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THE HAGUE

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YEAR 2006

Public sitting

held on Friday 17 March 2006, at 10 a.m., at the Peace Palace,

President Higgins presiding,

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

VERBATIM RECORD

ANNÉE 2006

Audience publique

tenue le vendredi 17 mars 2006, à 10 heures, au Palais de la Paix,

sous la présidence de Mme Higgins, président,

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

COMPTE RENDU

Present: President Higgins
Vice-President Al-Khasawneh
Judges Ranjeva
Shi
Koroma
Parra-Aranguren
Owada
Simma
Tomka
Abraham
Keith
Sepúlveda
Bennouna
Skotnikov
Judges *ad hoc* Mahiou
Kreća
Registrar Couvreur

Présents : Mme Higgins, président
M. Al-Khasawneh, vice-président
MM. Ranjeva
Shi
Koroma
Parra-Aranguren
Owada
Simma
Tomka
Abraham
Keith
Sepúlveda
Bennouna
Skotnikov, juges
MM. Mahiou,
Kreća, juges *ad hoc*

M. Couvreur, greffier

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Mr. Thomas M. Franck, Professor of Law Emeritus, New York University School of Law,

Ms Brigitte Stern, Professor at the University of Paris I,

Mr. Luigi Condorelli, Professor at the Faculty of Law of the University of Florence,

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Mr. Ermin Sarajlija, LL.M,

Mr. Amir Bajrić, LL.M,

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Mme Dina Dobrkovic, LL.B.,

comme assistants.

The PRESIDENT: Please be seated. The sitting is now open.

Today, the Court will begin the hearing of the witnesses, experts and witness-experts called by the Parties, and I am going to explain the procedure to be followed. At the invitation of the President, the witness, expert or witness-expert will enter the Great Hall of Justice and take his place. The President will then ask the witness, expert or witness-expert to make the appropriate declaration in accordance with Article 64 of the Rules of Court. Witnesses will make the declaration set down in Article 6, subparagraph 4 (*a*), of the Rules of Court, while experts and witness-experts will make the declaration set down in subparagraph (*b*) of the same Article. Thereafter, the Agent or counsel of the relevant Party will begin the examination of the witness, expert or witness-expert. The witness, expert or witness-expert may give his evidence in the form of a statement and/or as replies to questions put to him by the Party having called him, at the option of that Party. The other Party may cross-examine the witness, expert or witness-expert and for this purpose will be allowed the same amount of time as was required for examination. The Party calling the witness, expert or witness-expert will then be asked by the President if it wishes to re-examine. The attention of the Parties is drawn to the fact that any such re-examination must be brief and limited in scope to the issues already dealt with in cross-examination. Thereafter, the Court will retire, but the Parties and the witness, expert or witness-expert should remain in the vicinity of the Great Hall of Justice. If the Court wishes to put questions to the witness, expert or witness-expert, it will return to the courtroom and questions will be posed by the President on behalf of the Court, or by individual judges. If the Court does not so wish, it will not return to the courtroom and the Registry will inform the Parties and the public accordingly.

I note that witnesses, experts and witness-experts may not be present in court either before or after their testimony or statement. The Court has further decided that, exceptionally, the verbatim records of the sittings, during which the witnesses, experts and witness-experts are heard, will not be made available to the public or posted on the website of the Court until the end of the sittings allocated for the hearing of the witnesses, experts and witness-experts, namely, on Tuesday 28 March 2006 at 6 p.m. Finally, both members of the media, in accordance with the code of conduct they have signed, and the public, are requested not to publish the content of the evidence

given or statements made by the witnesses, experts and witness-experts until Tuesday, 28 March 2006, at 6 p.m., nor to communicate in any manner with the witnesses, experts and witness-experts. This is for the good administration of justice.

In accordance with Article 71, paragraph 5, of the Rules of Court, the relevant part of the verbatim record, in one of the Court's official languages, of the examination, cross-examination, and re-examination, and any questions put by the judges and the answers thereto, shall be made available to each witness, expert or witness-expert as soon as possible after his testimony or statement. The witness, expert or witness-expert will be asked to insert into the transcript corrections of any mistakes that may have occurred — without affecting the sense and content of the testimony given, the statement or responses — and will be requested to return the transcript, corrected and duly signed, to the Registrar within 24 hours of its receipt in order to facilitate any supervision that the Court may think it proper to exercise in respect of any corrections made.

The Court will first hear experts to be called by Bosnia and Herzegovina. The first expert to be called by Bosnia and Herzegovina, Dr. András Riedlmayer, may now be brought into court.

[Expert enters and takes his place at the rostrum]

Good morning, Dr. Riedlmayer. I call upon you to make the solemn declaration for experts as set down in Article 64 subparagraph (b), of the Rules of Court.

Dr. RIEDLMAYER: Thank you, Madam President. 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. I now give the floor to the Agent of Bosnia and Herzegovina.

Mr. SOFTIĆ: Thank you.

**INTRODUCTION BY THE AGENT OF BOSNIA AND HERZEGOVINA TO THE CALLING OF THE
EXPERT MR. ANDRÁS RIEDLMAYER ON 17 MARCH 2006**

1. Madam President, distinguished Members of the Court, Bosnia and Herzegovina would like to ask the permission of the Court to call experts according to Rule 65 of the Rules of Court

and the Statute of the International Court of Justice. And the first expert that Bosnia and Herzegovina would like to call is Mr. András Riedlmayer.

2. Mr. Riedlmayer will be testifying before this Court on the destruction of the cultural, religious and architectural heritage of Bosnia and Herzegovina. Mr. Riedlmayer has testified for the Prosecutor at the ICTY in the *Milosevic* and *Krajisnik* cases and is currently preparing a report for the Prosecutor in the *Seselj* case.

3. Mr. Riedlmayer will be examined by my esteemed colleague, Ms Joanna Korner, and I would like now to respectfully ask the Court to give permission to Ms Korner to take the floor. Thank you.

The PRESIDENT: Thank you. I now give the floor to Ms Korner to begin her examination.

Ms KORNER: Mr. Riedlmayer, if you can go back to where you were. Mr. Riedlmayer, the Court has heard your name. I think you wanted to say something before we begin.

Destruction of cultural heritage in Bosnia and Herzegovina

Mr. RIEDLMAYER: Yes. At this point Madam President, distinguished Members of the Court, as this is my first appearance before this Court, I should like to say what a very great honour it is for me. Thank you.

Ms KORNER: Now Mr. Riedlmayer, before we deal with the matters which you are going to be helping the Court, can I ask you a little bit about your sources for the information that you are about to provide. Your expertise, as this Court knows, is in the religious and cultural heritage. Is that correct?

Mr. RIEDLMAYER: Yes.

Ms KORNER: And is this right, that you in fact specialized in the history of the Balkans during your undergraduate years at the University of Chicago?

Mr. RIEDLMAYER: Yes, I did.

Ms KORNER: That you wrote your thesis on Bosnia and Herzegovina and the conquerors of Berlin?

Mr. RIEDLMAYER: Yes.

Ms KORNER: And for the last ten years have you written extensively on cultural history of Bosnia and Herzegovina, in particular on the subject of the destruction of the cultural heritage.

Mr. RIEDLEMAYER: I have.

Ms KORNER: I think it is equally correct that you have presented papers at a number of international conferences?

Mr. RIEDLEMAYER: Yes, I have.

Ms KORNER: And that in addition to your work at the International Criminal Court for the former Yugoslavia, have you also given presentations before congressional commissions and other bodies?

Mr. RIEDLEMAYER: I have.

Ms KORNER: In respect of the work that you did for the ICTY, as we can call it, can you tell us what preparation you made before you produced those reports and testified?

Mr. RIEDLMAYER:

Sources, methodology

Yes. First of all I studied the photographs and reports compiled by the religious communities in Bosnia, by the Institute for Protection of Cultural, Historical and Natural Heritage of Bosnia and Herzegovina, by the Council of Europe rapporteurs who were sent on missions to Bosnia during and after the war, by Unesco, and other sources, all of which serve to document the devastation of cultural heritage in the country during the 1992-1995 war.

In addition to the information compiled by these local and international bodies, my knowledge of these matters also derives from extensive fieldwork in Bosnia, including a field survey of 19 municipalities, carried out in July 2002 and commissioned by the ICTY, in which I travelled more than 4,600 km within a small country and documented 392 sites, 60 per cent of those by first-hand site visits, the remainder by reviewing and collecting photographs and other documentation from multiple independent sources judged to be reliable.

In July 2003, I testified about my findings before the ICTY as an expert witness in the case *Prosecutor v. Slobodan Milosevic*. Subsequently, I was contracted by the Tribunal to serve as an expert witness in two additional cases, for which I was asked to compile data for seven additional

municipalities, bringing the total of Bosnian municipalities surveyed to 26 and the number of devastated cultural and historical sites fully documented to 452. The field surveys that I have carried out at the request of the ICTY, and the expert reports that I have submitted, may represent the most extensive and systematic record of the damage compiled thus far.

Ms KORNER: Mr. Riedlmayer, during the course of your evidence here you are going to be asking the Court to look at a number of photographs and, in one case, some footage of part of this destruction. Can you tell the Court, are these photographs and the film evidence publicly available documents.

Mr. RIEDLMAYER: Yes, for the most part these derive either in the case of pre-destruction photographs from public sources; in the case of post-destruction photographs the majority were taken by myself and were submitted in evidence at the ICTY and are part of the record there.

Historical background

Ms KORNER: Can you start please by just telling the Court very briefly something of the historical background to these events?

Mr. RIEDLMAYER: Thank you.

5. With your permission, Madam President, I would like to begin by briefly introducing the rich and varied heritage of Bosnia and Herzegovina and the different religious and cultural traditions that have contributed to it. Located in the heart of Europe, Bosnia and Herzegovina is a country that has long stood at the crossroads of European civilization.

[slide: Bosnia and Herzegovina (map)]¹

6. Since its emergence as an independent country in the Middle Ages, Bosnia has been a complex and multifaceted society, where cultural influences from both East and West have met and interacted, both with each other and with a rich indigenous tradition. It also has a long history of tolerance and coexistence between different faiths and cultures.

Ms KORNER: All right, what we had up was a map and that was just to demonstrate, was it?

Mr. RIEDLMAYER: The location of Bosnia within Europe.

¹Source: the author.

Ms KORNER: Thank you very much.

[slide: Medieval Bosnian tombstones at Radimlja]²

Mr. RIEDLMAYER: What you see on the display now is a medieval Bosnian tombstone. Most of the images are captioned and I will not trouble the Court by reading the captions.

7. Alone in medieval Europe, the Kingdom of Bosnia was a place where not one but three Christian churches — Roman Catholicism, Byzantine Orthodoxy and a local Bosnian Church — coexisted side by side. Leaders of all three churches were called upon to witness acts of State, but the State did not regularly favour one church over the others. The Bosnian Kingdom endured for more than 250 years and has left behind many monuments of its cultural vitality.

[slide: Old Bosnian Muslim tombstones at Jakir]³

8. Islam arrived in Bosnia nearly six centuries ago, when the armies of the Ottoman sultans swept across the Balkans and onwards into Hungary. Many Bosnians from all social and religious backgrounds — more than half the population by the year 1700 — adopted the faith of the Islamic conquerors. A distinctive Bosnian Muslim culture took form, with its own architecture, art, literature, social customs and folklore.

[slide: Bridge of Mehmed Pasha Sokolovic at Visegrad]⁴

9. The Ottoman sultans and their local Bosnian governors built bridges — such as the one you see on the photo — markets, schools and mosques, around which new neighbourhoods and entire new towns grew. Among these new Ottoman Bosnian towns were Sarajevo, Banja Luka, Cajnice and Mostar. The history here is reflected in the buildings: in these cities, Bosnian Muslim, Roman Catholic, Orthodox Christian, and Jewish townspeople lived and worked side by side. Their places of worship were built in close proximity with each other.

[slide 5: Sarajevo: Gazi Husrev Beg Mosque]⁵

10. Thus, in the centre of Sarajevo, the city's principal mosque — which you see on the picture — built in 1531 by Gazi Husrev-beg, Ottoman Bosnia's first native Bosnian Muslim

²Source: the author.

³Source: the author.

⁴Source: the author.

⁵Source: the author.

governor, Sarajevo's Old Orthodox Church, built in 1539, the city's first Jewish synagogue, erected in 1580 on land provided by an Islamic endowment, and Sarajevo's Roman Catholic cathedral, all stand within an area of less than half a square kilometre.

[slide 6: Sarajevo: Old Orthodox Church and Catholic Church]⁶

11. The same juxtaposition could be seen in other cities and towns throughout Bosnia and Herzegovina. Thus in the town of Cajnice in eastern Bosnia, the mosque of Sinan-Beg Boljanic, the town's sixteenth century founder, was across the market square from Cajnice's Orthodox church, which was famous for its miracle-working icon. You can see the church at top left, the mosque at bottom right.

