

Bringing Justice to Southeast Europe



May 15, 2003

Briefing of the
Commission on Security and Cooperation in Europe

WASHINGTON : 2003

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The OSCE Secretariat is in Vienna, Austria, where weekly meetings of the participating States' permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations. Periodic consultations are held among Senior Officials, Ministers and Heads of State or Government.

Although the OSCE continues to engage in standard setting in the fields of military security, economic and environmental cooperation, and human rights and humanitarian concerns, the Organization is primarily focused on initiatives designed to prevent, manage and resolve conflict within and among the participating States. The Organization deploys numerous missions and field activities located in Southeastern and Eastern Europe, the Caucasus, and Central Asia. The web site of the OSCE is: <www.osce.org>.

ABOUT THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The Commission on Security and Cooperation in Europe, also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance by the participating States with their OSCE commitments, with a particular emphasis on human rights.

The Commission consists of nine members from the United States Senate, nine members from the House of Representatives, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair rotate between the Senate and House every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

In fulfilling its mandate, the Commission gathers and disseminates relevant information to the U.S. Congress and the public by convening hearings, issuing reports that reflect the views of Members of the Commission and/or its staff, and providing details about the activities of the Helsinki process and developments in OSCE participating States.

The Commission also contributes to the formulation and execution of U.S. policy regarding the OSCE, including through Member and staff participation on U.S. Delegations to OSCE meetings. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from participating States. The web site of the Commission is <www.csce.gov>.

BRINGING JUSTICE TO SOUTHEAST EUROPE

MAY 15, 2003

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BRINGING JUSTICE TO SOUTHEAST EUROPE

THURSDAY, MAY 15, 2003

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
WASHINGTON, DC

The briefing was held at 3:30 p.m. in Room 2261, Rayburn House Office Building, Hon. Christopher H. Smith, Co-Chairman, moderating.

Participant: Ms. Carla del Ponte, Chief Prosecutor, International Criminal Tribunal for the former Yugoslavia [ICTY].

Mr. SMITH. The briefing will come to order. First I want to thank all of you for being here, but especially our very distinguished guest. After my ranking member and good friend, Ben Cardin, makes a very brief opening remark, we will yield the floor to Ms. del Ponte. We will then go to questions, because I am sure you have many questions about the ongoing work of the Tribunal. Then we will wrap it up, probably within 1½–2 hours, depending on what time Ms. del Ponte has to leave.

Let me begin with some opening comments. The Yugoslav conflicts, which began in the early 1990s, and continued with intermittent lulls until the last year, have had a tumultuous impact on the development of post-Cold War Europe, and a traumatic impact on the lives of millions.

The forced displacement and the atrocities that occurred on a massive scale exposed the flaws in several international bodies, including the United Nations and the European Union, while they compelled others like the OSCE and NATO to respond to the crises on the continent in new ways.

Now, with other challenges around the globe, our attention focuses elsewhere, recognizing at the same time the imperative of continued engagement in Southeast Europe. Perhaps of all the precedents set, of all the lessons learned, few are as important as the establishment of the International Criminal Tribunal for the former Yugoslavia, and the understanding that justice must be part of a post-conflict recovery.

While we may want to stabilize the Balkans and move on, those living in the region are understandably haunted by the evil they witnessed, and in some cases, barely survived in places like Vukovar. I would just say parenthetically, back in the early 1990s, right as the war was beginning, Congressman Frank Wolf, one of our fellow Commissioners, and I went to Vukovar, just prior to its fall, while it was surrounded by armed Serbs, tanks and heavy weapons. We went through a corn field into the town and saw horrific suffering among the people. We got out that day, but just weeks later it fell. That was when some of the worst atrocities and the killing in the hospital occurred, where people were literally dragged out and killed. We know that there are at least three of the Vukovar

indictées, formerly four, three that the Tribunal has a very real interest in and is working to prosecute.

While we know that what happened in Vukovar, as well as in Srebrenica, gives us the chilling sense of horror, and we can imagine their impact on those that have survived, justice must be at the root of our efforts to address the underlying causes of these conflicts if the people of the region are to overcome the legacy of this dark, closing chapter of the 20th century.

Our very distinguished speaker today, the Honorable Carla del Ponte, understands this reality more than anyone else. As the International Criminal Tribunal for the former Yugoslavia's Chief Prosecutor since 1999, she is responsible for ensuring that those individuals responsible for war crimes, crimes against humanity and genocide in contemporary Southeast Europe—people like Slobodan Milosevic, Radovan Karadzic, and Ratko Mladic—are held accountable.

As justice is pursued, the people of the region will be able to move forward. Ms. del Ponte brings more than two decades of legal experience, much of it as a prosecutor in Switzerland, to this very daunting task.

We are pleased, again, to welcome her. I would like to yield to Mr. Cardin, and then to our distinguished guest.

Mr. CARDIN. Thank you, Mr. Chairman.

Ms. del Ponte, it is a pleasure to have you back in Washington. We thank you very much for your dedicated work to bring individuals to justice, and to bring closure to this period in the history of mankind.

Mr. Chairman, I first want to point out that the work of this Commission, the work of the U.S. delegation, was instrumental in the creation of a war crimes tribunal.

At our every opportunity, we have used our membership in different times to press for cooperation with the states involved—that have been harboring indictees, that have not cooperated as much as we think that they should, that have put obstacles in the way, whether it is the making available of witnesses, or the production of documents, or, obviously, the arresting of indictees. We have found less-than-adequate cooperation, and our Commission has used every opportunity we can to assist you in doing your work. It is difficult work. We understand that, we fully support it, and we very much appreciate your presence at this time.

We are very close to the next certification date, June 15, on which our foreign operations appropriations are contingent upon a certification by the administration, in large part on their cooperation with you, Ms. del Ponte. I would hope that this briefing will help us to try to formulate what our response or advice should be to the administration in regards to that certification.

Mr. Chairman, I think it would be very useful if we can reach some type of understanding with our Commission as to how we should advise the administration on the certification on June 15. Obviously, the Chairman had mentioned three highly visible war criminals, two of which, by the way, are still at large, as well as others, so we look forward to your information today so that we can assist you.

We are anxious to bring termination to your work. We would like to see the War Crimes Tribunal be able to complete its work in the near future successfully.

So we would like to work with you on a game plan as to when we can expect the Tribunal to be able to complete its work, and what help you need from the countries in the region in order to be able to successfully complete your assignment.

Thank you, Mr. Chairman.

MS. DEL PONTE. Thank you. Thank you very much for giving me this opportunity to inform you about my work. As you know the support of the Congress in the implementation of my mandate has been of crucial importance. It still is.

I was told that I have time for a brief introduction, because, of course, I could speak hours about ICTY. However, first I wanted to present my political adviser, Mr. Jean-Daniel Ruche.

Having a political adviser is important for a prosecutor, because a prosecutor is not aware of all the political issues that can emerge. But in nearly 4 years I learned a lot about that. So, I must say that a lot remains to be done. As you know, the last months have been marred by the tragic murder of Prime Minister Zoran Djindjic. He told me when we met on February 17 that he would deliver Mladic to The Hague this spring.

Those of us who had a close relationship with Mr. Dzindzic should live up to his legacy. As long as Mladic, as well as Karadzic in Bosnia, and Gotovina in Croatia, is still at large, justice will not have been served. If you want law and order to prevail, not only in the Balkans but in the world, we have to ensure that international justice is credible. With these three main perpetrators still at large, there can be no true sense of justice among those who lost their loved ones.

We elaborated, for ICTY, but also for the Tribunal on Rwanda, a completion strategy.

This means that we have elaborated a program for our future investigations to conclude, to execute the mandate that we received from the Security Council. It is a risky exercise for the prosecutor to elaborate a program, a completion strategy. But we have done that. In 2004, we will finish our investigation. We will have issued by the end of 2004 all of our indictments. We will have only to present the case in court trials and second degree appeals. But obviously we need cooperation from Belgrade, from Sarajevo, from Pristina and from Zagreb. That is our difficulty.

