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**International Court  
of Justice**

**Cour internationale  
de Justice**

**THE HAGUE**

**LA HAYE**

**YEAR 2014**

*Public sitting*

*held on Wednesday 5 March 2014, at 3 p.m., at the Peace Palace,*

*President Tomka presiding,*

*in the case concerning Application of the Convention on the Prevention  
and Punishment of the Crime of Genocide (Croatia v. Serbia)*

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**VERBATIM RECORD**

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**ANNÉE 2014**

*Audience publique*

*tenue le mercredi 5 mars 2014, à 15 heures, au Palais de la Paix,*

*sous la présidence de M. Tomka, président,*

*en l'affaire relative à l'Application de la convention pour la prévention  
et la répression du crime de génocide (Croatie c. Serbie)*

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**COMPTE RENDU**

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*Present:*      President Tomka  
                 Vice-President Sepúlveda-Amor  
                 Judges Owada  
                 Abraham  
                 Keith  
                 Bennouna  
                 Skotnikov  
                 Cañado Trindade  
                 Yusuf  
                 Greenwood  
                 Xue  
                 Donoghue  
                 Gaja  
                 Sebutinde  
                 Bhandari  
Judges *ad hoc* Vukas  
                 Kreća  
  
                 Registrar Couvreur

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*Présents* : M. Tomka, président  
M. Sepúlveda-Amor, vice-président  
MM. Owada  
Abraham  
Keith  
Bennouna  
Skotnikov  
Cañado Trindade  
Yusuf  
Greenwood  
Mmes Xue  
Donoghue  
M. Gaja  
Mme Sebutinde  
M. Bhandari, juges  
MM. Vukas  
Kreća, juges *ad hoc*  
  
M. Couvreur, greffier

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The PRESIDENT: Please be seated. The sitting is open. This afternoon will continue with the cross-examination and examination of a witness, Ms Marija Katić this time and later on with witness-expert of Croatia, Mr. Grujić. So I ask that Ms Marija Katić be invited to the courtroom.

Good afternoon, welcome Ms Katić. You are going to appear before this Court as witness of Croatia. Before providing your testimony, may I kindly ask you to make a solemn declaration by a witness which is required by the Rules of Court. You have the text of that declaration in front of you, please.

Ms KATIĆ: I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth.

The PRESIDENT: Thank you very much. The cross-examination by Serbia will be starting shortly, but before that we will receive the witness statement from the usher. Please give the witness statement to Ms Marija Katić, and I invite Sir Keir Starmer, from the Croatian team, to introduce the witness. You have the floor, Sir.

Sir Keir STARMER: Thank you, Mr. President. Ms Katić, do you have your statement in front of you?

Ms KATIĆ: Yes.

Sir Keir STARMER: Is that your statement?

Ms KATIĆ: Yes.

Sir Keir STARMER: And do you adopt it for these proceedings?

Ms KATIĆ: Yes.

Sir Keir STARMER: Thank you, Mr. President.

The PRESIDENT: Thank you very much. Mr. Wayne Jordash, counsel for Serbia, is going to conduct the cross-examination. You have the floor, Sir.

Mr. JORDASH: Mr. President, Members of the Court, thank you. Could I start, Ms Katić, with the beginning when you attended to give your statement in June 1997. Am I correct that you were interviewed with two other people, two men — I am not interested in their names, just whether you were interviewed at the same time as two men.

Ms KATIĆ: Yes.

Mr. JORDASH: You were all in the same room together, answering questions together, questions asked of you by a police officer, is that correct?

Ms KATIĆ: Yes, it is.

Mr. JORDASH: A question would be asked and whoever knew an answer, or the answer, would respond, is that correct?

Ms KATIĆ: Yes, that is correct.

Mr. JORDASH: So the statement we have and the statement you have adopted is a mixture of what you knew, what they knew, is that correct?

Ms KATIĆ: Yes.

Mr. JORDASH: As we go through the statement as we will now, would you be careful to indicate which pieces are your evidence and which pieces are their evidence, please?

Now the attack in this place Bogdanovci started in August 1991 and was over on 11 November. Is that correct?

Ms KATIĆ: Yes, that is correct.

Mr. JORDASH: And on 11 November, as the statement says, at that point the defenders could not defend the location any further and the Serbian forces took over the town. Is that correct?

Ms KATIĆ: That is correct.

Mr. JORDASH: During the three or four months that the town had been defended, are you able to assist with who those Croatian forces were that was defending the town?

The PRESIDENT: I understand there might have been some issue with translation, most likely translation of the question in English into Croat.

VERIFYING INTERPRETER: Mr. President, the question was, "Who were the Croatian forces that were defending the town?", and it was interpreted just as, "Who were the defenders of the town?" Thank you.

Ms KATIĆ: In my place, there were no Croat forces, as you put it. Most of the defenders were the local population who had to prepare themselves because Vukovar and Bogdanovci were encircled by the JNA forces with the substantial assistance of the local Serb population. Since Bogdanovci was a village encircled by Serb villages, we organized our defence ourselves with the assistance of the local hunting association. Only towards the end of September did we receive assistance in the form of one platoon of the newly-established Croatian National Guard Forces. Those were around 30 people, commanded by Mr. Tomislav *Pucelj*.

Ms KATIĆ: Only later there was another group that joined the defenders of Bogdanovci, in fact, they had to stay in Bogdanovci, because originally those defenders had it for Vukovar. However, since on 25 August the tanks were deployed between *Lužac*, Bogdanovci and Vukovar and cut the communication between Bogdanovci and Vukovar, so these forces that originally went to Vukovar had to stay in Bogdanovci, we are talking about 15 young men, members of the HOS, that were under the command of Mr. *Damir* Radnić.