[slide 7: Cajnice: Mosque and Orthodox church next to each other]⁷

12. In the town of Bosanska Krupa, in north-western Bosnia, which has already been mentioned in the pleadings, the town mosque, the Catholic church, and the Orthodox church were on three sides of the main square. And in Bosanski Samac, in the Posavina plain of northern Bosnia, the Catholic church and the Orthodox church were facing each other across the street, both of them within sight of the minaret of the Bosanski Samac Mosque, located less than five minutes' walk away.

13. Please note, Madam President, that the placement of architecture is an intentional, thoughtful, and I would say political, act. People who cannot abide the sight of each other will not build their houses and the most important monuments of their religious and communal life in the shadows of those of the others. Of course, the fact that different religious and cultural traditions managed to coexist and engage in fruitful interactions should not be taken to imply a lack of periodic frictions and rivalries. Like other regions of Europe in the early modern era, Bosnia had its share of corrupt officials, oppressive landlords and rebellious peasants, bandits, blood feuds and other sources of social discord. However, the fact of pluralism itself was considered a given. Over the *longue durée*, Bosnians of different religious traditions found ways to live, work, and build together.

⁶Source: the author.

⁷Benac, Alojz (ed.). 1980. *Bosna i Hercegovina* (Beograd: Jugoslovenska revija; Sarajevo: Svjetlost): plate 60 (photo).

Ms KORNER: Mr. Riedlmayer, that is the background, what happened to that tradition of coexistence during the period 1992-1995?

Mr. RIEDLMAYER:

14. It was this long tradition of living together in Bosnia-Herzegovina that was violently and deliberately shattered in the 1992-1995 war. One of the most striking features of the assault on coexistence was the deliberate and systematic destruction of the cultural and religious tradition and heritage associated with the targeted communities. Here you see a mosque and the Catholic church, respectively, both ruined in 1992.

[slide 8: Mosque at Carsija (Kotor Varos); Catholic church at Dubrave (Brcko)]⁸

15. In late 1992, in response to reports of such widespread attacks on cultural and religious landmarks, the Committee on Culture and Education of the Council of Europe's Parliamentary Assembly sent the first in a series of missions to Bosnia and Herzegovina to collect information on the destruction by war of cultural heritage. The first of the ten information reports submitted by the Committee on this subject already characterized the extent of this destruction as "a cultural catastrophe in the heart of Europe"⁹.

16. On the basis of the documentation available, out of an estimated 1,706 mosques extant in Bosnia on the eve of the war, at least 985 were damaged or destroyed in attacks by Serb forces between 1991 and 1995. In the same period, at least 270 Roman Catholic churches and 23 Catholic monasteries are documented to have been damaged or destroyed by Serb forces. The overwhelming majority of this destruction of religious sites occurred during the first nine months of the war, between April and December 1992, although destruction in certain areas continued until the signing of the Dayton Peace Accords in late 1995 and in some cases even after Dayton.

17. In parts of Bosnia and Herzegovina occupied by Serb forces during the war that I surveyed in my field study, more than 75 per cent of all Roman Catholic churches and almost 100 per cent of all Muslim houses of worship were found to have been either seriously damaged or totally destroyed.

⁸Source: the author.

⁹Council of Europe, *Information Report: The Destruction by War of the Cultural Heritage in Croatia and Bosnia-Herzegovina*, presented by the Committee on Culture and Education. Parliamentary Assembly doc. 6756, 2 February 1993.

Criteria

Ms KORNER: You just used the expression “seriously damaged or totally destroyed”. Could you explain to the Court your criteria for the assessment of damage?

Mr. RIEDLMAYER:

18. Yes. According to the criteria and terminology I employed in damage assessment in my reports for the United Nations War Crimes Tribunal, buildings that have been “seriously damaged” is used to refer to buildings that had suffered significant structural damage to their principal elements, typically buildings that had been burnt out, often with the roof entirely or substantially collapsed, or with extensive blast damage, or with a combination of damage to several parts of the structure. Those buildings categorized as “destroyed” had no potentially salvageable elements left standing above ground.

19. In many cases, the rubble of mosques and churches had been removed and the sites levelled with heavy machinery, following the destruction. In some cases, I found even that the foundations had been excavated and all materials removed from the sites, which had to be identified with the use of pre-war photographs.

20. Close to 60 per cent of the affected buildings were historic structures dating from Bosnia’s Ottoman (1440-1878) or Austro-Hungarian period (1878-1918). According to data in my expert reports for the International Criminal Tribunal for the former Yugoslavia, which cover 313 Muslim mosques, 59 other Islamic sites, such as dervish monasteries, Qur’an schools, or shrines, and 76 Roman Catholic churches and monasteries, the historic buildings appear to have been singled out for attack, suffering more severe damage than the survey average. None of the Muslim mosques and Roman Catholic churches and other institutions of religion and culture that I documented in the survey escaped without some degree of damage.

21. Minarets appear to have been favoured as targets. In effect, one can trace the borders of territory held by Serb forces during the 1992-1995 war in Bosnia by the absence of minarets. The sole mosque known to have survived the war with its minaret still standing within the borders of what is now the Bosnian Serb entity, or Republika Srpska, was in the village of Donje Baljvine, near the town of Mrkonjic grad, where local Bosnian Serb villagers protected their Bosnian Muslim neighbours from Serb troops and would not let the troops destroy the mosque.

Beginnings

Ms KORNER: Right, can we now look, please, at the beginnings of this destruction?

Mr. RIEDLMAYER:

22. Yes. Attacks on cultural and religious sites of the non-Serb communities in Bosnia and Herzegovina, by the Yugoslav People's Army — or JNA — started even before the beginning of the war in Bosnia in April 1992. The first such attacks are reported to have taken place in the autumn of 1991 and allegedly involved JNA troops on their way to or from the fighting in Croatia. Thus, during the night of 23-24 September 1991, JNA reservists are alleged to have blown up the eighteenth century Ljubovic mosque in the village of Odzak, south of the town of Nevesinje in Herzegovina. When I inspected the ruins in the summer of 2002, I found all but one wall of the historic mosque levelled by the explosion, with large, carved stones from the mosque scattered at a considerable distance by the force of the blast. The former secretary of the Islamic Community of Nevesinje provided me with a copy of a memorandum about the incident that he had sent to the JNA commander the day after the attack, reportedly without any response. Here you see a picture of the mosque.

[slide: Odzak (Nevesinje) Ljubovic Mosque]¹⁰

23. Two weeks later, on 3 October 1991, JNA troops on their way to join the attack on Dubrovnik attacked the mainly Bosnian Croat village of Ravno in eastern Herzegovina. The sixteenth century Roman Catholic Church of the Nativity of the Virgin Mary in Ravno was badly damaged in the JNA attack, its roof smashed in by shelling. Most of the houses in the village were also destroyed in this attack.

[slide: Ravno: Catholic church damaged by JNA shelling]¹¹

24. Other reported incidents from this period before the "official" start of the war in Bosnia include an attack on the historic Town Mosque in Tuzla, shot up on 13 October 1991 by a JNA unit passing through town on its way from Croatia to the border with Serbia; and at least two attacks on

¹⁰Source: the author.

¹¹Zivkovic, Ilija (ed.). 1997. *Raspeta crkva u Bosni i Hercegovini: unistavanje katolickih sakralnih objekata u Bosni i Hercegovini (1991-1996)* (Banja Luka, Mostar, Sarajevo: Biskupska konferencija Bosne i Hercegovine; Zagreb: Hrvatski informativni centar) [photo].

the sixteenth century Osman Pasha Mosque in the southern town of Trebinje, reportedly damaged by grenades and gunfire by JNA reservists, on 22 October 1991 and 25 January 1992.

25. Attacks on cultural and religious landmarks in Bosnia-Herzegovina intensified in April 1992, as paramilitaries from Serbia and JNA troops crossed the Drina and took control of towns and villages in eastern Bosnia. Among examples are attacks such as the sacking of a mosque in Bijeljina, in eastern Bosnia, by a group of Arkan's paramilitaries, who are seen in this photo posing with a trophy inside the mosque in early April 1992.

[slide: Bijeljina: April 1992]¹²

26. In the towns of Zvornik and nearby Kozluk, along the border with Serbia, which were also taken over in early April 1992 by units from across the Drina, all the mosques were destroyed, their ruins razed and the sites levelled after the local Bosnian Muslim population had been driven out or killed. Here you see a photo of the oldest mosque in Zvornik. If you look carefully at the building to the right of the mosque — you can see it in the after picture as well — you can see the mosque was not only torn down, its site was levelled and replaced with a modern apartment building as if the mosque had never been there.

[slide: Zvornik: Zamlaz Mosque, before and after]¹³

27. In between April and June 1992, the southern city of Mostar was bombarded by JNA troops positioned on the heights overlooking the town, damaging or destroying 12 of Mostar's 14 historic mosques and all three of its Roman Catholic churches. They also destroyed the Roman Catholic Bishop's palace and its library, with 60,000 books and manuscripts, the archives of the local monuments preservation authority — which were burned out — and much of the historic core of the Old Town. On the slide you see a photo of the Franciscan Priory Church and Monastery, Mostar, before and after 1992.

[slide: Mostar: Franciscan Priory Church and Monastery before and after 1992]¹⁴

¹²Photos by Ron Haviv (1992).

¹³Pre-war photo: Islamic Community of Bosnia and Herzegovina (1975); post-destruction photo: Council of Europe, *Specific Action Plan for Bosnia-Herzegovina, Preliminary Phase: Final Report* (1998).

¹⁴Pre-war photo: Raic, Ciril. 1998. *Ciril i Raic i Hercegovina: 45 godina fotografije*. (Mostar: Hercegovacko-Neretvanska zupanija): 214 (photo: 1980s); post-destruction photo: Institute for the Protection of Monuments, Mostar (photo: 1992).

28. The damage done to Mostar's mosques and churches and other historic sites by this shelling is reliably reported to have taken place between the second week of April 1992 and 13 May 1992, while the forces attacking the town were formally under the aegis of the JNA. Here you see a picture of Mostar's principal mosque before and after the shelling. You can see that the minaret has been decapitated and fell off to the mosque, smashing it.

[slide: Mostar: Karadjoz-beg Mosque (built 1557) before and after 1992]¹⁵

29. As was noted by Dr. Colin Kaiser, who in December 1992 inspected the damage to historical monuments in Mostar as a rapporteur for the Council of Europe:

“The devastation [in Mostar] — *beside which the damage in the Old Town of Dubrovnik pales in comparison* [note: emphasis in the original] — can be attributed overwhelmingly to artillery, which used virtually every kind of projectile in the Yugoslav Army panoply. This artillery destroyed minarets and roofs, levelled smaller stone structures, punched holes a metre and a half wide in façades, collapsed corner walls, and provoked fires in upper storeys, which then burned, falling into lower storeys, eventually bringing entire internal structures to the ground . . . It should be noted that, according to the local evaluation, *12 of 14 dzamija mosques (the mission visited 12) in Mostar were hit, and all 12 are in the upper damage classifications (4-6)*. Five minarets were shot off at one level or another, and 4 others were hit. It may have been inevitable that mosques in a military ‘front’ zone would be hit, but it is highly doubtful that a minaret can be brought down with a single large calibre shell, which implies a certain amount of deliberate targeting on these structures.”¹⁶

Ms KORNER: Could you pause there for a moment, Mr. Riedlmayer? Could you tell the Court, please, who Dr. Colin Kaiser is?

Mr. RIEDLMAYER: Dr. Colin Kaiser has for the past decade or so served as Unesco's representative in Bosnia and Herzegovina. At the time, in 1992, when he visited Mostar, he was on a mission from Unesco and the Council of Europe to assess war damage.

Ms KORNER: Thank you.

Mr. RIEDLMAYER:

30. The 1992 JNA attacks also targeted Mostar's famous Old Bridge, built in 1566, causing some damage to the bridge proper, which you can see at the bottom right, weakening the structure, and inflicting very serious damage on the mediaeval towers that anchor the historic bridge on both

¹⁵Pre-war photo: Njavro, Mato. 1989. *Hercegovina: Povijest, kultura, umjetnost* (Zagreb: Privredni vjesnik); post-destruction photo: Drustvo arhitekata Mostar. 1992. *Mostar '92: Urbicid*, ed. Ivanka Ribarevic-Nikolic, Zeljko Juric. (Mostar: Drustvo arhitekata Mostar; HVO Općine Mostar), plate 16.

