out, that the crimes of deportation and persecutions would probably occur and that his acts would assist the commission of those crimes. Nonetheless, Gotovina participated in planning the shelling attack<sup>7</sup> and specifically ordered the HV's assault on the towns.<sup>8</sup> As such, Gotovina's actions had a substantial effect on the crimes of deportation and persecutions. Gotovina's guilt for aiding and abetting these crimes does not depend on the categorisation of the artillery attack<sup>9</sup> nor on Gotovina's membership in the JCE.

3. Gotovina also aided and abetted further crimes of murder, inhumane acts and cruel treatment, destruction, plunder and persecutions, by ordering his subordinates into the Krajina after the initial attack knowing they would probably commit such crimes and creating a permissive environment that encouraged their commission. In failing to prevent or punish these crimes, he is also responsible under Art.7(3).

4. This Brief addresses only aiding and abetting and Art.7(3) liability.<sup>10</sup> However, the Prosecution also maintains that the findings which establish Gotovina's aiding and abetting also establish the modes of planning, ordering and instigating.<sup>11</sup>

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<sup>6</sup> Judgement, paras.2316, 2320.

<sup>7</sup> Judgement, paras.1971, 1975, 1977, 1979, 1982, 1995, 2324.

<sup>8</sup> Judgement, paras.1185, 2324.

<sup>9</sup> The underlying act used to carry out a deportation need not be unlawful in itself: *See* Appeal Hearing, AT.83, 100-101. *Also* AT.94-95.

<sup>10</sup> In accordance with the Order.

<sup>11</sup> *See* FTB, paras.124-128; Prosecution Response Brief (Gotovina), fn.1112. In the Appeals Hearing, the Prosecution referred to aiding and abetting, Art.7(3) liability and instigation only as examples of alternative modes of liability: AT.102. By planning and ordering the artillery attack, Gotovina planned, ordered and instigated acts with the awareness of the substantial likelihood that deportation and persecutions would be committed and is thus liable for planning, ordering and instigating those crimes (*see Kordić* AJ, paras.30-31). For ordering, Gotovina's liability is limited to HV crimes. Further, Gotovina's deployment of vengeful troops and failure to prevent and punish their crimes amounted to planning, ordering and instigating post-shelling crimes.

## II. GOTOVINA IS GUILTY OF DEPORTATION (THROUGH SHELLING) AND PERSECUTIONS (DEPORTATION)

### A. Through the shelling attack, Gotovina aided and abetted deportation and persecutions

#### *1. Deportation and persecutions (deportation) were committed*

5. The Chamber's findings that deportation and persecutions (deportation) were committed<sup>12</sup> stand even without the unlawful attack and Gotovina's JCE membership findings. Tudman and other senior leaders shared the intent to force the Serb civilian population out of the Krajina and repopulate it with ethnic Croats.<sup>13</sup> They used the HV and SP to carry out the attack in Storm to achieve their goals.<sup>14</sup> They committed deportation and persecutions.

6. The Chamber made clear findings on Tudman's policies, plans and intentions regarding the Krajina Serbs.<sup>15</sup> For its overall findings, the Chamber relied in part on the evidence of US Ambassador Galbraith,<sup>16</sup> who frequently dealt with Tudman<sup>17</sup> and other senior leaders. It also relied upon "concrete manifestations [of intent], such as decrees, laws and political programs."<sup>18</sup> These were consistent with Galbraith's evidence. Galbraith recalled that Tudman saw Serbs as a threat to Croatia.<sup>19</sup> Tudman espoused an ideology of ethnic homogeneity and population transfers, and aimed to redress the ethnic balance in the Krajina.<sup>20</sup> He had plans to repopulate the Krajina and other liberated territories with ethnic Croats.<sup>21</sup> These views and policies were long-standing. In 1992<sup>22</sup> and 1993,<sup>23</sup> Tudman expressed his preference for ethnic homogeneity and his view that ethnically mixed societies were unsustainable.

<sup>12</sup> Judgement, paras.1710, 2305.

<sup>13</sup> Judgement, paras.1991-1995, 2053-2057, 2097-2098, 2310, 2314.

<sup>14</sup> Judgement, paras.2316, 2320.

<sup>15</sup> See Judgement, paras.2048-2058.

<sup>16</sup> E.g. Judgement, paras.2048-2049, 2053, 2057, 2091, 2098.

<sup>17</sup> Judgement, para.1998.

<sup>18</sup> See Judgement, paras.2048-2058.

<sup>19</sup> Judgement, para.1999.

<sup>20</sup> Judgement, para.1999.

<sup>21</sup> Judgement, paras.2001, 2028-2033, 2035-2041, 2053-2054, 2060, 2316.

<sup>22</sup> E.g. Exh.P459, pp.6, 16 (cited at Judgement, para.1999 (hereafter "cited")).

<sup>23</sup> Exhs.P444, paras.68, 70 (cited at Judgement, paras.1998-2003); also P452, pp.2-4.

7. Tudman ensured his ideas were transformed into policy and action.<sup>24</sup> He was actively involved in implementing discriminatory property laws, which were central to ensuring that once Serbs had left, they did not return.<sup>25</sup> Before Storm, Tudman advocated bringing Croat émigrés from abroad into many thousands of Serb homes abandoned in Western Slavonia after Operation Flash.<sup>26</sup> He discussed populating deserted homes and areas with ethnic Croats to address “Croatia’s demographic situation”.<sup>27</sup> By the time of Storm, enabling legislation was already at an advanced stage in Parliament.<sup>28</sup>

8. The Chamber found that Tudman wanted the Serb population to leave the Krajina permanently.<sup>29</sup> The Chamber also found, based on the content alone, that the Croatian leadership’s discussions at Brioni were “not about the protection of civilians but about civilians being forced out.”<sup>30</sup> In July 1995, Galbraith recognised, and warned of, the threat to Krajina Serb civilians given his knowledge of Tudman’s policies, “and because Serbian civilians had been attacked in previous Croatian military operations, such as Medak and Flash.”<sup>31</sup> These previous operations had resulted in the forced displacement of Serbs from those territories.<sup>32</sup>

9. The Chamber’s findings on Tudman’s intent and plans for the Krajina were further confirmed by his statements and actions after Storm. On 26 August 1995, he addressed a public gathering in Knin, declaring it “Croatian Knin”, and calling the Serbs a “cancer” that had previously plagued the Croatian nation.<sup>33</sup> On 5 August 1996, Tudman boasted, “we have returned [King] Zvonimir’s Croatian town [Knin] to the fold of its motherland, Croatia, as pure as it was in Zvonimir’s time.”<sup>34</sup>

10. Tudman also made clear that Serbs who had fled could not return.<sup>35</sup> Galbraith concluded that since this was Tudman’s policy, it was also Croatia’s policy.<sup>36</sup>

<sup>24</sup> Judgement, paras.2049 (“chief decision maker”), 2316.

<sup>25</sup> Judgement, paras.2001, 2093-2098, 2308-2309.

<sup>26</sup> Judgement, paras.2060 *citing* Exh.P2711; 2093.

<sup>27</sup> Judgement, para.2055. *Also* paras.2028-2033, 2035-2041, 2054. *E.g.* Exh.P462, pp.14-16 (cited at Judgement, para.2061), where members discuss the property laws and how to ensure the Serbs’ “final removal”.

<sup>28</sup> Judgement, para.2060 *citing* Radić, T.27238. *Also* Exh.P2711, pp.7-9, Bagić, T.26496-26498 (cited at Judgement, para.2073).

<sup>29</sup> *E.g.* Judgement, paras.2056-2057, 2098, 2312, 2314.

<sup>30</sup> Judgement, paras.1991-1995 (quote at para.1995).

<sup>31</sup> Judgement, para.2003.

<sup>32</sup> Judgement, para.2003 *citing* Exh.P444, paras.22-24, 66, 79.

<sup>33</sup> Judgement, paras.2009, 2306. *Also* Exh.P473, pp. 3-4; AT.98-99, 167-181.

<sup>34</sup> Judgement, para.2006.

Immediately following the Krajina Serbs' flight, Tuđman and Croatian officials did "everything they conceivably could to not have [the Serbs] back."<sup>37</sup> In August 1995, when US envoy Holbrooke repeatedly pressured Tuđman to give Krajina Serbs the right to return, Tuđman refused to change his policies and responded he "would be very content if about 10% of them returned".<sup>38</sup>

11. Tuđman planned for the Croatian diaspora to resettle in the Krajina.<sup>39</sup> Tuđman sought to house 380,000 refugees and displaced persons in Serb homes, to correct the "historical injustice" of Serb settlement.<sup>40</sup> Immediately following Storm, development projects to re-settle the Krajina began.<sup>41</sup> "These measures aimed at ensuring the removal of the Krajina Serb population became permanent".<sup>42</sup>

12. The Chamber found that other senior Croatian figures, such as Šarinić, Šušak, Červenko and Radić, shared and participated in achieving Tuđman's persecutory objective to permanently remove the Serb population by force, or threat of force.<sup>43</sup> "Around him Tuđman gathered a group of political and military officials who worked together with him to achieve the objective [of the JCE]."<sup>44</sup> Šarinić also described Serbs as "a cancer on the stomach of Croatia".<sup>45</sup> Šušak and Červenko participated in important meetings with Tuđman where population demographics and the plan to remove the Serb population were discussed.<sup>46</sup> Šušak boasted to Galbraith that the Croatian use of psy-ops in Storm got the Serb civilian population out of the Krajina.<sup>47</sup> Radić used his governmental position to further Tuđman's goal of repopulating the Krajina with Croats.<sup>48</sup>

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<sup>35</sup> Judgement, para.2000.

<sup>36</sup> Judgement, para.2000 *citing* Exh.P445, para.15; *also* Exh.P444, para.33: "President Tuđman was very much focused and very clear that they should not come back."

<sup>37</sup> Exh.P444, para.81, Galbraith, T.5115-5119 (cited at Judgement, para.2001); *also* Judgement, para.2312, Exh.P445, para.15; Galbraith, T.5113, Exh.P599, para.4 (cited at Judgement, paras.1711, 2080, 2102).

<sup>38</sup> Judgement, para.2004 *citing* Exh.P449, p.17.

<sup>39</sup> Judgement, paras.2001, 2305. *Also* para.2316.

<sup>40</sup> Judgement, para.2008; Exh.P2712, p.1.