Mr. JORDASH: Thank you. Let me ask you this: on 2 October according to this statement, the village was completely surrounded it says, and nobody could get in and out anymore. Is it the case then that, from August until October, civilians could, and did, leave during the fighting?

Ms KATIĆ: Yes. Those were elderly women, small children or children, since our local command, which was not the military command, but the command of local people decided that it would be good for a part of the population not to stay in the village as the events which ensued

showed that it was not good to stay for them, so they did leave. They did leave in the direction of Vinkovci and they did it voluntarily, so who wanted did leave.

Mr. JORDASH: Thank you. On 2 October there was the first infantry attack, which was repelled by the Croat military forces, such as they were.

Ms KATIĆ: Exactly, but they were not repelled by the Croatian military forces because, in my view, those were not military forces. The Yugoslav People's Army were the military forces and they were around our village. So what we had in the village were local villagers, who were armed. There was that platoon which I mentioned, which had a certain kind of military organization and which could instruct us how to defend ourselves from this very bloody attack that happened on that day, in which very many people were killed.

Mr. JORDASH: These men from the town who were defending it, were they stationed throughout the town?

Ms KATIĆ: Yes, they were armed. However, they were not deployed throughout the village, we are talking about 150 men. So they were stationed on several points, which is one point in the direction of Marinci, which is illogical, then the other one in the direction of Bršadin, but not directly, because the village of Bogdanovci is separated from Bršadin by the river Vuka, and in order to take position in the direction of Bršadin, we would have to cross the river Vuka. There was another point at the cemetery of our village, and this was so until 2 November, so I am talking about the direction to the village of Petrovci. So until the attack half of that street was taken and the street was called the street of Marshal Tito.

The PRESIDENT: Thank you. Now the verifying interpreter, please.

VERIFYING INTERPRETER: Mr. President, just a minor correction, it was 2 October, not 2 November.

The PRESIDENT: Mr. Jordash, please continue.

Mr. JORDASH: Are you able to testify as to how the final battle took place, when the defenders could no longer defend the town? Did you observe any of that?

Ms KATIĆ: I saw it because I was there all the time. Maybe it would have been different if, on that 2 October when the attack happened, the Yugoslav People's Army had not entered Bogdanovci, because the women and civilians that were in the basements in the houses in that village, they surrendered to the Yugoslav People's Army and they were all killed.

I want to say that those people, those were women, men, civilians, who never carried a rifle in their hand, and I stand fully behind that. So the JNA took those people out of the basement saying that they were going to liberate them. A man called Marijanović, he was shot right away in the mouth.

The PRESIDENT: Just a moment please. Verifying interpreter, please.

VERIFYING INTERPRETER: Mr. President, the name of the man was Josip Marijanović, he was made to kneel and then was shot in the mouth.

Ms KATIĆ: Just a moment. After that the women were taken to a basement, and a hand grenade was thrown into the basement. All were killed, with the exception of two women — *Marija Šimić* and *Stana Šimić* — who survived. They had to lie in that basement for two days until our boys came and picked them up. They brought them to the medical corps where I was, so I gave them help, and then, using the so-called "Maze" road, they went to Vukovar.

Mr. JORDASH: Could I just ask you, before you continue — sorry to interrupt, but my time is limited. Looking at your statement I cannot see some of this evidence, so I just want to ask you, instead of that what is in your statement, because it says this: "the civilians and defenders who were still in the village, after the aggressors had entered, retreated to the medical corps — to be precise, to the cellar".

INTERPRETER: Excuse me, where is that in the statement?

Mr. JORDASH: It is the second page. Third to last paragraph.

INTERPRETER: Which paragraph?

Mr. JORDASH: Third to last, beginning with “the civilians and defenders who were still in the village”.

INTERPRETER: OK.

Mr. JORDASH: “[t]o be precise, to the cellar, and the aggressor army fired four tank grenades into this building from close range. Since the village could not be defended any longer, the defenders and the civilians split into several groups, and started their breakthrough towards Vinkovci in the afternoon. The witnesses succeeded in breaking through the enemy lines and came to Nuštar in the morning of 11 November 1991.” Was that something you said to the police officer in June 1997?

Ms KATIĆ: Yes, but you said, that on 2 November there was the first fierce — I am sorry, on 2 October, my second mistake — on 2 October there was the first fierce attack, and why did I say, in answer to your question — that perhaps it would have been different if the JNA on that 2 October had not done in Bogdanovci what it had done — I am confirming that later, with a reference to the last paragraph that you read, that we break through the enemy lines, but if the JNA on 2 October had not killed those people in the basement, we might have surrendered. Because, after all, the Yugoslav People’s Army was supposed to protect us as well.

Mr. JORDASH: Just to be clear, in the statement it talks about the JA throwing hand grenades into one cellar? Is that what we are talking about? Hand grenades into one cellar?

Ms KATIĆ: Yes, it is about that. Yes, this was again referring to the attack on 2 October. However, when the JNA entered the village with tanks, with armoured vehicles, with infantry, I heard they used napalm bombs which they threw into the basements, regardless of whether, in those basements, there were people or not. Those people who remained, elderly people, were collected and then killed.

Mr. JORDASH: I just want to ask you finally about some evidence which the Republic of Croatia has put before the Court. It is a statement from a member of the First Croatian National Guard who was present in the town. I just want to ask if you know anything about this, what he says. First of all he says that there was a number of members of Croatian National Guard Corps and members of the Ministry of Interiors from Vinkovci, Nuštar, Ivankovo, Županja, and a number of other places who were defending the town. Do you know anything about that?

The PRESIDENT: I understand, again, the verification please. One of the verifying interpreters, you have the floor.