¹⁶Council of Europe, *Information Report: The Destruction by War of the Cultural Heritage in Croatia and Bosnia-Herzegovina*, presented by the Committee on Culture and Education. Parliamentary Assembly doc. 6756, 2 Feb. 1993, paras. 129, 155.

sides of the Neretva River. At the top, please compare the before and after pictures and you can see the level of devastation.

[slide: Mostar 1992: damage to the Old Bridge]¹⁷

31. As is well known, it was the second siege of Mostar, by Croatian forces, in 1993-1994, that brought about the final collapse of the Old Bridge into the Neretva River. But the major damage to Mostar's cultural and religious heritage had already been done by the JNA siege of April-June 1992. Aside from downing the Old Bridge, the worst the Croatian forces could do to the buildings of the Old Town, many of them already in ruins, was to "make the rubble bounce".

32. The pattern was repeated in towns and villages across Bosnia and Herzegovina. The bombardment of the historic centre of the Bosnian capital Sarajevo by the JNA commenced on 6 April 1992 and, except for brief ceasefires, would continue for the next three-and-a-half years.

Sarajevo

Ms KORNER: Yes. Can you now please concentrate on what happened in Sarajevo as far as cultural and religious destruction is concerned?

Mr. RIEDLMAYER:

33. Almost from the beginning, the Bosnian capital's religious and cultural landmarks came under attack. The Roman Catholic Church of St. Joseph in Sarajevo's Marindvor district was shelled by JNA forces across the river in the suburb of Grbavica in mid-April and was struck by more than 30 projectiles.

[slide: Sarajevo: Gazi Husrev Beg Mosque — shell impacts]¹⁸

34. On 3 May 1992, Sarajevo's largest and most famous mosque, the Gazi Husrev-begova dzamija, was shelled in the first of many such attacks on this historic landmark. The map you see on the slide, prepared in 1993 by the Sarajevo Federation of Architects, shows the location of impacts of projectiles on or near the Gazi Husrev Beg Mosque. One does not have to be a

¹⁷Pre-war photo: Aga Khan Trust for Culture (1981); post-destruction photos: Drustvo arhitekata Mostar. 1992. *Mostar '92: Urbicid*, ed. Ivanka Ribarevic-Nikolic, Zeljko Juric. (Mostar: Drustvo arhitekata Mostar; HVO Opcine Mostar).

¹⁸Sarajevo Federation of Architects. 1993. *Urbicid Sarajevo: dossier* (Sarajevo: Drustvo arhitekata, Marseilles: Arc en reve centre d'architecture).

specialist to realize that the mosque — the structure with the circular dome in the centre of the map — was indeed the intended target and was not hit by accident.

35. On the night of 17-18 May 1992, concentrated shelling toppled the minaret of one of Sarajevo's oldest mosques — the Sheikh Magribija Mosque, built in 1538 — bringing the slim stone spire crashing onto its roof and causing extensive damage.

[slide: Sheikh Magribija Mosque]¹⁹

36. It should be emphasized that a minaret is a slim target and difficult to bring down from a distance. It can take many attempts and concentrated shooting to take one down successfully.

37. It must also be noted that the attacks on cultural monuments just mentioned, as well as others such as the shelling of Sarajevo's Oriental Institute on 17 May 1992 — about which I will have more to say later —, were carried out before the JNA's so-called withdrawal from Bosnia and Herzegovina.

Ms KORNER: All right. You told the Court that minarets are slim targets and difficult to bring down from a distance. On what do you base that assertion?

Mr. RIEDLMAYER: Well, on considerable experience, Your Honours. First of all, I have seen — in my various survey trips in the Balkan — several hundreds of incidences of this kind of destruction. Well, I am not a military expert but I do know something about these buildings. Minarets are traditionally built of brick and can withstand a great deal of punishment. You can take out a chunk of masonry or even drive a hole through a minaret without causing its collapse. So very often a minaret that has been decapitated — which is the most common thing, you see — will have many holes in it, which indicated parallel attempts to bring it down. It is also simply common sense that a minaret, which is at most a few metres wide, would not make a particularly easy target to hit from a distance.

1992 Examples

Ms KORNER: Yes, thank you. I think you were about to move on to some other examples of the damage and destruction.

¹⁹Cantonal Institute for the Protection of Cultural Heritage, Sarajevo (photo: May 1992).

Mr. RIEDLMAYER:

38. Yes, thank you. The destruction of cultural and religious landmarks in Bosnia continued and grew in intensity through the late spring and summer of 1992. Attacks on cultural landmarks within besieged towns such as Sarajevo, Mostar and Maglaj, however grievous, were far exceeded in scale by the systematic destruction that occurred outside of the context of armed conflict, in areas of Bosnia and Herzegovina that had already been overrun by Serb forces, or which had been seized by them on the eve of the war, without any fighting, as can be seen in some of the following examples.

39. In the months after Serb air forces took over the town of Foca on the Drina in April 1992, all of the town's 14 historic mosques were systematically destroyed by fire and explosives, the ruins of 13 of these mosques were then levelled with heavy equipment, the rubble taken away and dumped in the river or in rubbish tips.

[slide: Foca: Aladza dzamija, before and after]²⁰

40. The slide you see on the screen shows the Aladza (dzamija) Mosque, the most famous and perhaps the most beautiful of Foca's 14 mosques, built in 1550 and destroyed in August 1992. At the right is a photograph of its empty site, taken after it was blown up and the ruins razed. You can still see the lines of the foundation in the grass and the circular fragments of the ablution fountain in front of it.

[slide: Nevesinje: The Emperor's Mosque (built 1485) — before and after]²¹

41. JNA and Serb militias took control of the southern town of Nevesinje in Herzegovina at the beginning of the war, without a shot being fired. The new Serb authorities forced the local Muslim and Croat residents to leave. Then Nevesinje's two ancient mosques, one of them more than 500 years old, the other built in the seventeenth century, as well as the town's Roman Catholic church, were destroyed with explosives, the ruins razed and the rubble dumped in a rubbish tip outside of the town.

²⁰Pre-war photo: Benac, Alojz (ed.). 1980. *Bosna i Hercegovina* (Beograd: Jugoslovenska revija; Sarajevo: Svjetlost); post-destruction photo: Lucas Kello (1996), in the collection of the author.

²¹Pre-war photo: Njavro, Mato. 1989. *Hercegovina: Povijest, kultura, umjetnost* (Zagreb: Privredni vjesnik): 93; post-destruction photo: the author (2002).

[slide: Nevesinje: Catholic church — before and after]²²

42. Here you see the Roman Catholic church, and on the prior slide you saw the 500 year old mosque. If you look carefully at the church, in front of it is a low stone wall which you can also see in the after picture, that and the trees are the only signs that we are looking at the same sight. However, I also have the cadastral plan for the site and it's identified without any doubt.

The same was also the case in Banja Luka, a town in northern Bosnia that had been taken over by Serb nationalists in a coup on the eve of the war and where there was never any fighting during the war. In a nine-month period, between April and December 1993, all 16 of Banja Luka's mosques were systematically destroyed. This destruction occurred while the city was under the full control of Serb authorities.

Banja Luka

Ms KORNER: Yes, can we now look, please, at the Banja Luka?

Mr. RIEDLMAYER:

43. According to eyewitnesses I have interviewed, the city's two largest mosques, the Ferhadija Mosque (built 1578) and the Arnaudija Mosque (built 1587), were both blown up by sappers while the city was under curfew during the night of 7 May 1993. You can see the Ferhadija Mosque on the screen. Please take a careful look, just to the left of the mosque and behind it, is a building that belongs to the Islamic community, it will feature in the next item to be shown. The day after the blast, the Serb-controlled municipal authorities had public works crews using heavy equipment to break up the ruins of the mosque. The crews used additional rounds of explosives to demolish the massive stump of the Ferhadija mosque's minaret. Despite the pleas of the city's remaining Muslim residents, the rubble of the historic mosques was taken away by truck to the city dump and buried under tonnes of garbage in order to forestall any possibility of the stones ever being reused for any future reconstruction.

Ms KORNER: Mr. Riedlmayer, will you pause there for a moment. I must ask you to explain the term "sapper".

²²Pre-war photo: Ciril Raic. 1998. *Ciril Raic i Hercegovina: 45 godina fotografije* (Mostar: Hercegovacko-neretvanska zupanija): 299 (photo 1980s); post-destruction photo: the author (2002).

Mr. RIEDLMAYER: “Sapper”. In this case I am not using it merely as a term of art, I am using it to describe what I know from having interviewed eyewitnesses. On the eve of the destruction of the mosque, the surrounding streets were roped off, witnesses saw military trucks drive up, residents of nearby buildings were reportedly told to open their windows so they would not be broken by the blast. The blast occurred well after midnight while the city was under wartime curfew and was witnessed by the Mufti of Banja Luka, whom I also interviewed, who lived in that building right behind the mosque.

Ms KORNER: I’m sorry, it was my fault — “sapper” is a term meaning what?

Mr. RIEDLMAYER: “Sapper” is a military explosives expert and to carry out such a large demolition and the sighting of the military trucks and the roping off of the streets by the authorities imply that professionals were involved.

Ms KORNER: Thank you. I’m sorry to have interrupted you.

Mr. RIEDLMAYER:

[slide: Banja Luka: Ferhadija Mosque (built 1578)]²³

44. We will continue now with our first video clip which documents the destruction of the Ferhadija Mosque and was taken by Mr. Bedrudin Gusic, who from May 1992 until 1994 served as elected chairman of the Committee of the Islamic Community of Banja Luka. Could I have the clip, please?

[clip 1: of the destruction of the Ferhadija Mosque in Banja Luka — 1 hr. 20 min.]²⁴

You see here the mosque as it was before, it was built by Banja Luka’s founder, Ferhad Pasa Sokolovic, who also built a clock tower and a number of educational institutions, and the site also had the mausoleum of the founder, which you can see in this shot. We will continue to a brief interior view so you can see what a magnificent structure it was. And now you see the clip as it was the day after the explosion. Just a moment; that is the prayer niche of the mosque; and here we are with the stump of the minaret, which was all that was remaining of the historic structure;

²³Pre-war photo: Ayverdi, Ekrem Hakkı. 1981. *Avrupa’da Osmanlı mimârî eserleri, III. cild 3. kitap: Yugoslavya*. (Istanbul: Istanbul Fetih Cemiyeti): plate 46.

²⁴Source: video footage of the Ferhadija Mosque and its destruction, taken in 1993 by Bedrudin Gusic, at the time the elected chairman of the Committee of the Islamic Community of Banja Luka. Submitted by Bosnia and Herzegovina on 16 January 2006 as DVD 15 and 16.

and note in the background the large machinery that was immediately ordered out to take down the ruins; and now the site as it appeared only a few weeks later — a piece of bare ground and all you can see is the Islamic community building in the rear of the site. It is as if the mosque had never been there.

Ms KORNER: Has the mosque yet been rebuilt?

Mr. RIEDLMAYER: No, it has not.

45. Similarly, five mosques were blown up in the eastern Bosnian town of Bijeljina on the night of 13 March 1993 — almost a year after the town had been under firm control by Serb forces. In the following days, as the “Republika Srpska” Assembly met in the town, which had been under Serb control since the start of the war, municipal work crews cleared away the rubble of the mosques as lines of buses and trucks waited in line to take away the town’s terrified Muslim residents.

[slide: Bijeljina: Atik Mosque (built 1530) before and after]²⁵

46. Journalists who visited Bijeljina a month later found grass and trees planted on the levelled sites of the destroyed mosques. You can see one of them on this photo — the photo I took in 2003 — you can see that at that point the mosque had still not been rebuilt.

47. The removal of ruins of destroyed mosques to rubbish tips and the levelling of the cleared sites appears to have been a general practice in cities and towns in Bosnia that had been seized by Serb forces during the war. In some cases, such as that of the eighteenth century Savska Mosque in Breko, even the foundations were dug up and the rubble of the destroyed mosque was deposited on top of the bodies of murdered Muslim residents in a mass grave site outside of town.

[slide: ruined Roman Catholic church at Sasina.]²⁶

48. In other cases, houses of worship were used as sites for the killing and burial of non-Serb civilians. One example is the Roman Catholic parish church in the village of Sasina, near Sanski Most in north-western Bosnia, which was destroyed by Serb forces using explosives on

²⁵Pre-war photo: Tomasevic, Nebojsa (ed.). 1980. *Treasures of Yugoslavia: An Encyclopedic Touring Guide* (Belgrade: Yugoslavia Republic): 268; post-destruction photo: the author (2002).

²⁶Pre-war photo: Zivkovic, Ilija (ed.). 1997. *Raspeta crkva u Bosni i Hercegovini: unistavanje katolickih sakralnih objekata u Bosni i Hercegovini (1991.-1996.)* (Banja Luka, Mostar, Sarajevo: Biskupska konferencija Bosne i Hercegovine; Zagreb: Hrvatski informativni centar); post-war photos: the author.