<sup>41</sup> Radić, T.27210 (Radić's evidence cited at Judgement, paras.2093, 2425).

<sup>42</sup> Judgement, para.2312.

<sup>43</sup> Judgement, paras.2314, 2317-2318.

<sup>44</sup> Judgement, para.2317.

<sup>45</sup> Judgement, para.2000.

<sup>46</sup> Judgement, para.2317.

<sup>47</sup> Exh.P444, para.61, Galbraith, T.4941-4942 (cited). *Also* Exh.P598, pp.4-6 (cited at Judgement, paras.1711-1712, 2080-2081, 2102, 2287) – Rehn considered Jarnjak and Šušak also did everything they could to keep the Serbs from coming back.

<sup>48</sup> Judgement, para.2318.

13. A 31 August 1995 US embassy cable reported that Croatia's aim was to "ethnically cleanse" the Krajina to make room for 1,000,000 Croatian refugees.<sup>49</sup> Galbraith confirmed this reflected the thinking of Croatian officials.<sup>50</sup> Tudman and other senior leaders used the HV and SP to implement their criminal objective through Storm.<sup>51</sup>

**2. Gotovina aided and abetted deportation and persecutions (deportation)**

(a) Gotovina knew the intent behind the attack was to force the Serbs out of the Krajina and that deportation and persecutions would probably occur

14. The Chamber made all the necessary findings to establish Gotovina's *mens rea* for aiding and abetting deportation and persecutions (deportation). Gotovina knew of the senior leadership's intent to deport the Serb population *via* Storm, and that deportation and persecutions would probably result from the artillery attack.<sup>52</sup> When he planned and ordered the shelling, he knew this would assist deportation and persecutions of the Krajina Serbs. These findings remain intact irrespective of the unlawful attack finding or Gotovina's JCE membership.

15. Tudman and the senior leadership's aims were no secret. Tudman openly discussed his opinions on ethnic homogeneity. He "did not feel he had to mask these views";<sup>53</sup> he would say what he thought and did.<sup>54</sup> Other Croatian officials were also direct in stating that the Croatian goal was to ethnically cleanse the region.<sup>55</sup>

16. Gotovina was privy to the Croatian leadership's objectives because of his senior military position and his interactions with them.<sup>56</sup> He was also one of the closest associates of Šušak,<sup>57</sup> who shared the intent to expel Serb civilians.<sup>58</sup>

<sup>49</sup> Judgement, para.2002 *citing* Exh.P446, p.1.

<sup>50</sup> Judgement, para.2002.

<sup>51</sup> Judgement, paras.2316, 2320.

<sup>52</sup> *See Simić* AJ, para.86; *Mrkšić* AJ, para.49; *also Martić* TJ, para.79, fn.150.

<sup>53</sup> Exh.P444, para.32 (cited).

<sup>54</sup> Exh.P444, para.74 (cited).

<sup>55</sup> Exh.P444, para.65 (cited).

<sup>56</sup> *E.g.* Judgement, paras.72-73, 75, 78, 96, 1971, 1989, 2324, 2356-2357, 2370-2371, 2374.

<sup>57</sup> Judgement, para.2016.

<sup>58</sup> Judgement, paras.2317, 2320.



Tudman's beliefs on repopulating the Krajina formed part of his public political statements, making them impossible to ignore.

17. Gotovina's knowledge of the leadership's aims was further augmented during Operation Flash which "liberated" Western Slavonia. On 11 May 1995, Galbraith publicly raised concerns about Serbs being removed from their homes during Flash.<sup>59</sup> By mid-May, Croatia's senior leadership estimated that no more than a thousand Serb civilians remained in Western Slavonia, thereby solving the "Serb problem" there.<sup>60</sup> Prior to Storm, Tudman had discussed repopulating abandoned houses in Western Slavonia<sup>61</sup> and the necessary legislation was at an advanced stage.<sup>62</sup> On 2 August, Gotovina and others discussed the experiences in Flash.<sup>63</sup>

18. Similarly, the HV take-over of Dinara mountains preceding Storm involved the shelling of towns, including deliberately targeting harvest areas around Cetina,<sup>64</sup> intended to frighten civilians,<sup>65</sup> and causing their flight.<sup>66</sup> Forand sent Gotovina two protest letters, denouncing the attacks and their impact on civilians.<sup>67</sup> It was clear to Gotovina that shelling Krajina towns would likewise result in the Serb civilians' flight.

19. With this knowledge, Gotovina participated in Brioni, to plan Storm. The Chamber found that, from the content of the Brioni discussions alone, the participants were aware of the difficult situation of the Krajina Serbs, in particular in Knin, and that they knew that it would not require much effort to force them out.<sup>68</sup> The discussion was "about civilians being forced out."<sup>69</sup> Furthermore, Tudman's comments during that meeting—regarding demoralisation and panic among Serb

<sup>59</sup> Exhs.P444, para.66 (cited). *Also* Granić, T.24665 (cited at Judgement, para.2013).

<sup>60</sup> Exh.P2495, p.9; Bagić, T.26496-26498; Galbraith, Exh.P444, para.24 (cited).

<sup>61</sup> Judgement, paras.2060, *citing* Exh.P2711; 2073, 2093.

<sup>62</sup> *Above*, para.7.

<sup>63</sup> Lausić, Exh.P2159, paras.146, 153-156, 160 (cited at Judgement, para.2146). *Also* Exhs.D1454, pp.8-9 (cited at Judgement, para.1988); P515, p.2.

<sup>64</sup> Exh.P204, p.2; Tchernetsky, T.3173-3175 (both cited at Judgement, para.580). *Also* Exhs.P744, p.1 (cited at Judgement, para.1602), P99, p.8; Marti, T.4589-4593 (Marti cited at Judgement, para.1663).

<sup>65</sup> Exh.P417, para.20 (cited at Judgement, para.1567); Exh.P286, p.3 (cited at Judgement, para.1530).

<sup>66</sup> PW-136, T.666-669, 794 (cited at Judgement, para.1571); P-54, T.2780-2781 (cited at Judgement, para.1559). *Also* Exh.D513, regarding civilian flight following shelling in Strmica.

<sup>67</sup> Judgement, para.2334 *citing* Exhs.P334, P335.

<sup>68</sup> Judgement, paras.1995, 2310-2311 (the finding in this paragraph is independent of the Chamber's subsequent reference to an unlawful attack). On the discussions at Brioni, *also* AT.98-99, 167-181. *Also*, Exh.P458, p.9.

<sup>69</sup> Judgement, para.1995.

civilians,<sup>70</sup> the need for a pretext to strike with artillery,<sup>71</sup> and his proposals to use propaganda show the civilian population the road out<sup>72</sup>—must be considered in light of Gotovina’s prior knowledge of Tudman’s policies and plans. Gotovina’s own words at the meeting confirm that he knew that an attack would cause civilian flight, which would not be temporary.<sup>73</sup> Gotovina knew that deportation would result, just as Tudman and others intended.

20. Gotovina’s knowledge is further demonstrated by the Plan of Security Measures appended to his Storm attack order, which required “[c]ollecting and transporting the population trapped in liberated territory to collection centres.”<sup>74</sup> This plan recognised that most of the population would flee the attack as intended, echoing Gotovina’s prediction at Brioni that only those who could not leave would remain.<sup>75</sup>

(b) Gotovina’s actions substantially contributed to the crimes

21. The Chamber found that the fear instilled by the shelling attack (lawful or not) was the primary and direct cause of the civilian flight from the Krajina towns.<sup>76</sup> It also found that Gotovina planned the shelling and ordered the attack on the four towns.<sup>77</sup> These findings establish that Gotovina’s actions substantially contributed to deportation and persecutions (deportation). These findings apply irrespective of whether the order and the attack were unlawful themselves.<sup>78</sup>

22. Once Storm was underway, reports early on 4 August informed Gotovina that deportation was occurring and that his acts were assisting its commission. An OG North intelligence report at 8:30 a.m. noted “great panic” in Knin. Another intelligence report referenced the large-scale civilian departure.<sup>79</sup> Gotovina neither modified his order nor made any attempt to mitigate its impact on civilians. The

<sup>70</sup> Judgement, paras.1974-1975, 2311.

<sup>71</sup> Judgement, para.1975 *citing* Exh.P461, p.10.

<sup>72</sup> Judgement, paras.1981, 1983, 1991; Exh.P461, pp.23, 29.

<sup>73</sup> Judgement, paras.1977, 2304 *citing* Exh.P461, p.15.

<sup>74</sup> Exh.P1126, p.3.

<sup>75</sup> Judgement, para.2304; *also* para.2374, Exh.P444, para.66 “[p]eople were clearly rounded up and sent to what amounted to a ‘way-station’ on the way out of Croatia. [...] I had seen the same thing after Operation Flash”.

<sup>76</sup> Judgement, paras.1743-1745.

<sup>77</sup> Judgement, para.2370.

<sup>78</sup> *See Blagojević* AJ, paras.196, 202; *Popović* TJ, paras.2010-2012.

<sup>79</sup> Exh.P1113, p.381 (cited at Judgement, para.1696).

shelling attack continued regardless until mid-day on 5 August when the HV troops entered the town.<sup>80</sup>

23. Gotovina made these contributions knowing that the deportation and persecutions would probably result and that he was assisting in those crimes. Gotovina is guilty of aiding and abetting deportation and persecutions (deportation).

**B. Gotovina aided and abetted deportation (through post-shelling crimes) and persecutions (deportation)**

24. Gotovina also aided and abetted deportation and persecutions caused by HV and SP crimes committed after the initial attack (collectively the “post-shelling crimes”). The Chamber found that the HV and SP committed those crimes with “the intent to forcibly displace the Krajina Serb victims and witnesses”<sup>81</sup> and that the crimes “created an environment in which [the civilians] had no choice but to leave”.<sup>82</sup> Gotovina knew that the crimes would probably occur<sup>83</sup> and that similar crimes in past Croatian operations had resulted in deportation.<sup>84</sup>

25. Gotovina substantially contributed to the post-shelling crimes, and the resulting deportation and persecutions, by ordering his subordinates into the Krajina knowing that they would probably commit these offences, and by creating a permissive environment that encouraged commission of these crimes.<sup>85</sup> He knew these acts would assist and encourage these crimes. His failure to prevent these crimes by his subordinates or punish the perpetrators’ crimes also establishes his liability under Art.7(3).<sup>86</sup>

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<sup>80</sup> Judgement, paras.1325, 1333.