VERIFYING INTERPRETER: Yes, Mr. President, one more location was mentioned, that of Ivankovo.

The PRESIDENT: Thank you. Now you can answer.

Ms KATIĆ: I worked in the medical corps so I received the wounded. I met members of the Croatian National Guard corps under the command of Tomislav *Pucelj*. But I did not go around and counted members. Maybe there have been some, but I was not aware of any other units. What I am aware of is one platoon of the Croatian National Guard of 15 members of HOS under *Damir* Radnić. As far as the members of the Ministry of the Interior from Županja and Ivankovo, maybe those were people from the local surrounding places that were under one command. But I have been not aware of that, perhaps they have not been either wounded or killed.

The PRESIDENT: You are approaching the end of your time. Perhaps one or two questions, not more.

Mr. JORDASH: One more, Mr. President, thank you. One other thing this Croatian army man said about the event, and he is talking about Sunday 10 November when the town fell. And I shall just read it with the assistance of the interpreter.

“On Sunday 10 November 1991 around 8 a.m., the attack from the directions of Bršadin, Petrovci, Marinci, Vukovar, and the field towards Vladimir *Nazor* . . . was mounted . . .”

INTERPRETER: I cannot find it, where is it?

Mr. JORDASH: It is in a different statement, it is not the witness's statement.

INTERPRETER: I do not have that statement, could I have a copy?

The PRESIDENT: I am sorry, counsel, but if you wish to quote from a statement you have to provide the statement for the witness. I am pretty sure the witness has never seen that statement.

Mr. JORDASH: I beg your pardon, Mr. President, sorry.

The PRESIDENT: If you wish to quote from a statement, a different one from the witness, you should bring that statement because I am sure that the witness has never seen that statement.

Mr. JORDASH: We have a copy in PCS so that can help. I do apologize.

The PRESIDENT: And that statement should relate only to the events which are reported in the statement of Ms Katić.

Mr. JORDASH: I do apologize. I will read it in English and then I will go from there.

The PRESIDENT: Sorry, is this statement relating to the events in Bogdanovci?

Mr. JORDASH: Yes, it is. It is the final attack before the surrender.

The PRESIDENT: OK, please proceed.

Mr. JORDASH: Thank you.

“On Sunday 10 November 1991 around 8 a.m., the attack from the directions of Bršadin, Petrovci, Marinci, Vukovar, and the field towards Vladimir *Nazor* . . . was mounted. They attacked from all directions with around 30 to 50 armoured vehicles and more than 300 soldiers. The battles lasted until 9 p.m. when the defenders were left without rocket launchers and bazookas, and each defender with only 30 bullets. The commander of his team, nicknamed Suren Capucha, was a member of the HOS.”

Can you confirm that?

Ms KATIĆ: This is not my statement.

Mr. JORDASH: Do you know anything about those facts? Was this the nature of the final battle?

The INTERPRETER: Could you please repeat your question?

Mr. JORDASH: I am asking the witness whether she knows anything about that, and whether this accurately describes the final battle.

Ms KATIĆ: This is the accurate description of a final battle. I did not count the exact number but the village was entered by infantry, tanks and armoured vehicles, and what started then was a massive destruction of my village. What I saw, and I was on the road in the direction of Vukovar where the improvised medical corps was stationed, I saw the tanks on the road that destroyed and demolished houses, and exactly this is what happened. My village was razed to the ground and nothing was left. We waited for the dark because we were locals, we knew every path, every way, and we knew every road crossing the river Vuka in the direction of Marinci. We hoped that Nuštar is still free, because we were aware that the village of *Cerić* was already fallen.

Mr. JORDASH: Thank you, Madam Witness. I do apologize for distressing you. Thank you, Mr. President.

The PRESIDENT: I have just one request to you. Could you indicate to the Court, the statement from which you quoted — by reference to annex number: what it is annexed to, the Memorial?

Mr. JORDASH: I do apologize. It is Annex 44. Of the Memorial.

The PRESIDENT: Annex 44 of the Memorial? Thank you very much. Now Sir Keir Starmer, if he wishes to re-examine. Please, you have the floor.

Sir Keir STARMER: Ms Katić, just a few questions. Do you still have your statement in front of you? You were asked about the making of the statement. Can I just ask you to quickly look at the statement again and tell the Court whether there is anything in the statement which is

not your own recollection, not something that you know about yourself? So, if there is anything in there that is not your own, that you cannot give evidence about?

Ms KATIĆ: All of this is correct. This is what I said and I stand behind it. However, with the reference to the statement that we heard from the counsel about the bazookas, about crvenkapica (?): I did not say that, I did not mention that, this is not my statement.

Sir Keir STARMER: No, I understand that. I apologize. I simply wanted to know whether the statement that you have adopted contains information that you can personally speak to and we have an answer.

Ms KATIĆ: Yes.

Sir Keir STARMER: You were asked about the arrival of forces from outside the village and you said a platoon arrived and, at some stage, the HOS; I think 15 members and I think you said that was the end of September? Can you remind us when the attack on your village started?

Ms KATIĆ: They arrived on the 29 September. This was followed by one of the fiercest attacks on the village on 1 October and there was another one on 2 October. That means that they knew that those people came to our village and, because of that, they took our village, they attacked, they fired with all the weaponry they had. I heard some names I do not know about.

The PRESIDENT: Just a moment. I understand that there might be an issue with translation. My understanding is most likely with the question from English into Croatian. Verifying interpreter, please.

VERIFYING INTERPRETER: That is correct, Mr. President, yes. Among the forces mentioned was also the platoon, which was omitted.

The PRESIDENT: Please Sir Keir, continue.

