

CRIME OF GENOCIDE IN SARAJEVO UNDER SIEGE

Introductory remarks

In Sarajevo under siege, in the period between 1992 and 1996, the individuals – *civilians and civilian population* and *civilian objects* protected by international humanitarian law were subjected to numerous forms of crimes against humanity and international law, and the gravest crimes of relevance for the international community as a whole, of versatile and different features – elements and characteristics, contents and form, committed in various ways, in the same or different areas at the same or at different times, directly or indirectly or in other ways.

The pursuit of the forbidden warfare in Sarajevo, in form of the siege, facilitated a coordinated, long-lasting, widespread and systematic campaign (military strategy) of shelling and sniping of civilians and civilian populations and civilian objects from the artillery, mortars, and infantry weapons. The intentional shelling and sniping resulted in the death of thousands of civilians, of both genders and all age groups, including children.

Civilians were intentionally shelled in their everyday activities or civilian locations. Namely, civilians were exposed to fire while in the streets, houses, water queue, in line for bread or while they were doing other things, in ambulances, hospitals, trams, buses, at funerals and other locations. Children were exposed to fire while in schools, houses, playgrounds, in the streets, kindergartens, water queues, in line for food and other places.

Around 340,000 residents lived in the town itself, and they were constantly kept under siege and they were permanently exposed to indiscriminate artillery and sniper activities, and all forms of inhumane warfare against civilians and civilian population.

In this strategy of planning, preparation, and execution of genocide and other forms of crimes against humanity and international law in Sarajevo under siege, but also in all other occupied places under siege in Bosnia and Herzegovina, occupied by the great Serbian aggressor, especially important part relates to the **strategy of systematic targeting the civilians**. A special form of planning, preparation, and execution of the strategy of commission of crimes (targeting civilians) was directed against the most sensitive and most vulnerable part of the population – children.

1. Planning and preparation of the siege*

The siege of Sarajevo, a political, cultural, economic, and social center and the capital of Bosnia and Herzegovina, was strategically important for the achievement of the planned aggression against the Republic of Bosnia and Herzegovina. The great Serbian aggressor planned to quickly take over, occupy the capital of Bosnia and Herzegovina, and achieve one of the most important objectives of the aggression.

The siege of Sarajevo, as well as the aggression against the Republic of Bosnia and Herzegovina, and genocide against Bosniacs and make an essence of the joint criminal enterprise of Serbia and Montenegro, that is the Federal Republic of Yugoslavia, its state, military and police leadership, including the fifth column, collaborationists and mercenaries from Bosnia and Herzegovina and other countries. The intention of that criminal act aimed at conquering, division, and destruction of the Republic of Bosnia and Herzegovina as the state. All the relevant sources confirm that prior to the aggression against the Republic of Bosnia and Herzegovina and genocide against Bosniacs, there was a well designed intention to commit those and other forms of crimes against humanity and international law.

Based on the available data, it can be reliably established that the siege of Sarajevo, with the objective to take it over, was carefully planned in the high military circles of the Yugoslav National Army (JNA) and with full cooperation of the Serb Democratic Party of Bosnia and Herzegovina (SDS). The facts speak clearly about this, especially the deployment of artillery around the city.

As of September 1991, JNA, in the organization of the Command of the 4th Corps, made reconnaissance of the hills and started assuming the strategic positions overlooking Sarajevo. On that occasion, the high ranking JNA officers defined the artillery positions, built trenches and reinforcement, organized fire systems, **“so that they can at any time, during day and night, use sniper and artillery to cover all the vital objects in the city and train loyal manpower”**. Corps Commander Vojislav Đurđević, personally and his high ranking officers supervised these operations.

The 4th Corps Commander and his group of officers secured **“all the compositions in the Sarajevo garrison and nearby area. Together with the officers (squad leaders to**

* In this part of the text, basically, only the relevant results of the research by Smail Čekić were used, and they were published in the study *AGGRESSION AGAINST THE REPUBLIC OF BOSNIA AND HERZEGOVINA – PLANNING, PREPARATION AND EXECUTION*, Institute for the Research of Crimes against Humanity and International Law of the Sarajevo University – Kult B, Sarajevo, 2004, pp. 726-751. More about this: S. Čekić – M. Šestanović – M. Karović – Z. Mastalić-Košuta, *CRIMES AGAINST THE CHILDREN OF SARAJEVO UNDER SIEGE*, Institute for the Research of Crimes against Humanity and International Law of the Sarajevo University, Sarajevo, 2010, pp. 33-56

high ranking officers) he carried out a detailed surveillance of all possible avenues of attack and modes of engagement. Several times. The checked the communications”.

Aggressor concentrated huge quantities of weapons to isolate Sarajevo from the “rest” of the Republic of Bosnia and Herzegovina and the world (physically, communication wise, media wise...). The capital was the objective, along with the most important state, government, scientific, educational, cultural, informative, and other institutions, and the aggressor tried to cut it off from the “body” of the Republic of Bosnia and Herzegovina, and thus destroy all the elements of its statehood, particularly the Bosniacs. That was the attempt by the aggressor to alter the ethnic map of Bosnia and Herzegovina, so that they could pursue during the political talks on a new state, imposed by force.

It is interesting to point out that the combat position along the artillery fire positions was not in line with standard formations, but rather the weapons were deployed widely to allow the engagement along any part of the city. The weapons were deployed at high elevations to allow direct or semi-direct fire.

In terms of fortification, the aggressor positions were well fortified and camouflaged. There were even some false guns deployed at some important positions. The reserve positions were also well planned. The crews and weapons were protected by mine fields from any sabotage actions, and they were additionally protected by infantry weapons.

During the preparation for the siege of Sarajevo, the aggressor assumed a full control over all the vital road communications, to allow the ammunition supplies, etc. the supplies came mainly from Serbia and from warehouses at Koran – Pale area, as well as warehouse of the company *PRETIS* including the Lukavica barracks.

The JNA infantry, artillery, mechanized units, together with the fifth column armed units of SDS blocked all “**the accesses to Sarajevo**”.

The barricades were immediately placed at all accesses to Sarajevo (Stup, Ilidža, Krivoglavci, Ilijaš, others), organized and manned by JNA and armed forces of SDS.

The key strategic points around Sarajevo, in the eve of the attack against the city, were under a full control of JNA and numerous members of the Serb armed units, which had a good communications among themselves, well armed, and well supplied with all possible technical means.

The Command of the JNA 2nd Military Area in Sarajevo, considering the fact that “**the leadership of Serb people and Serbs in general were ready for war**”, including “**the option that Bosnia and Herzegovina would soon be recognized as a state**”, organized barricades during the referendum for the independent and sovereign state Bosnia and

Herzegovina (night between 29 February and 1 March 1992). These activities were organized and coordinated by JNA (mainly high ranking Counterintelligence officers). So, in fact the siege of Sarajevo started on 1 March 1992, once the referendum polling stations for the independent and sovereign Bosnia and Herzegovina were closed, and the Command of the JNA 2nd Military Area, together with SDS, placed barricades in and around Sarajevo.

2. Strategy of (intentional) killing of civilians and civilian population

The armed forces of Serbia and Montenegro (Federal Republic of Yugoslavia, while keeping Sarajevo under siege from the dominant elevations overlooking the city, pursued well designed, coordinated, long-lasting, systematic, strong, indiscriminate, excessive campaign of shelling the civilian population and areas in Sarajevo from the artillery and mortar weapons, thus killing or injuring thousands of civilians. Those forces also pursued coordinated, long-lasting, widespread and systematic sniping campaign against civilians in Sarajevo, thus killing or injuring a large number of civilians, of both genders and all age groups. These attacks were of such nature that they involved intentional shooting at civilians with weapons intended for direct operations¹.

Sarajevo, according to the UN Special Rapporteur for Human rights Tadeusz Mazowiecki, **was regularly shelled. "... Snipers kill innocent civilians. Civilian population lives in permanent fear, leave their homes and shelters only when necessary... Public water and electrical companies do not work. Food and other essential living supplies are rare and they depend on air supply organized by UN High Representative for Refugees, protected by UNPROFOR.**"²

General Galić, Yugoslav Army high ranking officer and Commander of Sarajevo-Romanija Corps, **justified indiscriminate attacks** against civilian population and objects in Sarajevo **"which needed to represent the defense of Serb motherland and their attempt to preserve their culture"**³. Moreover, General Galić, **"not only knew of the military attacks of the units under his command against civilians in Sarajevo, but he also**

¹ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, 5 December 2003, Para. 14-15; ICTY, SUMMARY OF THE JUDGMENT OF THE TRIAL CHAMBER IN THE CASE AGAINST *DRAGOMIR MILOŠEVIĆ*, The Hague, 12 December 2007, p. 1.

² UNITED NATIONS, COMMISSION ON HUMAN RIGHTS, SITUATION OF RIGHTS IN THE TERRITORY OF FORMER YUGOSLAVIA, *Rapport on the situation of human rights in the territory of the former Yugoslavia by Tadeusz Mazowiecki*, E/CN:4/1992/S-1/9, 28 August 1992, Para. 17-18; INTERNATIONAL COURT OF JUSTICE, JUDGMENT – BOSNIA AND HERZEGOVINA AGAINST SERBIA AND MONTENEGRO (hereinafter referred to as: INTERNATIONAL COURT OF JUSTICE – JUDGMENT), The Hague, 26 February 2007, Para. 323.

³ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, 5 December 2003, Para. 727.

directed those attacks, to achieve a plan... he believed this to be normal what his units did". He intended to make Sarajevo "safe for children of his children", with the final end to "destroy the city or to expel Muslims from it"⁴. Major Inđić stated "that he did not want to destroy city, but to exhaust people until they surrender or return to Turkey", and "that they did not intend to stop shelling of hospital until Muslims leave the city"⁵. Apparently, this was "a tactic to destroy the city and kill all Muslims in it", what was "a part of the military plan"⁶.

Great Serbian aggressor applied the tactics of keeping Sarajevo under siege, intentional shelling, and sniping of civilians and civilian objects. Military strategy of shelling and sniping was pursued all around Sarajevo, with the intention to kill, injure, and terrorize the civilians of Sarajevo, which resulted in death or injuring of thousands of civilians of both genders and all age groups, including the children and the elderly.⁷

The great Serbian aggressor intentionally fired at civilians for a distance, using the infantry weapons for direct activity (special sniper rifles with optical aim, different automatic and semi-automatic rifles).⁸

Due to the heavy shelling, strong artillery and tank attacks, including the incendiary shells of civilian targets in Sarajevo, Baščaršija was burnt, being of center of downtown, National and university library, Railways station, Zetra Olympic hall and other facilities, being essential facilities and landmarks in the city. Residential buildings were shelled and many of them were set on fire.⁹ Markets, trams, water points were shelled. Victims sustained injuries, and they still suffer the physical and mental consequences.¹⁰

Generals Ratko Mladić, Stanislav Galić, Dragomir Milošević and other officers from Serbia and Montenegro (Federal Republic of Yugoslavia) ordered shelling and destruction of

⁴ Ibid.

⁵ Ibid, Para. 728.

⁶ Ibid, Para. 729.

⁷ INTERNATIONAL COURT OF JUSTICE – JUDGMENT, Para. 324; ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, 5 December 2003, Para. 181 and 206; INDICTMENT AGAINST STANISLAV GALIĆ, Para. 4(a).

⁸ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, 5 December 2003, Para. 184; ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 878-879, 909-910 and 913; INTERNATIONAL COURT OF JUSTICE – JUDGMENT, Para. 328.

⁹ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, 5 December 2003, Para. 200; ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 851-852.

¹⁰ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, 5 December 2003, Para. 200; ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 937

Sarajevo. Mladić and Galić ordered targeting civilians and civilian objects.¹¹ General Milošević ordered in the first half of August 1994 to the 4th Mixed Artillery Regiment to **“prepare fire against Bašćaršija and Vrbanja”**.¹² He issued, on 6. April 1995, the order to the Ilidža brigade to **“immediately prepare the launcher with one air bomb and prepare the bomb for launching”**. That order included: **“Select the best target in Hrasnica or Sokolović-Kolonija, with the biggest human and material losses.”**¹³ As for the weapons at the disposal of Sarajevo-Romanija Corps, it came directly from the Army of Yugoslavia.¹⁴

Serb snipers (well trained) shot at civilians, including young children, in their homes, in water and bread lines, while they were trying to get some firewood, in trams, while they were doing everyday things, talked to their neighbors, drank coffee.¹⁵ Moreover, Sarajevo-Romanija Corps organized special training for snipers in a barracks at Jahorina mountain.¹⁶

Snipers were particularly active in nice weather as **“people would go out, so that the space was full of targets, and snipers turned very active”**. **“They targeted the places full of civilians, including the water queues. Snipers sometimes fired at pots in which people collected water.”**¹⁷

Some areas in Sarajevo under siege were under the constant pressure of snipers and they were dangerous for civilians. **“Trams and buses were targeted, and people in them. At Marindvor, people had to run across the streets, and it was a matter of luck if someone was going to be hit. A part of the street Zmaja od Bosne, main road where hotel ‘Holiday Inn’ is, was named a Sniper Alley, which directly suggested a number of sniping incidents.”**¹⁸

Every sniper hit was shot with the intention to kill or injure. Serb snipers were very skilful.¹⁹

¹¹ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, 5 December 2003, Para. 733-753.

¹² ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 857

¹³ Ibid, Para. 854.

¹⁴ Archive of the Institute for the Research of Crimes against Humanity and International Law of the Sarajevo University (hereinafter referred to as: AIIZ), No. 2-3240, Military post 7063, confidential No. 19/10532, 30 June 1994 – Attn. Command of the Sarajevo-Romanija Corps, Prosecution body of evidence in the case PROSECUTOR versus Stanislav Galić.

¹⁵ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 937.