<sup>81</sup> Judgement, para.1757.

<sup>82</sup> Judgement, paras.1756-1757.

<sup>83</sup> Part IV.A.1.

<sup>84</sup> Above, paras.7, 17.

<sup>85</sup> Part IV.A.2. *Also Galić* TJ, para.168 *citing Akayesu* TJ, para.480; *Blaškić* TJ, para.279; *Kordić* TJ, para.386.

<sup>86</sup> Part IV.B.

### **III. PERSECUTIONS THROUGH DISCRIMINATORY MEASURES**

26. In the event that Gotovina is not found to be a member of the JCE, the Prosecution does not pursue alternative modes of liability for persecution through discriminatory measures.<sup>87</sup>

### **IV. GOTOVINA IS GUILTY OF MURDER, OTHER INHUMANE ACTS AND CRUEL TREATMENT, DESTRUCTION, PLUNDER AND PERSECUTIONS AS AN AIDER AND ABETTOR AND UNDER ART.7(3)**

27. The post-shelling operations were characterised by two months of the HV and SP committing murder, inhumane acts and cruel treatment, destruction, plunder and persecutions of the Serbs. The Chamber found that these crimes were proved beyond reasonable doubt.<sup>88</sup>

28. The Judgement contains all necessary findings to establish that Gotovina aided and abetted the HV and SP crimes. Even before launching Storm, Gotovina knew that HV and SP members would probably commit discriminatory and violent offences against Serbs. Yet he created and perpetuated a permissive environment which encouraged and facilitated these crimes.

29. The Judgement also establishes Gotovina's responsibility as a superior for his failure to prevent or punish the HV's crimes.

#### **A. Gotovina aided and abetted the post-shelling crimes**

30. Knowing that HV and SP members would probably commit discriminatory and violent offences against the Serbs, Gotovina planned and ordered their deployment, and created and perpetuated a permissive environment for the commission of crimes in the Krajina. Gotovina aided and abetted their crimes.

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<sup>87</sup> See Judgement, paras.2325-2326.

<sup>88</sup> The Chamber's findings for each of the post-shelling crimes are set out in the Annex.

**1. Gotovina anticipated HV and SP crimes**

31. Even before he launched Storm, Gotovina expected that crimes by the HV and SP would follow. “[T]he context of ethnic tensions, based in part on the past commission of violent crimes in the former RSK area, was common knowledge [...] and [...] Gotovina was aware of this context at the outset of Operation Storm.”<sup>89</sup> Gotovina told Forand that crime “was a way to take revenge for events in 1991.”<sup>90</sup> Likewise, he considered it “human nature to hate an enemy who had burned, looted, and expelled one’s family.”<sup>91</sup> The Chamber found that Gotovina knew that HV and SP forces sought revenge because of the history of ethnic conflict.<sup>92</sup>

32. Further, Šušak specifically warned Gotovina of the risk of “uncontrolled conduct (torching, looting, etc),”<sup>93</sup> “put[ting] Gotovina on further notice of the possibility of the commission of crimes during and following Storm.”<sup>94</sup> Gotovina knew this from his own experience:<sup>95</sup> days earlier, the SplitMD had received reports of widespread crime committed by SplitMD units in Operation Summer.<sup>96</sup> Although the Chamber did not consider it could determine “whether reports on crimes during Operation Summer accurately reflect the reality,”<sup>97</sup> the fact of the reports themselves gave clear notice of property crimes committed by units who were then deployed to Storm.

33. Gotovina also knew that the Serbs who remained after Storm would be vulnerable to revenge crimes. He knew that only those “who [had] no possibility of leaving” would remain.<sup>98</sup> This greatly increased “the opportunity for [the HV and SP] to commit crimes against the property of Krajina Serbs”.<sup>99</sup>

34. Given his anticipation of property crimes, and the toxic mixture of ethnic tension, revenge sentiments and vulnerable victims, the Chamber reasonably determined that Gotovina knew that violent and discriminatory crimes were likewise

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<sup>89</sup> Judgement, para.2373.

<sup>90</sup> Judgement, para.2365. *Also* para.2345.

<sup>91</sup> Judgement, para.2347.

<sup>92</sup> Judgement, para.2374. *Also* paras.2345, 2365, 2373.

<sup>93</sup> Judgement, para.1987.

<sup>94</sup> Judgement, para.2374.

<sup>95</sup> *E.g.* Exhs.P1126, p.3; P71, p.69.

<sup>96</sup> *E.g.* Exh.P71, pp.43, 47, 49-50. *Also* Exh.P2665, p.2.

<sup>97</sup> Judgement, para.2367.

<sup>98</sup> Judgement, para.1977.

<sup>99</sup> Judgement, para.2373.

“possible consequences”.<sup>100</sup> While this conclusion was framed in the context of JCE III liability,<sup>101</sup> the strong underlying findings are equally apposite to meeting the aiding and abetting probability standard. These findings are bolstered further by Gotovina’s personal experience of the “chaos” in Knin on 6 August.<sup>102</sup>

## **2. Gotovina substantially contributed to HV and SP crimes**

35. With this knowledge, Gotovina planned Storm, and ordered his troops’ deployment into the area, thereby creating the environment in which the crimes could occur. The Chamber found that Gotovina’s “failures to make a serious effort to prevent and follow-up on crimes” also had “an impact on the general atmosphere towards crimes in the [SplitMD]”,<sup>103</sup> further encouraging and facilitating criminal activity. It also concluded that, “[i]n relation to crimes against Serbs, Gotovina failed to take measures to have subordinates punished for crimes.”<sup>104</sup>

36. Further incidents noted by the Chamber confirm Gotovina’s conspicuous disregard for the Serbs’ safety. He declined to implement ancillary measures which might have stopped or mitigated the post-shelling crimes, thus encouraging and facilitating them. For example, measures to restrict HV troops’ access to alcohol and to impose curfew—suggested “following negative experiences during Operation Flash”—were not implemented.<sup>105</sup> Yet Gotovina was willing to employ such measures when he wished, e.g. in Jajce (BiH) on 22 September.<sup>106</sup> Likewise, measures to restrict HV troops’ off-duty freedom of movement were not imposed—and then only in part—until almost two weeks after the crimes had begun.<sup>107</sup> Orders addressing spoils of war were issued similarly late, and were focused more on regulating what was criminal activity rather than on preventing or punishing such activity.<sup>108</sup>

37. This conduct establishes Gotovina’s substantial contribution and thereby his liability as an aider and abettor.

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<sup>100</sup> Judgement, para.2374.

<sup>101</sup> *E.g.* Judgement, para.2372.

<sup>102</sup> *Below* para.45.

<sup>103</sup> Judgement, para.2370. *Further below*, paras.46-47.

<sup>104</sup> Judgement, para.2365.

<sup>105</sup> Judgement, para.2146.

<sup>106</sup> *E.g.* Exh.P1142.

<sup>107</sup> Judgement, para.2357. *Also* para.2151 (Laušić recommending broader measures, three days before).

<sup>108</sup> *E.g.* Judgement, para.2354.

38. Gotovina's conduct in planning Storm and its aftermath not only encouraged and facilitated crimes by his HV subordinates but also those by the SP. Gotovina was the *de jure* superior of HV units deployed in Storm and possessed overall responsibility for the command of the operation.<sup>109</sup> He co-ordinated with Markač to plan it.<sup>110</sup> He briefed Tudman.<sup>111</sup> HV soldiers over whom he exercised effective control formed the majority of the personnel deployed,<sup>112</sup> and were highly visible. The unchecked behaviour of one group affected the other.

**3. Gotovina is guilty of aiding and abetting post-shelling crimes**

39. Gotovina's actions amount to aiding and abetting murder, cruel treatment and other inhumane acts, destruction, plunder and persecutions. Knowing that the HV and SP would probably commit these crimes and that his acts would assist their commission, he provided practical assistance, encouragement and moral support to the perpetrators and substantially contributed to their commission.

**B. Gotovina is also guilty of post-shelling crimes under Art.7(3)**

40. Gotovina is also responsible as a superior for knowingly failing to prevent or punish the crimes committed by his HV subordinates.<sup>113</sup> The findings establish that Gotovina failed both to prevent and punish each criminal incident, with the exception of incidents 47, 64 and 68 in the Annex. For these crimes, the Prosecution relies only on Gotovina's failure to prevent.

**1. Gotovina possessed effective control over relevant HV soldiers**

41. Gotovina's *de jure* position as commander of the SplitMD<sup>114</sup> and operational commander of Storm<sup>115</sup> is undisputed. His status was matched by his effective control; he had the material ability to prevent and punish his subordinates' conduct.<sup>116</sup>

<sup>109</sup> Judgement, paras.69, 72, 75. *Also* para.194.

<sup>110</sup> *E.g.* Judgement, paras.80, 2324, 2560.

<sup>111</sup> Judgement, paras.1975-1983.

<sup>112</sup> Judgement, para.98.

<sup>113</sup> Annex, incidents 1-3, 5, 7-8, 10-11, 13-15, 17-21, 23-24, 27-28, 30-31, 33-40, 42-47, 49-53, 55, 58-59, 61-64, 67-68, 70 (committed by HV soldiers). *Also* Prosecution Response Brief (Gotovina), paras.284-307 (general discussion of issues relevant to Art.7(3)).

<sup>114</sup> Judgement, paras.73, 75.

<sup>115</sup> Judgement, paras.72, 75.

<sup>116</sup> Judgement, para.1963; *also* para.2365.

He deployed and commanded SplitMD (and attached units) popularly and effectively,<sup>117</sup> including in and after Storm.<sup>118</sup>

42. HV units involved in the crimes included the 15HGR,<sup>119</sup> the 7GBR,<sup>120</sup> and the 4GBR.<sup>121</sup> VP units also engaged in criminal activity.<sup>122</sup> All relevant units were formally subordinated to Gotovina within the SplitMD,<sup>123</sup> and were under his effective control. For example,

- Gotovina re-organised and deployed these units;<sup>124</sup>
- Gotovina appointed his subordinates to lead these units,<sup>125</sup> and relied upon them for a crucial part of his attack plan;<sup>126</sup>
- Gotovina demanded, and received, regular reports;<sup>127</sup>
- Gotovina re-tasked these units as he saw fit.<sup>128</sup>

43. Gotovina also demonstrated the material ability to punish his subordinates.<sup>129</sup> Moreover, he had issued concrete and detailed orders to repress HV criminal activity in places such as Drvar<sup>130</sup> in contrast with his non-assertive and vague orders for the Krajina.<sup>131</sup>

## ***2. Gotovina knew or had reason to know of HV crimes***

44. Before Storm, Gotovina expected HV crimes against the Serbs: he had reason to know of HV soldiers' imminent crimes as early as 4 August.<sup>132</sup> His knowledge only deepened as time passed. "Gotovina received reports from his subordinates, was briefed at regular meetings, was present in Sector South on several occasions during

<sup>117</sup> Judgement, para.72.