Sir Keir STARMER: Thank you. I just wanted to go back to the very beginning of the attack on your village. When was the first time in 1991 your village was attacked?

Ms KATIĆ: The first attack happened on 13 August. It came from Bršadin. There were six, some said mortar or tank shells. They hit the church tower, which was demolished. They destroyed the fences in the centre of the village. They destroyed a small café which was there, completely demolished and, with shrapnel from this attack, one man, Ilija Matijašević, was wounded. Other people fled, of course.

Sir Keir STARMER: And in your evidence you described a situation where the JNA were in the village and a number of people surrendered and were killed and a grenade was thrown into a cellar. Were you describing the events of 2 October — or some other date?

Ms KATIĆ: This was on 10 November when the JNA came into the village. It was infantry and the soldiers walked in front of the tanks. I had not seen before in my life anything like that but this is not important. What is important is what I experienced. This was the end. They took under fire one house by another. Behind the place where the medical corps was, there was a house with civilians and they came into the cellar of that house and killed Dragica *Gabrić*, who was a Serb. She was burned alive and her husband, Janko, they took him with them. I did not know where they were taking him.

Ms KATIĆ: He was taken to Mitrovica. His daughter came later and thanked me for having taken care of him during the time he was in the village. We all had to keep calm and try to plan how to get out of the village. Those who were capable tried to break out through this encirclement, because if we surrendered we knew that the same thing would happen that happened on 2 October, so we agreed there will be no surrender. Those who did not go to break through this encirclement were elderly people, men, women and disabled. On the next day all of them were brought to the centre of the village and they were all killed. The only woman who was released was Zoya Barletzani, she was an Albanian woman whose husband was in the army with the captain of their forces. She is alive and she lives in Kosovo. Maria *Stojković* was another woman that was released because she was married to a Serb, *Stojan*. She was taken through Petrovci somewhere, I do not know where. They also released Đuka and Lela Mesnik whose daughters were married in Tovarnik to Serbs. And I heard of Marija *Dvočović* and *Ana Filkovac*, who were released in March 1992, they were both over 80.

The PRESIDENT: Counsel, I think also we are approaching the end of the time which is allocated for Croatia, so if you wish to put one or two more questions it is fine.

Sir Keir STARMER: I will confine myself to just two, if I may. Apart from the individuals you have just identified as surviving, along with their contacts, was anybody else left alive by the forces when they finally came in in November, in your village.

Ms KATIĆ: We break through and gathered in Vinkovci, so we were looking in fact who was missing. We did not know what happened to those that were missing at the time, but nobody survived. Those people that I named by name were released. I can remember the name of Anka Panković who survived. Her son-in-law, Đuro *Šušnjar*, who was a Serb came to *Bogdanovci*. Afterwards I found out, so I made a breakthrough through the encirclement together with the wounded and we came to Vinkovci. Afterwards I found out that my brother was killed, together with my friends, they were all killed in a minefield that was laid by the JNA in the vicinity of Marinci. This minefield was laid in order to prevent the breakthrough of the people from Bogdanovci because they knew that our village would fall, so this was the way how they wanted to prevent the breakthrough.

Sir Keir STARMER: Thank you.

Ms KATIĆ: Afterwards I also found out that my sister was captured. She was twenty something at the time and she was taken first to the farm *Jakobovac*, where their corps was stationed. She was then taken to Velepomet to Negoslavci and then to Mitrovica. During all that time she was systemically, physically and psychologically ill-treated. She was one of the last that was exchanged.

Sir Keir STARMER: Thank you very much. Just one last, very short question, if I may? On 2 October, in your village, you said "those that were surrendering were killed". Were they members of the platoon, or villagers?

Ms KATIĆ: Those were villagers, elderly women. One can check their names, and their dates of birth. They could not even think of what would happen to them. After all, the soldiers said that they should come out and that they came to liberate them.

Sir Keir STARMER: Thank you very much. Thank you, Mr. President.

The PRESIDENT: Thank you, Sir Keir Starmer. Thank you, Madam Katić. A few judges have questions for you. I first give the floor to Judge Cançado Trindade. But please translate, and then I will give the floor. Judge Cançado Trindade, you have the floor.

Judge CANÇADO TRINDADE: Thank you very much, Mr. President. I thank the witness very much for her testimony, and I proceed to my questions, pertaining to the burying of the murdered people after the fall of Bogdanovci.

At the end of your statement (last paragraph) it is asserted that, after the destruction of the village of Bogdanovci, those who were buried in the so-called School Square were so “in such a way that their bodies were wrapped in tents and buried with a bottle next to their bodies. These bottles contained the data of the dead persons”.

Ms KATIĆ: Yes, the data were names and surnames of those persons.

Judge CANÇADO TRINDADE: Do you know if the burials described in your statement were attended by the close relatives of the deceased ones? Or were they buried by third persons? In that case, was there a disruption of family life and after-life in Bogdanovci?

INTERPRETER: I am sorry, Judge, I did not understand the last part of your question, whether they were buried by third persons . . .?

The PRESIDENT: If I may ask, Judge Cançado Trindade, could you word the question in the last sentence in a more understandable way? Whether, for instance, they were buried by third persons as there were no relatives in the village, they fled? I do not know myself whether I understand well the question.

Judge CANÇADO TRINDADE: I hope you will now understand it. I wonder whether the funerals were prepared and carried out by persons who belonged to the inner family circles of the deceased ones.

Ms KATIĆ: The burials of our dead friends, I was the one to prepare the dead for the burial. In the medical corps, I would remove the clothes, I would put them either in tent halves, or in black sacks, and I would put that bottle containing the names and surnames. There was a young man, Ivica Šimunović is his name, his brother was killed. He would usually say a prayer, because we had no priest. We had some sacred water, we would sprinkle the dead.