The help we receive from the international community to pressure the states to cooperate with us is extremely important.

Thank you.

MR. SMITH. I will ask just a couple of questions—I have many—and yield to Mr. Cardin.

Mr. Cardin earlier referred to the fact that we were very supportive and have continued to be supportive of all the work that you do. I remember in the early days when the question was whether or not we were providing enough start-up money for the Tribunal. There were people in the administration that only wanted to go so far, believing that our partners needed to come up with the additional funds.

I and others sought to provide, and we did succeed in many ways and increase our share. So there has been a long-standing deep commitment by the U.S. Government.

However, there have always been concerns about whether or not we provide the kind of support needed when it comes to information that some in our government would be concerned about losing—methods and sources, intelligence information.

Now, has there been the kind of cooperation on the intelligence side that you need in order to prosecute effectively?

Second, let me ask, we understand that Wesley Clark and Richard Holbrooke might appear before the Tribunal. Is that likely? Would that be useful? Is our government cooperating, permitting them to testify or encouraging them to testify, based on what they might know?

I have other questions, but that is the opening.

Ms. DEL PONTE. Yes. About the intelligence information: We receive such kinds of information, but of course we cannot use it in court as it is in the national systems. Particularly, we have a rule, Rule 70, that does not allow us, even if it is possible, to use this information in court.

We must ask you to provide us the authorization to use these documents. They are essentially transcripts of conversations. We have conversations of Milosevic, of Karadzic. So sometimes it is very difficult to obtain from the provider the authorization to use them.

So many times, we are trying to find other evidence that allows us to avoid the use of this kind of information. But sometimes we do not have the other sort of evidence.

So normally we carry on long discussions with the provider to obtain the authorization. About the United States, sometimes we have success. Sometimes we have not.

About Holbrooke and Clark, we have now been discussing their appearance in court for a year. The only difficult matter is regarding closed session or open session. We think that it is not necessary to have a closed session. Both are authors of books. So I think it is public what they have written down in their books. But it is still in discussion with the government. We hope to find a solution.

Mr. SMITH. Thank you.

Mr. Cardin?

Mr. CARDIN. Let me try to get some specifics. First, I would appreciate your assessment as to how much more time you believe will be necessary for you to complete your assignment. That is obviously contingent upon cooperation in obtaining the material necessary to prosecute cases.

Then in regards to Serbia, I would like to get from you what additional cooperation is necessary. If you cannot answer that today, if you can make it available to our staff, that would be useful. We know the indictees and the attorney over the indictees. As I understand it, there has also been difficulty in getting access to documents and, perhaps, access to witnesses. I do not know. If you could be specific, that would be useful for us.

As I have indicated, we have had conversations with the Serbian Government. They have indicated that they are cooperating, they believe, fully with your request. So I would at least like to get your testimony on this point.

Ms. DEL PONTE. Yes. Cooperation with Belgrade. I would first speak about the rest of fugitives. We have a total of 18 fugitives now. Many of them are in Serbia and Montenegro. The most famous obviously is Mladic.

We have also another important fugitive related to the infamous Vukovar massacre. We have Security Council resolution from 1998 that instructs the government to arrest Sljivancanin, but Sljivancanin is still at large.

I would now speak about Mladic. Mladic is a grave story because we know where Mladic is. Mladic is in Serbia. We have received information about the whereabouts of Mladic. We passed this information to the Serbian government in Belgrade, and nothing happened.

Under our rules, the government has an obligation to advise us what is being done to locate a fugitive. We never received a report from the government in Belgrade to advise us what was done to locate Mladic.

At the point that today I have other information about the location of Mladic, but I do not know to whom to pass this information because I cannot trust that they are operating and trying to arrest him. So that is the situation with the fugitives.

On documentation, we have some cooperation. We received some documents. We have some access to documents. But now in the Milosevic trial alone I have requests for 155 documents pending. For more than a year we have been requesting that the government give us this documentation. The last excuse was that these documents were destroyed by NATO bombing.

But I cannot accept that. It is an excuse because they are not indicating which building the NATO bombing destroyed while the documents were there.

After one and a half years, I think now is not the time to use this excuse. Most importantly for many of these documents, we have a copy. So I am going Monday to Belgrade to try to find a solution how to authenticate the copy I have, because it is a copy of the original that I have.

That is the situation now. The situation is that the Serbian Government and the Government of Serbia and Montenegro decide when it is good, and politically good, and they give cooperation. When they decide that politically it is damaging, they are not cooperating with us.

So it is not the Tribunal or the office of the prosecutor or the prosecutor who can independently conduct the investigation or the trial. It is the Government of Serbia and Montenegro that decides if it is time now for cooperation or not.

What is it about fugitive documents that you mentioned?

Mr. CARDIN. The availability of witnesses.

Ms. DEL PONTE. Yes, witnesses.

Milosevic trial—it is a good moment for us. After the assassination of Djindjic, we have some spontaneous witnesses, insider witnesses, who were asking to appear in court. That is particularly important for us.

But it is also another situation. Some witnesses do not want to appear in court anymore because they receive threats. Those threats are articulating in Belgrade, and we are asking the Serbian Government—Serbian and Montenegro Government—to protect our witnesses. They accepted to do it. Sometimes they are doing it. Sometimes they have difficulties doing it. But that is a great concern of ours.

Mr. CARDIN. Can I follow up one point, the tragic assassination of Prime Minister Djindjic? There were reports that there was more interest within Serbia to control the gangs and the outlaws, and that there was an interest in gaining more control over law and order in the country, and that it might be more popular to cooperate with the War Crimes Tribunal in turning over indictees, as a clear message that the people of Serbia wanted to maintain order rather than letting these outlaws basically control their country. Has that been translated into any increased cooperation with the War Crimes Tribunal?

Ms. DEL PONTE. Yes, I was hoping that it would be true because in a few weeks and a few months they arrested 10,000 people. Though, of course, my question was to the Serbian Government, so let's execute all those arrests of our fugitives because that shows that they can when they want to.

The Minister of Foreign Affairs and the Minister of Interior told me that first they were concerned about the common criminals, criminals linked to organized crime. I suggested that the connection between organized crime and war criminals is absolutely proven because the criminals at large are working very closely with the members of these gangs, these mafioso gangs.

But they told me, no, we will first be concentrating on the common criminals and only after will we try to arrest the war criminals. But unfortunately, we are not now in the after period. I am still expecting that they are coming to this period.

I understand that during this operation they arrested two of our suspects, Stanisic and Simatovic. But after few weeks, they called us for help. They told us, "we cannot keep these two persons in detention, so if you could can, come out with your indictment and arrest warrants. It would be great for us."

Of course, investigations were ongoing. We were not prepared. It was 2 weeks ago, though, I called my staff to accelerate the work, and it was possible to issue the indictment, obtain the confirmation, the arrest warrant, and now both are awaiting transfer to The Hague.

So that it was good, but it must not be sold as cooperation. It was the help that we gave at one moment to the Serbia and Montenegro Government when they asked us. But we are cooperating much more than they are cooperating.

Mr. SMITH. Let me ask a question. As Mr. Cardin pointed out, we are all awaiting the June 15 deadline for the President to make a certification pursuant to Section 578 in regard to funding for Serbia. The operative language calls among other things for the Federal Republic of Yugoslavia to be cooperating on a continuing basis with the International Criminal Court Tribunal for the former Yugoslavia, including unimpeded access for investigators to archives and witnesses, the provision of documents, and the surrender and transfer of indictees, or assistance in their apprehension.

This is the operative language relevant to the Tribunal. We have a report, which we will make a part of the record, that has been given to us by the Embassy of Serbia and Montenegro on their cooperation from 2001 to May 6th of this year in which they talk about the transfer of indicted persons and gives quite a bit of information. Obviously, you know better than anyone else. It is very important to know what your opinion is on this. No one knows better than you and your office whether or not this cooperation has been as robust as we anticipated and hoped for.