<sup>118</sup> Judgement, para.78.

<sup>119</sup> E.g. Annex, incidents 45, 47, 50, 52.

<sup>120</sup> E.g. Annex, incident 2.

<sup>121</sup> E.g. Annex, incidents 3, 8, 43.

<sup>122</sup> E.g. Annex, incident 42.

<sup>123</sup> E.g. Judgement, paras.74-75, 78, 115-118, 121-122, 125, 130, 145-146.

<sup>124</sup> E.g. Judgement, paras.78, 98.

<sup>125</sup> Judgement, para.78.

<sup>126</sup> Judgement, para.82.

<sup>127</sup> E.g. Judgement, para.78.

<sup>128</sup> Judgement, paras.86, 89.

<sup>129</sup> Judgement, para.144. Also paras.131-132.

<sup>130</sup> Judgement, para.2361.

<sup>131</sup> Below, para.47.

<sup>132</sup> Above, paras.31-34.



the Indictment period, and was informed by international observers (from July to October 1995) about the occurrence and magnitude of crimes”.<sup>133</sup> The Chamber’s findings establish that Gotovina was at the head of a professional structure which existed to feed him relevant information, and that he did in fact know, or had reason to know, of the crimes being committed.

45. Gotovina’s appreciation of the situation on the ground was supplemented by his presence while crimes were being committed. He established a forward command post in Knin,<sup>134</sup> and was present there on 6 August. That day, columns of smoke from burning villages were visible in the sky around the city.<sup>135</sup> Gotovina described the situation in Knin as “complete chaos”, a “disgrace”, and compared the behaviour of Croatian forces to “[b]arbarians and vandals”.<sup>136</sup>

### **3. Gotovina failed to prevent or punish HV crimes**

46. Although Gotovina issued “a number of orders between 2 and 18 August [...] instructing units to prevent crimes”,<sup>137</sup> the Chamber found their adequacy as necessary and reasonable measures depended “to a high degree” on the effectiveness of the follow-up measures taken by Gotovina to ensure compliance.<sup>138</sup> Consistent with the permissive environment he created and perpetuated,<sup>139</sup> these follow-up measures were wholly insufficient. He also “failed to take measures to have subordinates punished for crimes committed”, and thereby “failed to prevent future crimes” occurring in the cycle of criminal violence prevailing in the Krajina.<sup>140</sup>

47. Only Gotovina’s 10 August order contained arguably clear measures to prevent crimes.<sup>141</sup> Its inadequacy was demonstrated by its late timing (after half the criminal incidents had already occurred),<sup>142</sup> its non-assertive nature<sup>143</sup> and its

<sup>133</sup> Judgement, para.2363. *Also* paras.78, 2153, 2333, 2342, 2344, 2352, (subordinates’ reports); paras.2336, 2340, 2345-2348 (international reports). *Further* para.2366.

<sup>134</sup> Judgement, para.96.

<sup>135</sup> Judgement, para.2339.

<sup>136</sup> Judgement, para.2337.

<sup>137</sup> Judgement, para.2364.

<sup>138</sup> Judgement, para.2364.

<sup>139</sup> *Above*, paras.35-36.

<sup>140</sup> Judgement, para.2365. *Also* *Strugar* AJ, para.301.

<sup>141</sup> *Compare* Judgement, para.2332, *with* paras.2330-2331, 2357.

<sup>142</sup> Annex, incidents 1-35. *See* Judgement, para.2364.

<sup>143</sup> Judgement, para.2365. *Also* para.2351.

contradiction by his other actions.<sup>144</sup> Far from preventing crime, Gotovina's conduct signalled that crimes against the Serbs were permissible and feasible. His orders were not "a serious effort".<sup>145</sup>

48. Likewise, Gotovina failed to take necessary and reasonable measures to punish offenders directly or to ensure that others would do so.<sup>146</sup> Although the Chamber accepted that Gotovina initiated or approved some disciplinary measures against subordinates,<sup>147</sup> it found that the crimes required more rigorous investigation and potential punishment through criminal proceedings<sup>148</sup> and that Gotovina knew this.<sup>149</sup> Yet only "rarely" did Gotovina use his authority over the VP to initiate criminal investigations.<sup>150</sup>

49. Any reasonable expectation that subordinates would carry out Gotovina's responsibilities to prevent and punish was negated by his knowledge that "crimes were allegedly being committed" and that his subordinates "were not carrying out their duties properly."<sup>151</sup> It was necessary and reasonable for Gotovina to "adjust his focus and priorities" to enforce compliance.<sup>152</sup> This entailed punishing violators where necessary and taking other appropriate steps to reinforce discipline and deter non-compliance.<sup>153</sup> Gotovina did neither.

#### **4. Gotovina is guilty under Art.7(3) for the post-shelling crimes**

50. The Chamber made all necessary findings to convict Gotovina under Art.7(3) for the murders, other inhumane acts and cruel treatment, destruction, plunder and persecutions committed by his HV subordinates.

## **V. CONCLUSION**

51. If the Chamber erred in its findings on the artillery attack and Gotovina's membership in a JCE, Gotovina should be convicted of aiding and abetting

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<sup>144</sup> Judgement, paras.2355-2356. At the material times, the crimes continued: *e.g.* Annex, incidents 36-46.

<sup>145</sup> Judgement, para.2370.

<sup>146</sup> Judgement, para.2365.

<sup>147</sup> Judgement, para.2365. *But see* paras.2358, 2362.

<sup>148</sup> *See Hadžihasanović* AJ, para.152.

<sup>149</sup> Judgement, para.2365.

<sup>150</sup> Judgement, para.2365.

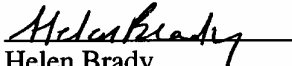
<sup>151</sup> Judgement, para.2365.

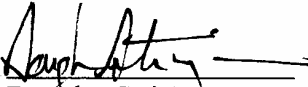
<sup>152</sup> Judgement, para.2365.

<sup>153</sup> Judgement, para.2365.

persecutions, deportation, murder, wanton destruction and plunder, other inhumane acts and cruel treatment under Counts 1-2, 4-9 of the Indictment. His concurrent liability under Art.7(3) for the post-shelling crimes and deportation and persecution through these crimes should be considered in sentencing.<sup>154</sup> Given the gravity nature of the crimes and Gotovina's role, the Prosecution submits that the same 24 year sentence would be warranted.

Word Count: 4,963

  
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Dated this 10<sup>th</sup> day of August 2012  
At The Hague, The Netherlands

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<sup>154</sup> *Blaškić* AJ, paras.91-92. Also *Kajelijeli* AJ, para.81; *Kordić* AJ, paras.34-35.

## VI. GLOSSARY

### Pleadings, Orders, Decisions etc. from *Prosecutor v. Ante Gotovina & Mladen Markač*, Case No. IT-06-90

| Abbreviation used in Supplemental Briefing | Full citation   |
|--|---|
| Appeals Hearing                            | <i>Prosecutor v. Ante Gotovina &amp; Mladen Markač</i> , Case No. IT-06-90-A, AT.12-AT.225, 14 May 2012   |
| FTB  | <i>Prosecutor v. Ante Gotovina, Ivan Čermak &amp; Mladen Markač</i> , Case No. IT-06-90-T, Prosecution's Public Redacted Final Trial Brief, 2 August 2010                       |
| Indictment                                 | <i>Prosecutor v. Ante Gotovina, Ivan Čermak &amp; Mladen Markač</i> , Case No. IT-06-90-T, Amended Joinder Indictment, 12 March 2008  |
| Judgement                                  | <i>Prosecutor v. Ante Gotovina, Ivan Čermak &amp; Mladen Markač</i> , Case No. IT-06-90-T, T.Ch., Judgement, 15 April 2011 (public with confidential appendix)                  |
| Order                                      | <i>Prosecutor v. Ante Gotovina &amp; Mladen Markač</i> , Case No. IT-06-90-A, Order for Additional Briefing, 20 July 2012   |
| Prosecution Response Brief (Gotovina)      | <i>Prosecutor v. Ante Gotovina &amp; Mladen Markač</i> , Case No. IT-06-90-A, Prosecution Response to Ante Gotovina's Appeal Brief, 29 September 2011 (redacted public version) |

### Other ICTY authorities

| Abbreviation used in Supplemental Briefing | Full citation   |
|--|---|
| <i>Blaškić</i> AJ                          | <i>Prosecutor v. Tihomir Blaškić</i> , Case No.IT-95-14-A, Judgement, 29 July 2004                  |
| <i>Blaškić</i> TJ                          | <i>Prosecutor v. Tihomir Blaškić</i> , Case No.IT-95-14-T, Judgement, 3 March 2000                  |
| <i>Blagojević</i> AJ                       | <i>Prosecutor v. Vidoje Blagojević and Dragan Jokić</i> , Case No.IT-02-60-A, Judgement, 9 May 2007 |
| <i>Galić</i> TJ                            | <i>Prosecutor v. Stanislav Galić</i> , Case No.IT-98-29-T, Judgement and Opinion, 5 December 2003   |

|                          |  |
|--------------------------|--|
| <i>Hadžihasanović</i> AJ | <i>Prosecutor v. Enver Hadžihasanović and Amir Kubura</i> , Case No.IT-01-47-A, Judgement, 22 April 2008 |
| <i>Kordić</i> AJ         | <i>Prosecutor v. Dario Kordić and Mario Čerkez</i> , Case No.IT-95-14/2-A, Judgement, 17 December 2004   |
| <i>Kordić</i> TJ         | <i>Prosecutor v. Dario Kordić and Mario Čerkez</i> , Case No.IT-95-14/2-T, Judgement, 26 February 2001   |
| <i>Martić</i> TJ         | <i>Prosecutor v. Milan Martić</i> , Case No.IT-95-11-T, Judgement, 12 June 2007                          |
| <i>Mrkšić</i> AJ         | <i>Prosecutor v. Mile Mrkšić and Veselin Šljivančanin</i> , Case No.IT-95-13/1-A, Judgement, 5 May 2009  |
| <i>Popović</i> TJ        | <i>Prosecutor v. Vujadin Popović et al.</i> , Case No.IT-05-88-T, Judgement, 10 June 2010                |
| <i>Simić</i> AJ          | <i>Prosecutor v. Blagoje Simić</i> , Case No.IT-95-9-A, Judgement, 28 November 2006                      |
| <i>Strugar</i> AJ        | <i>Prosecutor v. Pavle Strugar</i> , Case No.IT-01-42-A, Judgement, 17 July 2008                         |