Branko *Krajina* was another person who would assist with the burials of those persons. But sometimes, it was not possible to take the dead bodies out of the places where they were, such as basements or garages. So, if it was not possible to remove the dead body, we would cover it with slack lime.

Judge CANÇADO TRINDADE: Thank you for this clarification. Thank you, Mr. President.

The PRESIDENT: Thank you very much, Judge Cançado Trindade. Now I give the floor to Judge Sebutinde who has a question. Judge Sebutinde, please.

Judge SEBUTINDE: Thank you Mr. President. Madam Witness, in your statement that you have just shown to the Court, you refer to several victims of the attack, on your village of Bogdanovci. In fact, there are several names of victims that you specify, in that statement, of persons who were either killed or injured. My question is: do you know the ethnicity or ethnicities of these victims? The victims of the killings, or the people who were injured? Do you know their ethnicities?

Ms KATIĆ: Yes, I know their ethnicity, they were all Croats. Because my village was a pure Croatian village. There were five, or perhaps six people, who came from other parts of the country, who came from Kordun. And, there were two Serb girls who married the men from our village. And, we got along with them very well. I want to name Milan *Aleksić*, who was a Serb,

his parents, Mika and Rade, came from Kordun. He was a Croatian defender, he was disabled, and upon his death, he was buried with all the honours paid to Croatian defenders. In other words, it was not a problem in us, it was a problem in them.

The PRESIDENT: No more questioning, Judge Sebutinde?

Judge SEBUTINDE: Just maybe a clarification. What do you mean it was a problem with “them”? Who is “them”?

Ms KATIĆ: I mean the Yugoslav People’s Army that had very heavy support from the local Serb population. Who gave them the right to walk peacefully into my village, to destroy my house, to kill my brother, to ruin my sister, to deprive me of half of my life and to kill so many of my villagers. Ten per cent of the villagers in my village were killed. Who gave them the right? All those people who came from Kragujevac, Pančevo — and I do not know wherefrom— who came to my house, who decimated the population in my village. I am asking who gave them that right? And even after all that happened, after this bloody feast, I have no hatred, I have not been brought up to hate anyone and even today, my neighbour, a Serb, is a person I am on very good terms with.

The PRESIDENT: Thank you very much. Now Judge Greenwood, you have the floor.

Judge GREENWOOD: Thank you, Mr. President. Ms Katić, thank you for coming to give evidence to us. I hope I will not need to detain you for much longer. In your statement you say that JNA tanks and infantry entered the village the first time on 2 October. Now why did they leave at the end of that day?

Ms KATIĆ: They did not enter the entire village, so they entered one part of the village. They went along the road which was called Marshall Tito Road and they managed to reach the point where there was a crucifix, so they tried to go through the village but they could not. From the beginning to the end of the village there are, I do not know exactly, but some 20 houses. However, the villagers, helped by this one platoon of forces who could help us with the defence, they used rifle grenades as a response and as a result the JNA left. They originally did not know how many people defended Bogdanovci. Only when they managed to capture two of our men,

were they able to know the exact number. So they did not enter the village completely. If they had done so at that point, it would be over.

Judge GREENWOOD: Were any of the tanks destroyed in that fighting that day?

Ms KATIĆ: On which day.

Judge GREENWOOD: I am sorry, on 2 October.

Ms KATIĆ: I do not know exactly whether this was on 2 October or on any other day but I think it was on 2 October. It was at that crucifix where those forces stopped. So behind that crucifix, several houses away from it, this was where the massacre happened, where they killed those people.

Judge GREENWOOD: Yes, thank you. I am grateful to you for explaining where the massacre happened but my question was slightly different. Were any of the JNA soldiers killed, were any of the JNA tanks destroyed in the fighting that day?

Ms KATIĆ: I cannot tell you because I was not there at that particular point. I was in a medical corps which was stationed somewhere else but our boys said that there was a tank destroyed. There is also a photograph of it.

Judge GREENWOOD: Thank you. Did you see the destroyed tank yourself afterwards?

Ms KATIĆ: No, I did not. I saw it on a photograph. But I say, yes, the tank was destroyed.

Judge GREENWOOD: Ms Katić, thank you very much.

The PRESIDENT: It seems that we have now completed your testimony before this Court. I wish to thank you, Madam Katić. You will receive later, most likely tomorrow morning, the transcript of this sitting in English. May I ask you, with the assistance of an interpreter, to go through the text of your answers and if you wish to correct anything, please do that, but only correction, no change of the meaning of your statement, yes?

I thank you once more and you may now leave the courtroom.

The Court is going to take 15 minutes' break and then we will continue. The sitting is suspended.

*The Court adjourned from 4.30 p.m. to 4.45 p.m.*

The PRESIDENT: Please be seated. The sitting is resumed. Now we are going to proceed to the cross-examination and re-examination of the expert called by Croatia, Mr. Grujić. Mr. Grujić can be invited to come to the courtroom.

Good afternoon, Mr. Grujić. Welcome.

Mr. GRUJIĆ: Good afternoon. Thank you.

The PRESIDENT: You are going to appear as expert before the Court. Before answering questions, may I kindly ask you to read the text of the declaration of expert in accordance with Article 64 (b) of the Rules of Court. The text is in front of you.

Mr. GRUJIĆ: I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth, and that my statement will be in accordance with my sincere belief.

The PRESIDENT: Thank you. Now, Sir Keir Starmer. But before you start, may I invite the usher to present to Mr. Grujić his expert's statement.