Ms. DEL PONTE. May I have this document, because it is of some interest to us?

But, no, of course not. Obviously, they generally cooperate with ICTY. Access to document, access to witnesses, but you know, it is generally. So they—it is true what they are saying. They are cooperating. Yes, because some documents we receive. Some witnesses we have access to. Some fugitives are voluntary surrendering. So we cannot deny totally. But what I am saying here is that they are not cooperating in the points that it is the most important for our activity.

So it would be great if now we are speaking more concretely.

What is cooperation? Is cooperation the arrest and transfer of Mladic and Sljivancanin and Pandurevic, for example? Of course not, because the arrest and transfer of Mladic will facilitate a lot after to continue to have full cooperation. But the arrest and transfer of Mladic must—should be really the condition. Arrest and transfer of Mladic, yes.

Mr. SMITH. Your point could not be more clear.

I say to my friend and colleague Mr. Cardin that your insights, I think, help us to advise the President, because the last thing we want is for the government in Belgrade to get the view that they can escape doing what they need to do as articulated by the distinguished chief prosecutor. The meaning of this language is pretty clear, and you have given it additional meaning.

They are probably represented here, but we will convey this message to them as well. Our friends in Serbia and the embassy need to know that we are not kidding. These are very important points, and they could not have been more strongly stated than by you.

Ms. DEL PONTE. We are in a completion strategy now. So we know exactly what we need to finish our activities. But the arrest of the fugitives and access to the archives, military documents, we are not asking for a fishing expedition. We have the list of the documents we need, 167—55 now—155. So we know exactly what we need.

Mr. CARDIN. That is one case, that is just the Milosevic case?

Ms. DEL PONTE. Yes, that is in the Milosevic case. Of course, the documentation for Milosevic is needed also for many other trials and investigations, but I can give you the list of documents, because that is important, and you will read here, I think, that NATO bombs led to their destruction.

So you will see which kind of documents were destroyed by NATO bombing, but I do not know in which building and when they were destroyed.

Mr. SMITH. I appreciate that. That is very helpful. Let me ask about Croatian cooperation. In Zagreb, recently, you indicated that there seemed to be cooperation there. Could you elaborate on that?

Ms. DEL PONTE. With Croatia it is going better. With Croatia, there was the usual initial fight, but I must say the importance is that Croatia is now much more willing to cooperate with us. It is linked to the request of Croatia to enter into the European Union.

So, of course, it is one of the elements to be admitted to, not to hide war criminals, not to obstruct our work. But although with Croatia we are on the point of arresting a fugitive, Gotovina, former General Gotovina.

Gotovina is like Mladic in Serbia, he is like Karadzic in Bosnia-Herzegovina. So we have these three fugitives that must be arrested and tried. And we are insisting, I am insisted by the Prime Minister Racan about the arrest of Gotovina. Of course, we do not know where he is, and it is strange because the office of the prosecutor has known where he is, but not the Government of Croatia.

So we share our information, we insisted on the location of these fugitives. I must say we hope that Croatia now will secure his arrest, because it is even not a question of locating him, but it is just a question of executing the arrest. Because they know, they know exactly where he is.

But, it is always the politics that interfere in our activity, because he is considered to be a hero in Croatia by some part of the population, and that is the reason why.

I do not know, I have no justification, but I do not know why it is also difficult to have access, although in Croatia, to documents pertaining to the military, to the army.

We insist. That is what we are doing, but of course it is important that the international community stay and support us, pressuring the cooperation with us.

Mr. SMITH. If anybody has any questions, please make your way to the microphone. Two questions. I do not want to put too much emphasis on this, but it is May 15, and we are one month away from the June 15 deadline. If the President were sitting here today, with all the information you have, would your recommendation be to certify, or would it be to withhold that certification based on lack of cooperation?

Secondly, in the briefing paper that we got from the Embassy of Serbia and Montenegro, they make the point that the local courts are taking up a number of indictments and criminal prosecutions. In your view, professionally speaking, are they adequate to that task? Can you comment on that?

Ms. DEL PONTE. Yes. Your first question, if you authorize me I will apply to the right not to answer. That means that I do not want to be involved in that.

I am confident that you will choose the best way, too, because you know, my goal is to obtain the arrest of fugitives, to issue indictments, but how it is done I leave to the authorities. I want just to remember that Milosevic was transferred in June 2001, three days before certification. I hope that Mladic will be transferred in June 2003.

Local courts. Local court, yes, it is the future of what we are doing now that the local courts could assume and conduct investigations and trials against war criminals in their own territory, because that will be the best element of effective reconciliation.

We must make a distinction here between the different states. In Bosnia-Herzegovina, the high representative in Bosnia-Herzegovina is trying to put in place a state court with three trial chambers: organized crime, corruption, and war crimes.

We support that, we stay very near to the high representative, because at the end of 2004, when we will finish our investigations, we will be awaiting to transfer the cases, many cases, because, you know, in our completion strategy we focus on the high responsible, that we have on our list, but we have evidence against many other perpetrators.

And, of course, as a prosecutor I do not want to accept impunity for other perpetrators, so the activity of the local court will be the future of this status.

In Croatia, we had a positive development because there was a case against former General Noritz. And when the Government of Serbia, 2 years ago, asked us to conduct the trial against him, against the advice of my people in The Hague, I said, "Let's see if Croatia is able to do it. Because of primacy, we can call back the case."

I must say, after a very hard beginning they have succeeded, and General Noritz was convicted and sentenced to 12 years imprisonment. We are pleased about that, because that means that they are able to do it.

So we are now envisioning transferring other cases, even one case where one indicted was arrested and provisionally released. And because I think—I think there is a future for them.

Serbia, at the moment, is still difficult because they do not have the structures to do it. They even have difficulties with the common criminality. I think we must wait until they can put in place the structure.

Mr. SMITH. Mr. Cardin, you have comments at hand?

Mr. CARDIN. [Inaudible.]

Mr. SMITH. Oh, yes, please. And then we will go to you.

QUESTIONER. My name is Bojan Klimov. I work for Croatian Service, Voice of America. Regarding the Gotovina case, I was wondering if the Croatian Government offered a reward recently for information about whereabouts of Gotovina. You just said that you think that they know where he is. So I was wondering if you would comment on that. Did you find that out, I mean, in your meetings with Mr. Racan? Or how did he—what did he say regarding this?

Also, as you have your political adviser here. Maybe you could comment on the sort of political context of the whole thing and how much it is important to you. Maybe they know where he is but they are simply afraid. Going after him, knowing from the experience in Serbia what happened to Djindjic and so forth. So, if you would give some kind of political context.

Also allegedly there are some upcoming indictments for Croatia. If you would comment on that. I mean, I do not know if that is your practice or not. But the Croatia media is writing about it. There are lots of speculations and so on.

Ms. DEL PONTE. Yes. They put in place a reward last week. And as you know, it was a counter reward from a—I do not know—it was an association of...

A VOICE FROM AUDIENCE. From the Patriotic Bloc.

Ms. DEL PONTE. ... the Patriotic Bloc. And it is true that, as you said, it can be political momentum, difficult political momentum, to arrest somebody, because normally it is political. It is not really about being afraid to be killed, no. No, I never ever dreamt it was because Djindjic was trying to reorganize the police and to reorganize and to get power about the army. And after that, he told me, they will kill me.

So he knows exactly from whom came the danger for him. It was not about the arrest of fugitives. And it is not that—absolutely not in Croatia. I was not mentioning—I have no mention from the prime minister.

But you know, it is possible that Gotovina now during last weeks disappeared. Of course, because with the publicity, with the reward and so on. But that does not mean that he is not in Croatia, because you know, it is like Karadzic. The best territory for their protection—the same territory where they were acting.

So it is important that—I hope that they will do it. But now the police is acting. Because, you know, it is also the question between the institutions. When we last year spoke about Mladic in Serbia, the general, chief of the army, told me: It is not that he's protected by some in the army, former generals. But the army has no mandate to locate or to arrest him. That was the answer I received. You know, between institutions, it is the police which must act.