28 July 1995. Two months later, on 21 September 1995, in the closing weeks of the war, some 65 non-Serb civilians, both Muslims and Croats, were driven to the site of the Sasina church and executed by Serb paramilitaries, who buried the victims in a mass grave at the foot of the church.

Ms KORNER: Pausing there again for a moment; where does that information that you have just given to the Court come from?

Mr. RIEDLMAYER: A number of sources, Madam. First of all, I interviewed the Bishop of Banja Luka, Franjo Komarica, in whose diocese this fell and who provided information on the destruction of the church. The report on the incident of 21 September 1995 comes from sworn testimony and evidence submitted in the Milošević trial.

Ms KORNER: Thank you. Yes.

[slide: before and after views of the Mosque at Hanifici]²⁷

Mr. RIEDLMAYER:

49. In other cases the destruction of non-Serb houses of worship was even more directly linked with the killings and abuse of civilians. Among the examples is the village mosque at Hanifici in the municipality of Kotor Varos, where more than 30 members of the congregation were reportedly burned inside the mosque in August 1992.

The PRESIDENT: Could I interject there to say, I feel we are now straying beyond your testimony as an expert in the particular field. If you can confine yourself to that, and not to facts, or alleged facts, that go beyond that. Thank you.

Mr. RIEDLMAYER: I understand, Madam President. The point I was trying to make here is not that merely the destruction of architecture, but first of all, the link between the destruction of architecture and its connection to the community which it symbolized and the various actions involving the architecture, whether it is things like taking the rubble of the mosque and dumping it on top of mass graves or the use of mosques as sites for atrocities is, I believe, a vital part of the picture I am trying to present. It is not merely a matter of bricks and mortar. So . . .

The PRESIDENT: Please continue.

²⁷Source: the author.

Mr. RIEDLMAYER: Thank you.

50. There is also the example of the Roman Catholic church at Brisevo, in Prijedor municipality, burned by Serb forces in a July 1992 attack in which not only the church but all the houses in the village were burned and as many as 70 parishioners, including women and children, were killed. When I visited the site a decade later, not a single family had returned to the village, whose houses, ruined church and farm fields were reverting to forest.

Nature of destruction

Ms KORNER: Madam President, we have got a slight technical hitch. Thank you. Well, in fact, I think it is in the bundle of photographs . . .

Mr. RIEDLMAYER: Well, it is on the screen now . . .

[slide: before and after views of the Catholic Church at Brisevo]²⁸

Ms KORNER: It has come up.

Mr. RIEDLMAYER: Yes, you see Brisevo before and after: essentially the extinction of a community and its civilization centred around its focal structure. I am done with that section, I believe.

Ms KORNER: You described examples of the type of destruction. Can you tell the Court anything about the nature of the destruction as a whole, that you are able to say, having looked at all these different sites?

Mr. RIEDLMAYER:

51. Yes, the destruction of mosques and Catholic churches appears to have been deliberate, widespread and systematic throughout the areas controlled by Serb forces. I base this conclusion on the findings of my field survey, and on the fact that, according to what I found, the majority of this destruction took place outside of the context of armed conflict.

Ms KORNER: Can you explain what you mean by that, please?

²⁸Pre-war photo: Zivkovic, Ilija (ed.). 1997. *Raspeta crkva u Bosni i Hercegovini: unistavanje katolickih sakralnih objekata u Bosni i Hercegovini (1991.-1996.)* (Banja Luka, Mostar, Sarajevo: Biskupska konferencija Bosne i Hercegovine; Zagreb: Hrvatski informativni centar); post-war photo: the author.

Mr. RIEDLMAYER: “Outside of the context of armed conflict” means that these were not buildings caught in cross-fire during military action, but that the destruction happened either in the absence of any fighting or after the fighting was over.

52. Statements made by those engaged in the “ethnic cleansing” as well as by the people who were the targets of such actions show a keen awareness of the actual and intended impact of the destruction of the houses of worship and other symbols of the targeted community.

53. The eastern Bosnian town of Visegrad was a scene of particularly brutal atrocities inflicted on its Bosnian . . .

The PRESIDENT: Mr. Riedlmayer, I am afraid I have to interrupt you again. You have taken your declaration as an expert and so I am going to ask you to pass to paragraph 59 of your statement for us.

Mr. RIEDLMAYER: Yes. Thank you Madam President.

54. . . .

55. . . .

56. . . .

57. . . .

58. . . .

59. After the town of Srebrenica was overrun by General Mladic’s forces in July 1995, and the town’s Bosnian Muslim residents had been expelled (women, children, the elderly) or killed (some 8,000 men and boys), all traces of Muslim heritage in Srebrenica were also destroyed. The town’s five mosques, all of which were still standing at the time Srebrenica fell, were all destroyed along with the religious archives recording the history and properties of the town’s Muslim community.

[slide: Srebrenica: Crvena Rijeka Mosque, before, during the war and after]²⁹

60. The slide you see shows Srebrenica’s second oldest mosque, a traditional Bosnian village mosque with a wooden minaret, as it stood before the war. The modern imam’s house behind the mosque held the offices, library and archives of the Islamic Community of Srebrenica, and was

²⁹Pre-war photo: Institute for the Protection of Cultural, Historical and Natural Heritage of Bosnia and Herzegovina; 1993 photo: Zene Srebrenice; post-war photo: the author (2002).

also used for other religious functions. On 1 January 1993, while Srebrenica was under siege by Bosnian Serb forces, the mosque was hit by a bomb dropped by a military aircraft that came across the Drina River from Serbia, according to eyewitnesses. The damage was repaired by people from the neighbourhood, who can be seen in the second picture attending Friday prayers after the repairs were completed. Two-and-a-half years later many of the men in the photo were dead and the mosque was destroyed, its ruins bulldozed into a wooded gully behind it. When I took the third photo, in 2002, the imam's house had been repaired and a family was living in it. But there was no trace left of the mosque, or of the neighbourhood's Muslim residents.

[slide: Srebrenica: Petric Mahala Mosque, before and after]³⁰

61. This slide shows another Srebrenica mosque and serves as an illustration of how mosques were destroyed outside of the context of military action in Bosnia. The mosque, located in the Petric Mahala neighbourhood of Srebrenica, was still intact when Serb troops took over the town in July 1995, as can be seen on a video taken by the Serbian reporter Goran Petrovic at the time. Six months later, after the end of the war when the first IFOR peacekeeping troops came to Srebrenica, the mosque was the ruin that you see in the left-hand photo. It had been destroyed by placing explosives inside the stairwell at the centre of the minaret, causing it to collapse against the building and smash the roof. One can see the characteristic way the base of the minaret flares outward from the force of the blast. The right-hand photo shows the site two years later, in 1998, after the local Serb authorities had bulldozed the ruins, completely obliterating any sign that there once had been a mosque or Muslims in the Petric Mahala neighbourhood.

[slide: Kalata (near Kozarac): Mosque with toppled minaret]³¹

62. The same technique of destruction, showing signs of a professional at work, can be seen in the case of this 100-year-old mosque near Kozarac, destroyed in 1992, when the area was "ethnically cleansed" by Serb forces. The explosives were set in such a way that the tall stone minaret, when toppled, fell directly across and smashed the entire front half of the mosque. The mosque at Hanifici, which I showed before, was an example of what I would call a more amateur approach, where the tall stone minarets fell away from the building.

³⁰Post-war photos: IFOR (1996); Council of Europe (1998).

³¹Source: Thomas Keenan (1998).

[slide: Presnace: Catholic parish church, before and after; Father Filip Lukenda and Sister Cecilija Grgic]³²

63. Here you see a Catholic church, if you look at the bottom left you can see how it has ballooned out; again this is not a building that was hit in crossfire; clearly explosives had been set inside. You can see that the steeple has been toppled and the columns of what remains of the building are ballooned out. On the right, you see the parson and a nun who were killed in the house next door, which was also burned down.

[slide: Divic (Zvornik) — mosque before and after]³³

64. And the next slide, please. This is a slide of a mosque in Divic, just south of Zvornik. In the last pre-war census held in 1991, Divic was home to 1,388 Bosnian Muslims and four Serb residents. On 26 April 1992, the JNA came into Divic and told all the Muslim men to assemble in front of the mosque and surrender their weapons. After the expulsion of the Muslim population and the destruction of the village mosque, Divic was renamed Sveti Stefan — after the Christian St. Stephen — and was resettled with Serbs from elsewhere in Bosnia. A Serb Orthodox church was erected on top of the site of the razed mosque and the old Muslim cemetery, which was also destroyed. The newly-built Orthodox church, which you can see at the right, is still there, despite repeated orders from the Human Rights Chamber of Bosnia-Herzegovina. The aim, clearly, was to eliminate both the community in Divic and its historical, cultural and religious identity and even the very memory of its existence.

Ms KORNER: Now, you have mentioned the Human Rights Chamber of Bosnia and Herzegovina. Is that composed entirely of Bosnians or does it have an international — ?

Mr. RIEDLMAYER: It is a mixed international and local judicial body, established under the Dayton Peace Accords, which was to pass rulings on humans rights cases brought before it.

³²Zivkovic, Ilija (ed.). 1997. *Raspeta crkva u Bosni i Hercegovini: unistavanje katolickih sakralnih objekata u Bosni i Hercegovini (1991-1996.)* (Banja Luka, Mostar, Sarajevo: Biskupska konferencija Bosne i Hercegovine; Zagreb: Hrvatski informativni centar).

³³Pre-war photo: Suljic, Hifzija. 1981. "Dzamiya u Divicu," *Glasnik Vrhovnog islamskog starjesinstva u SFRJ* 44/br. 5-6: 544; post-war photo: the author (2002).

Attacks on the cultural record

Ms KORNER: Could you now look, please, at the question of attacks on the cultural record of Bosnia and Herzegovina?

Mr. RIEDLMAYER:

[slide: views of historic parish registers, burnt records]³⁴

65. Another key part of the attempt to destroy a community is the obliteration of the written record of its existence. Attacks on libraries and religious archives associated with the targeted groups were reported to have taken place in the majority of the municipalities that I surveyed in Bosnia. Prior to the introduction of civil registration in the twentieth century, it was the archives of the local Islamic communities and Catholic parishes that embodied the personal, family and group history of these communities. You can see two examples of old parish registers, at the left, dating back as far as the eighteenth century. On the right, you can see a destroyed archive of a Catholic religious community in the Grbavica suburb of Sarajevo.

[slide: destroyed Islamic vakuf archive and library in Foca]³⁵

66. This is a slide showing the Islamic archive in the rear of the mosque in Foca which, again, held records that had both community significance and economic significance for the survival of the community, since they included deeds and other documents of the pious endowments and other properties that sustained the continued existence of the community by establishing it to carry on religious, charitable and educational activities.

[slide: views of burnt documents, gutted Oriental Institute]³⁶

67. However, the most egregious attacks on the written record of Bosnia's past took place very early in the war. On 17 May 1992, the Institute for Oriental Studies in Sarajevo was bombarded with incendiary munitions from Serb positions and burnt, with the loss of all of its collections. These collections included the former Ottoman provincial archives — more than

³⁴Pre-war photos: Raic, Ciril. 1998. *Ciril i Ciril Raic i Hercegovina: 45 godina fotografije*. (Mostar: Hercegovacko-Neretvanska zupanija); photo of burned archive of Catholic monastery in Grbavica: Zivkovic, Ilija (ed.). 1997. *Raspeta crkva u Bosni i Hercegovini: uništavanje katoličkih sakralnih objekata u Bosni i Hercegovini (1991-1996)*. (Banja Luka, Mostar, Sarajevo: Biskupska konferencija Bosne i Hercegovine; Zagreb: Hrvatski informativni centar).

³⁵Pre-war photo: Ayverdi, Ekrem Hakkı. 1981. *Avrupa'da Osmanlı mimârî eserleri, III. cild 3. kitap: Yugoslavya*. (Istanbul: Istanbul Fetih Cemiyeti): pl. 202; post-war photo: Lucas Kello (1996) in the collection of the author.

³⁶Photos (1992) courtesy Orijentalni institut u Sarajevu.

200,000 documents — and the cadastral registers, which documented the land ownership in Bosnia and Herzegovina at the end of the Ottoman period. The losses also included the country's richest collection of Islamic manuscripts — more than 5,000 codices in Arabic, Turkish, Persian and Bosnian — many of them unique, representing the products of five centuries of Bosnian Muslim cultural history. All obliterated. Ninety-nine per cent of the Institute's collection was completely burnt. You can see the burnt manuscripts, at left, and a sample of a judicial document on the right.