¹⁶ AIIZ, No. 2-3241, *Order to separate and send the sniper instructors for the training to the barracks Jahorina*, 19 January 1995, confidential No. 20/04-20, Prosecution body of evidence in the case PROSECUTOR versus *Stanislav Galić*

¹⁷ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 908.

¹⁸ Ibid

¹⁹ Ibid, Para. 909

Trams were shot at, and several passengers were killed or injured in them, even during the seize fire, of which the passengers suffered **“fear and terror... There is nothing more illustrative of this intention and victimization of passengers than the usual phrase that the tram had to slow down to find an S-shaped curve, at which moment the tram was shot at“**. Trams and passengers were easy targets or, as one witness stated **“clay pigeons“**.²⁰

Every sniper activity resulted in death or severe injury, which according to the ICTY Trial Chamber in the case against General Dragomir Milošević, was also an apparent example of terrorizing the population.²¹

Sarajevo-Romanija Corps and the attached units carried out ample shelling and sniping and directed them against civilians, civilian population and civilian objects in Sarajevo under siege. Although some parts of the city were more dangerous than the others, civilians were everywhere exposed to the mortar, artillery attacks and the effect of modified air bombs. Considering that Sarajevo is surrounded by hills, Sarajevo-Romanija Corps had no difficulties to carry out the shelling.²²

The great Serbian aggressor pursued the campaign of un-proportionate shelling and sniping directed against civilians and civilian areas in Sarajevo, which included intentional and indiscriminate shooting at civilians, and death or injuring of several thousand of civilians.²³

Shelling was indiscriminate and the only purpose was to inflict human losses. Sometimes, the first shell was followed by a small break, and then the others would follow, which according to the Trial Chamber in the case against General Dragomir Milošević was done to terrorize civilian population, **“as it could not know when the shelling would stop“**.²⁴

Great Serbian aggressor inflicted huge suffering on civilians in Sarajevo under siege. The perpetrators **“intended to inflict grave physical or mental harm or to commit a grave attack against human dignity of the victims or they knew that their actions would probably cause physical or mental harm or would be a grave attack against human dignity“**.²⁵

²⁰ Ibid.

²¹ Ibid, Para. 911

²² Ibid, Para. 936

²³ Ibid, Para. 939

²⁴ Ibid, Para. 971

²⁵ Ibid, Para. 938

Civilian population in Sarajevo were subjected to the attacks, directly or indiscriminately “from the territories under the control of SRC“, resulting in death or injuries of thousands of civilians. Sarajevo-Romanija Corps intentionally carried out massive attacks against civilians and civilian objects. Considering these clear pieces of evidence, ICTY is satisfied that “**the attacks were not individual incidents, but they were part of a widespread and systematic campaign**“. That campaign “did not have any obvious military relevance“. Although the frequency of the attack “perhaps varied from day to day, they always confirmed the fact that no civilian was safe in Sarajevo“.²⁶

The attacks were **widespread** (strong attack and a large number of targeted persons) and **systematic** (organized violence and a small probability that they were randomly carried out).²⁷ The widespread character can be seen in a large number of mortar attacks and the used modified air bombs and sniping through out Sarajevo during a longer period of time. Civilians were targeted. Evidence also proves the systematic character of the attack, as there was an organized way of sniping and the way how the Sarajevo-Romanija Corps used shelling and sniping as means of retaliation for the political purposes.²⁸

A large number of individuals “who were targeted in shelling and sniping, apparent structure and pattern of shelling and sniping, a clear relation between the conflicts in Bosnia and the shelling of Sarajevo by SRC – represent a classic example of organized attack of a large extent and/or widespread and systematic attack“.²⁹

In Sarajevo under siege, there was a pattern of indiscriminate sniping and shelling of civilians. Sniping and shelling of civilian population was pursued through the chain of command of the great Serbian aggressor.³⁰ Serb snipers were well coordinated and they followed the orders from top, which were disseminated through the chain of command.³¹ The commanders of the SRC were also in the leadership of the “firmly established chain of command“, including the General of the Yugoslav Army Dragomir Milošević.³² All the parts of Sarajevo were under the control of various “SRC brigades and sniper activity, which

²⁶ ICTY, SUMMARY OF THE JUDGMENT OF THE TRIAL CHAMBER IN THE CASE AGAINST *STANISLAV GALIĆ*, The Hague, 5 December 2007, p. 3.

²⁷ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 925

²⁸ Ibid, Para. 927.

²⁹ Ibid, Para. 928.

³⁰ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, 5 December 2003, Para. 733

³¹ Ibid, Para. 734-735

³² ICTY, SUMMARY OF THE JUDGMENT OF THE TRIAL CHAMBER IN THE CASE AGAINST *DRAGOMIR MILOŠEVIĆ*, The Hague, 12 December 2007, p. 3

suggests the intention of the highest commands³³. The attacks against civilians were ordered through the SRC chain of command. This conclusion, according to the assessment of the Trial Chamber in the case against General Galić, was also corroborated by “evidence on highly coordinated artillery fire to which the Sarajevo civilian population had been subjected”. SRC heavy artillery, according to Pyers William Tucker, a British military officer, who served as a military assistant to General Morillon in Sarajevo between October 1992 and March 1993, “was not directed against military objectives, but rather it was used as means for terrorizing civilians to put pressure on Bosnian authorities”. Serb forces, according to the witness Y, heavily shelled the area to **exhaust** city residents.³⁴

ICTY Trial Chamber in the case against General *Galić* concluded that “direct and indiscriminate shelling and shooting of the SRC against civilians was ordered through the chain of command³⁵. Galić had *effective control* over his units.

The great Serbian aggressor in Sarajevo under siege committed crimes against civilians and civilian population and civilian objects in various ways. Mode of commission of these crimes “reveals a surprising similarity in the patterns. Thus, the punishable actions were carried out in line with the well planned campaign of the attacks against civilians, which came from the higher levels of authority or at least with their consent³⁶, which clearly confirms the strategy of intentional killing and terrorizing of civilians and civilian population.³⁷ At its fifteen session, *Commission for human rights* clearly condemned the siege of towns and other areas populated with civilians, intentional shelling of towns and settlements under siege with the fatal outcome, systematic terrorism and murders of civilians, as well as all other forms of attacks against civilians.³⁸

The armed formations of the great Serbian aggressor and its collaborationists, especially SRC and other units, according to the Trial Chamber in the case against General *Dragomir Milošević*, are responsible for shelling of civilians and civilian population and

³³ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 853

³⁴ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, 5 December 2003, Para. 736.

³⁵ *Ibid*, Para. 737. This “only reasonable conclusion” was reached by Trial Chamber based on “harmonized attempt by SRC to stop at a point in time the direct or indiscriminate sniper activity or shelling of the city, and then to increase it again to the previous intensity, from a number of different locations, with the use of various weapons and the quantity of ammunition fired without any military purpose”. This conclusion, inferred by Trial Chamber “is corroborate by the fact that it cannot be imagined that the duration of crimes against civilians is not the result of planned operation to maintain such a situation” (*Ibid*).

³⁶ *Ibid*, Para. 740-741.

³⁷ *Ibid*, Para. 742-751 and other

³⁸ ICTY, Report from the 15th session of the *Human Rights Commission*, held on 9 March 1994, Prosecution body of evidence in the case PROSECUTOR versus *Stanislav Galić*

civilian areas, “**especially considering the evidence related to the precision of mortars and the skills of the SRC mortar crews, firing a large number of shells on the city, seriousness of injuries and the number of killed due to the mortar activities**“. Intentional shelling of civilians and civilian population in the city with these precise weapons, accompanied with a large number of shells, is regarded by this Trial Chamber as **terrorizing**. Considering the fact that those weapons were used, especially mortars, with the skilful crews, the Chamber is satisfied that there was an intention to terrorize.³⁹ Specialist in psychiatry Dr. Stuart Turner, a member of the British Royal Board of Psychiatrists, defined terror as “the state of final fear”, and terrorizing as “spreading fear or forcing someone by intimidation”.⁴⁰ According to Dr. Turner, a combination of the intentional, yet unexpected violence, which strikes a group of people among civilians is a true example of a terrorist attack.⁴¹ If someone wishes to spread fear among civilians, he will kill civilians, prevent food and water supplies, prevent medical care by shelling hospitals and ambulances, attack civilians intentionally and heinously, and use all possible ways to create a feeling of helplessness and vulnerability.⁴²

SRC also used modified air bombs against civilians and civilian population and civilian objects, which were extremely imprecise and a non-selective weapons of a huge destruction force. This armed unit is responsible for shelling of civilians and civilian population and civilian objects by **modified air bombs**, “especially considering the evidence about the non-selective nature of modified air bombs”.⁴³ Those modified air bombs were in possession of SRC only, and it used them to shell civilians and civilian population in

³⁹ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 913

⁴⁰ ICTY, Expert report by Dr. Stewart Turner in the case PROSECUTOR versus *Stanislav Galić*, Para. 4.

⁴¹ Ibid, Para. 38.

⁴² Ibid, Para. 41.

⁴³ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 912. Use of modified cluster bombs, regularly used against Sarajevo (civilians, civilian population, and civilian objects) commenced under the command of General Dragomir Milošević, Yugoslav Army officer and the commander of “Sarajevo-Romanija Corps”. He also made decisions on deployment and positions of launchers for those projectiles. Available evidence suggests that General Milošević ordered firing of modified cluster bombs (ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 854; ICTY, SUMMARY OF THE JUDGMENT, TRIAL CHAMBER, The Hague, 12 December 2007, pp. 3-4). Modified cluster bomb fired on 7 April 1995 at Hrasnica, based on his order dated 6 April 1995, killed Ziba Čustović, injured three children and “caused massive destruction in civilian suburb where it exploded” (ICTY, SUMMARY OF THE JUDGMENT OF THE TRIAL CHAMBER IN THE CASE AGAINST *DRAGOMIR MILOŠEVIĆ*”, The Hague, 12 December 2007, p. 4).

General Milošević regularly used modified cluster bombs. “Modified cluster bombs could have been directed only against a general area, and it was possible to define the place where it would explode. Each time the modified cluster bomb was fired “Milošević played with the lives of civilians in Sarajevo” (Ibid)

Sarajevo. Based on the fact that SRC used modified air bombs, the Trial Chamber in the case against *Milošević* concluded that “there was an intention to terrorize”.⁴⁴

The use of modified air bombs, according to this Trial Chamber is yet another indicator of intention of the great Serbian aggressor to spread terror. Extreme destructive force and psychological effects, produced by these bombs among civilian population, were obvious to everyone.⁴⁵

3. Intentional attacks against civilians and civilian population

During the aggression against the Republic of Bosnia and Herzegovina (1991–1995), under the particularly grave siege were Sarajevo, Srebrenica, Goražde, Maglaj, Bihać, Tuzla, Cerska ... Politics and strategy of siege of the cities and towns were an integral part of the great Serbian genocidal ideology, politics and practice relative to the destruction of the state of Bosnia and Herzegovina and the extermination of Bosniacs. The objective of the great Serbian ideology and practice was also to **take over** Sarajevo.

One of the “strategic objectives of Serb people” was **the division of Sarajevo to “Serb and Muslim”** part, and then the establishment in both parts the “**effective state authority**” (**great Serbian state**). Namely, the “Assembly of the Serb people of Bosnia and Herzegovina”, in line with the orders of the leadership of the great Serbian movement, secretly agreed between Milošević and Tuđman a division and destruction of Bosnia and Herzegovina (26 March 1991) and on 12 May 1992 reached an agreement on distribution of territories between Radovan Karadžić and Mate Boban (in Graz, in late April, and on 6 May 1992) at the 16th session in Banja Luka. Upon the proposal of Radovan Karadžić, it adopted (session in camera) the *Decision on strategic goals of Serb people in Bosnia and Herzegovina*. It was the moment when this collaborationist body of the great Serbian aggressor openly announced its criminal plans to take over Bosnia and Herzegovina, particularly Sarajevo. Specifically, these are six “strategic goals” of genocidal character:

- “1. State separation from the other two ethnic communities;
2. Corridor between Semberija and Krajina;
3. Corridor along the river Drina, and the elimination of Drina as a border between Serb states;

⁴⁴ Ibid, Para. 912. “Sarajevo-Romanija Corps” was “aware of the indiscriminate nature of these bombs, gravity of injuries and the number of the killed as the result of use of these imprecise bombs” (Ibid)

⁴⁵ Ibid, Para. 970

4. Establishment of borders along the rivers Una and Neretva;
5. **Division of Sarajevo to Serb and Muslim part and establishment of effective state authority in both parts;**
6. Access of Republika Srpska to sea.⁴⁶

General Ratko Mladić was “fully aware” that this meant genocide. During the session of the “Assembly of Serb people” he made the following comment to the first “strategic goal” (“separation of Serb people from the other two ethnic communities”): “People and nations are not the lien which you can keep in a pocket and move here and there. Easy to say, but not so easy to make ... we cannot cleanse, and we cannot purify, so that only Serbs remain and other go away ... I do not know how Mr. Krajišnik and Mr. Karadžić can explain this to the world. People, that would be genocide.”⁴⁷

“Fully aware” of the objectives of such genocidal plan, General Mladić demanded that it is kept in secret. Thus, at this session in camera of the “Assembly of Serb people”, he stated: “Let us not only think of what we want to do, but we should think about what we want to achieve, and be careful and to know when to keep quiet. No. the thing that we are making should be kept as the most sacred secret. As for our representatives and their presentation in media during the political talks and negotiations, and everything they are going to say, they have to present our goals in a way that will sound affirmatively in the ears of those that we want to get on our side, without making any damage for the Serb people.”⁴⁸

⁴⁶ *Official Gazette of Republika Srpska*, Decision on strategic goals of Serb people in Bosnia and Herzegovina, 26 November 1993; S. Čekić, *AGGRESSION AGAINST THE REPUBLIC OF BOSNIA AND HERZEGOVINA – planning, preparation, execution*, vol. 1-2, Institute for the Research of Crimes against Humanity and International Law of the Sarajevo University – Kult B, Sarajevo, 2004, p. 567. Radovan Karadžić and Momčilo Krajišnik passed and adopted the mentioned “homework”, which they received from Slobodan Milošević, which created in the national and international public the appearance that the “strategic goals of the Serb people in Bosnia and Herzegovina” were “originally” adopted by the “Assembly of Serb people of Bosnia and Herzegovina”, which was important for Milošević to present (their) planning, preparation, and execution of the aggression against the Republic of Bosnia and Herzegovina and the commission of genocide against Bosniacs. It is the historic fact that the Serb quislings and collaborationists of the great Serbian aggressor in Bosnia and Herzegovina were not an independent political or military factor – they were not the independent subject, they only carried out the orders from the leadership of the great Serbian movement, especially Milošević and the state of Serbia and Montenegro (Federal Republic of Yugoslavia)

⁴⁷ *ICTY*, Case: No. IT-02-54-T, *PROSECUTOR VERSUS SLOBODAN MILOŠEVIĆ*, 31 May 2002, Para. 63 and 401-405; S. Čekić, page 568 in his book.