Sir Keir STARMER: Thank you, Mr. President. Mr. Grujić, can you just look at the statement that you've just been handed, please. And could you confirm that that is your statement?

Mr. GRUJIĆ: Yes, that is my statement.

Sir Keir STARMER: And do you adopt that statement before this Court?

Mr. GRUJIĆ: And I adopt this statement that I gave before this Court.

Sir Keir STARMER: Thank you Mr. President.

The PRESIDENT: Thank you very much. The cross-examination is going to be conducted by Mr. Novak Lukić. Counsel, please. And I ask the expert to wait for the translation of the question into English before he answers the question.

Mr. LUKIĆ: Mr. President, Members of the Court, before commencing the questioning of Mr. Grujić, I just want to address the Court in relation to the topic on which I will ask him questions. My questions will mostly be focused on the numbers and statistics pertaining to the missing, exhumed and imprisoned persons. On this occasion, I would like to express my deepest respect to all the victims of the tragic war and their families, regardless of their ethnicity. My professional duty in this proceeding does not in any way inhibit my personal feeling of respect.

Good afternoon, Mr. Grujić. My name is Novak Lukić. I will put to you questions on behalf of the Serbian team. They will regard exclusively the statement that is before you now.

You are now Assistant Minister at the Ministry of the Family, Veterans Affairs and Inter-Generational Solidarity. Is that right?

Mr. GRUJIĆ: Currently I am holding the position of Assistant Minister at the Ministry of the Veterans Affairs and I was appointed to this position by the Croatian Government as an officer.

Mr. LUKIĆ: Do you have any military or police rank?

Mr. GRUJIĆ: During my employment with the Ministry of Defense and while I was a member of the Croatian army, I had the rank of colonel. When I was appointed Senior Officer, this rank had no further function. I am now a civilian person working at the Ministry.

I have no political function or party affiliation.

Mr. LUKIĆ: I have limited time, so please, specific answers to specific questions. I only asked you about your rank.

You are at the head of the Directorate for Detained and Missing Persons within the Ministry. Who is the Directorate responsible to?

Mr. GRUJIĆ: For its work, the Directorate is responsible to the Minister of *Veterans* and it sends its reports via the Commission for Detained and Missing Persons to the Government of the Republic of Croatia.

Mr. LUKIĆ: Regarding the subject-matter we will be talking today, you acted as an expert-witness and gave reports at the ICTY on several occasions already.

The PRESIDENT: Just a moment, I understand there is an issue of translation. Please.

VERIFYING INTERPRETER: Mr. President, before the ICTY, on a number of occasions and in a number of cases. Thank you.

Mr. GRUJIĆ: That is correct, in a number of cases.

The PRESIDENT: I understand that Mr. Grujić understood the question from the counsel.

Mr. GRUJIĆ: As a witness of the prosecution at the ICTY I gave testimonies in the cases against Milošević, Šljivančanin, Mrkšić, Radić and Martić.

Mr. LUKIĆ: Now we will go on to your work. Specifically the time-frame of your statement. The statement refers to the years 1991 to 1992. Why specifically this time period?

Mr. GRUJIĆ: I was to process data regarding the period 1991-1992 in relation to the previously occupied areas of the Republic of Croatia.

Mr. LUKIĆ: Your statement gives dates and covers three categories of persons — missing persons, exhumed and detained persons — in the period 1991 to 1992. In which part of this period were these numbers the greatest?

Mr. GRUJIĆ: In relation to the category of detained persons, I have to say that the greatest number of detained persons, that is the greatest number of persons that were detained, occurred in November and December of 1991. As regards exhumations and the discovery of mass graves, and the time of their creation, I have to say that the first mass graves had come into existence as early as July 1991 and they were continually coming into existence still the year 1992. As regards the

missing persons, I have to say that the greatest numbers of persons went missing in the same period, that means in November and December of 1991 and in January of 1992. But I have to stress that all these events had also occurred earlier, before this period, and continued later on, were repeated.

The PRESIDENT: Just a moment, please. Again an issue of translation. Please, Verifying Interpreter.

VERIFYING INTERPRETER: Mr. President, the reference was to January and February 1992.

Mr. GRUJIĆ: Yes, January and February 1992.

The PRESIDENT: Please, proceed.

Mr. LUKIĆ: Now I will turn to exhumations and to the data that you provided in your report. I will ask you about the new Vukovar Cemetery. In your report you described mass graves and this is one of the biggest mass graves: 938 bodies were exhumed from that grave, if I am correct?

Mr. GRUJIĆ: The biggest mass grave that we found is the mass grave at the new Vukovar Cemetery in which we discovered 938 victims.

Mr. LUKIĆ: Is it true that at the new Vukovar Cemetery this mass grave came into existence after the conflict in Vukovar, as a result of the clearing up?

Mr. GRUJIĆ: So, the victims we found at the new Vukovar Cemetery in this mass grave are victims from before, during and after the occupation of Vukovar. And this mass grave came into existence as far as I understood your question, one part as a result of the clearing up but as regards the other part, over 120 victims in it were brought from primary graves from the area of Vukovar. These graves came into existence at the same time as the graves in *Gelesova Dola*, Trpinska Cesta, Lipovački (*Atar*), where there were six victims. So all in all, from seven places, seven places of different mass graves, the mortal remains were taken out and moved to the Vukovar Cemetery.

The PRESIDENT: Just a moment. I understand there was an issue of interpretation. Please.

VERIFYING INTERPRETER: Mr. President, in the previous reply the witness actually said that these primary mass graves in the area of Vukovar were created at the same time as the Ovčara mass grave. This was omitted in the interpretation.

INTERPRETER: Yes, that is correct. At approximately the same time. Thank you.

Mr. GRUJIĆ: I have not finished yet.