68. The Oriental Institute, as my investigation showed, had clearly been singled out. According to interviews with eyewitnesses, the building had been targeted with a barrage of incendiary munitions, fired from positions on the hills overlooking the town centre. Surrounding buildings in the densely built neighbourhood remain intact to this day. I also spoke to employees, residents and firemen who answered the call to the fire, so I am quite sure of my assertions about this.

69. On 25 August 1992, Bosnia's National Library was bombarded and set ablaze by a tightly targeted barrage of incendiary shells, fired from multiple Bosnian Serb army (VRS) positions on the heights overlooking the old town. As firemen fought the blaze, the attackers swept the surroundings with heavy machinegun and anti-aircraft cannon fire, aimed at street level, in order to keep away firemen and volunteers trying to save books from the burning building. An estimated 1.5 million volumes, comprising the bulk of the National Library's collections and much of Bosnia's cultural record, were consumed by the flames in this, the largest single incident of deliberate book burning in modern history. Once again, only the library was targeted with incendiary shells. Buildings along the narrow streets that surround the burnt out library on two of its three sides still stand intact to this day. I would like to show a brief second video clip, please.

[video clip 2: Sarajevo — Burning the National Library of Bosnia-Herzegovina — 25-26 August 1992 — 1 h. 47 min.]³⁷

Here you see the library on the day after the attack already ablaze, flames bursting out of the building, firemen responding. Unfortunately, the water to the city had been cut, the Bosnian Serb forces holding the control of the water supply. The firemen inside the building trying to put out the

³⁷Raw documentary footage of the burning Library taken 26 August 1992, courtesy FAMA, BH-TV. Submitted by Bosnia and Herzegovina on 16 January 2006 as DVD 7.

fire and rescue collections. Here you will see the shocking sight of the library itself ablaze with the pages of a million books dancing in the flames. Again, I interviewed more than a dozen firemen who took part in the rescue of the books and their efforts to put out the flames. I also interviewed neighbourhood residents who had watched the shelling itself but assured me that various sources were firing. This is Kurt Schork, a reporter for Reuters who wrote one of the most detailed reports on the shelling of the library and was ??? So that is the end of the clip.

[slide: before and after views of the Serbian Orthodox Cathedral in Mostar]³⁸

Damage to Serb Orthodox heritage

Ms KORNER: You dealt with all the destruction that was caused in Bosnia to Muslim and to Roman Catholic edifices. Do you have any knowledge of any destruction done in respect of Serb Orthodox institutions?

Mr. RIEDLMAYER: Yes.

70. While it was not my task to survey wartime damage to Serb Orthodox heritage in Bosnia and Herzegovina, by virtue of the terms of my mission for the Tribunal, I did make a point of noting the condition of Orthodox sacred sites during my fieldwork and have studied the documentation that has been published by the Serbian Orthodox Church and by other sources. There was indeed damage to Orthodox sacred sites during the war and it was not insignificant. Among the most serious cultural losses was the destruction of Mostar's Serbian Orthodox Cathedral, blown up in early June 1992 apparently by Croat extremists, in the aftermath of the Yugoslav army's siege of Mostar. In June-July 1992, the historic Serbian Orthodox monastery in Zitomislic south of Mostar, built under Ottoman rule in the sixteenth century and the centre of Orthodox culture in the region, was also blown up by Croat extremists. Elsewhere in Herzegovina and in northern Bosnia, a number of other Serbian Orthodox churches were damaged or destroyed, mainly but not exclusively in the early months of the fighting between Croat militias and Serb forces.

71. However, it should be noted that *no* Muslim mosques and *very few* Catholic churches remained intact in the towns and villages in Bosnia-Herzegovina seized by Serb forces during the

³⁸Pre-war photo: William Remsen (1980), collection of the author; post-war photo: the author (2001).

1992-1995 war. Accompanying the “ethnic cleansing” of the non-Serb population was a systematic and deliberate transformation of the cultural landscape. Minarets and Catholic church steeples vanished from the land, along with the people who had once looked to those landmarks as visible signs of their history and presence in the country.

[slide: Cajnice: next to the intact Orthodox church, an empty spot in place of the Sinan Pasha Boljanic Mosque]³⁹

72. On this slide you see the town of Cajnice, now an all-Serb town, “cleansed” of its Muslims and mosques, with an empty spot marking the site of the mosque that once faced the Orthodox church across the town square.

[slide: Bosanski Samac: empty site of the destroyed Catholic church, across the street from the intact Serbian Orthodox church]⁴⁰

73. Likewise in Bosanski Samac, at the end of the war there was an empty lot — you can see it there at the left — across the street from the Serb Orthodox church where the town’s Catholic church had once stood facing it.

[slide: intact Serbian Orthodox churches in Sarajevo]⁴¹

74. Meanwhile, Serbian Orthodox churches survived the entire war intact and still stand in the majority of those towns and cities in Bosnia that remained under the control of Bosnia’s internationally recognized Government during the war — such as Sarajevo, Tuzla, and Zenica. The city of Mostar, as we already mentioned, is a notable and tragic exception.

[slide: view of Bosanska Krupa — destroyed Roman Catholic church, newly rebuilt mosque, intact Serb Orthodox church]

75. In the towns in north-western Bosnia that were retaken by the Bosnian Government’s army in the final weeks of the war (such as Sanski Most, Kljuc, Bosanska Krupa), the Serb Orthodox churches still stand intact — while in the same towns the Muslim mosques and Catholic churches had been systematically destroyed by Serb forces during their occupation. This photo is one that I took in the town of Bosanska Krupa. The town was held by Bosnian Serb forces from

³⁹Post-war photo: Dr. Machiel Kiel (1998), collection of the author.

⁴⁰Post-war photo: Office of the Prosecutor ICTY (1996).

⁴¹Source: the author (1997).

1992 until late 1995, when Bosnian Government forces reconquered it. During the Serb occupation the Catholic church, whose foundations you can see at the left, and the mosque which is in the rear of the square, were blown up. I have pictures of the ruins of the mosque which, by the time I visited, had been newly rebuilt. But what you should not at right is the Serbian Orthodox church which remains standing to this day on the third side of the square.

Kosovo

Ms KORNER: You have told the Court effectively of what you consider to be a widespread and systematic pattern of destruction. Have you seen that pattern anywhere else in the former Yugoslavia.

[slide: burning Islamic Community archive and damaged Mosque in Kosovo]⁴²

Mr. RIEDLMAYER:

76. Yes, in late 1999, four months after the end of the war in Kosovo, I went on a mission to Kosovo to survey damage to cultural heritage and my findings indicate a pattern that may be instructive for the Court to consider. During the March-June 1999 war in Kosovo, you had similarly a pattern of “ethnic cleansing” with more than a third of the province’s ethnic Albanian residents forced out.

77. In the course of this operation, according to my findings — and I did a very extensive field survey — there was destruction or damage to 225 Muslim mosques, more than one third of Kosovo’s pre-war total of 607 mosques. All this in a three-month operation. Islamic religious archives and libraries in Kosovo were likewise destroyed, among them the Central Historical Archive of the Islamic Community in Kosovo, which you can see burning in the photo at left. Serbian Orthodox sites in Kosovo were also damaged but only after the war in reprisal attacks by returning Albanians and I found no evidence that even a single one had been damaged during the war.

⁴²Photo of burning Archive: Reuters (1999); photo of Mosque: the author (1999).

Concluding question

Ms KORNER: All right. Finally, Mr. Riedlmayer, this. You began your presentation by telling the Court that the tradition of living together in Bosnia between the nationalities was shattered. In all the investigations you did into this, I suppose catalogue of destruction, did you learn of any incident which reflected that there was still some kind of coexistence possible?

Mr. RIEDLMAYER:

78. Compiling the catalogue of destruction, examples of which I have presented before this Court today, has been a very depressing exercise, of a sort that does not give cause for much optimism about the human condition. Yet, amidst the devastation, there was a rare encounter with a spark of light in the darkness, a sign of the Bosnian heritage of coexistence that I have described and which has been brought so close to being extinguished, its very traces destroyed. In the city of Doboj, in Bosnia, I spoke with the Roman Catholic parish priest, whose church was burned down on 4 May 1992, during the night. He told me the fire was caused by incendiary projectiles fired by Serb forces. In 1993, the ruins of the church were mined twice, the site levelled by bulldozers and all building materials removed by the Serb authorities. In August 1992, the parish house and the nearby convent was vandalized and looted by three “Red Berets” in military uniforms, who spoke a dialect indicating they were from Serbia. They took over the convent for the use of the Red Berets. The priest and the nuns were given 24 hours to leave the town. The parish archives — baptismal registers, records of marriages and burials from the parish — had been hidden at the priest’s request by “good people, local Serbs”, who took them to their houses after the first attack on the Catholic church in May 1992. When the Red Berets searched the parish house in August of that year, they looked for the parish records but they could not find them. After the end of the war, the “good Serbs” who had hidden the archives returned them to the parish priest when he came back to Doboj⁴³. Thank you very much.

Ms KORNER: Thank you, Mr. Riedlmayer.

⁴³Rev. Dr. Pero Brkic, parish priest of Sacred Heart Catholic Church in Doboj, interviewed by the author (July 2002).

The PRESIDENT: Thank you, Mr. Riedlmayer. Thank you, Ms Korner. The Court will now rise for ten minutes.

The Court adjourned from 11.20 to 11.30 a.m.

The PRESIDENT: Please be seated. Could Mr. Riedlmayer be invited to rejoin us? I now give the floor to Ms Fauveau-Ivanović for cross-examination.

Mme FAUVEAU-IVANOVIĆ : Merci, Madame le président. Monsieur Riedlmayer, peut-on dire que vous avez fait des recherches sur le territoire de dix-neuf municipalités en Bosnie-Herzégovine concernant la destruction de monuments historiques ?

Mr. RIEDLMAYER: The 19 municipalities were the municipalities I surveyed for the *Milosevic* Bosnia case. There are seven other municipalities that I have documented for two additional cases. So that is a total of 26 municipalities.

Mme FAUVEAU-IVANOVIĆ : Peut-on dire que ces vingt-six municipalités étaient sélectionnées par le bureau du procureur du Tribunal pour l'ex-Yougoslavie ?

Mr. RIEDLMAYER: Only in part. My assignment from the Tribunal specified a number of municipalities and then I could choose additional ones. So for the *Milosevic* Bosnia case I had ten specified ones and nine additional ones that I chose.

Mme FAUVEAU-IVANOVIĆ : Selon quels critères avez-vous choisi les municipalités que vous avez choisies ?

Mr. RIEDLMAYER: My criteria were: try to achieve a better geographic spread. If you plot onto a map of Bosnia the 19 municipalities I surveyed in the course of that field survey you will see that it covers a broad arc from Ključ and Sanski Most in the north-west through Brčko, Bijelina, Zvornik all the way down to Višegrad and Foča. So basically I was covering a broad arc, trying to get as much of a sample as possible within the limitations of the time available.

Mme FAUVEAU-IVANOVIĆ : Etes-vous d'accord que vingt-six municipalités en Bosnie, cela couvre à peu près 25 % du territoire de la Bosnie-Herzégovine ?

Mr. RIEDLMAYER: Yes, that is roughly correct. Before the war there were 109 municipalities in Bosnia of very unequal sizes, some quite small, some much larger but in terms of number of municipalities we are talking of roughly 25 per cent.

Mme FAUVEAU-IVANOVIĆ : Comment, sur la base des données que vous avez recueillies sur le territoire de ces vingt-six municipalités, tirez-vous la conclusion que la situation était identique dans toute la Bosnie-Herzégovine ?

Mr. RIEDLMAYER: In addition to the information I collected through my surveys, I have made a detailed study of all published documentation on destruction of cultural and religious heritage in all of Bosnia-Herzegovina. I alluded to this in my earlier testimony. If you have a chance to read my reports, you will see the extensive listing of all the materials I studied.

Mme FAUVEAU-IVANOVIĆ : Vous avez également dit — effectivement, j'ai vu vos rapports —, vous avez dit dans ces rapports que vous avez utilisé le témoignage des gens qui habitaient dans ces municipalités et notamment de personnes qui appartenaient à la communauté religieuse musulmane. Est-ce exact ?

Mr. RIEDLMAYER: Not quite. I relied on local residents, in particular local clergymen to guide me to sites of destroyed houses of worship in particular. This was essential especially in cases where the building no longer existed. In the absence of such assistance, it would have taken a much longer time to document this many places. However, I never included a single site in my surveys only on the basis of what people told me. First of all I visited more than 60 per cent of the sites included in the survey. For every site, I had photographs, often cadastral plans and other independent information verifying first of all that this was the site it purported to be, that there had in fact been a church or mosque on the site before the war and that there was no longer one on the site now.