⁴⁸ *Ibid*, Para. 403. “Totally aware” of the objective of the genocidal plan, Mladić said: “It is our common enemy, regardless of whether they are Muslim or Croat hordes. That is our single enemy, which is important now, either to throw both of them out by use of political and other actions, or organize us and some of them force out by use of military force, and we shall be capable to manage the remaining number of them” (*ICTY*, Case: Br. IT-02-54-t, Para. 404)

The meeting in Banja Luka “**considered the plan for ensuring that Sarajevo becomes a political capital of Republika Srpska**”.⁴⁹ Dr. Dragan Kalinić, minister of health in “Serb Republic of Bosnia and Herzegovina”, **opted for the destruction of the Koševo hospital**, and General Ratko Mladić proposed that Sarajevo under siege be “**deprived of vital supplies necessary for life and to accuse the Bosnian government for that**”⁵⁰, better to say the Government of the Republic of Bosnia and Herzegovina.

These “strategic goals, two days later (14 May 1992) were considered in the meeting with the “representatives of municipalities” in the area of responsibility of the 30th Partisan Division under the command of Colonel Galić.⁵¹ Speaker of the Municipal Assembly Mrkonjić-Grad (Milan Malidža) presented the conclusions from the meeting held on 12 May 1992 in Banja Luka. To that end, he stated:

- “1. There has to be state separation between 3 ethnic communities;
2. Krajina has to join with the right bank of the river Sava, 25-30 km wide;
3. making corridor along the Drina river so that the Serb people can control both left and the right river bank;
4. making the border, from the river Una down to the river Neretva;
5. it was stated that **Sarajevo has to be divided and fully destroyed**;
6. to examine the possibility that Serb Republic of Bosnia and Herzegovina gets an access to sea.”⁵²

At the end of the meeting, Colonel Stanislav Galić, Commander of the 30th Partisan Division proposed also to “implement the conclusions from the meeting in Banja Luka,

⁴⁹ *ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT AND OPINION*, 5 December 2003, Para. 726

⁵⁰ *Ibid.*

⁵¹ S. Čekić, page 568 in the book; *ICTY, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT AND OPINION*, 5 December 2003, Para. 726.

Agenda of the meeting was:

“1. Reviewing the situation in municipalities on the political military plan; Functioning of authorities and relations until the transformation of JNA;

Messages from the meeting in Banja Luka on 12 May 1992 about the Armed forces of the Serb Krajina and Army of the Serb Republic of BiH;

Consideration and the proposal for further cooperation with the JNA units in securing the territory and the treatment of soldiers (unit commanders) in the area of Serb Krajina” (*Ibid.*)

This meeting was attended by Colonel Stanislav Galić (Commander of the 30th Partisan Division), Colonel Branko Basara (Commander of the 6th Partisan Brigade), Lt. Colonel Stevan Koković (CoS of the 30th Partisan Division), Major Boško Lukić (Commander of the headquarters of the Territorial Defense Ključ), six representatives of “Serb” municipalities: Jovo Banjac (Ključ), Radoslav Đurić (Šipovo), Milan Malidža (Mrkonjić-Grad), Dragan Miličić (Jajce), Nikola Zagorac (Donji Vakuf), and Nikola Mišić (Bugojno), and Rajko Kalabić (Member of Parliament in “Serb Krajina”) - S. Čekić, authors’ book, page 568

⁵² S. Čekić, pages 568-569 in his book; *ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT AND OPINION*, 5 December 2003, Para. 726

which should also be delivered to the commands of the units and municipalities”, which was unanimously adopted.⁵³

It was apparently the case of “strategic goals” which could be enforced only with the use of forces and commission of genocide and other forms of crimes against humanity and international law. The final objective was the establishment of the great Serbian state, which indicated the intention to occupy Bosnia and Herzegovina and commit genocide against Bosniacs. for the purpose of enforcement of these genocidal activities, the operative deployment of forces and tools was carried out in the second half of 1991.⁵⁴

The 4th JNA Corps and the Yugoslav Army (SRC and other armed units) permanently shelled and carried out sniping activities in and around Sarajevo from their positions. “*Artillery and sniping attacks were carried out mainly from the positions overlooking Sarajevo, where the attackers had a clear, detailed and a complete view over the city and civilian population in the city.*”⁵⁵

The siege of Sarajevo was carried out also by widespread and systematic “*campaign of sniping activity and shelling*”, where by the civilians were “*intentionally and indiscriminately*” killed and injured, including children, women, and the elderly, protected by international humanitarian law, and they systematically subjected to “*unbearable terror*”⁵⁶ which caused “*extreme fear*”, thus inflicting upon them “*severe physical and mental harm*”. These qualifications of the crimes were also adjudicated by the ICTY Trial Chambers in the cases against Yugoslav Army generals who kept Sarajevo under siege: generals Stanislav Galić and Dragomir Milošević, commanders of SRC. The evidence before the Trial Chambers in the cases against *Galić* and *Milošević* reveal “*a horrible story about the siege of a city transformed into a trap*”.⁵⁷ ICTY also considered “*grave mental harm*” caused by infliction of unbearable terror and *extreme fear*.⁵⁸

⁵³ Ibid

⁵⁴ S. Čekić, page 569 in his book

⁵⁵ ICTY, PROSECUTOR VERSUS GENERAL STANISLAV GALIĆ, INDICTMENT, Para. 2, 26 March 1999

⁵⁶ *Terror*, in its usual meaning, according to ICTY, “signifies ‘state of horror or a great fear; intensive fear, concern or horror’ or ‘action or capability to cause fear, something horrible or terrible” (ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS DRAGOMIR MILOŠEVIĆ, JUDGMENT, 12 December 2007, Para. 884)

⁵⁷ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT, 5 December 2003; ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS DRAGOMIR MILOŠEVIĆ, The Hague, 12 December 2007; ICTY, SUMMARY OF THE JUDGMENT OF THE TRIAL CHAMBER IN THE CASE AGAINST DRAGOMIR MILOŠEVIĆ, The Hague, 12. December 2007, pp. 2-3

⁵⁸ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT AND OPINION, 5 December 2003, Para. 138; ICTY, APPEALS CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT, 30 November 2006, Para. 100-101; ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS DRAGOMIR MILOŠEVIĆ, JUDGMENT, 12 December 2007, Para. 876

ICTY Trial chamber in the case against *Stanislav Galić* concluded, based on “a volume of evidence in form of statements and documents”, the analysis of 171 testimony of the witnesses (including the testimony by the representatives of international military staff in Sarajevo) and 1,264 physical evidence, including documents, reports, films, photographs, maps, and audio records and 15 different expert reports (from historians to ballistic experts), that the (available) reliable evidence “*suggest beyond any reasonable doubt that the Sarajevo civilians were indeed the target of intentional SRC attack*”.⁵⁹

The attacks against Sarajevo “*took place mainly during the daylight. They were not a response to any military threat. The attackers, in majority of cases, could clearly see that their victims carried out their daily civilian activities*”. The topography of Sarajevo, “*with its hills and high rise buildings, allowed the SRC members to have a clear view from the positions from which they shot at civilians in the city. Some areas in Sarajevo became ominous places from which the snipers were active ... for example, several witnesses testified that the main street in the city was known as ‘sniper alley’*”. Though the residents in a way adapted their lives to frequent attacks, closed schools, lived at nights, hid during the daylight, minimally moved along Sarajevo and placed metal containers to protect themselves from sniper fire, they were not safe. Still, they were visible and shot at. There was hardly anything possible to protect from sniping and shelling”.⁶⁰

The great Serbian aggressor “*directed shelling and sniping against civilians who worked in their gardens, waited in line for bread, gathered water, attended funerals, took rides on trams, collected firewood, or simply walked with their children or friends. People were injured or killed even inside their homes by the bullets that entered through the windows. The attacks against Sarajevo civilian had nothing to do with any military activity...*”.⁶¹

Although the capital of the Republic of Bosnia and Herzegovina, Sarajevo, and its area were declared by the UN SC Resolution 824 (1993) of 6 May 1993, Sarajevo, **the UN safe area**, and as such it was supposed to be **spared from the “armed attacks and other hostilities”**⁶², the siege of the city continued with permanent shelling, sniping, killing, and

⁵⁹ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, The Hague, 5 December 2003, Para. 584; ICTY, SUMMARY OF THE JUDGMENT IN THE CASE PROSECUTOR VERSUS *STANISLAV GALIĆ*, 5 December 2003, p. 2

⁶⁰ ICTY, SUMMARY OF THE JUDGMENT OF THE TRIAL CHAMBER IN THE CASE PROSECUTOR VERSUS *STANISLAV GALIĆ*, The Hague, 5 December 2003, p. 2

⁶¹ ICTY, PROSECUTOR VERSUS GENERAL *STANISLAV GALIĆ*, INDICTMENT, Para. 4/b, 26 March 1999.

⁶² ∴ UN SC RESOLUTION ON BOSNIA AND HERZEGOVINA, Department for political issues of the Army of the Republic of Bosnia and Herzegovina, Sarajevo, 1995, pp. 72-74.

injuring of civilians, destruction of civilian objects, protected by international humanitarian law.

By the destruction of communal and other infrastructure, power cut, cut of water and gas supplies, blockade of public traffic and other services, the civilian population was continuously exhausted. Lack of basic living supplies was evident, which brought the Sarajevo population to a situation for a bare biological survival – hunger, thirst, no sleep, feeling of insecurity and no future, lack of basic medications, and everything else which needed to expedite the extermination of Bosniacs who were a dominant ethnic and religious group under siege. The intentional cut of supplies with medicines is one of the underlying acts of genocide and integral part of activities undertaken to impose on a group, subjected to planned genocide, living conditions calculated to bring about complete or partial physical destruction.

By pursuing the forbidden siege like warfare in Sarajevo, JNA/Yugoslav Army and their collaborationists (“Republika Srpska Army”, “Republika Srpska Ministry of Interior” and other military units) carried out intentional, coordinated, long-lasting widespread, systematic, wonton, and strong campaign of shelling the civilian areas, objects, civilians and civilian population from the artillery, infantry weapons and mortars. The most populated areas in Sarajevo were targets of indiscriminate and unselective shelling. Thousands of civilians of both genders and all age groups were killed or injured in this shelling or sniping, including children and the elderly, inflicted physical and mental harm, of which population lived in fear, and some even died of that.⁶³

Civilians and civilian population were **intentionally** shot at in civilian areas while they were performing everyday things. The attacks were of such nature that they included intentional attack by weapons for direct activity. Civilians were targeted “*at funerals, in ambulances, hospitals, tams, and buses, on their bicycles, at home, in gardens, while they were organizing fire or cleaning garbage in the city, in shopping, during sport events, in the streets, in line for water, bread, firewood, and in other occasions*”.⁶⁴

⁶³ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, 5 December 2003, Para. 2-7, 584 and other.

⁶⁴ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, The Hague, 5 December 2003, numerous paragraphs including Para. 584; ICTY, SUMMARY OF THE JUDGMENT OF THE TRIAL CHAMBER IN THE CASE PROSECUTOR VERSUS *STANISLAV GALIĆ*, The Hague, 5 December 2003, p. 2.; S. Čekić, RESEARCH OF THE GENOCIDE VICTIMS WITH A SPECIAL VIEW ON BOSNIA AND HERZEGOVINA – Scientific and theoretical and methodological issues and problems, Institute for the Research of Crimes against Humanity and International Law of the Sarajevo University - Kult B, Sarajevo, 2007, pp. 101-102. Graves were dug out and funeral were organized at nights. In

Civilian objects were often “**targeted or were under siege**”, which according to Tadeusz Mazowiecki represents a violation of international humanitarian law:

“103. Hospitals in the towns of Goražde, Srebrenica, and Sarajevo, already for months under siege, according to the reports, have constantly been shelled, an under artillery and rocket fire. The team of the European Community observers, who visited Goražde on 20 January 1993 reported that around 70,000 people live there, of which around 35,000 are displaced persons. Ever since May 1992, they did not have electricity or water, and many people live in cellars or ruins of their burnt houses. Telephone communications have been cut, and all roads closed. The only communication is possible through the radio amateurs. The use of Red Cross, in the eyes of majority of medical and humanitarian professionals appears to be difficult instead of that it assists humanitarian and medical activities.