**ICTR authorities**

| <b>Abbreviation used in Supplemental Briefing</b> | <b>Full citation</b>  |
|---|---|
| <i>Akayesu</i> TJ                                 | <i>Prosecutor v. Jean-Paul Akayesu</i> , Case No.ICTR-96-4-T, Judgement, 2 September 1998 |
| <i>Kajelijeli</i> AJ                              | <i>Prosecutor v. Juvénal Kajelijeli</i> , Case No.ICTR-98-44A-A, Judgement, 23 May 2005   |

**Other Abbreviations**

| <b>Abbreviation used in Supplemental Briefing</b> | <b>Full citation</b>      |
|---|---------------------------|
| 4GBR  | 4th Guards Brigade        |
| 7GBR  | 7th (Puma) Guards Brigade |
| 15HGR   | 15th Home Guards Regiment |

|         |  |
|---------|--|
| Art.    | Article  |
| AT.     | Appeals Transcript   |
| BiH     | Bosnia and Herzegovina   |
| Chamber | Trial Chamber in <i>Prosecutor v. Ante Gotovina, Ivan Čermak &amp; Mladen Markač</i> , Case No. IT-06-90-T |
| Croatia | Republic of Croatia  |
| Exh.    | Exhibit  |
| Exhs.   | Exhibits   |
| Flash   | Operation Flash  |
| HV      | <i>Hrvatska Vojska</i> – Croatian Army   |
| JCE     | Joint Criminal Enterprise  |
| Medak   | Operation Medak Pocket   |
| OG      | Operation Group  |
| para.   | Paragraph  |
| paras.  | Paragraphs   |
| p.      | Page   |
| pp.     | Pages  |
| RSK     | Republika Srpska Krajina (Republic of Serb Krajina)  |
| SP      | Special Police of the Ministry of the Interior of Croatia / Collective Special Police Forces               |
| SplitMD | Split Military District  |
| Storm   | Operation Storm  |
| T.      | Trial Transcript   |
| US      | United States  |
| VP      | military police  |

*Public*  
Annex

Findings in the Judgement concerning post-shelling crimes  
(annotated with indication of Prosecution position in Supplemental Brief concerning liability of  
Ante Gotovina by way of Articles 7(1) and 7(3))

*Note on classification of perpetrators. The term "HV" denotes Croatian Army forces, and includes "VP" (military police) and troops described in the Judgement as "Croatian military forces" but for which the surrounding context confirms status as HV. The term "SP" indicates Special Police only. Where "HV or SP" or "HV and SP" is indicated, this reflects the finding in the Judgement.*

| Incident | Location          | Date       | Crime  | Victim(s) / affected property  | Perpetrators | Fact analysis (Judgement paras.) | Legal analysis (Judgement paras.) | Prosecution position on Art.7(1) liability <sup>1</sup> | Prosecution position on Art.7(3) liability <sup>2</sup> |
|----------|-------------------|------------|--|--|--------------|----------------------------------|-----------------------------------|---|---|
| 1        | Kakanj (Kistanje) | 4–6 August | Destruction (Ct 5)                                 | Radoslav and Nikola Ognjenović's haystacks; Marko Ognjenović's house; two other houses; haystack; windows and doors on various homes; 3 dogs; 1 sheep; Dragan Šarić's stable | HV           | 768–771                          | 1772, 1775                        | Yes   | Yes   |
|          |                   |            | Plunder (Ct 4)                                     | Radoslav Ognjenović's television; items from houses; food and drink from 2 shops   | HV           | 768–771                          | 1785, 1789                        | Yes   | Yes   |
|          |                   |            | Persecution (Ct 1)                                 | Radoslav Ognjenović Nikola Ognjenović Marko Ognjenović   | HV           | 768–771                          | 1881, 1890                        | Yes   | Yes   |
| 2        | Kovačić (Knin)    | 5 August   | Murder (Cts 6, 7)                                  | Nikola Dragičević Sava Čeko Mile Dragičević  | HV           | 313–333                          | 1726, 1731, 1736                  | Yes   | Yes   |
|          |                   |            | Other inhumane acts and cruel treatment (Cts 8, 9) | Witness 1 Witness 13 Pera Bilbija  | HV           | 313–333                          | 1792, 1795, 1800                  | Yes   | Yes   |
|          |                   |            | Deportation (Ct 2)                                 | Witness 1 Witness 13 Dušan Dragičević Anica Andić  | HV           | 313–333, 1582                    | 1756, 1758                        | Yes   | Yes   |
|          |                   |            | Persecution (Ct 1)                                 | Nikola Dragičević Save Čeko Mile Dragičević Witness 1 Witness 13 Pera Bilbija Dušan Dragičević Anica Andić Elderly/female members of the group (10–12) from Polača           | HV           | 313–333, 1582                    | 1855, 1861, 1863–1872             | Yes   | Yes   |

<sup>1</sup> Supplemental Brief, paras.26, 38. Also fn.11.

<sup>2</sup> Supplemental Brief, para.39.



Findings in the Judgement concerning post-shelling crimes  
(annotated with indication of Prosecution position in Supplemental Brief concerning liability of  
Ante Gotovina by way of Articles 7(1) and 7(3))

| Incident | Location                     | Date       | Crime  | Victim(s) / affected property   | Perpetrators | Fact analysis (Judgement paras.) | Legal analysis (Judgement paras.) | Prosecution position on Art.7(1) liability <sup>1</sup> | Prosecution position on Art.7(3) liability <sup>2</sup> |
|----------|------------------------------|------------|--|---|--------------|----------------------------------|-----------------------------------|---|---|
| 3        | Žagrović (Knin)              | 5 August   | Murder (Cts 6, 7)                                  | Dmitar Rašuo<br>Ilija Petko<br>Milica Petko   | HV           | 342–351                          | 1726, 1731, 1736                  | Yes   | Yes   |
|          |                              |            | Destruction (Ct 5)                                 | Đurdija Rašuo's house and a hayloft   | HV           | 993                              | 1772, 1775                        | Yes   | Yes   |
|          |                              |            | Deportation (Ct 2)                                 | Witness 69  | HV           | 342–351, 1585                    | 1756, 1758                        | Yes   | Yes   |
|          |                              |            | Persecution (Ct 1)                                 | Dmitar Rašuo<br>Ilija Petko<br>Milica Petko<br>Đurdija Rašuo<br>Witness 69  | HV           | 342–351, 993, 1585               | 1855, 1863, 1881                  | Yes   | Yes   |
| 4        | Kotaraši, nr. Kovačić (Knin) | 5 August   | Murder (Cts 6, 7)                                  | Ilija Šarac   | HV or SP     | 454–459                          | 1726, 1731, 1736                  | Yes   | No  |
|          |                              |            | Deportation (Ct 2)                                 | Ružica Šarac  | HV or SP     | 454–459, 1546                    | 1756, 1758                        | Yes   | No  |
|          |                              |            | Persecution (Ct 1)                                 | Ilija Šarac<br>Ružica Šarac   | HV or SP     | 454–459, 1546                    | 1855, 1863                        | Yes   | No  |
| 5        | Knin (Knin)                  | 5 August   | Murder (Cts 6, 7)                                  | Živko Stojakov  | HV           | 472–476                          | 1726, 1731, 1736                  | Yes   | Yes   |
|          |                              |            | Other inhumane acts and cruel treatment (Cts 8, 9) | Wife of Živko Stojakov  | HV           | 472–476                          | 1792, 1795, 1800                  | Yes   | Yes   |
|          |                              |            | Persecution (Ct 1)                                 | Živko Stojakov<br>Wife of Živko Stojakov  | HV           | 472–476                          | 1855, 1861                        | Yes   | Yes   |
| 6        | Buković (Benkovac)           | 5 August   | Destruction (Ct 5)                                 | 5–6 houses burned   | HV or SP     | 570                              | 1772, 1775                        | Yes   | No  |
|          |                              |            | Persecution (Ct 1)                                 | Serb house owners   | HV or SP     | 570                              | 1890                              | Yes   | No  |
| 7        | Uzdolje (Orlić)              | 5 August   | Destruction (Ct 5)                                 | Jovo Injac's house, Milan or Milos Šare's house   | HV           | 504                              | 1772, 1775                        | Yes   | Yes   |
|          |                              |            | Persecution (Ct 1)                                 | Jovo Injac<br>Milan or Milos Šare   | HV           | 504                              | 1890                              | Yes   | Yes   |
| 8        | Očestovo (Knin)              | 5–6 August | Murder (Cts 6, 7)                                  | Stevo Večerina<br>Mila Gnjatović<br>Stevan Baljak<br>Đuro Mačak<br>Momčilo Tišma  | HV           | 415–434                          | 1726, 1731, 1736                  | Yes   | Yes   |
|          |                              |            | Deportation (Ct 2)                                 | Dušan Torbica<br>Dara Torbica<br>Zdravko Bunčić<br>Marija Večerina<br>Mira Večerina<br>Branka Večerina  | HV           | 415–434, 1553–1554, 1592         | 1756, 1758                        | Yes   | Yes   |
|          |                              |            | Persecution (Ct 1)                                 | Stevo Večerina<br>Mila Gnjatović<br>Stevan Baljak<br>Đuro Mačak<br>Momčilo Tišma<br>Dušan Torbica<br>Dara Torbica<br>Zdravko Bunčić<br>Marija Večerina<br>Mira Večerina<br>Branka Večerina<br>Milka Berić | HV           | 415–434, 1553–1554, 1592         | 1855, 1863–1872                   | Yes   | Yes   |
| 9        | Gračac (Gračac)              | 5–6 August | Destruction (Ct 5)                                 | A substantial part of Gračac  | SP           | 697                              | 1772, 1775                        | Yes   | No  |
|          |                              |            | Persecution (Ct 1)                                 | Serb property owners  | SP           | 697                              | 1890                              | Yes   | No  |