Mme FAUVEAU-IVANOVIĆ : Vous avez parlé de certains événements qui sortent un peu du cadre de votre expertise. Mais lorsque vous parlez de ce meurtre, notamment à Hanifci, Sasina, Carakovo, comment avez-vous vérifié ces informations ?

Mr. RIEDLMAYER: The information in almost all of these cases again comes from multiple sources. One of my sources was the publicly available testimony which can be found on the UN war crime Tribunals website. Certainly in many cases where I collected information such

as when was ?? destroyed, I had to simply rely on what local people told me. However I would then double-check information such as where is the fighting in the area by looking at publicly available military histories such as the volume of the *Balkan Babel*, which I believe you are familiar with. So I did not again go simply by what one person told me.

Mme FAUVEAU-IVANOVIĆ : Savez-vous que les événements à Hanifci et Carakovo que vous rapportez étaient jugés par le Tribunal pénal international qui n'a pas du tout adopté le point de vue que vous avez exposé ?

Mr. RIEDLMAYER: I was not aware of that.

Mme FAUVEAU-IVANOVIĆ : Vous parliez de la mosquée à Banja Luka. Combien de mosquées il y avait à Banja Luka avant la guerre ?

Mr. RIEDLMAYER: According to the best of my information and the fact that I used it in 16 sites, I believe there were 16 mosques in Banja Luka including the suburbs.

Mme FAUVEAU-IVANOVIĆ : Vous pensez qu'il y en avait seize ou vous en êtes sûr ?

Mr RIEDLMAYER: I know that there were 16.

Mme FAUVEAU-IVANOVIĆ : Savez-vous combien d'églises catholiques il y avait à Banja Luka ?

Mr. RIEDLMAYER: In Banja Luka itself, I assume you are alluding to the cathedral which still stands. However, in the surroundings in Banja Luka in places like (?), which are close enough to be suburbs, as many as ten or more catholic churches were destroyed.

Mme FAUVEAU-IVANOVIĆ : Savez-vous combien d'églises orthodoxes il y avait à Banja Luka, à Banja Luka même, dans la ville de Banja Luka ?

Mr. RIEDLMAYER: Orthodox churches were not formally included in the scope of my study. I am aware of the large new Orthodox church that has been erected next to the town hall. However I did not do a count of Orthodox churches.

Mme FAUVEAU-IVANOVIĆ : Donc vous ne savez pas exactement combien d'églises orthodoxes il y avait à Banja Luka ?

Mr. RIEDLMAYER: No, I do not.

Mme FAUVEAU-IVANOVIĆ : Vous parliez de la mosquée Ferhadija qui était, d'après votre témoignage qu'on avait entendu tout à l'heure, détruite au mois de mai 1993, est-ce exact ?

Mr. RIEDLMAYER: Which month, I am sorry?

Mme FAUVEAU-IVANOVIĆ : Mois de mai 1993.

Mr. RIEDLMAYER: Yes, you're referring to the Ferhadija mosque?

Mme FAUVEAU-IVANOVIĆ : Oui, je me réfère à la mosquée Ferhadija.

Mr. RIEDLMAYER: Yes, it was an incident very widely reported at the time. I think it is indisputable that it was destroyed.

Mme FAUVEAU-IVANOVIĆ : Avez-vous une explication que, dans la requête de la Bosnie-Herzégovine qui a été déposée en mars 1993, cette mosquée était déjà reportée comme détruite ?

Mr. RIEDLMAYER: I had nothing to do with those findings. I can however say that the mosque had had a number of attacks before it, which had caused it relatively slight damage but damage that in fact went back to the previous year.

Mme FAUVEAU-IVANOVIĆ : Mais vous êtes certain qu'elle n'a été détruite qu'en mai 1993 ?

Mr. RIEDLMAYER: Yes.

Mme FAUVEAU-IVANOVIĆ : Vous avez parlé sur certains incidents de moyens, de méthodes, comment ces mosquées ont été détruites. Savez-vous quelque chose sur la mosquée de Ferhadija. Comment elle a été détruite ?

Mr. RIEDLMAYER: Only the visual evidence, some of which you have seen, as well as the accounts of eyewitnesses who report a very large blast, which is consistent with the visual evidence of the aftermath. The actual destruction of the remains of the mosque was carried out by heavy machinery and then with pneumatic drills and further explosives in the case of the [inaudible].

Mme FAUVEAU-IVANOVIĆ : En effet, on peut dire que vous n'avez absolument aucune connaissance exacte de qui a pu détruire cette mosquée ?

Mr. RIEDLMAYER: In terms of the individual responsible, I have none. What knowledge I have of what parties may have been involved, I already presented as much as I know in my presentation.

Mme FAUVEAU-IVANOVIĆ : Mais ce que vous avez présenté, ce n'est pas basé sur une connaissance directe et immédiate que vous avez des événements ?

Mr. RIEDLMAYER: Only so much as I gathered from eyewitnesses, including the mufti who lived in the house right behind the mosque at the time it was destroyed and from Mr. Gusic, the gentleman who took the video, who was able to describe what he saw the morning after.

Mme FAUVEAU-IVANOVIĆ : Le témoignage que vous avez obtenu des témoins, ce sont les témoignages que ces témoins ont donnés à vous ?

Mr. RIEDLMAYER: Yes. I interviewed Mr. Gusic who now lives in the same town I live and I went to Banja Luka and I spoke to people in this [inaudible] community there.

Mme FAUVEAU-IVANOVIĆ : Avez-vous des connaissances et des compétences particulières pour apprécier la crédibilité des témoignages ?

Mr. RIEDLMAYER: No, I am not a judge or a lawyer and all I have is the common sense and knowledge of a human being. I have some sense to know when somebody is trying to pull the wool over my eyes. I believe that the people I talk to are trustworthy and I am supported in that belief first of all by the fact that what they say seems to correspond to the evidence as I see it, the visual evidence, and that it is not contradicted by each other. But I am not empowered to take sworn statements and I am not a jurist.

Mme FAUVEAU-IVANOVIĆ : Vous avez parlé de la ville de Mostar. Lors de vos voyages en Bosnie, êtes-vous allé à Mostar ?

Mr. RIEDLMAYER: Yes, I did.

Mme FAUVEAU-IVANOVIĆ : Est-ce qu'à Mostar aujourd'hui, il y a une seule église orthodoxe entière ?

Mr. RIEDLMAYER: No. There were two Orthodox churches in Mostar before the war. If you study my curriculum vitae you will find that I wrote an article about them and about their destruction, and I am very familiar with what happened to them. Also, the photograph you saw of the destroyed Orthodox cathedral in Mostar was one I took. So, yes I'm very familiar with it.

Mme FAUVEAU-IVANOVIĆ : Vous avez parlé des événements qui se sont produits à Mostar en 1992. A l'époque, vous n'étiez pas en Bosnie ?

Mr. RIEDLMAYER: No. At the time, I was not in Bosnia. However, the siege of Mostar in 1992 was early in the war and produced considerably more documentation than some other

events much later in the war. In particular, there were foreign journalists present in Mostar at the time who reported on the shelling of the city. Secondly, the Mostar Federation of Architects in August and September 1992 did comprehensive documentation of all the damage in the town. By the way, including the damage to the destroyed Orthodox church; at that time the second Orthodox church was still standing. This was published in an exhibition catalogue profusely illustrated. Furthermore, Mostar was visited at the end of 1992, December 1992, by Mr. Kaiser on behalf of the Council of Europe, who went there with a team and photographers and visited every site that had been damaged.

Mme FAUVEAU-IVANOVIĆ : M. Riedlmayer, concernant Mostar je ne conteste absolument pas que les monuments aient été détruits, ce que j'essaie de savoir, c'est comment vous pouvez savoir qui les a détruits ?

Mr. RIEDLMAYER: Again, the only thing I can say is I wasn't present but I examined all available documentation, ranging from accounts by independent observers who were there at the time. Also the fact that as of 1992, to my knowledge no one was shelling Mostar other than the Yugoslav army.

Mme FAUVEAU-IVANOVIĆ : Quand vous dites que c'est selon vos connaissances, d'où tirez-vous ces connaissances ?

Mr. RIEDLMAYER: Again, I do not need to investigate personally the military situation in Mostar. It has been written about in published military histories of the Bosnian war, such as *Balkan Battlegrounds*, which lay out in great detail the events between April and June 1992, which is when this damage occurred.

Mme FAUVEAU-IVANOVIĆ : D'accord. Vous admettez en effet que vous n'êtes pas vraiment qualifié pour vous prononcer sur cette situation militaire ?

Mr. RIEDLMAYER: No, for that I simply have to rely on others who are. I am, however, qualified to assess damage either at first hand or from documentation.

Mme FAUVEAU-IVANOVIĆ : Est-ce que vous pouvez dire combien de mosquées étaient détruites en Bosnie entière ? Pendant toute la période de guerre.

Mr. RIEDLMAYER: In terms of the entire territory, the numbers vary to some degree. The number I cite in my report — I believe it was over 950 but less than a thousand: I do not want to

waste time looking at it right now — comes from a combination of sources. I went first of all to the Islamic religious community, which has collected its own documentation about the damage to its own sites. Secondly, the various independent bodies such as the Council of Europe, after it brought rapporteurs during the war, and a technical aid mission in 1997-1998, which surveyed historical buildings, including mosques, in all of Bosnia's municipalities. Furthermore, I consulted the database of the Bosnian War Crimes Commission and all other published available information. So, I think as a ball-park figure, the 900-odd mosques that I mentioned as having been destroyed and the destruction attributed to the Serb side probably represent a reliable figure. If you are asking, were other mosques destroyed? Yes, probably at least 200 more.

Mme FAUVEAU-IVANOVIĆ : Ces autres mosquées étaient détruites par qui ?

Mr. RIEDLMAYER: Those mosques were the victims of the fighting between Croat forces and Bosnian Government forces in 1993 and 1994.

Mme FAUVEAU-IVANOVIĆ : Donc vous admettez que dans la guerre entre les Croates et les Musulmans, les Croates détruisaient les mosquées musulmanes ?

Mr. RIEDLMAYER: Yes.

Mme FAUVEAU-IVANOVIĆ : Si vous prenez la totalité des mosquées détruites dans la guerre en Bosnie, est-ce que vous savez quel pourcentage ces mosquées détruites représente ?

The PRESIDENT: Counsel, could you please repeat the question for the interpreters, they did not catch it.

Mme FAUVEAU-IVANOVIĆ : Bien sûr, Madame le président. Pouvez-vous nous dire en pourcentage combien de mosquées étaient détruites en Bosnie-Herzégovine, mais en prenant la totalité, aussi bien celles qui étaient détruites dans la guerre entre les Serbes et les Musulmans et celles qui étaient détruites dans la guerre entre les Musulmans et les Croates ?

Mr. RIEDLMAYER: Based on the figures I just cited, it is relatively easy to do the maths. If we are talking slightly less than 1,000 attributed to Serbs, and roughly 200 attributed to Croats. It is a ratio of roughly ten to 2, or nine to 2.

Mme FAUVEAU-IVANOVIĆ : Mais ces mosquées détruites représentent quel pourcentage de la totalité des mosquées qui existaient en Bosnie-Herzégovine ?

Mr. RIEDLMAYER: As I cited in my presentation, the total number of mosques in Bosnia was slightly over 1,700 so we are talking here about well over half of all mosques in Bosnia that were destroyed, or damaged during the war. Destroyed here, when talking about these figures includes both complete destruction and partial damage.

Mme FAUVEAU-IVANOVIĆ : Savez-vous combien d'églises orthodoxes étaient détruites en Bosnie-Herzégovine ?

Mr. RIEDLMAYER: This was not the subject of my study but I have seen some publications by the Serbian Orthodox church in the museum of the Serbian Orthodox church, such as Durovnik [inaudible] and others. I never did the maths, but have looked at individual sites. I believe the number is over 100 but less than 200.

Mme FAUVEAU-IVANOVIĆ : Savez-vous combien d'églises orthodoxes il y avait en Bosnie-Herzégovine ?

Mr. RIEDLMAYER: That is a figure I have not seen.

Mme FAUVEAU-IVANOVIĆ : Donc, vous ne pouvez ni confirmer ni infirmer que environ 50 % des églises orthodoxes étaient détruites aussi pendant la guerre en Bosnie-Herzégovine ?

Mr. RIEDLMAYER: In the absence of those figures, obviously I am not in a position to do so. However, I must say that when I was visiting Bosnian towns and cities, I noted where Orthodox churches still stood and where they were damaged, and the fact is that in territory controlled by the Bosnian Government, in all the major cities, except for Mostar, that I visited the Orthodox church was still standing.