104. A doctor from Sarajevo emphasized that **15% of the treated injured persons are children. Moreover, his testimony describes absurd situations, such as that those who were injured elsewhere and shot at or shelled in hospitals again. He named that ‘injuring of the inured’.**⁶⁵

In Sarajevo under siege, civilians, in addition to exposure to constant shelling and sniping, suffered also from **“cruel lack of food, water, gas, and electricity, and their lives were endangered by constant threat overlooking the city. The siege destroyed the complete structure of the daily living”**.⁶⁶ Civilian population in Sarajevo, particularly the injured and sick people, as well as young mothers and children, were victims of **“direct attack and the shortage of everything caused by combat operations”**.⁶⁷

Under the difficult terms of siege of Sarajevo and other towns in the Republic of Bosnia and Herzegovina, and the permanent attacks against civilians (with heavy armament and sniping) in Maglaj, Zavidovići, Travnik, Tešanj, Žepče, Visoko, Vareš, Zenica, Gradačac, Tuzla, Srebrenica, Goražde, Kladanj, Olovo, Bihać, and Mostar (**“Starvation of civilian population and intentional killing and injuring of individual civilians;**

some cases, the funerals were not organized at graveyards (*ICTY, PROSECUTOR VERSUS STANISLAV GALIĆ, TRIAL CHAMBER, JUDGMENT AND OPINION*, 5 December 2003, Para. 220)

⁶⁵ UNITED NATIONS, COMMISSION ON HUMAN RIGHTS, SITUATION OF HUMAN RIGHTS THE TERRITORY OF FORMER YUGOSLAVIA, *Rapport on the situation of human rights in the territory of the former Yugoslavia by Mr. Tadeusz Mazowiecki*, E/CN.4/1993./50, 10 February 1993, Para. 1, 103-104; - S. Čekić, pages 101-102 in his book, note No. 8

⁶⁶ NATIONS UNIES, SITUATION DES DROITS DE L’HOMME DANS LE TERRITOIRE DE L’EX YUGOSLAVIE, *Troisième report périodique*, E/CN.4/1994/6, 26 August 1993, Para. 2; S. Čekić, page 103 in his book

⁶⁷ *Ibid*, Para. 24; S. Čekić, page 103 in his book

temporary or permanent power cut, water and gas supplies; prevention of bringing supplies and medical material needed for the survival of civilians; permanent bombardment of hospitals and taking civilians hostages”), deteriorated physical and mental condition of population, which increased already huge suffering and pain.⁶⁸ By harming physical and mental condition of population in Sarajevo, the complete state of health was quite deteriorated. As an illustration, number of newborns fell to 2,000 from 10,000, annually, whereas the percentage of deformities was tripled with the infants.⁶⁹

A large number of civilians lived in basements of their buildings to avoid shelling. The elderly **“died of hunger, as they were scared to go out”**.⁷⁰

The civilian population was not only starved, but it was also exposed to conditions which **“inevitably cause fear and feeling of insecurity, due to constant sniping and shelling of the city”**. Moreover, it **“left and erasable psychological scars on the population as a whole”**.⁷¹

By establishing the criminal responsibility of Stanislav Galić, Yugoslav Army high ranking officer (“Republika Srpska Army SRC Commander”), for the campaign of shelling and sniping of civilians and civilian population in Sarajevo under siege, which also resulted in a large number of killed and injured civilians, ICTY found that it was more than clear that the General Galić was responsible for using direct and indiscriminate fire against civilians in Sarajevo. That was a **“planned intention to commit the acts of violence against civilians”**.⁷²

The Serb campaign of shelling and sniping of civilians in Sarajevo, according to the Trial Chamber Judgment in the case against General *Galić*, *inter alia*, had for its objective **“terrorizing civilian population in the city, ...objective was to intimidate civilians..., instilling terror..., terrorizing population..., psychological war against civilians..., so that**

⁶⁸ NATIONS UNIES, SITUATION DES DROITS DE L’HOMME DANS LE TERRITOIRE DE L’EX YUGOSLAVIE, *Sixième report periodique ...*, E/CN.4/1994/110, 21 February 1994, Para. 5-79; *Ibid*, *Neuvième report periodique ...*, A/49/641-S/1994/1252, 4 November 1994, Para. 146, 154, 166, 172, 186, 192, 199 and 205; S. Čekić, page 104 in his book

⁶⁹ NATIONS UNIES, SITUATION DES DROITS DE L’HOMME DANS LE TERRITOIRE DE L’EX YUGOSLAVIE, *Report periodique ...*, E/CN. 4/1994/6, 26 August 1993, Para. 1-37; *Ibid*, *Report periodique ...*, E/CN. 4/194/110, 21 February 1994, Para. 5 and 59-60; S. Čekić, page 104 in his book.

⁷⁰ ICTY, PROSECUTOR VERSUS STANISLAV GALIĆ, TRIAL CHAMBER, JUDGMENT AND OPINION, 5 December 2003, Para. 222

⁷¹ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS DRAGOMIR MILOŠEVIĆ, JUDGMENT, 12 December 2007, Para. 910.

⁷² ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT AND OPINION, The Hague, 5 December 2003, Para. 745-749; ICTY, *Judge Fausto Pocar*, ICTY President addressed the legal advisors to the Foreign Ministers of the UN member states, The Hague, 31 October 2007; S. Čekić, page 104 in his book. “As for the crime of pursuing terror as a violation of customs and laws of war, this is the first time /in the ICTY case against General *Galić* – note by S.Č./ that the International Tribunal is delivering the Judgment on the material element and the element of mens rea of this crime” (*ICTY, SUMMARY OF THE JUDGMENT IN THE CASE PROSECUTOR VERSUS STANISLAV GALIĆ*, The Hague, 5 December 2003, p. 4)

they were ‘indeed horrified and in war’..., thus terrorizing civilian population and inflicting upon them mental harm...”.⁷³ Intimidation of civilians by shelling and sniping, where the women and children were targeted was, according to the Trial Chamber, “a psychological pressure of population in the city”.⁷⁴

ICTY Appeals Chamber in the case against *Galić* also confirmed its jurisdiction over “the crime of instilling fear” and pointed at the character of prohibition of instilling fear among civilian population, whose legal basis may be found in Article 51(2) of the **Protocol Addition I** and Article 13(2) of the **Protocol Addition II** (“**Civilian population as such, and individual civilians, shall not be subjected to an attack. The acts or threat with violence are forbidden, whose objective is to spread fear among the civilian population**”).⁷⁵

4. Killing in Sarajevo and the art of surviving

In Sarajevo “there was no safe place. Anyone could be killed or injured, anywhere and at any time”.⁷⁶ A life of any Sarajevo resident, due to *shelling and sniping of civilian and civilian population*, “became an everyday battle for survival. Without gas, electricity or running water, people had to go out to find essential living resources. Every time when they went out, to gather firewood, or bring water or buy bread, they risked their lives. In addition to true massacres, caused by shelling and sniping, constant fear of dying and mutilation resulted in huge trauma and psychological disturbances among the population in Sarajevo”.⁷⁷

The campaign of widespread, systematic and/or coherent⁷⁸ shelling and sniping⁷⁹ of civilians and civilian population had an exhaustive effect and that was a terror for people in

⁷³ ICTY, PROSECUTOR VERSUS *STANISLAV GALIĆ*, TRIAL CHAMBER, JUDGMENT AND OPINION, The Hague, 5 December 2003, Para. 65-66, 74-75, 121 and other; S. Čekić, pp. 104-105 in his book

⁷⁴ Ibid.

⁷⁵ ICTY, APPEALS CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT, The Hague, 30 November 2006, Para. 102-104; PROTOCOL ADDITIONAL I, Article 51(2); PROTOCOL ADDITIONAL I, Article 13(2); S. Čekić, p. 105 in his book

⁷⁶ ICTY, SUMMARY OF THE JUDGMENT OF THE TRIAL CHAMBER IN THE CASE AGAINST *DRAGOMIR MILOŠEVIĆ*, The Hague, 27 December 2007, p. 3. Witness W-107 in the case against General *STANISLAV GALIĆ* stated “that her daughters, if they went to get some water or fire-woods, often returned with ‘the clothes covered with urine stains, as they were so scared “. Rialda Musaefendić saw “that the delivered bread had bullets in the loafs, given that the Bosnian Serbs shot at those trucks “ (Ibid)

⁷⁷ ICTY, PROSECUTOR VERSUS *STANISLAV GALIĆ*, INDICTMENT, 26 March 1999, Para. 4/C

⁷⁸ Term systematic and/or coherent in the Trial Judgment to *Dragomir Milošević* was defined as “organized character of act of violence, with little probability that they were committed randomly” (ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *DRAGOMIR MILOŠEVIĆ*, JUDGMENT, 12 December 2007, Para. 925)

⁷⁹ Trial Chamber in the case *Stanislav Galić*, after consideration what sniper is, concluded that in the context of present case sniper activity has to be understood as *direct shooting at people from a large distance from any*

Sarajevo under siege. Killing, mutilation of children and the elderly, lack of living essential resources, destruction, arson and demolition of residential, cultural, historic, educational, health, religious, infrastructural, and other facilities of relevance for the city were carried out by the aggressor using all possible weapons. It used heavy artillery to destroy ample cultural and historic buildings, protected by international humanitarian law: 2 May 1992 – Main post office (built in 1913); 17 May 1992 – Oriental Institute; 21 June 1992 – hotel “Evropa” (built in 1882); 25 August 1992 – National and University Library (built in 1896), Railway Stations, Olympic hall, Baščaršija (center of old Sarajevo), and many others.⁸⁰

A special characteristic of the siege of Sarajevo was a massive use of heavy artillery (howitzers, guns, mortars, of all calibers), modified air bombs, antiaircraft and sniper weapons against civilians and civilian population and civilian objects.

Shelling of civilians and civilian population in Sarajevo under siege was intentionally directed against civilians. Mortar shelling was an everyday occurrence, and the principal objective was to kill and injure civilian population. There are so many examples of these activities, such as shelling of market Markale on 5 February 1994 and market Markale on 28 August 1995, on which occasion **111** civilians were killed (**68** – Markale I and **43** – Markale II) and **245** injured (**104** – Markale I and **141** – Markale II). In both cases, ICTY found that this crime was committed by SRC, and that the shelling was directed against civilians.⁸¹

ICTY, based on the research of the Institute for the Research of Crimes against Humanity and International Law of the Sarajevo University, assessed also that “*the total number of deceased in the territory of six Sarajevo municipalities /parts of six Sarajevo municipalities: Centar, Ilidža, Novi Grad, Novo Sarajevo, Stari Grad, and Vogošća/ in the*

infantry weapons (ICTY, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT AND OPINION, 5 December 2003, Para. 184)

⁸⁰ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS GALIĆ, JUDGMENT AND OPINION, 5 December 2003, Para. 200; ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS DRAGOMIR MILOŠEVIĆ, JUDGMENT, 12 December 2007, Para. 937

⁸¹ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT AND OPINION, The Hague, 5 December 2003, Para. 482, 493, 495-496; ICTY, APPEALS CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT, The Hague, 30 November 2006, Para. 333 and 335; INTERNATIONAL COURT OF JUSTICE – JUDGMENT, Para. 325; ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS DRAGOMIR MILOŠEVIĆ, JUDGMENT, The Hague, 12 December 2007, Para. 150, 671, 693, 695-702 and 714-724; 714-724; ICTY, SUMMARY OF THE JUDGMENT OF THE TRIAL CHAMBER IN THE CASE AGAINST DRAGOMIR MILOŠEVIĆ, The Hague, 27 December 2007, p. 3; Defense of the General Galić and Milošević, in accordance with the strategy of forging the facts tried to deny the responsibility of “Sarajevo-Romanija Corps”, while presenting false thesis that those were staged events, that is, the explosion of static explosive, rather than 120 mm shells. ICTY rejected this, and other arguments of General Galić and Milošević defense in relation to these events (Ibid).

period between April 1992 and December 1995 was 18,889⁸², including, according to other sources, 1,601 children, whereby in Sarajevo under siege 61,136 person was injured, of which 14,946 were children.⁸³

5. Intent (mens rea) for genocide in Sarajevo under siege

The siege of Sarajevo and widespread and systematic campaign of criminal savaging against civilians and civilian population and civilian objects in Sarajevo under siege has not been noted in a recent history of civilization. In the period between 1945 and the aggression of Serbian and Montenegro (Federal Republic of Yugoslavia) against the Republic of Bosnia and Herzegovina, the history has not noted that a capital of a sovereign and independent state, a member of the United Nations, subjected to the act of aggression by the neighboring countries was continuously terrorized for four years, which looks like the medieval period. The place a capital of a sovereign state under siege, prevent supplies with water, food, energy, medicines, and also keep systematically shelling and sniping it, using forbidden means, kill and mutilate unprotected and starved people, mainly Bosniacs, are obvious elements of genocide, committee with the intention to destroy Bosniacs, as a whole or in part, being national, ethnic and religious group as such.

The available and clear evidence confirm the *subjective (mental) element of genocide - intent (mens rea)* to commit genocide against Bosniacs in Sarajevo and the Republic of Bosnia and Herzegovina. To that end, we remind of the evidence relative to genocidal intention of the Serb leadership to establish a single Serb state, publicly presented by the highest officials who directly worked on this joint criminal enterprise of genocidal character.