Mr. SMITH. Yes...

[Crosstalk.]

Ms. DEL PONTE. New indictments, yes. As I said, in our completion strategy, we have 30 other suspects, divided in the different groups—Serbs, Bosnian Serbs, Bosnian Croats, Muslims, Croats, Macedonians, and Albanians.

I am expecting now to get Gotovina, Mladic and Karadzic. Then I will talk to the government of the different states, the names of our suspects so that they can provide fully, speedy cooperation that can help us end our investigation and issue our indictment.

QUESTIONER. [Inaudible.]

Ms. DEL PONTE. And you know why? Because after the arrest of Mladic, Karadzic and Gotovina, it will be much easier for all three countries to cooperate with us. It will be not difficult any more. No interfering from the politics. It is my opinion.

QUESTIONER. Eric Witte, Coalition for International Justice. Of course, the Srebrenica trial just started this week and it is a very important trial. Yet, there are five fugitives who remain at large, presumably in Serbia. They are Popovic, Borovcanin, Nikolic and one other. And I was just wondering what that means for you in terms of efficiency? Having—will there have to be another trial for these fugitives? And what if they only come one or two at a time? Again, what is the impact of the cooperation on the rest of the Srebrenica fugitives on the efficiency of the Tribunal? Thank you.

Ms. DEL PONTE. Yes, Srebrenica, we have five accused. Four of them are arrested and one is still at large. I mentioned him, Pandurovic in Serbia. And other four—but in another indictment—is Borovcanin, Popovic, Beara and Drago Nikolic.

Of course, but if they are not all arrested and they cannot be put on trial all together, it will be a repetition of a trial. Same facts, same counts, same accused. It is a second—and of course, that is a—for us, obviously, it is damaging in the sense that the witnesses must appear twice. As you know, it is not an easy task for a witness to come and appear in court, cross-examination.

But we are now nearly used to that. Karadzic should be in court with Krajisnik. The Krajisnik trial will start very soon. And if we do not have Karadzic, it will be another repetition.

QUESTIONER. Hi, I am an independent journalist here in town. I had a question that goes back a ways.

On March 23, 1999, *The New York Times* published a front page article, an investigative piece by Raymond Bonner, in which he documented U.S. funding intelligence and training for the 1995 cleansing of the Krajina in Croatia.

At that time, your office was quoted as not being able to get the documentation or the cooperation from the Clinton administration that you needed to proceed with your investigation.

I just wondered if you could update us on that, and also if you could tell us if the Bush administration has been any more forthcoming?

Thank you very much.

MS. DEL PONTE. I think that we have not advance in our request. But I must also tell you that it was not particularly necessary to insist on that. We could have other evidences and information on that.

QUESTIONER. Has anyone been indicted with respect to that particular ethnic cleansing, which I think was the first of the Balkan wars?

MS. DEL PONTE. Yes, of course. Not a particular individual only for that, but this matter is included in our overview of the Krajina situation.

MR. SMITH. Mr. Abramowitz?

QUESTIONER. David Abramowitz from the International Relations Committee. Returning to the Milosevic trial, I wondered if we could talk a little bit further about the testimony of Ambassador Holbrooke and General Clark?

I was wondering if you could give us your assessment of the importance of their testimony to the case, the concerns you have? That is number one.

Number two, the concerns you have about any testimony not occurring in open session and why that is so important to OTP that it be done in open session?

And, finally, what are the alternatives for the United States in terms of trying to protect the classified information that they—that we may have and we may have serious concerns about, but also providing testimony on the open record as much as possible?

MS. DEL PONTE. I am sorry I cannot answer on this question about the merits of that because it is under rule 70. Under rule 70 it is not possible to argue here publicly about.

What I can say about open or closed sessions, if you follow the Milosevic trial, you will see that our judges from the trial chamber are hesitant to accept closed sessions, because Milosevic is complaining every time he is asking to have closed sessions because he is—as you know, he does not recognize the trial chamber. He calls the president “Mr. May,” not “President” because he does not recognize the Tribunal.

He’s speaking publicly to Serbs, to the people in Serbia, though he does not like the closed session.

QUESTIONER. Well, I meant, in speaking to the people in Serbia, does the coverage in Serbia, the television coverage, hurt his case or help the case for justice?

Ms. DEL PONTE. Yes, since the beginning there was daily coverage, totally simultaneous coverage. Now, they cover that but no longer simultaneously. You know, the action was positive at the beginning.

Finally, he is now on trial, after we have had a period when they were not satisfied because of the statements of the witness in court. There were no particulars, you know—it was a little bit boring for the people, for the population outside. But now, it is even now getting better because we have many insider witnesses so they are following it very closely.

But, you know, it now one year that—more than one year—2 years that Milosevic is gone from Belgrade. And it is very soon that they'll have forgotten. Yes, it was Milosevic. But there are you know, new challenges, so it is even more so important to follow up.

But, of course, they are expecting now the end of the Milosevic trial.

QUESTIONER. Is the resolution of the Holbrooke-Clark testimony affecting the timing of this trial? Or you are successful...

Ms. DEL PONTE. No, no because if we will not find a solution, we will renounce. We are obliged to renounce, because you know the trial chamber gives us a certain time to present our case. We are asking now to have more time. We expect a decision from the trial chamber, because it is important. But we do not know now what will be the decision.

So it probably will be renounced. And it probably will accuse Milosevic, ask Clark and Holbrooke to appear as defense witnesses. I do not know.

QUESTIONER. I am also with the Voice of America. I just wanted to ask—perhaps this is a funny political question. Who do you expect will apprehend Karadzic, SFOR or the Bosnia-Serb authorities? And, if I can, by the way, ask a follow-up, how important do you think it is for Karadzic to be apprehended, I mean in the context of Bosnia-Herzegovina in the future?

Ms. DEL PONTE. Karadzic is my nightmare. Karadzic is now at large for 8 years. Since I got in office, I have been trying to obtain the arrest of Karadzic without success. We need the arrest of Karadzic.

Of course, it will be—it will be SFOR. It will be NATO. Because, as you know, he's in Republika Srpska. He's moving to Montenegro. I have information that he was in a monastery, Ostrog monastery.

Prime Minister and former President Djukanovic told me it is absolutely not true. And so he's there. He's protected in the Republika Srpska, because also he's or considered as another hero or such. So he's protected by the population, by the authorities, by the police, by all in Republika Srpska.

So, of course, it will be NATO's work. I think that the arrest of Karadzic will be of immense, immense positive—it will be positive and important for democracy in the Republika Srpska, for Bosnia-Herzegovina. It will facilitate reconciliation. It will be extremely, extremely important. And, really, I go around to try to obtain the arrest of Karadzic. It is extremely, extremely important.

QUESTIONER. I have one more question.

Mr. SMITH. Please.

QUESTIONER. Is there—are there any plans to arrest, indict or call as a witness Hashim Thaci to see what his arrest or his speaking may shed on earlier wars in the Balkans? He's now an official in Kosovo.

Ms. DEL PONTE. I am sorry, I cannot comment on that. But I can say that we have two investigations ongoing against Albanian perpetrators, suspects. And I must tell you that we have many difficulties in interviewing our witnesses, victims, because they have enormous fears and they are living there in Kosovo.

So it is absolutely incredible, incredible. Even if we suggest protection of the witnesses, relocation of witnesses, the most important of them, they do not want to be relocated or protected. They fear that they could be found, reached by some damage. So we insist, we will see.

QUESTIONER. I am from the Voice of America, Macedonian service. I would appreciate your comments on any developments in investigating several possible war crimes in Macedonia.

According to the media reports, one investigation would focus on events in the village of Ljuboten, near Skopje. Six ethnic Albanians civilians were killed there in a military operation following a landmine explosion in which eight soldiers died.

QUESTIONER. And the second case was related to a rebel ambush near Tetovo, when eight Macedonian soldiers died.