INTERPRETER: You wanted to add something?

Mr. GRUJIĆ: Your honour, Judges, if you want me to continue about the Vukovar grave, I could give you some very important details.

The PRESIDENT: Thank you very much. I think you advance the first questions from the counsel for Serbia, so counsel please proceed with your questions.

Mr. LUKIĆ: Thank you, Mr. President. You received an important part of the documentation regarding the exhumation from the bodies of the Federal Republic of Yugoslavia. Is this correct?

The PRESIDENT: Just a moment please, issue of translation.

VERIFYING INTERPRETER: Mr. President, much of the documentation was received from the authorities of the Federal Republic of Yugoslavia which contributed to the identification of the bodies. This last part was omitted.

Mr. GRUJIĆ: I will try to make this clear. The Republic of Croatia had knowledge that the Republic of Serbia had files and documents about each buried person. Over two years of negotiations, we agreed that the Federal Republic of Yugoslavia would provide to us the documents that contributed to the process of later identification. But the same documents also confirmed that the seven primary graves were exhumed and transferred to the new cemetery. Thank you.

Mr. LUKIĆ: You witnessed about this before the ICTY in the *Mrkšić* case in 2006 and you said that around 800 bodies were identified, bodies from this mass grave. So how many of the identified bodies were of Croatian nationality/ethnic origin and how many of other ethnic origins?

Mr. GRUJIĆ: This testimony was given long ago so I cannot remember this datum exactly. I can say, however, that around 8 per cent of them were Serbs. However, I have to say that these victims died at around the same time, same place and under the same circumstances.

Mr. LUKIĆ: This is a transcript from the *Mrkšić* case dated 2 June 2006, page 9956.  
Question . . .

INTERPRETER: Excuse me, could I get this statement in English?

Mr. LUKIĆ: I have only one copy. I will read very carefully.

“Question: And of those 800 people that have been identified, 644 have been identified as being Croatian, is that correct? Answer: Yes, that is correct.”

The PRESIDENT: Just a moment. Verifying interpreter? And then, Mr. Lukić, you are approaching also the time-limit, so 5 more minutes, in order to have time for counsel for Croatia to re-examine if he wishes and also for Members of the Court if they would like some questions. So, verifying interpreter?

VERIFYING INTERPRETER: The page number was 9956.

The PRESIDENT: So we have one more minute, yes? Go! In addition to five.

Mr. LUKIĆ: Thank you. And then the next question was, same page:

“Question: And 358 of those people identified are classified as civilians, is that correct? Your answer: Correct.”

Mr. GRUJIĆ: So these data are from 2006. If you want accurate data I could present them to the Court if the Court would allow me. The data now are totally different than from six years ago. Six years have gone by, there are now new data and the situation is different.

Mr. LUKIĆ: In that same testimony in 2006, you also said you had knowledge that 400 JNA members died in the fights in Vukovar and were later moved to the Socialist Republic of Serbia or later, the Federal Republic of Serbia.

The PRESIDENT: Another issue of translation.

VERIFYING INTERPRETER: Mr. President, the bodies of the victims who died in the battles around Vukovar were transferred to FRY territory and the witness was asked whether he recalled that.

Mr. GRUJIĆ: That was before seven or eight years, so I would not want to give any incorrect data now. My knowledge about that came solely from public documents and documents from Serbia, but my statement here refers to the period 1991-1992 and to the circumstances regarding this period.

Mr. LUKIĆ: Question, you mean there are no such cases of people who were killed in Vukovar but not buried there? Answer, based on what I know, a large number of persons who were killed, or rather the majority of those who were killed but were not buried at the new Cemetery in Vukovar are. . . and there are about 400 such cases were taken away and they were members of the JNA and they were taken away.

The PRESIDENT: Mr. Lukić, this will be the final question.

Mr. LUKIĆ: I did not hear the question that he. . .

Mr. GRUJIĆ: Thank you for reminding me. Of course I said it, but it is now taken out of the context. According to information published by Stanković, there were around 400 members of the [then JNA] who were killed while in combat and as they were killed, they were taken to the territory of the other State and buried there. These were all members of the army that were participating in the fighting who died.

Mr. LUKIĆ: Mr. President, I have finished my questions. I thank you.

The PRESIDENT: Thank you. Sir Keir Starmer, you have the floor.

Sir Keir STARMER: Mr. President, Members of the Court, I just have one issue to raise, I would like the guidance of the Court. A number of questions have been asked of this witness about the statistics in 2006, eight years ago. I obviously do not quarrel with those questions but the position obviously changes over time. I wondered whether the Court would benefit from the up-to-date figures rather than being left with the impression of the situation as it was in 2006. It seems to me the Court may want to proceed on the basis of the figures as they are now, rather than as how they were in 2006 — I am really just asking the guidance of the Court as to whether either now, or perhaps through a short supplementary statement, the most accurate and up-to-date figures could be provided to the Court. That may be helpful.

The PRESIDENT: Thank you. Yes, I understand the counsel for Serbia are using figures from records in a particular criminal trial. There were references to these pages. You will receive the response from the Court as far as the updated statistics are concerned.

INTERPRETER: Excuse me, I had not heard the last part of your sentence.

The PRESIDENT: That Croatia and the Parties will receive the instructions from the Court as far as updated figures are concerned, whether the Court requires or not updated figures. I do not think you need it for the re-examination at the moment.

Sir Keir STARMER: Yes, I accept that. I will not do it through re-examination and we can raise with the Court how to get the appropriate numbers that are up-to-date, before you and it can probably be done in a very simple way I hope. In those circumstances, I have no questions of this witness. Thank you.