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| Incident | Location                  | Date        | Crime  | Victim(s) / affected property   | Perpetrators | Fact analysis (Judgement paras.) | Legal analysis (Judgement paras.) | Prosecution position on Art.7(1) liability <sup>1</sup> | Prosecution position on Art.7(3) liability <sup>2</sup> |
|----------|---------------------------|-------------|--|---|--------------|----------------------------------|-----------------------------------|---|---|
| 10       | Knin (Knin)               | 5–8 August  | Plunder (Ct 4)                                     | Huge amounts of items, including TV sets, stereo systems, radios, video recorders, refrigerators, electrical appliances, furniture, clothes, food, alcohol, civilian vehicles | HV           | 904                              | 1785, 1789                        | Yes   | Yes   |
|          |                           |             | Persecution (Ct 1)                                 | Serb property owners  | HV           | 904                              | 1881                              | Yes   | Yes   |
| 11       | Knin (Knin)               | 5–10 August | Destruction (Ct 5)                                 | Civilian cars   | HV           | 907                              | 1772, 1775                        | Yes   | Yes   |
|          |                           |             | Persecution (Ct 1)                                 | Serb car owners   | HV           | 907                              | 1890                              | Yes   | Yes   |
| 12       | Đurići, nr. Plavno (Knin) | 6 August    | Murder (Cts 6, 7)                                  | Sava Đurić  | HV or SP     | 334–341                          | 1726, 1731, 1736                  | Yes   | No  |
|          |                           |             | Persecution (Ct 1)                                 | Sava Đurić  | HV or SP     | 334–341                          | 1855                              | Yes   | No  |
| 13       | Nr. Šare (Orlić)          | 6 August    | Murder (Cts 6, 7)                                  | Stevo Berić<br>Janja Berić<br>Đurdija Berić<br>Krstel Šare<br>Jandrija Šare<br>Milica Šare<br>Miloš Čosić   | HV           | 489–506                          | 1726, 1731, 1736                  | Yes   | Yes   |
|          |                           |             | Other inhumane acts and cruel treatment (Cts 8, 9) | Witness 67  | HV           | 489–506                          | 1792, 1795, 1800                  | Yes   | Yes   |
|          |                           |             | Deportation (Ct 2)                                 | Witness 3<br>Witness 67   | HV           | 489–506, 1597                    | 1756, 1758                        | Yes   | Yes   |
|          |                           |             | Persecution (Ct 1)                                 | Stevo Berić<br>Janja Berić<br>Đurdija Berić<br>Krstel Šare<br>Jandrija Šare<br>Milica Šare<br>Milos Čosić<br>Witness 67<br>Witness 3  | HV           | 489–506, 1597                    | 1855, 1861, 1863                  | Yes   | Yes   |
| 14       | Zarići, nr. Orlić (Orlić) | 6 August    | Murder (Cts 6, 7)                                  | Predrag Simić   | HV           | 524–526                          | 1726, 1731, 1736                  | Yes   | Yes   |
|          |                           |             | Persecution (Ct 1)                                 | Predrag Simić   | HV           | 524–526                          | 1855                              | Yes   | Yes   |
| 15       | Vrbnik (Orlić)            | 6 August    | Plunder (Ct 4)                                     | Sheep dog, stereo system, unspecified valuables, televisions, video recorders   | HV           | 1089                             | 1785, 1789                        | Yes   | Yes   |
|          |                           |             | Persecution (Ct 1)                                 | Serb property owners  | HV           | 1089                             | 1881                              | Yes   | Yes   |
| 16       | Gračac (Gračac)           | 6 August    | Plunder (Ct 4)                                     | Property from houses  | HV or SP     | 690, 695                         | 1785, 1789                        | Yes   | No  |
|          |                           |             | Persecution (Ct 1)                                 | Serb property owners  | HV or SP     | 690, 695                         | 1881                              | Yes   | No  |

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| Incident | Location                            | Date        | Crime              | Victim(s) / affected property  | Perpetrators | Fact analysis (Judgement paras.) | Legal analysis (Judgement paras.) | Prosecution position on Art.7(1) liability <sup>1</sup> | Prosecution position on Art.7(3) liability <sup>2</sup> |
|----------|-------------------------------------|-------------|--------------------|--|--------------|----------------------------------|-----------------------------------|---|---|
| 17       | Kistanje (Kistanje)                 | 6 August    | Destruction (Ct 5) | At least 2 houses blown up; a considerable number of the houses in Kistanje burned | HV           | 817–819                          | 1772, 1775                        | Yes   | Yes   |
|          |                                     |             | Plunder (Ct 4)     | TV sets, stereo systems, small tractors, farm animals                              | HV           | 817–819                          | 1785, 1789                        | Yes   | Yes   |
|          |                                     |             | Persecution (Ct 1) | Serb property owners   | HV           | 817–819                          | 1881, 1890                        | Yes   | Yes   |
| 18       | Vrbnik (Orlić)                      | 6–8 August  | Murder (Cts 6, 7)  | Lazo Damjanić  | HV           | 509–515                          | 1726, 1731, 1736                  | Yes   | Yes   |
|          |                                     |             | Persecution (Ct 1) | Lazo Damjanić  | HV           | 509–515                          | 1855                              | Yes   | Yes   |
| 19       | Parčić (Kistanje)                   | 6–8 August  | Destruction (Ct 5) | Approx. 50 houses, including the house of Konstantin Drča's mother                 | HV           | 842–843                          | 1772, 1775                        | Yes   | Yes   |
|          |                                     |             | Plunder (Ct 4)     | Livestock, trucks, tractors, cars, valuable items, furniture                       | HV           | 842–843                          | 1785, 1789                        | Yes   | Yes   |
|          |                                     |             | Persecution (Ct 1) | Serb property owners, including Konstantin Drča's mother                           | HV           | 842–843                          | 1881, 1890                        | Yes   | Yes   |
| 20       | Popovići, nr. Mokro Polje (Ervenik) | 6–7 August  | Destruction (Ct 5) | House damaged, and 3 stables and 20 haystacks burned                               | HV           | 663                              | 1772, 1775                        | Yes   | Yes   |
|          |                                     |             | Plunder (Ct 4)     | Guitar, several kgs of honey, items such as TV sets and hams                       | HV           | 663–664                          | 1785, 1789                        | Yes   | Yes   |
|          |                                     |             | Persecution (Ct 1) | Serb property owners   | HV           | 663–664                          | 1881, 1890                        | Yes   | Yes   |
| 21       | Benkovac (Benkovac)                 | 6–10 August | Plunder (Ct 4)     | Household items including TVs, radios, refrigerators, generators, etc              | HV           | 564                              | 1785, 1789                        | Yes   | Yes   |
|          |                                     |             | Persecution (Ct 1) | Serb property owners   | HV           | 564                              | 1881                              | Yes   | Yes   |
| 22       | Oraovac (Donji Lapac)               | 7 August    | Murder (Cts 6, 7)  | Marko Ilić Rade Bibić Ruža Bibić Stevo Adjuković                                   | SP           | 210–218                          | 1726, 1731, 1736                  | Yes   | No  |
|          |                                     |             | Persecution (Ct 1) | Marko Ilić Rade Bibić Ruža Bibić Stevo Adjuković                                   | SP           | 210–218                          | 1855                              | Yes   | No  |
| 23       | Popovići, nr. Mokro Polje (Ervenik) | 7 August    | Murder (Cts 6, 7)  | Mirko Popović Stana Popović  | HV           | 229–232                          | 1726, 1731, 1736                  | Yes   | Yes   |
|          |                                     |             | Persecution (Ct 1) | Mirko Popović Stana Popović  | HV           | 229–232                          | 1855                              | Yes   | Yes   |

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| Incident | Location                  | Date       | Crime  | Victim(s) / affected property   | Perpetrators | Fact analysis (Judgement paras.) | Legal analysis (Judgement paras.) | Prosecution position on Art.7(1) liability <sup>1</sup> | Prosecution position on Art.7(3) liability <sup>2</sup> |
|----------|---------------------------|------------|--|---|--------------|----------------------------------|-----------------------------------|---|---|
| 24       | Kninsko Polje (Knin)      | 7 August   | Other inhumane acts and cruel treatment (Cts 8, 9) | Ilija Mirković  | HV           | 1137–1138                        | 1792, 1795, 1800                  | Yes   | Yes   |
|          |                           |            | Persecution (Ct 1)                                 | Ilija Mirković  | HV           | 1137–1138                        | 1861                              | Yes   | Yes   |
| 25       | Mala Popina (Gračac)      | 7 August   | Plunder (Ct 4)                                     | Radojka Šujica's television   | HV or SP     | 702                              | 1785, 1789                        | Yes   | No  |
|          |                           |            | Persecution (Ct 1)                                 | Radojka Šujica  | HV or SP     | 702                              | 1881                              | Yes   | No  |
| 26       | Čolovići (Orlić)          | c.7 August | Plunder (Ct 4)                                     | Property of Petar Čolović (radio, video cassette recorder, television, water heater, bathtub, other items, livestock) | HV or SP     | 1041–1043                        | 1785, 1789                        | Yes   | No  |
|          |                           |            | Persecution (Ct 1)                                 | Petar Čolović   | HV or SP     | 1041–1043                        | 1881                              | Yes   | No  |
| 27       | Donji Lapac (Donji Lapac) | 7–8 August | Destruction (Ct 5)                                 | A substantial part of Donji Lapac   | HV and SP    | 625                              | 1772, 1775                        | Yes   | Yes   |
|          |                           |            | Persecution (Ct 1)                                 | Serb property owners  | HV and SP    | 625                              | 1890                              | Yes   | Yes   |
| 28       | Knin (Knin)               | 8 August   | Other inhumane acts and cruel treatment (Cts 8, 9) | Predrag Šare  | HV           | 1142–1146                        | 1792, 1795, 1800                  | Yes   | Yes   |
|          |                           |            | Persecution (Ct 1)                                 | Predrag Šare  | HV           | 1142–1146                        | 1861                              | Yes   | Yes   |
| 29       | Gračac (Gračac)           | 8 August   | Plunder (Ct 4)                                     | Televisions, stereo systems, shoes, bags, suitcases, civilian cars  | SP           | 693, 695                         | 1785, 1789                        | Yes   | No  |
|          |                           |            | Persecution (Ct 1)                                 | Serb property owners  | SP           | 693, 695                         | 1881                              | Yes   | No  |
| 30       | Uzdolje (Orlić)           | 8 August   | Destruction (Ct 5)                                 | Nikola Berić's house, Jova Berić's house, Sveto Bogdanović's house  | HV           | 504                              | 1772, 1775                        | Yes   | Yes   |
|          |                           |            | Plunder (Ct 4)                                     | Tractor and trailer belonging to Nikola Berić   | HV           | 504                              | 1785, 1789                        | Yes   | Yes   |
|          |                           |            | Persecution (Ct 1)                                 | Nikola Berić<br>Jova Berić<br>Sveto Bogdanović  | HV           | 504                              | 1881, 1890                        | Yes   | Yes   |