So I would appreciate any comment on that, and I have...

Ms. DEL PONTE. In the completion strategy we have two investigations that concern Macedonia. But you have more details than I have.

QUESTIONER. OK, and one brief follow-up. The exhumation at two other locations have started yesterday in Tetovo area, allegedly they are mass graves of Macedonian civilians, and among others during this operation, there were representatives of The Hague Tribunal.

Ms. DEL PONTE. I know nothing about this operation from yesterday, but probably because I was here and they were not able to reach me. But I have no knowledge. I am sorry.

Mr. CARDIN. If I could just ask one question about other European countries, it is my observation that the United States has played a very strong leadership role in getting cooperation from the member States with the International Tribunal.

We use not only the OSCE, but we use our bilateral relationships with Serbia and with Croatia and other countries to press for cooperation on turning over indictees and records.

My question is are you receiving the same degree of help from other European countries in raising these issues with their bilateral relations with Serbia or Croatia?

If that is not so, whether you want do it now or later, if you could help us identify other countries that we might be able to work with to try to get more help in their bringing these issues up when they have bilaterals with these countries.

Ms. DEL PONTE. It is a good question, but I think it is a bad answer for me, because I really do not know. I do not know in the sense that, of course, I am going to Brussels very often because it is near to The Hague, but it is not enough to go to Brussels.

I must go around in Europe, I must go in Paris and I will be next month in Paris, and I must go to London, I must go to Berlin. So, and, of course, I receive assurances that they will help us.

But it is much easier in the United States, because I have few interlocutors, and, I must say when the United States are speaking, of course, particularly in Belgrade, it is very important.

But my evaluation is that, yes, I receive complaints and support from Europe too. It is only a little bit difficult to have it all together at the same time.

I do not know, maybe my political adviser has something to add?

Mr. RUCHE. Yes, I think I can point out that at a few elements of conditionality that the EU Commission in particular has introduced, both regarding the further integration process or the further cooperation, institutional cooperation with Serbia and Montenegro, and with Croatia.

This is being made dependent on some political conditions, including full cooperation with The Hague. So this is one point which I think is particularly important.

Regarding EU member States, I wish to remind, for instance, that the U.K. and the Netherlands are still blocking the ratification of a key agreement between the European Union and Croatia only because of the deficiencies in the cooperation between Croatia and us.

So there is something going on, yes. And I would wish the United States and EU to work closely together on this.

Mr. SMITH. I would like to thank Ms. del Ponte and all of you who have participated in this discussion. It could not come at a more opportune time, we think, with the upcoming June 15th deadline, and your input will help us to provide some recommendations to the administration. Your answers certainly gave us a great deal of information that we now can act upon.

I thank you, on behalf of Mr. Cardin and myself, and the Commission. We admire and respect the great work you are doing at The Hague.

Ms. DEL PONTE. Thank you. Thank you very much, and, of course, I am at your disposal, just call us, we come for all needs. But I underline the importance of your support.

Mr. SMITH. Thank you so much.

Ms. DEL PONTE. Thank you very, very much.

[Whereupon the briefing was concluded at 4:45 p.m.]

APPENDICES

PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN, RANKING MEMBER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Throughout the tragic period of conflict in Southeast Europe, about which Co-Chairman Smith just spoke, members of the Helsinki Commission strongly supported the establishment of an international tribunal to prosecute those responsible for war crimes, crimes against humanity and genocide in the former Yugoslavia. Indeed, it has been members of this Commission that often took the lead in ensuring adequate U.S. funding of the tribunal during its formation, as well as ensuring that cooperation with the tribunal was high on the United States' bilateral agenda with countries of concern.

The assassination of Serbian Prime Minister Zoran Djindjic in March, I believe, revealed the degree to which those responsible for war crimes and those involved in organized crime in Southeast Europe are linked. In some cases, the people are the same. Having prevented the region from advancing economically and politically in a newly united Europe, these people now thrive on the smuggling, trafficking and other illegal activity while the average and innocent citizen struggles to survive. It should be in the interest of every democratic authority in Southeast Europe to cooperate and cooperate fully with the tribunal, not just to vindicate themselves and their country but to make their own difficult job of leading reform and recovery a little bit easier.

Unfortunately, we have seen recalcitrance and hesitation in cooperation with the Tribunal, especially but not exclusively by some officials in Belgrade. It is inexcusable that some leading persons indicted by the Tribunal—Ratko Mladic and Radovan Karadzic in particular—have yet to be transferred to The Hague and are still at large in Serbia or Bosnia. If documents or persons exist who can assist in prosecuted the crimes committed, it is imperative that the Tribunal have access to them, especially given the safeguards the Tribunal has for dealing flexibly with sensitive issues.

Hopefully, we are at a turning point in Belgrade's cooperation with ICTY and that outstanding issues like the apprehension of indictees and access to witnesses and archives will be quickly resolved. I look forward to the Chief Prosecutor's comments today. return to briefing

**MATERIALS SUBMITTED FOR THE RECORD
BY THE EMBASSY OF SERBIA AND MONTENEGRO,
WASHINGTON, DC**

REPORT

on cooperation with the International Criminal Tribunal for the former Yugoslavia from
the beginning of 2001 through 6 May 2003

TRANSFER OF INDICTED PERSONS

- So far, our Government arrested and turned over to the Tribunal's custody 6 indicted persons: Slobodan Milošević, former President of the FRY, Milomir Stakić, head of the crisis committee of the Prijedor municipality and four combatants of the Army of Republika Srpska: Predrag and Nenad Banović, Ranko Češić and Dražen Erdemović (transferred in 1996).

- As a consequence of the changed political situation in the country, 10 indicted persons residing in the territory of our country voluntarily surrendered to the Tribunal:

1. Milan Milutinović, until recently the President of Serbia
2. Army General Dragoljub Ojdanić, former Chief of the General Staff of the Army of Yugoslavia and former Minister of Defense
3. Nikola Šainović, former Vice-President of the Federal Government and MP in the Federal Assembly
4. Vojislav Šešelj, President of the Serbian Radical Party and MP in the Federal Assembly and in the Assembly of the Republic of Serbia
5. Milan Martić, Serbian leader in the Republic of Croatia during the 1991 armed conflicts
6. Major-General Mile Mrkšić
7. Lt. General Pavle Strugar
8. Vice-Admiral Miodrag Jokić
9. Blagoje Simić, head of the crisis committee of the Bosanski Šamac municipality, and
10. Momcilo Gruban, combatant of the Army of Republika Srpska.

- The procedure for the transfer of the Yugoslav Army Captain Miroslav Radić and former high-ranking officials of the State Security Service of the Ministry of the Interior of Serbia – Jovica Stanišić and Franko Simatović is also under way.

- The ICTY forwarded to our Government 19 additional requests for the transfer of indicted persons, namely for Radovan Karadžić, former President of Republika Srpska, General Ratko Mladić, former commander-in-chief of the Army of Republika Srpska, Veselin Šljivancanin and Vladimir Kovacević, former members of the Army of Serbia and

Montenegro, as well as 15 combatants of the Army of Republika Srpska. Arrest warrants have been issued for most of them. For several other persons this procedure is under-way.

DOCUMENTATION

- Since the beginning of 2001, Serbia and Montenegro has responded to 99 requests of the ICTY Prosecutor's Office for the provision of documents. Only in 8 cases the Prosecutor's Office did not receive the documents since the requested documentation was not available. In addition, 14 requests have been responded to by providing part of the requested documentation.

- The ICTY Prosecutor's Office has received thousands of documents so far, including the minutes from the sessions of the Supreme Council of Defense during the time of conflicts in Croatia and in Kosovo and Metohija, transcripts from all sessions of the National Assembly of the Republic of Serbia from April and May 2002, as well as the minutes from the closed sessions of this Assembly, personal data on many high-ranking military officers, military documents on operations in Dubrovnik and Vukovar from 1991, the entire available documentation on the Racak incident in Kosovo and Metohija in 1999, several classified rules of procedure of the Ministry of the Interior of Serbia as well as a large number of rules of procedure of the Army of Yugoslavia, including numerous information, documents and criminal cases on the crimes committed during the war conflicts in the former Yugoslavia.