The PRESIDENT: Thank you very much. Now I give the floor to Judge Donoghue, who would like to put a question. You have the floor.

Judge DONOGHUE: Thank you, Mr. President. Thank you, Mr. Grujić, for appearing here today. Here is my question: In paragraph seven of your statement, you refer to the persons whose

remains were exhumed and you stated of the persons who were identified, 57 per cent were civilians. Could you please explain how you determined whether or not a person was a civilian? Thank you.

The PRESIDENT: Verifying interpreter, please.

VERIFYING INTERPRETER: Mr. President, the question was translated as: "How did you establish the percentage of 57 per cent?", whereas the question was asked, "How did you establish that the 57 per cent were civilians?"

The PRESIDENT: I give the floor to Judge Donoghue to be sure what was the question. Judge Donoghue, you have the floor.

Judge DONOGHUE: Let me assure you, I am not trying to understand the Croatian here. Let me try again. My question is: Could you please explain how you determine whether or not a particular person was a civilian? Thank you.

Mr. GRUJIĆ: After exhumations, when bodies are found, they are unknown. So we go through the process of identification. Through this process we get the first and last name of the victim, and then we establish the victim's status. We establish whether the person was a member of the armed forces, or whether he/she was a civilian. I have to stress that the person's status is very important for the State because on the basis of this status, a series of different material rights are being exercised. So we establish very carefully the status of persons that we are identifying, whether the persons are civilians or *soldiers*.

Apart from this, this administrative check, we also invite the family of the person to come to the identification, and the members of the family have to give a statement on whether the person was a civilian or a member of the armed forces. Also, in the process of identification, we find out on the basis of the military clothes whether the person who was killed, had a military status. So, this is on the basis of some secondary objects, the clothes.

The PRESIDENT: Thank you very much. Now, Judge Cançado Trindade, you will be given the opportunity to put questions and then, later, Judge Keith. Judge Cançado Trindade, you have the floor.

Judge CANÇADO TRINDADE: I thank the expert witness very much for his testimony. I have one particular question to ask.

The *Data on Victims* contained in your statement refers, in part 2 (paragraph 6-9), to victims exhumed from mass and individual graves. And part 3 (paragraph 10-13) refers to persons detained in camps, subjected, as stated in paragraph 13, to violence with “the utmost level of cruelty”.

In respect of the former, that is, victims exhumed from mass and individual graves, it is mentioned in your statement (paragraph 8) that “in certain locations in the Croatian Podunavlje, the killing of Croats who remained to live in their homes was preceded by their marking (white bands on the upper arms)”. To the best of your knowledge. . .

INTERPRETER: I could not follow the entire question.

Judge CANÇADO TRINDADE: To the best of your knowledge, did this also happen in respect of the latter, that is, of those detained in camps? If so, did all those so marked have the same fate?

Mr. GRUJIĆ: Persons who were in the camps, were not thus marked as far as I know. Such markings were used in several cases that we have established— precisely in Lovas and Tovarnik— where we found victims in mass graves having these markings. And, according to the general information, it is known that in these locations, persons of Croat ethnicity were thus marked with white armbands.

Judge CANÇADO TRINDADE: Thank you, Mr. President.

Mr. PRESIDENT: Thank you, Judge Cançado Trindade. And now Judge Keith. You have the floor, Judge Keith.

Judge KEITH: Thank you, Mr. President. And thank you, Mr. Grujić, for your evidence. My question goes back to the matter raised by Sir Keir Starmer, and about the questions that were put to you, about what you said in 2006. I understood you to say that you are now, given that your report is dated 2013, in a better position to give more accurate figures at this time, than when you were giving evidence some years ago. Is that correct?

Mr. GRUJIĆ: Yes, that is correct. Because now, we have a lot more data than we had in 2006. But the data on the missing persons they exhumed and the identified persons change from day to day. So it was very hard for me to say what happened in 2006. Because these data are alive, they change from day to day. And whenever we have an exhumation, the number of identified persons increases, and the number of missing persons then increases also. But I have to say that the structure of these data stays basically the same. Irrespective of the changes.

Judge KEITH: Sorry, if I could just ask a follow-up. As the data improves, the number of missing persons decreases or increases? The interpreter said “increases” and I thought the logic of what was being said was that they would decrease, those numbers. Thank you.

Mr. GRUJIĆ: Maybe I expressed myself wrongly. I said that the numbers in the records of missing, exhumed and identified persons change from day to day and that the state as it is now is much better than it was before, because investigations advance. We have new knowledge now so the state of the data is now better. When we find mass graves, there are probably potential missing persons in it and when we identify these persons, the number of missing persons decreases and the number of identified persons increases.

Judge KEITH: Thank you very much, Mr. Grujić. I now understand. Thank you, Mr. President.

The PRESIDENT: Thank you very much. So this concludes your appearance before this Court, Mr. Grujić, as expert. I wish to thank you very much for coming to The Hague, for providing first your expert statement and for answering questions which have been put to you.

Tomorrow morning you will receive the transcript of today's afternoon hearing. It will be in English. With the assistance of an interpreter, I ask you to go through the transcript. If there is any correction, please indicate in that text but certainly not to the effect of changing your statement of your answers.

Mr. GRUJIĆ: Thank you, it was an honour. I never change my statements.

The PRESIDENT: Thank you, Mr. Grujić. You may now leave the courtroom and I wish you good travel back to Croatia.

Mr. GRUJIĆ: Thank you.

The PRESIDENT: As there is no other business before the Court this afternoon, I am going to declare this sitting closed, reminding you that we will meet again tomorrow morning at 10 o'clock for Croatia to continue the presentation of its case. This sitting stands adjourned.

*The Court rose at 5.45 p.m.*

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