David Harland has **“in many occasions testified that the members of the Bosnian Serb leadership expressed their readiness to achieve their declared objective /single Serb**

⁸² ICTY – Demographic department, Case *Milošević* (IT-02-54), E. Tabeau - J. Bijak - N. Lončarić, *Number of victims in the siege of Sarajevo between April 1992 and December 1995*. – Study on the rate of mortality based on eight big sources of data, 18 August 2003; ICTY – Demographic department, Case *Galić* (IT-98-29), E. Tabeau - M. Zoltkowski - J. Bijak, *Human losses during “the siege” of Sarajevo between 10 September 1992 and 10 August 1995*, 10 May 2002; ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *GALIĆ*, JUDGMENT AND OPINION, The Hague, 5. December 2003; ICTY – Demographic department, Case *Dragomir Milošević* (IT-98-29/I), E. Tabeau - A. Hetland, *Killing and injuring of people during the siege of Sarajevo: between August 1994 and November 1995*, 19 March 2007;

∴ WAR IN NUMBERS – Demographic losses in the wars in the territory of former Yugoslavia between 1991 and 1999, Helsinki Board for Human Rights in Serbia, Belgrade, 2009, pp. 567-834

⁸³ A. Smajkić, SUFFERING OF PEOPLE OF THE CITY OF SARAJEVO BETWEEN 1992.-1995, in: The Conference proceedings: SIEGE AND DEFENSE OF SARAJEVO 1992.-1995, Institute for the Research of Crimes against Humanity and International Law of the Sarajevo University, Sarajevo, 2008, pp. 391-407

state/ **by all means**⁸⁴ and that Radovan Karadžić in his statements prior to the genocide had an intention to **exterminate Bosniacs**. Namely, Radovan Karadžić, prior to the genocide against Bosniacs, had intent (*mens rea*) to exterminate those national, ethnic, and religious groups as such.

On 12 October 1991, Karadžić in his telephone conversation with Gojko Đogo (Belgrade novelist and professor)⁸⁵ openly and directly presented his intention on genocide against Bosniacs in Sarajevo, a national, ethnic, and religious group as such, stating that they will **disappear** (“**they will disappear, that nation will disappear from the face of Earth..., ... that there will be so much blood and Muslims would disappear ... That will be a slaughter soaked in blood ...**”). Clarifying these criminal intentions against Bosniacs (“...they will disappear...”), Karadžić stated “**that he had 20,000 armed Serbs around Sarajevo**”, and “**300-400,000 armed Serbs in Bosnia and Herzegovina ... plus the Army and equipment**”. According to Karadžić, Sarajevo was supposed to be “**a black pot in which 300,000 Muslims would die...**”⁸⁶

Karadžić, in line with his criminal intentions, politics, and practice, in his conversation with Momčilo Krajišnik repeated on 13 October 1991 his intention to exterminate Bosniacs in Sarajevo and Bosnia and Herzegovina: “**Sarajevo will disappear in two to three days, and there will be five hundred thousand killed. Muslims will disappear from Bosnia in a month time...**”. In “**only few days, Sarajevo will disappear**

⁸⁴ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *SLOBODAN MILOŠEVIĆ*, DECISION ON MOTION FOR DECISION ON ACQUITTAL, 16 June 2004, Para. 240 – IN THE MILOŠEVIĆ CASE, GENOCIDE IN BOSNIA PROVEN; ICTY Decision dated 16 June 2004, Institute for Research of Crimes against Humanity and International Law, Sarajevo 2007, p. 143

⁸⁵ Gojko Đogo supported the Karadžić’s genocidal intention against Bosniacs and encouraged him (“... *Well, I think ... they should be destroyed*”), where there will be “*everything in blood*”. Namely, in his telephone conversation he supported the genocidal intent against Bosniacs and the politics of “cleansing” in the Republic of Croatia. To that end, he was in favor of the thesis for coming to, possessing and fortifying the western border of the planned Great Serbia (“... *You know what I mean? To tell you the truth, I think we should come out as soon as possible, they are more or less there, if this, if they destroy this, they came close to Osjek, reached Drava river, then Kupa river, they should stop around Karlovac, and that would be more or less our designed plan, now we should fortify it*”). Đogo also openly presented the idea about the genocidal intention against Croats in the Republic of Croatia, stating that “... *north of Dubrovačka rijeka, they should all be killed*”. This politics and practice was supported by Radovan Karadžić (weekly “*Dani*”, 19 March 2010, pp. 38-45)

⁸⁶ ICTY, Case: No. IT-02-54-T, Para. 53, 61 and 200, note 400; ICTY, PROSECUTOR VERSUS *RADOVAN KARADŽIĆ*, TRIAL CHAMBER, Opening statement of the Prosecutor, 28 October 2009; S. Čekić, AGGRESSION AGAINST THE REPUBLIC OF BOSNIA AND HERZEGOVINA – planning, preparation and execution, Institute for Research of Crimes Against Humanity and International Law – Kult B, Sarajevo, 2004, vol. 1, pp. 496-497. On that occasion, Karadžić also stated: “*Number of Serbs will be reduced, and Croats will be the only nation that will benefit, as they will preserve their municipalities*” (Ibid)

and there will be 500,000 killed, in one month Muslims will be destroyed in Bosnia and Herzegovina...”⁸⁷

On 14 October, the Serb Democratic Party of Bosnia and Herzegovina destroyed “**a fragile consensus which somehow maintained the functioning of the divided parliament. During the heated session, which continued throughout the night, the delegates of the Serb Democratic Party dismissed with the disgust the proposal of the Party of Democratic Action and the Croat Democratic Community on the sovereignty of the Republic and the position of Bosnia in Yugoslavia**”. Namely, during the night 14/15 October 1991, Radovan Karadžić, at the session of the Assembly of the SR Bosnia and Herzegovina, which considered the matter of future of the Republic, “**announced the capital punishment to Muslims**”, publicly threatening that they might disappear: “**... This is the road to which you want to take Bosnia and Herzegovina, the same road to hell and suffering, used by Slovenia and Croatia. Do not think that you could take Bosnia and Herzegovina to hell, and Muslims to disappearance, as Muslims cannot defend in case of war here...**”⁸⁸

Radovan Karadžić, clarified later on his statement, claiming that “**Muslims are jeopardized the most. They are endangered not only physically, and I did not think that they could disappear physically; that is also the beginning of the end of their existence and a nation**”.⁸⁹

In his conversation with Miodrag Davidović, on 15 October 1991, R. Karadžić reiterated his genocidal intention, directed primarily against Bosniacs: “**Primarily, no one in their leadership would stay alive. They would all be killed in three to four days. They would have no chance to survive.**”⁹⁰

Radovan Karadžić mentioned on several occasion the blockade of Sarajevo. In September 1991, he informed by phone his leader Slobodan Milošević that “*Romanija mountain was ready to block Sarajevo, and that no one would be able to leave Sarajevo, it*

⁸⁷ Ibid, Para. 688. Radovan Karadžić repeated these genocidal intentions against Bosniacs in his conversation with Momčilo Mandić (weekly “Dani”, 14 February 2003, p. 43)

⁸⁸ S. Čekić, page 504 in his book; L. Silber- A. Litl, DEATH OF YUGOSLAVIA, Belgrade, 1996, pp. 241-242; N. Cigar, GENOCIDE IN BOSNIA – POLICY OF “ETHNIC CLEANSING”, Sarajevo, 1998, pp. 47-48

⁸⁹ N. Cigar, pages 47-48 in his book; S. Čekić, page 504 in his book

⁹⁰ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS SLOBODAN MILOŠEVIĆ, DECISION ON THE MOTION FOR DECISION ON ACQUITTAL, 16 June 2004, Para. 241; GENOCIDE IN BOSNIA PROVEN IN THE CASE MILOŠEVIĆ, ICTY Decision dated 16 June 2004, Institute for Research of Crimes against Humanity and International Law, Sarajevo, 2007, p. 143

will be a whole catastrophe for them".⁹¹ Thus, Karadžić, following the orders, instruction and other guidance of the great Serbian movement leader, Slobodan Milošević, an the state leadership of the Republic of Serbia, once against repeated the objectives of the criminal character, which was in the period 1992–1995 the politics and practice of the great Serbian aggressor and its collaborationists.⁹²

At the session of the "Assembly of Serb people", 24-26 July 1992, R. Karadžić repeated his intention on the disappearance of Bosniacs ("**... that this conflict was initiated that the Muslims disappear**").⁹³

Radovan Karadžić was very active in the enforcement of genocide against Bosniacs. In the meeting with General Smith, on 21 May 1995, he threatened the UN SC "*that the Bosnian Serbs would attack UN and impose limitations in the supplies, such as gas and water, that the life of Bosnian Muslims in Sarajevo would be even more difficult unless UN SC stops jeopardizing the 'key link' with Serbia*".⁹⁴

Other representatives of the Serb Democratic Party, especially Dr. Dragan Kalinić, Prof. Dr. Biljana Plavšić, M.A. Momčilo Krajišnik and others made similar threatening statements on the genocidal intention against Bosniacs. MD Dragan Kalinić, at the 16th session of the "Assembly of the Serb Republic of Bosnia and Herzegovina", on 12 May 1992, being a minister of health in a self-proclaimed state, presented a genocidal intent against Bosniacs in Sarajevo: "*... knowing our enemy, how cunning it may be, and how much it could not be trusted until it is **physically, militarily destroyed, which includes of course the elimination of its key people.***"⁹⁵

On 1 May 1992, Professor of biology at the Sarajevo University, war criminal Biljana Plavšić, a member of the Presidency of the Republic of Bosnia and Herzegovina, and after the great Serbian aggression against the Republic of Bosnia and Herzegovina a member of the "Presidency" of the "Serb Republic of Bosnia and Herzegovina", and then a president of "Republika Srpska", told Bob Doyle, personal envoy to lord David Carrington: "*... in case of*

⁹¹ ICTY, Case: Br. IT-02-54-T, Para. 689, note 1388; S. Čekić, vol. 1, p. 494; S. Čekić, CRIMES AT MARKALE MARKET IS ONE OF THE SADDEST DAYS IN THE HISTORY OF SARAJEVO, Korak, No. 14/2009, p. 62

⁹² S. Čekić, page 494 in his book

⁹³ R. J. Donia, THE ASSEMBLY OF REPUBLIKA SRPSKA, 1992-1995, Highlights and Experts, Statement of Expert Witness presented to the ICTY, p. 93, Para. 30, 29 July 2003

⁹⁴ ICTY, PROSECUTOR VERSUS DRAGOMIR MILOŠEVIĆ, TRIAL CHAMBER, JUDGMENT, 12 December 2007, Para. 760.

⁹⁵ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS SLOBODAN MILOŠEVIĆ – DECISION ON THE MOTION FOR DECISION ON ACQUITTAL BY AMICI CURIE, The Hague, 16 June 2004, Para. 243; GENOCIDE IN BOSNIA PROVEN IN THE MILOŠEVIĆ CASE – ICTY Decision dated 16 June 2004, Institute for the Research of Crimes against Humanity and International Law of the Sarajevo University, Sarajevo, 2007, p. 144

the division⁹⁶ of territories, Serbs deserve a larger territory, and if necessary three million of them would die to resolve the problem.”

Biljana Plavšić, following the authors of the Serbian Academy of Science and Arts Memorandum, “**who shaped negative stereotypes about Muslims as a foreign, inferior, and dangerous factor**”⁹⁷, as their position “**due to specific geopolitical circumstances**” prevented the establishment of great Serbia⁹⁸, which had “**a key importance for the policy of their physical extermination and displacement**”⁹⁹, was a big inciter of the Serb people to commit genocide against Bosniacs. In the Novi Sad magazine “*Svet*” on 6 September 1993, she wrote: “*Muslims are genetically rotten people which accepted Islam and this gene simply condenses now from one to another generation. It becomes worse and worse, they use simple language, a dictate such a way of thinking and behavior. It is already in their genes.*”¹⁰⁰ The Genetics expert Biljana Plavšić in May 1994 made similar statement for the daily “*Oslobođenje*”. “*It is disturbing*”, Plavšić says, “*fact that there is a bigger number of marriages between Serbs and Muslims, as these mixed marriages exchange genes, and this results in the degeneration of Serb nationality.*”¹⁰¹

In the public appearance of these and other leaders and intellectuals, including Serb orientalist, especially Professors Darko Tanasković and Miroljub Jeftić, who in the daily press and the military magazine “*Vojska*”, “regularly described Islam as inferior, retrograde, and violent”, promoted this aggression and genocide as a legitimate means for the achievement of the great Serbian ideology and politics. Biljana Plavšić entered the history by her statement: “*I would rather cleanse eastern Bosnia from Muslims ... We are (Serbs) 12 millions, and if 6 million dies, 6 million will have a decent life.*” Academic Dobrica Ćosić presented a similar thesis in 1990, when he allegedly stated in the Serb Academy of Science and Arts that: “*80.000 Serb victims is acceptable sacrifice for national objectives.*”¹⁰²

These statements and threats with genocide, directed against Bosniacs, a national, ethnic, and religious group as such, clearly confirm the intent (*mens rea*) to commit genocide, effectuated in the field by the same pattern of massive killing, injuring, intimidation,

⁹⁶ Ibid, Para. 242.

⁹⁷ N. Cigar, *ROLE OF SERB ORIENTALISTS IN JUSTIFICATION OF GENOCIDE AGAINST THE BALKAN MUSLIMS*, Institute for the Research of Crimes against Humanity and International Law of the Sarajevo University - Bosanski kulturni centar, Sarajevo, 2001, p. 21

⁹⁸ S. Biserko, *SUPPORTING ANTI-ISLAMISM IN SERBIA*, Helsinki Board for Human Rights in Serbia, Belgrade, May 2007, p. 2

⁹⁹ Ibid,

¹⁰⁰ *Weekly Svet*, 6 September 1993; Sonja Biserko, page 3 in her book

¹⁰¹ *Daily Oslobođenje*, May 1994

¹⁰² Sonja Biserko, page 3 in her book

expelling, and commission of other forms forbidden by international criminal and humanitarian law. These public and direct threatening statements, with the meaning of direct and public **incitement** to commit genocide is also punishable by the *Convention on prevention and punishment of crime of genocide*.¹⁰³

It is surprising that ICTY, including OTP, in the cases against *Stanislav Galić* and *Dragomir Milošević* failed to use threatening statement of the Serb leaders as obvious evidence relative to intention to commit genocide against Bosniacs in Sarajevo and Bosnia and Herzegovina, considering that it used such evidence in the *Decision on acquittal* dated 16 June 2004 in the case against *Slobodan Milošević*. ICTY, in that decision, used these threats and other pieces of evidence as relevant to confirm **genocidal intent and plan to destroy Bosniacs, a national, ethnic and religious group**, and concluded “**that there was a sufficient evidence that genocide was committed in Brčko, Prijedor, Sanski Most, Srebrenica, Bijeljina, Ključ, and Bosanski Novi**”, and that Milošević “**was an accomplice in the joint criminal enterprise, which included the leadership of Bosnian Serbs, who intended to partially destroy Bosnian Muslims as a group**”.¹⁰⁴

ICTY Prosecution in the Indictments against *Stanislav Galić* and *Dragomir Milošević* did not include the charges for genocide against Bosniacs as a targeted group which needed to be destroyed. The available evidence suggests the crucial fact that in Sarajevo under siege all /five(underlying elements of crime of genocide were noted, as defined in the *Convention on prevention and punishment of crime of genocide* (1948), a) **killing of members of group**, b) **infliction of grave physical and mental harm on members of a group**, c) **intentional infliction on a group difficult living conditions calculated to bring about complete or partial physical destruction**, d) **infliction of measures which intend to prevent birth in a group** and e) **forcible transfer of children from one to another group**. Ample evidence suggests that numerous planned, organized, targeted, intentional activities, which constitute *objective (essential) elements of crime of genocide (actus reus)*, were carried out against Bosniacs during the siege of Sarajevo.