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| Incident | Location                | Date          | Crime              | Victim(s) / affected property   | Perpetrators | Fact analysis (Judgement paras.) | Legal analysis (Judgement paras.) | Prosecution position on Art.7(1) liability <sup>1</sup> | Prosecution position on Art.7(3) liability <sup>2</sup> |
|----------|-------------------------|---------------|--------------------|---|--------------|----------------------------------|-----------------------------------|---|---|
| 31       | Knin-Drniš road (Orlić) | 8 August      | Destruction (Ct 5) | Most of the houses along the Krnin-Drniš road were destroyed or burnt; many dead animals lay rotting along the road | HV and SP    | 1102–1104                        | 1772, 1775                        | Yes   | Yes   |
|          |                         |               | Plunder (Ct 4)     | Various unspecified items and livestock   | HV and SP    | 1102–1104                        | 1785, 1789                        | Yes   | Yes   |
|          |                         |               | Persecution (Ct 1) | Serb property owners  | HV and SP    | 1102–1104                        | 1881, 1890                        | Yes   | Yes   |
| 32       | Donji Srb (Donji Lapac) | c.8–10 August | Plunder (Ct 4)     | Unspecified items, taken away in private and military vehicles, and civilian buses                                  | HV or SP     | 637                              | 1785, 1789                        | Yes   | No  |
|          |                         |               | Persecution (Ct 1) | Serb property owners  | HV or SP     | 637                              | 1881                              | Yes   | No  |
| 33       | Kistanje (Kistanje)     | 9 August      | Destruction (Ct 5) | A large number of houses in Kistanje  | HV           | 822, 824                         | 1772, 1775                        | Yes   | Yes   |
|          |                         |               | Plunder (Ct 4)     | Unspecified items from houses   | HV           | 823–824                          | 1785, 1789                        | Yes   | Yes   |
|          |                         |               | Persecution (Ct 1) | Serb property owners  | HV           | 822–824                          | 1881, 1890                        | Yes   | Yes   |
| 34       | Biskupija (Orlić)       | 9 August      | Destruction (Ct 5) | Around 10 houses  | HV           | 1026                             | 1772, 1775                        | Yes   | Yes   |
|          |                         |               | Plunder (Ct 4)     | Unspecified items   | HV           | 1026                             | 1785, 1789                        | Yes   | Yes   |
|          |                         |               | Persecution (Ct 1) | Serb property owners  | HV           | 1026                             | 1881, 1890                        | Yes   | Yes   |
| 35       | Kakanj (Kistanje)       | 9–26 August   | Destruction (Ct 5) | Mirko Ognjenović's dog, garage, house, stable, haystacks  | HV           | 774, 776                         | 1772, 1775                        | Yes   | Yes   |
|          |                         |               | Plunder (Ct 4)     | Electrical goods, items of value, sheep, cattle, 3 of Uroš Ognjenović's lambs                                       | HV           | 775–776                          | 1785, 1789                        | Yes   | Yes   |
|          |                         |               | Deportation (Ct 2) | Mirko Ognjenović and aunt   | HV           | 774, 776, 1555–1556              | 1756, 1758                        | Yes   | Yes   |
|          |                         |               | Persecution (Ct 1) | Mirko Ognjenović and aunt Uroš Ognjenović   | HV           | 774–776, 1555–1556               | 1863, 1881, 1890                  | Yes   | Yes   |
| 36       | Kistanje (Kistanje)     | 10 August     | Destruction (Ct 5) | Grocery store; houses   | HV           | 825–826                          | 1772, 1775                        | Yes   | Yes   |
|          |                         |               | Plunder (Ct 4)     | Unspecified items   | HV           | 825–826                          | 1785, 1789                        | Yes   | Yes   |
|          |                         |               | Persecution (Ct 1) | Serb property owners  | HV           | 825–826                          | 1881, 1890                        | Yes   | Yes   |

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|----------|---------------------------|------------------------|--|--|--------------|----------------------------------|-----------------------------------|---|---|
| 37       | Donji Srb (Donji Lapac)   | 10 August <sup>3</sup> | Plunder (Ct 4)                                     | Unspecified items  | HV           | 639                              | 1785, 1789                        | Yes   | Yes   |
|          |                           |                        | Persecution (Ct 1)                                 | Serb property owners   | HV           | 639                              | 1881                              | Yes   | Yes   |
| 38       | Kosovo (Orlić)            | 10 August              | Destruction (Ct 5)                                 | Approximately 30 houses and adjacent corn crops  | HV           | 1056                             | 1772, 1775                        | Yes   | Yes   |
|          |                           |                        | Persecution (Ct 1)                                 | Serb property owners   | HV           | 1056                             | 1890                              | Yes   | Yes   |
| 39       | Knin-Drniš road (Orlić)   | 10 August              | Plunder (Ct 4)                                     | Livestock, valuables from a number of houses   | HV           | 1105                             | 1785, 1789                        | Yes   | Yes   |
|          |                           |                        | Persecution (Ct 1)                                 | Serb property owners   | HV           | 1105                             | 1881, 1890                        | Yes   | Yes   |
| 40       | Orlić (Orlić)             | 10–11 August           | Destruction (Ct 5)                                 | Houses and a barn (around 50% of Orlić)  | HV           | 1061                             | 1772, 1775                        | Yes   | Yes   |
|          |                           |                        | Persecution (Ct 1)                                 | Serb property owners   | HV           | 1061                             | 1890                              | Yes   | Yes   |
| 41       | Ervenik (Ervenik)         | 10 August–10 September | Destruction (Ct 5)                                 | Around 180 houses in Ervenik, village school, shop   | HV or SP     | 656, 658                         | 1772, 1775                        | Yes   | No  |
|          |                           |                        | Plunder (Ct 4)                                     | Furniture, electrical appliances, valuable household goods, cars, trucks, tractors, trailers, farming vehicles, automotive parts, hay, firewood, livestock | HV or SP     | 656, 658                         | 1785, 1789                        | Yes   | No  |
|          |                           |                        | Persecution (Ct 1)                                 | Serb property owners   | HV or SP     | 656, 658                         | 1881, 1890                        | Yes   | No  |
| 42       | Benkovac (Benkovac)       | 11 August              | Other inhumane acts and cruel treatment (Cts 8, 9) | Konstantin Drča  | HV           | 1109–1111                        | 1792, 1795, 1800                  | Yes   | Yes   |
|          |                           |                        | Deportation (Ct 2)                                 | Konstantin Drča  | HV           | 1109–1111, 1543                  | 1756, 1758                        | Yes   | Yes   |
|          |                           |                        | Persecution (Ct 1)                                 | Konstantin Drča  | HV           | 1109–1111, 1543                  | 1861, 1863                        | Yes   | Yes   |
| 43       | Donji Lapac (Donji Lapac) | 11 August              | Destruction (Ct 5)                                 | Houses in Donji Lapac  | HV           | 627                              | 1772, 1775                        | Yes   | Yes   |
|          |                           |                        | Plunder (Ct 4)                                     | Unspecified items from houses in Donji Lapac   | HV           | 627                              | 1785, 1789                        | Yes   | Yes   |
|          |                           |                        | Persecution (Ct 1)                                 | Serb property owners   | HV           | 627                              | 1881, 1890                        | Yes   | Yes   |

<sup>3</sup> *But see* incident 32 above.