Mme FAUVEAU-IVANOVIĆ : Est-ce que vous avez pu obtenir une liste officielle des organes de Bosnie-Herzégovine de mosquées qui étaient détruites ?

Mr. RIEDLMAYER: There is no single official list. In my report to the United Nations Tribunal, which you say have read, I go into the shortcomings of the various reports that were issued. The problem was that at the end of the war, amidst the crisis of maintaining peace, of resettling the refugees and rebuilding a shattered country, things like inventorying cultural monuments seemed to be very low on the roster of our priorities. Various bodies that collected information tended to have purposes in mind other than doing a global survey. The religious communities were most concerned with obtaining funds for reconstruction and tended to focus on

those sites where reconstruction was feasible. The Council of Europe rapporteurs, for example, tended to be interested only in listed monuments, meaning monuments that had been designated for a special legal protection, and so forth. You also had the problem that after Dayton, Bosnia was divided into two separate entities and in those cases that meant that no single body had jurisdiction over the entire country and the Annex 8 Commission, the Commission on National Monuments, which is supposed to look into the documentation and protection of monuments throughout Bosnia, was not functioning for the first six or seven years after Dayton. So, in fact there is no such thing as a single official list; there are many lists of varying degrees of reliability.

Mme FAUVEAU-IVANOVIĆ : Avez-vous pu obtenir une liste des mosquées qui existaient en 1992 ?

Mr. RIEDLMAYER: No, I don't have the list of mosques in 1992.

Mme FAUVEAU-IVANOVIĆ : Admettez-vous qu'une telle liste n'existe pas ?

Mr. RIEDLMAYER: I am not in a position to say whether it exists or not. I must say, however, that under legislation in effect in the former Yugoslavia before its disintegration, mosques and religious institutions were required to be registered with the Government. And so therefore I assume that records of extinct mosques do exist, somehow. Whether these records survived the war intact is maybe another question.

Mme FAUVEAU-IVANOVIĆ : En tout cas, ceci n'est que l'une de vos présomptions. Vous n'avez aucune certitude que cela existait en 1992 en Bosnie ?

Mr. RIEDLMAYER: In the case of the mosques that I did document — we are talking about the numbers that I mentioned in my report — I tried whenever possible to obtain definitive evidence that these mosques indeed existed before the war. Including pre-war photographs, I actually went to cadastral offices and got cadastral records, which include, as you know, site plans, so even if the building was not there when I visited, in the late 1990s or early 2000s, I had evidence that there was a monument there before.

Mme FAUVEAU-IVANOVIĆ : Lors de votre témoignage devant le TPIY, lorsque vous avez témoigné dans le procès *Milosevic*, M. Milosevic vous a posé une question concernant la mosquée à Foca, en disant que cette mosquée du XVI^e siècle était construite sur les fondations anciennes d'une église orthodoxe. Est-ce que vous vous souvenez de ça ?

Mr. RIEDLMAYER: I recall the question, yes.

Mme FAUVEAU-IVANOVIĆ : A l'époque, vous avez dit que vous ne connaissiez pas ça. Est-ce que vous avez fait des vérifications sur cette question ?

Mr. RIEDLMAYER: I am not sure I see the relevance of it, but the fact is that I was not about to research building histories going back to the Middle Ages. There are buildings which I have studied for my own research, the alleged mosque in Foca is not one of them. Whether or not in medieval times a church existed on site where the mosque was then erected, I think does not make much difference in terms of the criminality of destroying the mosque.

Mme FAUVEAU-IVANOVIĆ : Certainement pas, mais moi je vous pose seulement une question. Est-ce que vous savez, est-ce que vous avez fait des recherches si cette mosquée a été faite sur les fondations d'une ancienne église orthodoxe ?

Mr. RIEDLMAYER: I did not.

Mme FAUVEAU-IVANOVIĆ : Mais, tout de même, vous admettez que c'était une pratique assez courante dans l'Empire ottoman de faire des anciennes églises dans les mosquées ?

Mr. RIEDLMAYER: It's actually a rather complex situation. I am a scholar of Ottoman history and aware of the fact that when the Ottomans conquered towns, they would generally take the major church in that town and turn it into a mosque, leaving the smaller churches to the Christian communities that still remained. Remember that we are talking about medieval times, when in fact religion and State were not separated and the major monument within the city was as much a symbol of the ruler as of any religion. And the practice was fairly similar in Europe, or at least analogous.

Mme FAUVEAU-IVANOVIĆ : Vous avez parlé de la bibliothèque nationale à Sarajevo qui a été détruite. Il s'agit d'une bibliothèque nationale de Bosnie-Herzégovine, est-ce exact ?

Mr. RIEDLMAYER: Yes, it was the National and University Library of Bosnia and Herzegovina.

Mme FAUVEAU-IVANOVIĆ : C'est une bibliothèque nationale de la Bosnie-Herzégovine, ce n'est pas une bibliothèque nationale des Musulmans de la Bosnie-Herzégovine ?

Mr. RIEDLMAYER: Most certainly not. It was the repository of the entire country's written heritage as such.

Mme FAUVEAU-IVANOVIĆ : Donc, cette bibliothèque contenait les ouvrages concernant l'histoire croate et serbe aussi ?

Mr. RIEDLMAYER: Yes, it did.

Mme FAUVEAU-IVANOVIĆ : Lorsque cette bibliothèque a été détruite, cet héritage croate et serbe a été détruit aussi ?

Mr. RIEDLMAYER: Tragically, yes.

Mme FAUVEAU-IVANOVIĆ : Encore une fois, concernant cette bibliothèque, vous n'avez aucune indication précise sur qui a détruit cette bibliothèque ?

Mr. RIEDLMAYER: That is not correct. First of all, as I told you, I interviewed more than a dozen residents in the neighbourhood surrounding the library. I interviewed people who saw the shells land on the roof of the library. Since they were phosphorous shells, they threw very characteristic fans of sparks. During the siege of Sarajevo residents of Sarajevo became quite good at telling various kinds of munitions apart, because they had different effects and they were dangerous to them in different ways. In Sarajevo, the old town is located in a very steep and deep valley and the people I interviewed also included people who lived on the hillside immediately overlooking the library. The library began to be shelled just after sunset and they were able to see muzzle flashes and hear the munitions coming in and landing on the library. So, it's not exactly a mystery where it was coming from.

Secondly, in the video, you saw the reporter Kurt Schork of Reuters. He was one of two top correspondents, the other one being John Pomfret, who witnessed the attack on the library. They filed long reports and in the case of Kurt Schork, I had a correspondence with him before his tragic death — he was killed reporting on the war in Sierra Leone a few years ago — and he shared with me his rough notes on what he saw. What he saw included not only a library on fire, but the firemen being fired on from the surrounding hillsides which were held by Serb forces. So, in other words, yes I do have some reason to believe that it was indeed the work of the forces on the surrounding hills.

Mme FAUVEAU-IVANOVIĆ : C'est exactement ce que je pensais. Vous avez des raisons de croire, mais vous ne pouvez pas l'affirmer avec certitude.

Mr. RIEDLMAYER: Let me go one step further. In addition to having talked to a number of people who witnessed this and were able to independently report the same kind of details, I was able to inspect the building and the surrounding buildings. The building itself is very completely burned out, the metal elements in places were melted by the heat of the flames, they were of such intensity. The building had a skylight — a metal roof, with windows — and the shells landed on the roof according to eyewitnesses and, stored beneath the roof, was the library's main book depot which immediately caught on fire. Then the building was fired on with small arms when the firemen first arrived. If you look at the building you can see the marks of the shrapnel and the bullet impacts. Since the building afterwards was abandoned and was not used for any purpose, I assume that those marks date from that period.

Furthermore, the site is triangular, one side faces the river, and two of them are rather narrow streets with apartment buildings and offices. The buildings facing the library on the narrow streets show some of the bullet impacts, especially on the upper storeys, that not one of them was hit by any incendiary device. So, I would say that there are considerable signs that this library was indeed targeted.

Mme FAUVEAU-IVANOVIĆ : Vous avez vu beaucoup de rapports, et vous avez lu apparemment beaucoup sur la guerre en Bosnie-Herzégovine, est-ce que vous avez eu connaissance, est-ce que vous avez trouvé cette information lors de vos recherches que, très souvent, les Membres des Nations Unies, les membres de la mission de paix (les militaires), ont eu beaucoup de difficultés à déterminer d'où venait un obus.

Mr. RIEDLMAYER: I have read that there were various controversies, some of them I believe were artificially stirred up, others may have been subjects which remain in doubt. In this case, I do not know of any allegation raised at the time, or indeed since, that a search that the library was shelled by anyone else.

Mme FAUVEAU-IVANOVIĆ : Admettez-vous qu'en 1995, vous avez écrit une lettre à Bill Clinton en demandant la levée de l'embargo sur les armes pour la Bosnie-Herzégovine ?

Mr. RIEDLMAYER: Yes, I did write that letter in the summer of 1995, and I wrote that letter in part because I believe that under the Charter of the United Nations, Bosnia and Herzegovina as a Member State of the United Nations had the legitimate right to self-defence, and

under the Charter of the United Nations, if the United Nations is not in a position to protect the country, then the country has a right to pursue its own defence. This being already the fourth year of the war, and with Srebrenica happening, I believed that it was an international scandal that Bosnia and Herzegovina should be denied this right. However, my having taken this position has absolutely no bearing on my professional qualifications or indeed on my honesty in reporting what I saw.

Mme FAUVEAU-IVANOVIĆ : Effectivement, concernant les événements à Srebrenica, vous avez également pris la position que ces événements sont la conséquence d'un accord tacite entre les Serbes et les Nations Unies ?

Mr. RIEDLMAYER: I do not recollect when I said such a thing, but I don't exclude the possibility that you found something that may suggest such a thing. I would say that if indeed you came across something like that, all I may have been repeating was widespread speculation in the press at the time, which said that the enclaves were seen as a burden and that there were people at high levels who would just as soon see them out of the way. But as I say, I don't recall what you specifically may be referring to, perhaps you can refresh my memory.

Mme FAUVEAU-IVANOVIĆ : C'était un article dans le *New York Times*.

Mr. RIEDLMAYER: Can you read the excerpt?

Mme FAUVEAU-IVANOVIĆ : Je suis désolée, je ne l'ai pas.

Mr. RIEDLMAYER: OK, well, then there is really not much to be said.

Mme FAUVEAU-IVANOVIĆ : Savez-vous que l'agence de relations publiques américaine, Rudder & Finn travaillait pour le Gouvernement bosniaque concernant la destruction des monuments culturels ?

Mr. RIEDLMAYER: I am not.

Mme FAUVEAU-IVANOVIĆ : Elle ne vous a pas contacté ?

Mr. RIEDLMAYER: No.

Mme FAUVEAU-IVANOVIĆ : Vous avez dit dans un de vos rapports que la société musulmane est une «société moderne, industrialisée, européenne». Restez-vous avec cette affirmation ? C'est l'affirmation que vous donnez de la société musulmane de la Bosnie-Herzégovine.

Mr. RIEDLMAYER: I believe what you're quoting from is an article I wrote about Bosnia in general and it referred to Bosnian society as large, as being industrialized and European. I don't see that either of those statements is particularly controversial. During the Yugoslav period, Bosnia had heavy industry and it was indisputably integrated into the greater regional economy.

Mme FAUVEAU-IVANOVIĆ : S'agissant des mosquées en Serbie-et-Monténégro, en dehors du Kosovo où la situation a été une situation de guerre civile, est-ce que vous pouvez me dire si vous avez connaissance d'une mosquée détruite en Serbie-et-Monténégro, en dehors du Kosovo ?

Mr. RIEDLMAYER: OK. Let me preface this by saying that I have not travelled to Serbia and Montenegro, outside of Kosovo, since the war. I was there as a student, back before the war, but I was not in any position to personally assess any damage in Serbia and Montenegro. That being said, yes I am aware of some mosques that were attacked, in particular in the Bukarac region of Sandzak, where according to reports published by independent human rights NGOs, and illustrated with pictures — with photos — a number of Muslim villages were attacked and at least two mosques were destroyed. This was back at the time of the war in Bosnia. Furthermore, the mosque in Belgrade was not destroyed; it was subject to a number of attacks during the 1990s. As I recall, there were at least seven reported attacks on Belgrade's only mosque, the Bijeljina, during the 1990s, ranging from people throwing grenades, to others firing shots and other forms of attack. I do not claim that there was massive destruction, but I think it would be unfair to say that there was no attack on a mosque in Serbia and Montenegro.

Mme FAUVEAU-IVANOVIĆ : Je crois que ma question était si une mosquée a été détruite, pas si une mosquée a été attaquée. Mais je crois que vous avez répondu à cette question de toute façon. Est-ce que vous avez eu l'occasion de faire une estimation des dommages faits sur les monuments culturels dans d'autres conflits armés, en dehors de la Bosnie-Herzégovine, en dehors de l'ex-Yougoslavie disons ?