- So far, thirty-six requests of this kind remained unanswered by Serbia and Montenegro. Of that number, thirteen are currently processed by the ICTY in accordance with rule 54 bis of the Rules of Procedure and Evidence. In this respect, the Prosecutor's Office of the ICTY demands the Trial Chamber to issue a binding order on Serbia and Montenegro to honor these requests. These requests concern the access by the Prosecutor's Office to the archives of Serbia and Montenegro, as well as those requests which are of so general nature and therefore difficult to process. In any case, Serbia and Montenegro will respect the decision of the Trial Chamber on this outstanding issue.

- All other remaining requests for documentation (23 in all, 14 of which were transmitted in 2003) are being processed.

ASSISTANCE IN HEARING OF WITNESSES AND INDICTED PERSONS

- This aspect of cooperation covers locating, providing information and servicing summons to witnesses and/or relieving of the witness and convicted persons of their duty to keep the State, military and official secret.

- In this way, since the beginning of 2001, as many as 115 requests by the Prosecutor's Office and the Trial Chambers of the ICTY have been resolved (only in ten cases it was

not possible to identify those persons due to lack of information on those persons. Moreover, additional 10 requests have been partially addressed by transmitting information on some of the witnesses (those requests contained several dozens of names).

- Among others, the following persons were relieved from the duty to keep official secrets: Zoran Lilic and Dobrica Cosic, former Presidents of the FR of Yugoslavia, Borisav Jovic, former President of the Presidency of the SFRY and Col. General Nebojša Pavkovic, former Chief of the General Staff of the Army of Yugoslavia.

- Thirty-one outstanding request of this kind remains, of which twenty-four were received in 2003.

- Serbia and Montenegro also honors other requests of the ICTY, such as scheduling meetings with the State authorities and allowing the ICTY investigators to be present during exhumations, etc.

IMPLEMENTATION OF PROTECTION MEASURES

- Serbia and Montenegro, in line with the guarantees it provided, conscientiously implements the protection measures regarding the indicted persons in its territory, in line with the decisions of the ICTY to temporarily free the indicted persons pending the beginning of their trials.

- There are currently four indicted persons in Serbia and Montenegro covered by these measures: Momir Talic, Miodrag Jokic, Pavle Strugar and Momcilo Gruban. All of them are fully at the disposal of the ICTY, as may be necessary.

PROCEEDINGS BEFORE DOMESTIC COURTS

- Several criminal proceedings are under way before the domestic courts against persons indicted for crimes against the international humanitarian law (the case of the Sjeverin abduction, the killings in Ovcar, the case of killing Albanian civilians in Podujevo), which also demonstrates the readiness of Serbia and Montenegro to honor its international obligations and face its unpleasant past.

- The District Court in Prokuplje sentenced Ivan Nikolic, indicted for killing two Kosovo Albanians to 8 years in prison. The District Court in Bijelo Polje sentenced Nebojša Ranisavljevic to a fifteen-year prison term for his involvement in the notorious abduction and killing of passengers in the village of Štrpci. The Military Court in Niš sentenced four members of the Army of Yugoslavia for killing two Kosovo Albanians to seven, five, four and three-year prison terms respectively.

**OVERVIEW OF REQUESTS FOR LEGAL ASSISTANCE SUBMITTED BY THE ICTY TO SERBIA AND MONTENEGRO
SINCE 2001**

TOTAL NUMBER OF REQUESTS RECEIVED	RESPONDED	PARTIALLY RESPONDED	BEING PROCESSED
313	221	24	68
	Documents: 99 Assistance in hearing witnesses and convicted persons: 115 Others: 7	Documents: 14 Assistance in hearing witnesses and convicted persons: 10 Others: -	Documents: 36 Assistance in hearing witnesses and convicted persons: 31 Others: 1

**MATERIALS SUBMITTED FOR THE RECORD
BY THE COLATITION FOR INTERNATIONAL JUSTICE**

Statement of Facts and Acceptance of Responsibility

(Tab A to "Annex A" to the "Joint Motion for Consideration of Plea Agreement Between Momir Nikolić and the Office of the Prosecutor")

1

As Chief of Intelligence and Security of the Bratunac Brigade, and from my own personal knowledge and involvement, I am aware of the following:

During the attack and takeover of the Srebrenica enclave by VRS forces in July 1995 it was the intention of the VRS forces to cause the forcible removal of the entire Muslim population from Srebrenica to Muslim-held territory.

2

On 11 July 1995, VRS forces captured and occupied the town of Srebrenica causing the Muslim population to move to the Dutch UN base in Potočari. During the day and evening, I received intelligence reports which provided as estimate of 1000 to 2000 able bodied men within the population of women and children around the Dutch base. I received this information from the intelligence officer of the Bratunac Brigade's 2nd Infantry Battalion. I wrote up a report chronicling all the relevant intelligence and security information of the day including the estimate of 1000 to 2000 able-bodied Muslim men in Potočari and forwarded that report to my command and to the intelligence and security officers of the Drina Corps who I knew were present at the Hotel Fontana in Bratunac.

3

Later that evening I attended two meetings at the Hotel Fontana in Bratunac. The first meeting took place at 20:00 hrs. and was attended by General Ratko Mladić, General Milenko Živanović, Colonel Radislav Janković, and three Dutch Battalion officers including the Dutch commander Colonel Karremans. During the first meeting, General Mladić threatened and intimidated the Dutch officers, as can be seen from the video segments of that meeting in the possession of the Prosecutor. The second meeting occurred at 22:00 hrs. at the Hotel Fontana and was attended by General Ratko Mladić, General Radislav Krstić, Colonel Karremans, a Muslim representative named Nesib Mandžić, myself and other military personnel of the VRS. At this meeting General Mladić threatened and intimidated the Dutch officers present and Nesib Mandžić, which can also be seen from the video segments in the possession of the Prosecutor. At one point in the meeting General Mladić told Mr. Mandžić he wanted the Muslim army to turn themselves in and General Mladić stated to Mandžić that the future of his people were in his (Mandžić's) hands, that they could choose to survive or disappear. After this meeting I escorted the Dutch officers and Mr. Mandžić back to Potočari. I did not return to the Hotel that evening, but went back to the Bratunac Brigade command and slept.

4

On the morning of 12 July VRS forces, including elements of the Bratunac Brigade, entered and occupied the town of Potočari and the area around the UN Dutchbat compound. A third meeting was scheduled to occur at the Hotel Fontana at 10:00 hrs. between the same parties.

In the morning of 12 July, prior to the above-mentioned meeting, I met with Lt. Colonel Vujadin Popović, Chief of Security, Drina Corps, and Lt. Colonel Kosorić, Chief of Intelligence, Drina Corps, outside the Hotel Fontana. At that time Lt. Colonel Popović told me that the thousands of Muslim women and children in Potočari would be transported out of Potočari toward Muslim-held territory near Kladanj and that the able-bodied Muslim men within the crowd of Muslim civilians would be separated from the crowd, detained temporarily in Bratunac, and killed shortly thereafter. I was told that it was my responsibility to help coordinate and organise this operation. Lt. Colonel Kosorić reiterated this information and we discussed the appropriate locations to detain the Muslim men prior to their execution. I identified several specific areas: the Old Elementary School "Vuk Karadžić" (including the gym), the old building of the secondary School "Đuro Pucar Stari", and the Hangar (which is 50 meters away from the old secondary School). Lt. Colonel Popović and Kosorić talked with me about sites of executions of temporaly detained Muslim men in Bratunac and we discussed two locations which were outside Bratunac town. These were: State company "Ciglane" and a mine called "Sase" in Sase.