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|----------|---------------------------------|------------------|--|--|--------------|----------------------------------|-----------------------------------|---|---|
| 44       | Žagrović (Knin)                 | 11–15 August     | Plunder (Ct 4)                                     | TV sets, chain-saws, furniture, other items (including from home of Đoko Novković), technical appliances, valuable working tools, livestock, tractor | HV           | 994–996                          | 1785, 1789                        | Yes   | Yes   |
|          |                                 |                  | Persecution (Ct 1)                                 | Serb property owners, including Đoko Novković  | HV           | 994–996                          | 1881                              | Yes   | Yes   |
| 45       | Palanka (Gračac)                | c. 12 August     | Other inhumane acts and cruel treatment (Cts 8, 9) | Bogdan Brkić   | HV           | 1116–1120                        | 1792, 1795, 1800                  | Yes   | Yes   |
|          |                                 |                  | Persecution (Ct 1)                                 | Bogdan Brkić   | HV           | 1116–1120                        | 1861                              | Yes   | Yes   |
| 46       | Mirkovići, nr. Polača (Knin)    | 12 August        | Murder (Cts 6, 7)                                  | Đurdija Mirković   | HV           | 477–481                          | 1726, 1731, 1736                  | Yes   | Yes   |
|          |                                 |                  | Deportation (Ct 2)                                 | Smiljana Mirković  | HV           | 477–481, 1583                    | 1756, 1758                        | Yes   | Yes   |
|          |                                 |                  | Persecution (Ct 1)                                 | Đurdija Mirković<br>Smiljana Mirković  | HV           | 477–481, 1583                    | 1855, 1863                        | Yes   | Yes   |
| 47       | Zrmanja (Gračac)                | Early-mid August | Murder (Cts 6, 7)                                  | Đurad Čanak  | HV           | 242–246                          | 1726, 1731, 1736                  | Yes   | Yes   |
|          |                                 |                  | Persecution (Ct 1)                                 | Đurad Čanak  | HV           | 242–246                          | 1855                              | Yes   | Yes   |
| 48       | Vrbnik (Orlić)                  | c. 16 August     | Other inhumane acts and cruel treatment (Cts 8, 9) | Đurdija Amanović   | HV or SP     | 1157–1158                        | 1792, 1795, 1800                  | Yes   | No  |
|          |                                 |                  | Persecution (Ct 1)                                 | Đurdija Amanović   | HV or SP     | 1157–1158                        | 1861                              | Yes   | No  |
| 49       | Oton Polje (Ervenik)            | c. 18 August     | Murder (Cts 6, 7)                                  | Marta Vujnović   | HV           | 220–227                          | 1726, 1731, 1736                  | Yes   | Yes   |
|          |                                 |                  | Persecution (Ct 1)                                 | Marta Vujnović   | HV           | 220–227                          | 1855                              | Yes   | Yes   |
| 50       | Očestovo (Knin)                 | Mid August       | Murder (Cts 6, 7)                                  | Sava Šolaja  | HV           | 436–441                          | 1726, 1731, 1733, 1736            | Yes   | Yes   |
|          |                                 |                  | Persecution (Ct 1)                                 | Sava Šolaja  | HV           | 436–441                          | 1855                              | Yes   | Yes   |
| 51       | Knin (Knin)                     | Mid August       | Other inhumane acts and cruel treatment (Cts 8, 9) | Dušan Drpa<br>Đuka Drpa<br>Milica Drpa   | HV           | 1133–1136                        | 1792, 1795, 1800                  | Yes   | Yes   |
|          |                                 |                  | Persecution (Ct 1)                                 | Dušan Drpa<br>Đuka Drpa<br>Milica Drpa   | HV           | 1133–1136                        | 1861                              | Yes   | Yes   |
| 52       | Tišme, nr. Rudele (Kistanje)    | August           | Murder (Cts 6, 7)                                  | Manda Tišma  | HV           | 310–312                          | 1726, 1731, 1733, 1736            | Yes   | Yes   |
|          |                                 |                  | Persecution (Ct 1)                                 | Manda Tišma  | HV           | 310–312                          | 1855                              | Yes   | Yes   |
| 53       | Mizdrakovac, nr. Strmica (Knin) | August           | Murder (Cts 6, 7)                                  | Jovanka Mizdrak  | HV           | 467–471                          | 1726, 1731, 1733, 1736            | Yes   | Yes   |
|          |                                 |                  | Persecution (Ct 1)                                 | Jovanka Mizdrak  | HV           | 467–471                          | 1855                              | Yes   | Yes   |

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(annotated with indication of Prosecution position in Supplemental Brief concerning liability of  
Ante Gotovina by way of Articles 7(1) and 7(3))

| Incident | Location                              | Date                           | Crime              | Victim(s) / affected property   | Perpetrators | Fact analysis (Judgement paras.) | Legal analysis (Judgement paras.) | Prosecution position on Art.7(1) liability <sup>1</sup> | Prosecution position on Art.7(3) liability <sup>2</sup> |
|----------|---------------------------------------|--------------------------------|--------------------|---|--------------|----------------------------------|-----------------------------------|---|---|
| 54       | Kistanje (Kistanje)                   | 23 August                      | Destruction (Ct 5) | Automotive workshop   | HV or SP     | 832                              | 1772, 1775                        | Yes   | No  |
|          |                                       |                                | Persecution (Ct 1) | Serb workshop owner   | HV or SP     | 832                              | 1890                              | Yes   | No  |
| 55       | Očestovo (Knin)                       | 24 August                      | Destruction (Ct 5) | Approx. 27 houses   | HV           | 442                              | 1772, 1775                        | Yes   | Yes   |
|          |                                       |                                | Persecution (Ct 1) | Serb home owners  | HV           | 442                              | 1890                              | Yes   | Yes   |
| 56       | Grubori, nr. Plavno (Knin)            | 25 August                      | Murder (Cts 6, 7)  | Jovo Grubor<br>Miloš Grubor<br>Đuro Karanović<br>Marija Grubor<br>Mika Grubor                 | SP           | 353–390                          | 1726, 1731, 1736                  | Yes   | No  |
|          |                                       |                                | Destruction (Ct 5) | Significant number of houses, animals   | SP           | 353–390                          | 1772, 1775                        | Yes   | No  |
|          |                                       |                                | Deportation (Ct 2) | Jovan Grubor  | SP           | 353–390, 1587                    | 1756, 1758                        | Yes   | No  |
|          |                                       |                                | Persecution (Ct 1) | Jovo Grubor<br>Miloš Grubor<br>Đuro Karanović<br>Marija Grubor<br>Mika Grubor<br>Jovan Grubor | SP           | 353–390, 1587                    | 1855, 1863, 1890                  | Yes   | No  |
| 57       | Ramljane (Orlić)                      | 26 August                      | Destruction (Ct 5) | Several buildings and haystacks   | SP           | 1077                             | 1772, 1775                        | Yes   | No  |
|          |                                       |                                | Persecution (Ct 1) | Serb property owners  | SP           | 1077                             | 1890                              | Yes   | No  |
| 58       | Kistanje (Kistanje)                   | 31 August                      | Plunder (Ct 4)     | Goods taken by HV soldiers permitted through VP checkpoint                                    | HV           | 833                              | 1785, 1789                        | Yes   | Yes   |
|          |                                       |                                | Persecution (Ct 1) | Serb property owners  | HV           | 833                              | 1881                              | Yes   | Yes   |
| 59       | Benkovac (Benkovac)                   | August to September            | Plunder (Ct 4)     | Items confiscated at VP and civilian checkpoints, and stored at HV barracks and warehouse     | HV           | 567                              | 1785, 1789                        | Yes   | Yes   |
|          |                                       |                                | Persecution (Ct 1) | Serb property owners  | HV           | 567                              | 1881                              | Yes   | Yes   |
| 60       | Plavno valley (Knin)                  | Late August to early September | Plunder (Ct 4)     | Electronic equipment  | HV or SP     | 954                              | 1785, 1789                        | Yes   | No  |
|          |                                       |                                | Persecution (Ct 1) | Serb property owners  | HV or SP     | 954                              | 1881                              | Yes   | No  |
| 61       | Čičevac and Kaštel Žegarski (Nadvoda) | 1 September                    | Destruction (Ct 5) | Several houses  | HV           | 1003–1006                        | 1772, 1775                        | Yes   | Yes   |
|          |                                       |                                | Persecution (Ct 1) | Serb home owners  | HV           | 1003–1006                        | 1890                              | Yes   | Yes   |

Case No.IT-06-90-A

Annex to Prosecution Supplemental Brief on Alternative Modes of Liability for Ante Gotovina

10 August 2012



Findings in the Judgement concerning post-shelling crimes  
(annotated with indication of Prosecution position in Supplemental Brief concerning liability of  
Ante Gotovina by way of Articles 7(1) and 7(3))

| Incident | Location                       | Date               | Crime                           | Victim(s) / affected property   | Perpetrators | Fact analysis (Judgement paras.) | Legal analysis (Judgement paras.) | Prosecution position on Art.7(1) liability <sup>1</sup> | Prosecution position on Art.7(3) liability <sup>2</sup> |
|----------|--------------------------------|--------------------|---------------------------------|---|--------------|----------------------------------|-----------------------------------|---|---|
| 62       | Cvijanovići, nr. Plavno (Knin) | 4 September        | Destruction (Ct 5)              | Building and a barn   | HV           | 955–956                          | 1772, 1775                        | Yes   | Yes   |
|          |                                |                    | Persecution (Ct 1)              | Serb property owners  | HV           | 955–956                          | 1890                              | Yes   | Yes   |
| 63       | Golubić (Knin)                 | 5 September        | Plunder (Ct 4)                  | Unspecified items   | HV           | 855                              | 1785, 1789                        | Yes   | Yes   |
|          |                                |                    | Persecution (Ct 1)              | Serb property owners  | HV           | 855                              | 1881                              | Yes   | Yes   |
| 64       | Golubić (Knin)                 | 8 September        | Plunder (Ct 4)                  | Construction and agricultural equipment, doors, household appliances, TV set, electric tools, hand tools, furniture, lamps <sup>4</sup> | HV           | 855                              | 1785, 1789                        | Yes   | Yes   |
|          |                                |                    | Persecution (Ct 1)              | Serb property owners  | HV           | 855                              | 1881                              | Yes   | Yes   |
| 65       | Zorići, nr. Plavno (Knin)      | 10 September       | Destruction (Ct 5)              | House   | HV or SP     | 958, 960                         | 1772, 1775                        | Yes   | No  |
|          |                                |                    | Persecution (Ct 1)              | Serb home owner   | HV or SP     | 958, 960                         | 1890                              | Yes   | No  |
| 66       | Plavno (Knin)                  | 10 September       | Plunder (Ct 4)                  | Furniture   | HV or SP     | 959–960                          | 1785, 1789                        | Yes   | No  |
|          |                                |                    | Persecution (Ct 1)              | Serb property owner   | HV or SP     | 959–960                          | 1881                              | Yes   | No  |
| 67       | Plavno (Knin)                  | 12 or 13 September | Plunder (Ct 4)                  | Unspecified items   | HV           | 960                              | 1785, 1789                        | Yes   | Yes   |
|          |                                |                    | Persecution (Ct 1)              | Serb property owners  | HV           | 960                              | 1881                              | Yes   | Yes   |
| 68       | Benkovac (Benkovac)            | 28 September       | Persecution (Ct 1) <sup>5</sup> | Petar Bota  | HV           | 205–207                          | 1847–1850, 1855                   | Yes   | Yes   |
| 69       | Gudura, nr. Zrmanja (Gračac)   | c.29 September     | Murder (Cts 6, 7)               | Milan Marčetić Dušan Šuica  | HV or SP     | 249–256                          | 1726, 1731, 1736                  | Yes   | No  |
|          |                                |                    | Persecution (Ct 1)              | Milan Marčetić Dušan Šuica  | HV or SP     | 249–256                          | 1855                              | Yes   | No  |
| 70       | Plavno valley (Knin)           | 30 September       | Plunder (Ct 4)                  | Horses, furniture, household items  | HV           | 962                              | 1785, 1789                        | Yes   | Yes   |
|          |                                |                    | Persecution (Ct 1)              | Serb property owners  | HV           | 962                              | 1881                              | Yes   | Yes   |

<sup>4</sup> Summarised from Exh.P2610, pp.7–8.

<sup>5</sup> For the killing of Petar Bota, the Judgement enters a conviction only for persecution through murder, and not murder *simpliciter*.