¹⁰³ To that end, Antonio Cassese claims: “*In order that incitement to genocide is a crime, in accordance with the international law, it has to be not only direct but also public*” (A. Cassese, *INTERNATIONAL CRIMINAL LAW*, Belgrade Center for Human Rights, Belgrade, 2005, p. 230)

¹⁰⁴ *ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS SLOBODAN MILOŠEVIĆ – DECISION ON THE MOTION FOR DECISION ON ACQUITTAL*, The Hague, 16 June 2004, Para. 246, 288-289 and 323; *GENOCIDE IN BOSNIA PROVEN IN MILOŠEVIĆ CASE – ICTY Decision dated 16 June 2004*, Institute for the Research of Crimes against Humanity and International Law of the Sarajevo University, Sarajevo, 2007, p. 144

JNA/Yugoslav Army Colonel Tomislav Šipčić (SRC commander) issued to orders to commit genocide in Sarajevo. To that end, as an illustration in his *Instruction for further activities*, which he sent on 7 June 1992 to all the commands, units, and institutions of that Corps, emphasized that **“Sarajevo-Romanija Corps has a task to group forces and cleanse parts of Sarajevo with dominant Serb population”**. Highlighting this task, Colonel Šipčić, in addition to cutting the city along **“Nedžarići – Stup – Rajlovac”**, and **“securing the wider perimeter of the Sarajevo airport”**, he ordered **“the cleansing of Mojnilo, Dobrinja, Butmir and Sokolović-Kolonija”**, as well as **“wider perimeter of the Sarajevo airport (Dobrinja, Butmir, Sokolović-Kolonija, Mojnilo and Zlatište) ...”**¹⁰⁵

General Mladić, high ranking officer of JNA/Yugoslav Army, issued verbal orders and directed fire against the civilians, civil population and civilian objects, especially to Pofalići and Velešići, the well known Sarajevo settlements under siege with the majority Bosniacs population. He directed fire at the above settlements because there were not many Serb residents, especially “his Serbs” (*“Shoot at Pofalići and Velešić /Velešići is right term/, there is not much Serb population there...”*) That order is a direct piece of evidence on existence of genocidal intent to destroy Bosniacs in the territory of Sarajevo and the entire Bosnia and Herzegovina, as national, ethnical and religious group as such.

When at the trial of General Dragomir Milošević, the footage of Markale massacre of 28 August 1995 was shown to the Trial Chamber, recorded by Martin Bell and sent to his BBC editorial board, he admitted that: *“This day the fact that I couldn’t portray the real scale of the bloodshed made me unhappy. The reason why he could not do that was the editorial policy of BBC: the reports were not to upset the public too much.”* Bell believes that BBC *“should be ashamed because of that”*.¹⁰⁶

Intentional, premeditated, coordinated, wide-spread, systematic, fierce, non-selective, excessive and disproportional campaign of shelling against the civilian population and civilian areas of Sarajevo and sniping attacks against the civilians resulted in, *inter alia*, thousands of killed, was conducted in continuity and in the way not recorded in the history of humanity since the Second World War. Such a campaign was not directed to an abstract social group, civilian population, as alleged in the indictments of Galić and Milošević¹⁰⁷, but at the specific group, protected (legally) under the international humanitarian law, which

¹⁰⁵ AIIZ, No. 2-3231, SRC Command, confidential No. 10-74-44, 7 June 1992 – To Ilidža Brigade and others (“Attn. Commander”), *Instructions for further activities*. In that document, Colonel Šipčić used terms *clean* and *cleans* on several places

¹⁰⁶ ICTY, PROSECUTOR VERSUS DRAGOMIR MILOŠEVIĆ, Testimony of the journalist Martin Bell, T. 5265

¹⁰⁷ ICTY, PROSECUTOR VERSUS STANISLAV GALIĆ, INDICTMENT, 26 March 1999, Para. 5; ICTY, PROSECUTOR VERSUS DRAGOMIR MILOŠEVIĆ, INDICTMENT, 18 December 2006, Para. 5

lived (and is still living) in Velešići, Pofalići and other settlements used to be under siege. Mostly the population at which the artillery and other fire was intentionally directed by the highest-ranked officers of Serbia and Montenegro (Federal Republic of Yugoslavia), Ratko Mladić, Stanislav Galić, Dragomir Milošević and others¹⁰⁸ were Bosniacs, national, ethnical and religious group as such.

In the criminal and criminological theory a crime is defined by **criminal intention** (*mens rea*) and the very **criminal act** (*actus reus*). These two elements are necessary to prove any crime, including the crime of genocide which is precisely defined by *intent (mens rea)* to destroy through particular criminal actions one protected ethnical or other group (defined under the Convention), in whole or in part.

It stems from the numerous statements of the great Serb aggressor and his collaborators and spokespersons that there existed a very clear intent to destroy, primarily in physical sense than also in cultural one, Bosniacs who indisputably present national, ethnical and religious group as such, in one part – that one that inhabited Sarajevo. In committing the crime, Serbia and Montenegro (Federal Republic of Yugoslavia) chose during the siege of Sarajevo, the capital of the Republic of Bosnia and Herzegovina, as the mode and form of the commission of crime, a continuous, day-and-night shelling and sniping against the civilians and civilian population in Sarajevo, and in that way additionally worsened the conditions under the siege already explained in this part. They chose mode as such because it could lead not only to realization of the planned criminal intent of genocidal character (destroying of Bosniacs as national, ethnical and religious group in part, that is, genocide), but could also result, which necessarily happened, in suffering of other individuals not covered by the genocidal intent. The aggressor could have indeed assumed their suffering (*dolus eventualis*), and it was partially intentional to those who stayed in the siege, together with (planned) victims, as they were considered to be “traitors” or “balije” / derogatory way to call anyone who is a Bosnian Muslim/.

Such and outcome of the criminal actions by Serbia and Montenegro (Federal Republic of Yugoslavia) does not exclude the qualification that the crime committed in

¹⁰⁸ ICTY in the cases *Stanislav Galić* and *Dragomir Milošević* did not have precise information on the ethnic composition of Sarajevo under siege, but it had approximate data on the number of killed based on their national, ethnic, and religious background. Demographic department of the ICTY Prosecution filed the report before the Trial Chamber in the case against *Stanislav Galić* in which it was stated, *inter alia*, that the “rates of the killed and injured were far bigger among the Muslim than the other ethnic groups, which can be related with the ethnic composition of the endangered” (Ewa Tabeau, WAR IN NUMBERS – Demographic losses in the wars in the territory of former Yugoslavia between 1991 and 1999, Helsinki Board for Human Rights in Serbia, Belgrade, 2009, p. 572)

Sarajevo and against the citizens of Sarajevo was the crime of genocide, but lead to conclusion that, apart from the crime of genocide, some other forms of crimes against humanity and international law were committed for which the perpetrators of genocide were also responsible. In humanitarian law, genocide is not “exclusive” crime, whereby it is impermissible to reduce the crime that undoubtedly meet the criteria under the definition of the crime of genocide, to the lower degree of responsibility only because the other forms of severe crimes were simultaneously committed. It is not just an impermissible legal relativization but also an unprecedented insult for all the victims of the crime of genocide, as well as for the victims of other (“non-genocidal”) forms of crimes against humanity and international law.

Researchers of holocaust and genocide expect and seek that, in the cases of *Karadžić* and *Mladić*, the ICTY will rightly understand and apply all available evidence, particularly those related to the genocidal intent of Radovan Karadžić and others participating in the joint criminal enterprise chain, as well as overall events in field adjusted to the orders of the general Mladić and other officer of JNA/Army of Yugoslavia. That is obvious evidence on existence of genocidal intent (*mens rea*) and readiness of the Serb forces to destroy Bosniacs (in whole or in part), national, ethnical and religious group as such.

The ICTY Prosecutor’s Office could have proven genocidal intent to destroy Bosniacs in Sarajevo, Sarajevo, in whole or in part, national, ethnical and religious group as such based on the same methodology used to prove the existence of intent to cause *extreme fear* among the civilian population, by systematic shelling and sniping, which would, as concluded by ICTY, force them to flee from Sarajevo under siege. Specifically, like its was concluded in the Stanislav Galić and Dragomir Milošević judgments that there existed intent to cause “*extreme fear*” in the population by terrorizing them, it could be also reliably concluded that, beyond any doubt, there was **intent** to exterminate Bosniacs in the besieged Sarajevo, national, ethnical and religious group as such. The Trial Chamber in the case the *Prosecutor v. Dragomir Milošević* was aware of the campaign of continuous shelling, sniping and placing the population in the difficult conditions of life. The Prosecutor’s Office wants to **“demonstrate through its evidence that in that time there was a campaign of shelling and sniping attacks and that the accused was aware of it and continued, which is more significant, with it during the period relevant for the indictment”** **Outbreak of conflict in Sarajevo and the period from 10 September to 10 August 1994 are already adjudicated**

facts in the *Galić* case”.¹⁰⁹ Using the same methodology, in the cases of *Galić* and *Milošević*, the ICTY concluded that both accused had the same primarily aim- **terrorizing of the civilian population** in siege, for causing **extreme fear**, which would, in their opinion, forced them to leave the city of Sarajevo. They drew such a conclusion on the basis of the circumstances surrounding the acts of violence or threat of violence, more specifically, on the basis of their characters, mode and duration.

The ICTY Prosecutor presented the evidence suggesting that the general Dragomir Milošević, as the commander of the Sarajevo-Romanija Corps, “carried out a campaign of shelling and sniping attacks’ of the civilians and civilian areas of Sarajevo”. Those attacks, carried out by “forces of Bosnian Serbs within SRC or the forces affiliated with them, that is, the forces affiliated with the armed forces of Republika Srpska”, as the Prosecutor alleged, were “intentional, non-selective, excessive and disproportional in relation to the expected specific and direct military benefit”. In connection with that, the Prosecutor alleged that “**primary aim**” of that campaign was terrorizing the civilian population of Sarajevo.”¹¹⁰

The ICTY confirmed the existence of a wide-spread and systematic campaign of shelling and sniping attacks on the civilians and civilian population in Sarajevo, with “**primary aim to terrorize the civilian population**”, as the Court found.¹¹¹

Galić was accused for ordering “campaign of attacks against civilians” and for “leading the campaign of shelling and sniping attacks on the civilians of Sarajevo”, causing so the death and wounding of civilians **with the primary aim of spreading terror among civilians**”.¹¹² The ICTY in *Galić* case, found, *inter alia*, that “**attacks on the civilians were numerous but not consistently so intensive as to suggest an attempt by SRC to wipe out or even deplete the civilians through attrition... the only reasonable conclusion, in light of this evidence, was that that campaign was carried out with the primary purpose to cause an extreme fear among the civilian population.**”¹¹³ That “reasonable conclusion” is not correct, as it was not correct the allegation against *Stanislav Galić* that the aim of “**the attacks on the civilians of Sarajevo**” that “often did not have any connections with war

¹⁰⁹ ICTY, PROSECUTOR VERSUS DRAGOMIR MILOŠEVIĆ, TRIAL CHAMBER, JUDGMENT, 12 December 2007, Para. 142

¹¹⁰ Ibid, Para. 6.

¹¹¹ ICTY, SUMMARY OF THE TRIAL JUDGMENT IN THE CASE PROSECUTOR VERSUS STANISLAV GALIĆ, The Hague, 5. December 2003, p. 3

¹¹² ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, INDICTMENT, 26 March 1999, paragraph 1

¹¹³ ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT AND OPINION, 5 December 2003, Para. 593; ICTY, APPEALS CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT, 30 November 2006, Para. 107-109, 335, 386-390.

actions” was to “**keep the population in the situation of permanent fear**”.¹¹⁴ This is, *inter alia*, contrary to the finding of the Trial Chamber that the attacks on the civilians of Sarajevo were often did not have any connections with the military actions.”¹¹⁵

Campaign of shelling and sniping attacks on the civilian population of Sarajevo which caused “death and wounding of civilians” was not carried out with the aim (including primary aim) to “terrorize the civilian population”. The aim of that campaign, intentionally directed against the civilians and civilian population, was the commission of the crime of genocide over one nation, specifically, Bosniacs, under international humanitarian law protected national, ethnical and religious group, as such. General Galić, as rightly alleged by the prosecution, “bears criminal responsibility for planning, instigating, ordering, committing, or otherwise aiding and abetting, in the planning, preparation or execution of the campaign of shelling and sniping against the civilian population of Sarajevo”.¹¹⁶

The ICTY should have known, too, that the conclusion on existence of intent for commission of a genocide action could be drawn from the geographical distribution of criminal actions (location of attack). The Sarajevo settlements of Velešići, Pofalići as well as other settlements under the siege, were intentionally targeted by the gunners as ‘there weren’t many Serb residents in them’. Depriving people of water was intentional to make the victims, just as a hunter does with proper bait, come to the location in which a large number of them could be killed in an easy way. The facts established by the ICTY chambers pertaining to the attacks on the civilians and civil population in the places visited by the civilians in their every day activities, have been taken as a reliable evidence of widespread and systematic attacks on the civil population. Therefore, the Great Serbian aggressor was killing and wounding the civilians and civil populations, including children, exactly at these places, when they came out from their shelters-basements and hallways for taking water, when they went to the places of humanitarian aid distribution or when attempting to find some fire-wood. The aggressor would even kill the children why they were playing.