5

After speaking to Lt. Colonel Popović and Kosorić, I waited around the Hotel Fontana. At the end of the third meeting Colonel Janković came out of the Hotel Fontana and told me to coordinate the transportation of all the women and children and the separation of the able-bodied Muslim men. At that time he did not mention the killing of the Muslim men.

Shortly thereafter, two Dutch officers arrived outside the Hotel Fontana where I was standing with Lt. Colonel Kosorić and asked us what the plan was for the transportation of the Muslim population. I told the Dutch officers to go back to Potočari because the buses would be arriving there soon to transport the people towards Kladanj.

6

For most of the day of 12 July, I was in Potočari co-ordinating and working with Duško Jević, a commander of the MUP Special Police Force, and the following other military and MUP units: Drina Corps Military Policemen under Major Petrović; ; Drina Wolves of the Zvornik Brigade; elements of the 10th Sabotage Detachment; elements of the 65th protection Regiment's Military Police; Bratunac Brigade's 2nd^d and 3rd Infantry Battalions, Bratunac Brigade Military Police and civilian police with German Shepherd dogs. Working in conjunction with these units I coordinated and supervised the transportation of the women and children to Kladanj and the separation and detention of able-bodied Muslim men.

During the day in Potočari, VRS forces and MUP forces intimidated and abused the Muslim population in order to compel them to get on the buses and trucks to Kladanj.

The first convoys to leave Potočari included a few men on the buses as part of a propaganda exercise. This was for the benefit of the Dutch troops and the Serb TV cameras, but these men were later separated at checkpoints before reaching Kladanj.

During 12 July VRS forces abused and assaulted many Muslim men and women who had assembled around the Dutch base in Potočari.

I was personally aware of this conduct and did nothing to stop or prevent the forces under my supervision from carrying out these abuses. I also heard that some Muslim men were taken to isolated areas around Potočari and killed.

That evening between 18:00 and 21:00 hrs. I also reported the abuses verbally to my commander, Colonel Vidoje Blagojević. I discussed the operation to transport the women and children to Kladanj and separate, detain and kill the able bodied Muslim men in Potočari. It was apparent to me that Colonel Blagojević was fully informed of the transportation and killing operation and expected me to continue to carry out the duties related to those operations that I had begun that morning. We were alone in the office at that time. I also spoke to other Bratunac Brigade staff officers such as Trišić, Mičić and Pajić in the Operations Room. We spoke informally about the abuse, separations and evacuations. There was no concern expressed by them. We did not discuss the killing operation at that time.

7

During 11 and 12 July I received intelligence reports that the bulk of the military age men from Srebrenica had assembled near the village of Jaglići and begun to move in a long column toward Muslim territory, following a known route through the mine fields at the front line towards Konjević Polje.

On 12 July and the early morning hours of 13 July I was made aware through intelligence reports and other information that VRS and MUP forces were capturing Muslim men in the area between Ravni Buljim, Nova Kasaba and Konjević Polje.

8

I was duty officer that same evening (12th) and was exhausted, so at about 03:00 hrs. on the 13th, I phoned Mirko Janković to relieve me. I went to my apartment in town and slept for a few hours. I returned to duty at the Bratunac Brigade HQ at about 07:00 hrs. on the 13th July.

At about 09:30 hrs. that morning, a meeting took place at the Bratunac Brigade HQ. It was attended by General Mladić, Colonel Vasić, Lt. Colonel Popović and General Krstić. I do not know what was discussed at this meeting, as I never participated. About 10 to 15 minutes after the meeting, I spoke to my commander, Colonel Blagojević in his office.

I was tasked by Colonel Blagojević to continue the Potočari operation to transport the Muslim women and children to Kladanj and separate and detain the able bodied Muslim men.

9

My first task of the day (13th July) was to go to Potočari and check on the progress of the transportation and separation of the Muslim men and other tasks. I established that all was going well. I directed the work of the forces present in Potočari.

While I was in Potočari, I met Duško Jević and told him to pass an order to his units which were on the Bratunac-Konjević Polje road that all the captured Muslims on this road be transported to Bratunac. I then left Potočari and went back to the Bratunac Brigade HQ. According to my information which I got from the members of the Bratunac Brigade Military Police, on that day, General Mladić intended to use the road Bratunac-Konjević Polje and my task was to check security and accessibility of that road.

I drove along the Bratunac-Konjević Polje road in a Volkswagen Golf motor vehicle with a Military Policeman.

On the way I saw MUP forces along the road. I saw MUP at Sandići with heavy weapons. There were approximately 80 to 100 prisoners at Sandići meadow at this time. I arrived in Konjević Polje at about 12:30 hrs. that day. There was a civilian police checkpoint at the intersection. I sat in a burnt out house and waited for General Mladić to pass. Together with me in this house were five to six Muslim prisoners.

While I was in Konjević Polje I saw approximately ten prisoners in a building used by the 5th Engineering Battalion of the Drina Corps at Konjević Polje. I also saw police from Bratunac at the checkpoint and soldiers who I did not recognise. I also saw Nenad Deronjić and Mirko Perić there. When I arrived at Konjević Polje I contacted the MUP commanders and directed them that the Muslim prisoners should be detained and would be moved to Bratunac later that day.

I was at Konjević Polje for approximately 45 minutes before General Mladić arrived. His car arrived from the direction of Bratunac and stopped at the intersection at Konjević Polje. He got out of his vehicle and we met in the middle of the road. I reported to him that there were no problems. He looked around and saw the prisoners. Some of the prisoners asked him what would happen, to which he responded that they would all be transported away and they should not worry.

After General Mladić left, I took a prisoner, Rešid Sinanović, in my car back to Bratunac. Sinanović was an important prisoner as he was on a war criminal list and he was also the former police chief in Bratunac. On the way back to Bratunac, I saw large columns of captured men, numbering about 500 being marched towards Konjević Polje. Further along the road I saw another column of prisoners being taken towards Sandići. As I passed on the road near the Kravica Warehouse I noticed a few soldiers but nothing else. I handed Sinanović over to the Military Police at the Bratunac Brigade HQ, specifically to a legal officer, Zlatan Čelanović.

I then went to the building of the Military Police of the Bratunac Brigade and met with Mirko Janković, the commander of the Bratunac Military Police Platoon, and Mile Petrović, a MP member. Janković knew how to drive one of the captured Dutch APCs and he, Petrović and I drove along the Bratunac- Konjević Polje road. Mile Petrović sat on top of the APC with a megaphone calling for the Muslims to surrender. It was clear that some were already surrendering at that stage. Just after we had passed Sandići, we stopped the APC when about six Muslim men surrendered to us. We took them in the APC to Konjević Polje. When we arrived there I told Mile and Mirko to take the prisoners and leave them with the rest of the approximate 250 prisoners already held there. I went to the house where I had sat before. There were about 30 Muslims being held in this house. I then heard two bursts of gunfire close by. About ten minutes later, Mile Petrović came to me and said: "Boss, I just took revenge for my brother...I've killed them." He was referring to the six prisoners who had surrendered to us a short time before. He said he had executed them down a riverbank behind a yellow building. There is a gas station built on this site now.

Mirko had driven off in the APC, in the direction of Zvornik. We stayed in Konjević Polje for about twenty minutes and when Janković returned with the APC we left for Bratunac.

I saw that Janković had Deutsche Marks with him and I asked him where he got the money. He said that he had received it from some Special Police members along the road.

On the way back to Bratunac, I saw many prisoners being marched in both directions. I also saw dead bodies lying on the side of the road near Pervani and Lolići. I saw groups of three or so bodies at a time. At Sandići, I saw about 10 to 15 corpses and a large mass of prisoners in a meadow.

On the way back to Bratunac, we drove past the Kravica warehouse and I saw some soldiers there but did not notice any Muslim prisoners. The next day I heard that an incident had occurred where a member of the MUP had been killed by a prisoner there. I looked into the incident and determined that after the killing of a MUP individual, the MUP forces became very angry resulting in the military and MUP forces present executing the prisoners held there.

I established that among those participating in the execution were: Nikola Popović from Kravica, who was attached to the Bratunac Brigade Military Police; Milovan Matić who was attached to the 1st Infantry Battalion of the Bratunac Brigade; Ilija Nikolić who was attached to the 1st Infantry Battalion of the Bratunac Brigade; Rašo Milanović who the commander of the Police Unit in Kravica.

I also found out that the director of the warehouse, Jovan Nikolić witnessed the execution. Further, I learned that shortly after the executions on 13 July machines were brought from Zvornik and Bratunac to bury the bodies. I reported about what I have learned to Colonel Vidoje Blagojević about one of two days after the event.

While the Muslim were detained in Potočari and around Bratunac, they were not given any food or medical aid and only given enough water to sustain them until the time they were transported to Zvornik.

10

In the evening of 13th July I was having dinner at the Bratunac Brigade HQ when I received a call from the communication room to report directly to Colonel Beara in the centre of Bratunac. I travelled to the centre and met with Colonel Beara at about 20:30 hrs. Colonel Beara ordered me to travel to the Zvornik Brigade and inform Drago Nikolić, the Zvornik Brigade Security Officer, that thousands of Muslim prisoners were being held in Bratunac and would be sent to Zvornik that evening. Colonel Beara also told me that the Muslim prisoners should be detained in the Zvornik area and executed. I drove alone to Zvornik from Bratunac via Konjević Polje and arrived at the Zvornik Brigade Headquarters at around 21:45 hrs. I went to the Duty Officer's desk and requested to see Drago Nikolić. A person whom I believe was from the Brigade Intelligence branch met me in the Duty Officer's room and I explained to him that I needed to see Drago Nikolić. He told me that Drago Nikolić was at the Forward Command Post (FCP) and provided me with a Military Police (MP) escort to go to the FCP. I then left the Zvornik Brigade HQ and travelled with the MP to the FCP. The trip from the Zvornik Brigade HQ to the FCP took almost 45 minutes along a very rough road. I met with Drago Nikolić and explained to him what Colonel Beara had told me. Drago Nikolić told me he would inform his command. I spent around 10 minutes at the FCP and then drove back to the Zvornik Brigade HQ where I dropped the Military Policeman at the gates. I drove back to Bratunac via Konjević Polje. On the way back to Bratunac I passed some of the busses containing prisoners, at Kušlat, who were traveling towards Zvornik. I later established that another convoy had left for Zvornik along the Drina river road to Zvornik.

I returned to Bratunac, around midnight, and reported to Colonel Beara at the Hotel Fontana. I told him that I met with Drago Nikolić and had passed on his (Beara's) orders.

At that time the Bratunac town was overcrowded with Muslim prisoners that had been brought from the area of the Milici-Bratunac road. It was late at night and there was insufficient transportation to move these prisoners to Zvornik. This created an unstable situation around Bratunac town. To deal with this situation, Colonel Beara, M. Deronjic (the civilian commissioner appointed by Karadžić to deal with the Muslim civilians), Dragomir Vasić and myself met in the SDS office in Bratunac. Deronjic was concerned that the prisoners in the town created a security risk and did not want the killing of these prisoners to be carried out in and around Bratunac. The killing operation was openly discussed at the meeting and all participants indicated that they had been reporting to their various chains of command. Logistic, transportation and security support was also discussed. It was decided at the meeting that the Muslim men in and around Bratunac should be continued to be guarded by elements of the Bratunac Brigade Military Police, various civilian MUP forces and armed volunteers from Bratunac town. The meeting

ended at 00:30 hrs. on 14 July and I returned to the Bratunac Brigade Headquarters where I informed my commander, Colonel Blagojević, of my trip to Zvornik and the instructions I had received from Colonel Beara and that all the prisoners would be moved to Zvornik where they would be detained and killed. He accepted what I said and never queried me. I also informed him of the meeting at the SDS office that night.

11

The vast majority of the Muslim men in Bratunac were transported to Zvornik the morning of 14 July in a column of buses and trucks well over 1 ½ kilometers in length led by Mirko Janković in a stolen Dutch APC. Later that day Mirko Janković reported to me that, that day, many Muslim prisoners were detained in schools and gyms in the Zvornik area. I was also aware that a patrol consisting of two Bratunac Military Policemen were also left overnight from 16 to 17 July in Pilica to assist in securing prisoners detained there.

It was reported to me that approximately 80 to 100 Muslims were murdered in the hangar near the Vuk Karadžić school in Bratunac on the evening of the 13 July. Their bodies were deposited over a hillside and covered with dirt.

12

From 14 July through October 1995, Bratunac Brigade forces, working with the MUP and other VRS forces continued to capture and execute Muslim prisoners attempting to escape from the Srebrenica and Žepa areas.

13

From September through October 1995 the Bratunac Brigade, working with the civilian authorities, exhumed the mass grave at Glogova and other mass graves of Muslim victims of the murder operation, and reburied them in individual mass graves throughout the greater Srebrenica area. In September 1995 I was contacted by Colonel Popović, the Drina Corps Chief of Security, and told to conduct a reburial of the Muslim bodies at Glogova. I coordinated the effort to exhume and re-bury Muslim bodies from mid-September to October 1995. This was done in coordination with the Bratunac Brigade Military Police, civilian police, and elements of the 5th Engineering Battalion of the Drina Corps. I reported on a Bratunac Brigade Command meeting in October 1995 to the assembled Command including Colonel Blagojević that we were tasked with conducting the reburial operation of the Muslim bodies for the VRS Main staff.

14

In May 1996 when I was already demobilised from the VRS and worked in the Ministry of Refugees and Exiled Persons in Bratunac, the safe (containing intelligence and security documents, including decisions and orders, and valuables such as money) which was the property of the Security and Intelligence Organ of the Bratunac Brigade was handed over from me to my successor Captain Lazar Ostojić. In the presence of a

commission comprised of the Chief of Security of the Drina Corps, Rade Pajić, two more officers from the Drina Corps whose names I don't recall and Lazar Ostojić the documents which could have compromised myself and the Bratunac Brigade were destroyed. These documents related to the events in Srebrenica in 1995. I have not informed Colonel Blagojević nor anybody else about this and I don't know whether Captain Ostojić has informed Colonel Blagojević.

15

I was summonsed to an interview by the ICTY in December 1999. Just prior to attending this interview, I was called to a meeting at the Zvornik Brigade Headquarters. I met General Andrić, Dragan Jokić, Lazar Ostojić, Dragan Jevtić and General Miletić there. There were also some civilian lawyers from Belgrade present.

The lawyers instructed us on our legal rights, General Miletić appealed to our patriotism and asked us not to divulge information which would damage the state and General Andrić said we should say as little as possible. After my meeting with the ICTY, I met again with General Andrić. The topic of the conversation was the same and he wanted to know if I had spoken about the killings to the ICTY. I was also visited by State Security just prior to my meeting with the ICTY, and was threatened that I should not speak of their involvement.

Several months after the first meeting I attended again a similar meeting that was held again in the Zvornik Brigade headquarters, with the same individuals including, I think, Dragan Obrenović who had been recently summonsed by the ICTY. General Miletić and Andrić again told us not to provide any information related to the Srebrenica events to the ICTY.

In relation to the Amended Joinder Indictment of 27 May 2003 (Prosecutor v. Blagojević et al.) and in addition to the issues dealt with in paragraph 5 of the "Annex A to the Joint Motion for Consideration of Plea Agreement made between Momir Nikolić and the Office of the Prosecutor", dated 6 May 2003, I would like to make the following corrections:

Paragraph 2:	Heading: delete "Superior Authority"
Paragraphs 9 and 10:	instead of "Captain First Class" -- only "Captain"
Paragraph 11 and 45:	instead of "Bratunac Brigade Military Police Company" -- Bratunac Brigade Military Police Platoon"
Paragraph 46.6:	instead of "Military Police Company of the Bratunac Brigade" -- "Military Police Platoon of the Bratunac Brigade"

Date

Momir Nikolić

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