The ICTY Prosecutor's could have proven the existence of intent (*mens rea*), as the subjective element of genocide, to destroy Bosniacs in Sarajevo, in whole or in part, national, ethnic, and religious group as such, on the same methodology used to proving the intent of *causing an extreme fear by spreading terror*. The crimes were committed following the same pattern throughout the siege, regardless of the change in commanding officers and other

¹¹⁴ ICTY, PROSECUTOR VERSUS STANISLAV GALIĆ, INDICTMENT, 26 March 1999, Para. 4/b

¹¹⁵ Ibid,

¹¹⁶ ICTY, PROSECUTOR VERSUS STANISLAV GALIĆ, INDICTMENT, 26 March 1999, Para. 10.

members of the Army of Yugoslavia which held Sarajevo under a siege. Insignificant percent of non-Bosniac residents who were maltreated over the siege by Serb forces in the same way and with the same intensity, cannot serve as a sufficient basis to conclude that there was a specific intent (*dolus specialis*) for destroying Bosniacs, in whole or in part, as a part the chain of their elimination and extermination in the whole territory of Bosnia and Herzegovina.

In one relevant case, the Prosecutor before the International Criminal Tribunal for Rwanda (ICTR) charged Georges Ruggi, journalist of “Radio Mille Collines”, with **direct and public incitement to commit genocide** and crimes against humanity. The Accused pled guilty and was sentenced by the Court because his direct and public radio broadcasting was aimed at “singling out the Tutsi ethnic group and Belgians on discriminatory grounds, by depriving them of the fundamental rights to life, liberty and basic humanity enjoyed by members of wider society. The deprivation of these rights can be said to have as its “aim the death and removal of those persons from the society in which they live alongside the perpetrators, or eventually even from humanity itself”.¹¹⁷ Such a finding of ICTR should have served to ICTY in the cases of *Galić* and *Milošević*, as a legal precedent in drawing a conclusion on the existence of genocidal intent. It means, there is relevant case law to determine the crime of genocide in the cases when there was an intent for partial or entire destruction of one group which, at the time of perpetration of genocide actions was not entirely „pure“ in terms of ethnicity, religion and race. It is sufficient to establish the existence of intent to destroy one of the mentioned groups. In case of Sarajevo siege, incitement to commit genocide, direct orders to intentionally target the places with not many Serb residents, and systematic genocidal actions which resulted or might have resulted in the total destruction of the target group, Bosniacs, in whole or in part, should have been sufficient reasons for ICTY, to conclude, beyond a reasonable doubt, that there was an intent to destroy Bosniacs in Sarajevo, in whole or in part, national, ethnical and religious group as such.

Special Rapporteur of the United Nation Commission on Human Rights Tadeusz Mazowiecki claims that “... *siege, including shelling of the inhabited places siege and cutting off supplies of food and other essentials to civilian population is an additional tactics used to force the Muslim and ethnic Croats to flee*”¹¹⁸ This hypothetical position of Tadeusz

¹¹⁷ A. Cassese, INTERNATIONAL CRIMINAL LAW, Belgrade Center for Human Rights, Belgrade, 2005, p. 231

¹¹⁸ UNITED NATIONS, COMMISSION ON HUMAN RIGHTS, SITUATION OF RIGHTS THE TERRITORY OF FORMER YUGOSLAVIA, *Rapport on the situation of human rights in the territory of the former Yugoslavia by Tadeusz Mazowiecki, E/CN:4/1992/S-1/9*, 28 August 1992, Para. 17-18; INTERNATIONAL

Mazowiecki about the goals of siege, *inter alia*, served to ICTY in the cases of the General *Galić and Milošević* to conclude that **“it was not found beyond reasonable doubt that the acts had been committed with specific intent (*dolus specialis*) to destroy a protected group, in whole or in part”**.¹¹⁹ Unfortunately, this perception of Mazowiecki is flagrantly wrong and it led ICTY to wrongly conclude that the actions concerned systematic shelling and snipping of the civilian population in the besieged Sarajevo which primary aim was to cause extreme fear due to which the civilians and civil population were to leave Sarajevo.

In *Galić and Milošević* cases, most probably following such a message of the UN official, ICTY did not find that numerous crimes against humanity and international laws had been committed in the besieged Sarajevo with a *specific intent* to destroy Bosniacs in the besieged Sarajevo, in whole or in part, national, ethnical and religious group as such, that is, that it concerned the actions of unique pattern in perpetrating crime of genocide over Bosniacs in all occupied parts of Bosnia and Herzegovina. The accused *Galić and Milošević*, were sentenced for killings, commission of inhuman actions and *terrorizing of the civilian population*, namely, crimes against humanity and violation of laws and customs of war.

The fundamental finding in the reasoning of judgments pronounced to *Galić and Milošević*, high officers of the Yugoslav Peoples Army, is that they kept Sarajevo under a siege, and conducted shelling and sniping attacks at the civilian population, intentionally and having been aware of the gravity of the crimes over the civilian population, keeping the population in such unbearable living conditions not recorded since the Second World War. In doing so, they had to be aware of gravity of those unlawful actions resulted in massive destruction of civilian population, predominantly Bosniacs, national, ethnical and religious group as such. The ICTY Prosecutor’s Office has not issued the indictment against the General *Galić and Milošević* for the crime of genocide, as the most severe offense of crimes against humanity and international law, by which they mitigate qualification of gravity of the crimes alleged in the indictments and, later on, the judgments pronounced in *Galić and Milošević* cases. Such a reducing of charges and criminal proceedings for other criminal offenses resulted in significant amnesty of the overall responsibility for the commission of the most severe crimes.

COURT OF JUSTICE, JUDGMENT – BOSNIA AND HERZEGOVINA VERSUS SERBIA AND MONTENEGRO (hereinafter referred to as: INTERNATIONAL COURT OF JUSTICE – JUDGMENT), The Hague, 26 February 2007, Para. 17

¹¹⁹ INTERNATIONAL COURT OF JUSTICE, JUDGMENT, 26 February 2007, Para. 328

The Prosecution did not charge these two officers of the Army of Yugoslavia on the basis of command responsibility for genocide or any other punishable offenses listed in Article III of *The Convention on the Prevention and Punishment of the Crime of Genocide*. Consequently, the Serb generals Galić and Milošević, were not intentionally and knowingly shelling and sniping the civilian population in order to make them leave Sarajevo, as concluded by ICTY, but they carried out shelling and sniping attacks on them with intent and wish to destroy or exterminate Bosniacs, the dominant national, ethnical and religious group as such. A comprehensive and in-depth research will lead to the reliable knowledge that in the siege of Sarajevo, during the aggression to the Republic of Bosnia and Herzegovina, the victims, as a part in the chain of crimes, were Bosniacs, national, ethnical and religious group as such, intended to be exterminated. The primary aim of the crime of genocide and other forms of the crimes against humanity and international law in Sarajevo under siege, committed beyond living memory since the Second World War, was not to spread extreme fear, as concluded by the ICTY, but to destroy Bosniacs, in whole or in part, national, ethnical and religious group as such.

Holocaust and genocide researchers think, and that is an approach of ICTY in *Slobodan Milošević* and *Jelisić cases*, that even in case when there is no direct evidence, it could be concluded beyond any reasonable doubt based on the obvious facts on systematic and/or coherence, as well as violence, scale and long duration of wide-spread terrorizing and destruction of Sarajevo, with predominant Bosniac residents, that there was an intent (*mens rea*) to exterminate Bosniacs, national, ethnical and religious group as such. Based on numerous evidence it can be concluded beyond reasonable doubt that the Bosniacs were being systematically exterminated during the siege of Sarajevo.

The researches in this study confirm the large number of findings, including the researches of Sarajevo medical workers and sociologists conducted during 1993 and 1994 over the children up to 18 years of age¹²⁰ in Sarajevo siege, that the crime of genocide and other crimes against humanity and international law in the besieged Sarajevo were aimed, *inter alia*, at severe destruction of psychological integrity of the civilians and civilian population, in particular younger people, which remain with the most of the people suffered from that disease a long-term, if not permanent consequences, and in many cases even trans-generations.

¹²⁰ ∴. PSYCHO SOCIAL ASPECTS OF WAR IN THE REPUBLIC OF BOSNIA AND HERZEGOVINA, Department for medical sciences in the Academy of Science and Arts of Bosnia and Herzegovina, vol. 25, Sarajevo, 1995

Attacks (intentional, planned, systematic, deliberate and wide-spread) on Sarajevo and the crimes over Bosniacs were committed from March 1992 to December 1995, more specifically, from 19 March, although over that period the commanders of the Corps were changed four times (Vojislav Đurđević – the first, Tomislav Šipčić – the second, Stanislav Galić- the third and Dragomir Milošević – the fourth). *General context, genocidal ideology and policy, committed crimes, systematic attacks directed against the same (protected) group, their wide-spread character, pattern of their commission (coherent series of actions) and their intensity, thousands of killed and wounded members of the protected group as such, terrorizing and cruel treatment, as well as other types of crimes against humanity and international law are, beyond doubt, clear evidence of the crime of genocide (actus reus), committed with an intent, including specific intent (dolus specialis), to destroy, in whole or in part, the protected group as such.* It means that the patterns for destroying Bosniacs in the territory of Sarajevo had been previously arranged and planned in the Sarajevo territory too, as the capital of the Republic of Bosnia and Herzegovina. Killing and wounding, as well as other criminal acts against humanity and international law in Sarajevo, perpetrated with a primary intention to destroy Bosniacs, in whole or in part, constitute sufficient evidence proving beyond any reasonable doubt, that the most severe crime was committed over the Bosniacs in the besieged Sarajevo at the end of 20th century- the crime of genocide.

By the wide-spread and systematic shelling and sniping campaign on the civilians in Sarajevo, in *Stanislav Galić and Dragomir Milošević* cases, the ICTY Prosecutor's Office was proving the intent of maltreatment of the civilian population under the siege, in order to cause “*extreme fear among the population under the siege*”. Using such a legal qualification ICTY wanted to avoid more difficult qualification of the crimes perpetrated by the Serb forces. Unfortunately, ICTY has not strived to prove, in line with the *Convention on Prevention and Punishment of the Crime of Genocide*, that “*extreme fear*“ which severely destroyed the psychological integrity of the target group in Sarajevo during the siege, constitutes one of elements of genocide. *Extreme fear* among the population could have also been achieved in other ways, not using deliberate, not commensurate to the military needs, systematic shelling, sniping and preventing the essential living and medical supplies to come to Sarajevo, wherein, according to the data of ICTY Prosecutor's Office Demographic Department, 18, 889 victims were either killed or died and by far more were physically and mentally harmed.

ICTY had at its disposal a large number of evidence on *intentional* murders and accepted all evidence as reasonable. The Prosecution heard many witnesses, victims and the

international community observers, UNPROFOR commanders, foreign journalists and others and “*all of them, without exception, confirmed that the civilians in Sarajevo were being subjected to fire from infantry weapons or shelled from the territory under the Sarajevo-Romanija Corps, most of targets they witnessed were civilians. They testified that almost every day they saw shot civilians.*”¹²¹ Ample of documents available to ICTY, along with the statements of witnesses, suggest that the attacks on the civilians of the besieged Sarajevo were widespread and/or coherent.

Trial Chambers in the judgments of Galić and Milošević described those crimes as they „*concerned horrible story on the Sarajevo siege*”, “*intentional, non-selective and disproportional shooting of civilians*) and that the „*impact of wounding, killing, destruction and mental harm to the civilians was horrible.*”¹²²

Causing serious bodily and mental harm and deliberately inflicting the conditions of life calculated to bring about physical destruction of the civilian population, in whole or in part, was the strategy in achievement of the goal of total extermination of Bosniacs, national, ethnical and religious group as such.

It is obvious that there were sufficient reasonable grounds to include in the indictments and judgments against the generals *Stanislav Galić* and *Dragomir Milošević* also *the crime of genocide*, primarily because the numerous evidence of different provenience undoubtedly confirms that Serbia and Montenegro (the Federal Republic of Yugoslavia), using their (legal) armed forces – the Yugoslav Peoples Army/Army of Yugoslavia together with Serb collaborates from the Republic of Bosnia and Herzegovina, were perpetrating, **in a coherent and/or systematic way**, the actions, including: wide-spread massive and individual killings of Bosniacs, national, ethnical and religious group as such, which resulted in serious bodily and mental harms of the members of that group, more specifically, Bosniacs; **imposed on them the conditions of life calculated to bring about the partial physical destruction; and imposed the measures intended to prevent births within that group.**

Unfortunately, the International Court of Justice was guided by the same logics as ICTY. While rendering the judgment of 26 February 2007 in the case of *Bosnia and Herzegovina vs. Serbia (Federal Republic of Yugoslavia)*, the International Court of Justice took into account also the facts previously proven before the ICTY in the *Galić* case: - “Serb forces (SRC) conducted a campaign of sniping and shelling attacks on civilians of Sarajevo“,

¹²¹ Ibid, Para. 587 and 588.

¹²² ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS DRAGOMIR MILOŠEVIĆ, JUDGMENT, 12 December 2007, Para. 881, 912, 939, 971 and 991; ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS STANISLAV GALIĆ, JUDGMENT, 5 December 2003, Para. 387, 415-416, 526, 561, 589, 591 and 736

“that the civilians in the areas controlled by the Army of Republika Srpska were subjected to direct and non-selective attacks from the territory controlled by the Sarajevo-Romanija Corps resulted in hundreds of civilian killed and several hundreds wounded.”; “that the mortar shell which caused the explosion on at Markale market place on 5 February 1994, when over 60 people were killed and over 140 wounded, was fired from territory controlled by the Bosnian Serbs and that was intentionally directed against the civilians”- “that almost all incidents” mentioned by Bosnia and Herzegovina (“applicant”) “were established based on the available evidence”, etc.¹²³ The International Court of Justice also accepted the finding of the UN Commission of experts established to investigate the violations of International Humanitarian Law (Bassiouni’s Commission) that during the siege in Sarajevo on an average day about 329 shell rounds were fired into the city, with a high of 3,777 shell impacts on 22 July 1993.¹²⁴ The International Court of Justice found based on these facts that that “the Muslim civilians were killed in Sarajevo as a result of a constant shelling by the Bosnian Serbs, that Sarajevo was continuously shelled, that the snipers were killing innocent civilians”, etc. However, although the International Court of Justice concluded that “**the Serb forces in Sarajevo and other towns deliberately shelled the civilians, the members of the protected group**”, that is, Bosniacs, it did not find “**sufficient evidence**” that those actions “**were perpetrated with a specific intent to destroy one protected group, in whole or in part.**”¹²⁵

In support to such an argument, the Court stated that in *Galić* case, the ICTY found the following: “**attacks on the civilians were numerous but not consistently so intensive as to suggest an attempt by SRC to wipe out or even deplete the civilians through attrition.... the only reasonable conclusion in light of the evidence presented at the trial is that the primarily aim of the campaign was to instill an extreme terror in the civilian population.**”¹²⁶

The above conclusions, according to the International Court of Justice “were not revoked in the Appellate Trial Judgment of 30 November 2006”.¹²⁷ In support to that ICTY finding which is contrary to the relevant documents and in an attempt to avoid the conclusion on existence of genocidal intent, the International Court quoted the opinion of the Special

¹²³ INTERNATIONAL COURT OF JUSTICE – JUDGMENT, Para. 323-328

¹²⁴ Ibid, Para. 328; THE UNITED NATIONS COMMISSION OF EXPERTS ESTABLISHED PURSUANT TO SECURITY COUNCIL RESOLUTION 780: *Investigating Violations of International Humanitarian Law in the Former Yugoslavia* (1992), vol. II, Annex VI, p. 8

¹²⁵ Ibid, Para. 323

¹²⁶ INTERNATIONAL COURT OF JUSTICE – JUDGMENT, Para. 328; ICTY, TRIAL CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, JUDGMENT AND OPINION, 5 December 2003, Para. 593

¹²⁷ ICTY, APPEALS CHAMBER, PROSECUTOR VERSUS *STANISLAV GALIĆ*, 30 November 2006, Para. 107-109, 335 and 386-390; INTERNATIONAL COURT OF JUSTICE – JUDGMENT, Para. 328

Rapporteur of the UN Commission for Human Rights that **“siege including the shelling of the inhabited places and cutting off food and other essentials supply is one more tactics used to force Muslims and ethnic Croats to flee“**.¹²⁸ Bearing this in mind, the International Court of Justice found that “it is not disputable that the actions were perpetrated with a specific intent (**dolus specialis**) to destroy the protected group, in whole or in part“¹²⁹

The World was very well aware of what was going on in Sarajevo- the UN safety zone. Over all four years of siege, Sarajevo was visited by a large number of officials and officers of the international community, humanitarian workers, researchers, medical and other professionals.¹³⁰ All of them directly witnessed a constant, day- and -night slaughter of the civilians and civilian population in the besieged Sarajevo.

Based on its own findings having a probative value of valid arguments in the court evidentiary proceedings, ICTY drew a illogical and wrong conclusion using the practice, unfortunately common among the politicians, of deliberate and intelligent twisting of thesis which in science is defined as sophism. Thus, the evidence based on which the ICTY made its findings constitute undoubtedly the true premises, but the conclusions drew based on them are not, unfortunately, logical and as such they are factually, morally and legally untenable. Such a conduct of ICTY substantially and radically minimizes the crimes, which constitutes a crime in itself.

Specifically, the findings and conclusions of ICTY on existence of the plan, intent, organization, aim, mode and form of the commission, wide-spread character, duration and systematic are contrary to the presented evidence and their own findings on primary and basic

¹²⁸ INTERNATIONAL COURT OF JUSTICE – JUDGMENT, Para. 328

¹²⁹ Ibid.

¹³⁰ We shall mention only some of the supporters and inciters of the great Serbian ideology, politics, and practice of genocidal character, traitors of the democratic traditions of their countries and international world community Yasushi Akashi, Special Envoy to the UN Secretary General Boutros Boutros-Ghali, Tadeusz Mazowiecki, Rapporteur of the UN Commission for Human Rights, Generals – UNPROFOR Commanders: Lewis McKenzie, Philippe Morillon, and Bernard Janvier, whose soldiers were tied to the poles by the Serb soldiers and in that way humiliated the world peace makers before the entire public, then Francois Mitterrand, David Owen, Thorvald Stoltenberg, Karl Bildt, and many others.

Those who came were also those, who in the name of the democratic traditions of their countries showed that they were for the truth about the events in Bosnia and Herzegovina and for stopping the genocide against an indigenous European nation and prevention of destruction of a state and its capital. They came to Sarajevo ready to risk their lives: Nobel prize winner Caslav Milos, Susan Sontag, Madeline Albright, Ivan Đurić, Ivan Stambolić, Eric Markuzen, Roy Gutman, Henri Levi, Miladin Životić, Predrag Matvejević, Mirko Kovač, Stipe Mesić, Rade Radovanović, Benazir Bhutto, Tansu Chiller, and so many ordinary people, and members of the negotiating team on behalf of the American administration such as Robert Frasure, Joseph Kruzel, and Samuel Nelson Drew, who were killed on the Igman mountain while carrying out their mission.

Still, the great Serbian aggressor continuously, before the entire world public, carried out its planned and systematic killing, infliction of grave physical and mental harm, and intentional infliction on the civilians and civilian population, mainly Bosnian Muslims, the grave living conditions, which have not been noted ever since the Second World War.

actions and offenses. As said before, a primary aim to commit the crimes of war was not to spread fear. The ultimate aim was to exterminate the Bosniacs, in whole or in part, as national, ethnic and religious group as such.

Incomprehensible is the final conclusion of the experts from the respectable International Court in which the applied most cruel, planned, organized, intentional and targeted, systematical and non-systematical, selective and non-selective attacks, intensity and scope of the committed crimes against humanity and international law have been interpreted as the means in spreading of fear. That is something incomprehensible and unacceptable for a wise man (*homo sapiens*).

Just two already mentioned Serb generals, Stanislav Galić and Dragomir Milošević have so far been trialed before the ICTY trialed for the crimes against humanity and international law committed in the besieged Sarajevo. The ICTY failed to charge them with and sentenced for the crime of genocide that would have been the only rightful qualification of the criminal offenses, that is, crimes committed under their command during the siege of Sarajevo.

General Galić was sentenced under the final judgment to a life imprisonment and was found guilty of the criminal offenses of **violating laws and customs of war** for the acts of violence committed with predominate aim, according to ICTY, to spread terror in the civilian population, and for **the crimes against humanity** including murders and inhuman actions. General Milošević was also sentenced under the final judgment to twenty nine years in prison and found guilty of the criminal offences of **violating laws and customs of war** (terrorizing) and **the crimes against humanity** (murders and inhuman acts).

Unfortunately, the ICTY knowingly and intentionally made several essential and serious mistakes. One of the most serious mistakes the ICTY made in proceedings against Generals *Stanislav Galić and Dragomir Milošević* with the far-reaching consequences for the victims of genocide, is the wrongly established formal status of the convicts (professional membership of the Republika Srpska Army). More specifically, the ICTY, firstly the Prosecutor's Office and then Appellate Chambers, had a thesis that the generals of the Army of Yugoslavia, Galić and Milošević – were the commanders of the Sarajevo-Romanija Corps, that is, that they were the officers of the Republika Srpska Army. That thesis is wrong and in contravention to the relevant and clear facts and evidence. That is one of biggest, key mistake of ICTY, namely, it is clear forgery which aim is, *inter alia*, to deny genocide.

Final considerations

Taking into account up to day results of the scientific researches on crimes against humanity and humanitarian law in the Republic of Bosnia and Herzegovina, including Sarajevo, especially in the time of siege, and based on relevant arguments, credible and reliable evidence we hereby present, well-grounded and based on scientific facts, the following positions:

- siege of Sarajevo, like the aggression on the Republic of Bosnia and Herzegovina and genocide crime committed over Bosniacs, in line with the Great Serb state project, constitutes an essence of joint criminal enterprise of the Serbia and Montenegro, that is, the Federal Republic of Yugoslavia, undertaken with an aim to conquer the Republic of Bosnia and Herzegovina and exterminate Bosniacs;

- during the siege of Sarajevo (from 1 March 1992 to 19 March 1996) planned, organized, systematic, targeted and intentional crime of genocide and other crimes against humanity and international law were committed against the civilians and civilian population in the siege, including children;

- Serbia and Montenegro (Federal Republic of Yugoslavia) and their authorities are the leaders of the aggression, acts of genocide and other crimes against humanity and humanitarian law;

- The state of Serbia and Montenegro (Federal Republic of Yugoslavia) is the planner, organizer, coordinator and perpetrator of the aggression, acts of genocide and other forms of crimes against humanity and international law;

- The armed forces of Serbia and Montenegro (Federal Republic of Yugoslavia) including: Yugoslav Peoples Army and Army of Yugoslavia, Ministry of Interior of the Republic of Serbia and other military and police structures, along with their quislings and collaborators from Bosnia and Herzegovina (Republika Srpska Army and Ministry of Interior of Republika Srpska) are the perpetrators of crime of genocide and other forms of crimes against humanity and international law;

- Armed forces of Serbia and Montenegro (Federal Republic of Yugoslavia), following the state policy and aimed at its implementation, carried out intentional, coordinated, lengthy, wide-spread, systematic, fierce, non-selective, excessive and disproportional campaign of shelling against the civilians and civilian population, civilian areas of Sarajevo along with the campaign of sniping attacks on civilians, resulted in thousands of killed of all age groups and both gender, including the children;

- High-ranked officers of the Army of Yugoslavia ordered the attacks (firing) against the civilians and civilian objects;

- There was a strategy of taking civilians and civilian population as targets-civilians and civilian population were target of the intentional attack because they belonged to the particular nation, ethnic and religious group as such;

- There was a strategy of (intentional) killing and wounding of the civilians and civilian population, including children, and devastation and destruction of civil objects;

- Attacks against civilians and civilian objects were wide-spread and systematic;

- There was well-developed intent (*mens rea*), in line with the Great Serbia policy and practice, aimed at occupying and destroying Sarajevo and killing “all Muslims in it“, that is, at committing the crime of genocide against Bosniacs in Sarajevo;

- Leadership of collaborating structure, Republika Srpska, headed by Radovan Karadžić, associated in the joint criminal enterprise aimed at occupying the Republic of Bosnia and Herzegovina and exterminating Bosniacs, had a genocidal intent and genocidal plan to destroy Bosniacs, national, ethnical and religious group as such;

- Sarajevo was shelled and destroyed, while civilian population and civilians were killed and wounded by shells fired from the artillery weapons (howitzers, guns and mortars of all calibers, rocket launchers and others), aircraft modified bombs, anti aircraft arms and snipers;

- There was a pattern in the besieged Sarajevo of non-selective shelling and sniping against the civilians, civilian populations and civilian objects;

- In constant shelling, in line with the strategy on deliberate devastation and destruction of civil objects, a large number of civilian objects were destroyed in Sarajevo, protected under the international humanitarian law (residence buildings, educational, scientific and art, cultural-historical, sport facilities, religious, economic, municipal infrastructure, health, social and civil protection structures, etc.), by which enormous material damage has been inflicted to the Sarajevo city, which at the same time demonstrated the existence of an intent to completely wipe out the centuries-old culture and civilization;

- Civilian population was systematically and in the pre-arranged way exhausted through destruction of communal and other infrastructure, cutting off the electricity, water and gas supply, and public traffic and other communal services blocking;

- Great Serb aggressor committed in the besieged Sarajevo the crime of genocide and other forms of crimes against humanity and international law even against the **children**, killing and wounding them, crippling them and interrupting forcibly their childhood, inflicting them the most severe physical disability and mental disorders they might not get rid of throughout their entire life;

- *genocidal ideology and policy of the state of Serbia and Montenegro ((Federal Republic of Yugoslavia), general context of actions, committed crimes, systematically directed attacks against Bosniacs- (protected) national, ethnical and religious group, than scale, pattern (coherent series of actions), intensity of attacks, thousands of killed and wounded members of the protected group as such, as well as other forms of crimes against humanity and international law are obvious and clear evidence of the crime of genocide (actus rea), committed with intent, along with specific intent (dolus specialis), to destroy Bosniacs, in whole or in part, protected group as such. Planned, organized, systematic and targeted killing and wounding as well as other forms of crimes against humanity and international law in Sarajevo, including severe mental harms, conducted with the primary intention- to destroy Bosniacs, in whole or in part, national, ethnic and religious group as such, because of their national, ethnical and religious characteristics, constitutes a sufficient evidence suggesting that the most severe crime- crime of genocide- was committed against Bosniacs in Sarajevo under the siege at the end of 20th century.*