Mr. RIEDLMAYER: Yes. As a matter of fact, I have. Since 2003, I have served as the Chair of the Committee on Iraqi Libraries at the Middle East Librarians' Association in which I worked to document the damage to and destruction of libraries related to cultural property in Iraq

during the Iraq war. We have published information on a website that we maintain and I published extensively on the subject.

Mme FAUVEAU-IVANOVIĆ : Seriez-vous d'accord que dans cette guerre d'Irak la destruction des monuments culturels était aussi assez importante ?

Mr. RIEDLMAYER: Yes, although I believe that the circumstances were fundamentally different from that in Bosnia.

Mme FAUVEAU-IVANOVIĆ : Il s'agit d'une guerre. Donc la destruction était importante, d'accord ?

Mr. RIEDLMAYER: Actually I believe that in Iraq the destruction to which I refer, which is of cultural institutions, had actually no connection to military actions. What happened was that Iraq was invaded, the local security forces were disarmed and the invading forces for whatever reason did not impose order and then people for various reasons, whether for profit according to some allegations to destroy records that might incriminate them, would attack archives and libraries. I think nothing of that sort has been reported from the Balkans over the 1990s.

Mme FAUVEAU-IVANOVIĆ : Avez-vous connaissance d'un conflit armé entre les différents Etats, entre les différentes religions, entre les différentes ethnies, entre les différentes nations ? L'héritage culturel est resté intact ?

Mr. RIEDLMAYER: No, I am not. Actually, all war results in destruction. However, there is a fundamental difference in destruction that is caused incidentally to a [inaudible] and destruction that is deliberate and aimed at these particular monuments. The second instance would include the Nazi burning of the synagogues or the 2004 attacks on Serb churches in Kosovo. Those are specific attacks on cultural property as such. The question of say Cologne cathedral incinerated during the bombing of the city during World War II, I think is a very different matter. It may well have been war crime. I think it would be up to somebody who is an expert in international law to determine on facts whether it was. But I think there is a good possibility that it was not the main aim of the attack. I think in the case of a monument of culture that is specifically destroyed at a time when there is no military excuse for doing so is a fundamentally different matter than monument of culture that merely is in the way of a battle.

Mme FAUVEAU-IVANOVIĆ : Le seul conflit armé que vous avez examiné à part celui de la Bosnie-Herzégovine, c'est celui en Irak ? C'est ce que vous m'avez dit tout à l'heure, c'est vrai ?

Mr. RIEDLMAYER: It's not the only one conflict I've heard about. I'm saying this is the only one in which I've been involved to a degree that I have developed specific expertise on. But I have read very widely on the subject of cultural heritage in war which has been an interest of mine for going on 20 years.

Mme FAUVEAU-IVANOVIĆ : En tout cas, celui que vous connaissiez le mieux parce que vous êtes impliqué dedans, celui d'Irak, vous avez dit aussi tout à l'heure que les dommages qui étaient faits ne sont pas vraiment liés aux actions militaires ?

Mr. RIEDLMAYER: Only in the most incidental of fashions, namely that it happened immediately after a military takeover, but that in nature it was a breakdown of civil order. It did not involve soldiers shooting at each other.

Mme FAUVEAU-IVANOVIĆ : Lors de votre examination directe, vous avez dit à un moment donné que vous vouliez faire un point et que vous vouliez lier l'élément culturel à la communauté nationale religieuse. Seriez-vous d'accord qu'en fait, votre déposition aujourd'hui ici est plus la déposition d'un avocat que d'un témoin impartial extérieur ?

Mr. RIEDLMAYER: I would say not. My role is first of all to speak about facts that I gathered, secondly to come to certain conclusions. Now the reason that I am concerned about the destruction of cultural monuments is not merely in the abstract sense of a thing of beauty should not be destroyed. I see it as fundamentally connected to the meaning of those monuments to the people who used them, who lived with them and in that sense I think it's very legitimate to look at not just whether buildings were destroyed or how they were destroyed but also to look at the context in which they were destroyed and the consequences of their destruction. You brought up the National Library in Sarajevo. I have long wondered exactly why such a building would be targeted and it is a bit of mystery because the explanations that have come from officials in the Bosnian Serb leadership at the time were rather contradictory. Radovan Karadžić, the leader of the Bosnian Serbs, was interviewed about that a few months after the event and he claimed that the library had been burnt down [inaudible] by the Muslims because they didn't like its architecture. I

don't know. To me, that sounds like a rather flip and irresponsible remark. Nevertheless I think the fact is that no one until now has claimed that the building was shelled by anyone else other than his forces. And the fact is that I believe that its destruction was meant to strike a blow at not just the Muslim community but at Bosnia as a country. You say, it helps Serb works. Yes, they threw out Serb works like the works of Aleksa Santic, a very proud Serb from Mostar who could write poems like [inaudible] where he addressed his Bosnian Muslim country members who had been emigrating to escape conscription and told them: "Please don't go. Your place is with us, your brothers." I don't think that kind of Bosnian Serb heritage was something that the nationalists were particularly interested in preserving.

Mme FAUVEAU-IVANOVIĆ : Donc, en effet, ce que vous dites, que c'était un acte qui était dirigé vers les Serbes de Bosnie-Herzégovine, c'était en fait un acte politique. Ce n'est pas du tout un acte religieux, ethnique ou national. Il était provoqué par des raisons politiques. Peu importe qui l'avait fait.

Mr. RIEDLMAYER: I think it was . . . First of all the National Library clearly was not the single property of any one of Bosnia's national groups. It was the common heritage of all the Bosnian peoples.

Mme FAUVEAU-IVANOVIĆ : Je vous remercie M. Riedlmayer, je n'ai plus d'autres questions. Merci, Madame le président.

The PRESIDENT: Thank you very much, Madam Fauveau-Ivanović. Ms Korner, do you wish to re-examine?

Ms KORNER: I just have two questions, Madam President, if I may. The first is this, Mr. Riedlmayer, you were asked about the number of Orthodox churches which had been destroyed in your view, and you said over 100 and less than 200. It was then put to you, could you confirm or deny, that over 50 per cent of Orthodox churches had been destroyed; in other words, there were only 400. In your expert view, were there only 400 Serb Orthodox churches in Bosnia?

Mr. RIEDLMAYER: I believe that's highly implausible.

Ms KORNER: Any idea at all how many?

Mr. RIEDLMAYER: You can go by the fact there that in pre-war censuses the Serb community, which was overwhelmingly Orthodox in religious tradition, constituted up to a third or more of Bosnia's population. Therefore one would expect that it would proportionally have houses of worship in numbers commensurate with, or in proportion.

Ms KORNER: Secondly this, and this really goes to the heart of the matter. It has been suggested to you, and there has been criticism that you're in no position to give expert evidence as you weren't there, for example in Mostar. Can you just tell the Court very briefly, how an expert acquires his knowledge?

Mr. RIEDLMAYER: Sorry, can you repeat that?

Ms KORNER: How an expert acquires the knowledge that makes them an expert.

Mr. RIEDLMAYER: There are ways of acquiring knowledge, Madam President, as you know other than by being there. In fact being there sometimes is not the best way to do so. What an expert does is collect information and documentation, tests its reliability, tests its internal consistency and, in so far as possible, tries to confirm data from multiple independent sources. That is how you document something; simply by looking at it is probably one of the less reliable ways of doing it. Unless you also then take all these next steps.

Ms KORNER: And finally this: it has been suggested that in some way you have a bias and are attempting to mislead the Court in some way about your findings. Is that the case at all?

Mr. RIEDLMAYER: I take strong exception to any suggestion like that. First of all, I am quite sincere in my belief that I'm doing my level best to tell you the truth. And secondly, the facts I'm presenting to you are based on years of meticulous research. I don't believe that this research has been seriously challenged so far. Thank you.

Ms KORNER: Thank you very much, Mr. Riedlmayer. Thank you, Madam President.

The PRESIDENT: Thank you very much. The Court will now retire, but the Parties and the expert should remain in the vicinity of the Great Hall of Justice. If the Court wishes to pose questions to Mr. Riedlmayer, it will return to the courtroom within the next 15 minutes; if the

Court does not choose to put any questions to Mr. Riedlmayer, it will not return to the courtroom and the Registry will inform the Parties and the public accordingly. The Court now rises.

The Court adjourned from 12.35 p.m. to 12.50 p.m.

The PRESIDENT: Please be seated. Will Mr. Riedlmayer please resume his place. Dr. Riedlmayer, I beg his pardon. Thank you.

Certain judges do wish to put questions to you, Dr. Riedlmayer. I will call upon those judges in the sequence that I hope conveniently clusters for you the types of questions to be asked. I start with Judge Kreća.

Judge KREĆA: Thank you, Madam President. Mr. Riedlmayer, would you be so kind as to explain to us very briefly the principal conclusions you came to in your papers published in 1994 and 1995 I think, "Killing Memory: Genocide and the War on Culture in Bosnia-Herzegovina".

Mr. RIEDLMAYER: Those early publications came while the war was still in progress. I had yet to do any field investigations at that point, but from the moment that the war broke out I had noted the two phenomena that seemed to characterize the war. One is the so-called process of ethnic cleansing, in which populations were, in one way or another, removed from the areas in which they were. The second was the massive destruction of the cultural heritage associated with those communities.

In order to document this I began collecting published photographs, interviews with refugees and other information. I produced an article which recounted the evidence I was able to collect on these matters. But in general, the process of acquiring information on what happened in Bosnia has been something that has taken me more than a decade to achieve my present level of expertise on it. Obviously I know more now than I did ten or 12 years ago. Nevertheless, I think the basic conclusions I was able to come to then are still, more or less, my conclusions today.

The PRESIDENT: Dr. Riedlmayer, you were specifically asked to say, if you can in a sentence or two, what were those conclusions.

Mr. RIEDLMAYER: The conclusions were in fact that: first of all, the cultural heritage in Bosnia and Herzegovina was not merely destroyed in the fighting, but that it seemed to be a specific target of destruction; and, secondly, that the scale of that destruction was very large; and that thirdly, it seemed to be connected with the expulsion of the populations that were connected with that heritage.

The PRESIDENT: Thank you. I call upon Judge Tomka to put his question.

Judge TOMKA: Thank you, Madam President. Dr. Riedlmayer, from your curriculum vitae, page 6, I gathered that, in March 1994, you took part in the International Conference: Genocide 1944-1994, held at Duke University in North Carolina and you presented a paper "Culture and Genocide in Bosnia and Herzegovina". Would you be so kind just to briefly tell us your views, or your conclusions, reached in that paper.

Mr. RIEDLMAYER: The conference was held in honour of the fiftieth anniversary of the publication of Rafael Lemkin's ground-breaking work on methods of Axis Rule in Europe in which he introduced the term "genocide". In Lemkin's original concept of genocide he included the destruction of culture as one of the key elements of genocide. This definition, however, was much narrower in the Genocide Convention that was adopted, I believe, four years later. In so far as culture plays a role in genocide, as far as my understanding of jurisprudence goes, and I am not a legal expert . . .

The PRESIDENT: Could I recall that you are being asked to answer what your conclusions are.

Mr. RIEDLMAYER: My conclusions were that in this Conference, which addressed the legacy of Lemkin, I tried to show that what happened in Bosnia met Lemkin's definitions.

The PRESIDENT: Thank you. I next call upon Judge Simma.

Judge SIMMA: Thank you, Madam President. I have two questions to Dr. Riedlmayer. The first one refers to the issue of destruction of orthodox places of worship during the war. You

mentioned that you had not been mandated to look into that issue, but you said that there was some destruction which was effected by the Croat forces fighting the Serb forces. My question is: do you have information about the respect or lack of respect by Bosnian and Herzegovinian forces, including the mujahideen, for orthodox places of worship in areas of conflict? That is my first question.

My second question is: you said that there were 1,700 mosques in Bosnia and Herzegovina, out of which around 900 were destroyed by — let us say, in the right sense of the word — Serbs and between 100 and 200 by Croat forces. Is it so that the number of 1,700 mosques includes the mosques in all of Bosnia and Herzegovina; that is, also mosques situated in territories which were never actually a theatre of the war?

Mr. RIEDLMAYER: Thank you. I will answer the second question first because it is easier. The number of mosques is for all of the territory Bosnia and Herzegovina, including places that were not touched by the war. So in fact, in the areas where destruction did occur, it was probably more intense because of this proportionality.

Your first question which related to Bosnian Government forces has a rather complex answer. First of all, as far as the mujahidin are concerned, I never did any fieldwork in central Bosnia which is where the mujahidin were more active. However, my understanding is that in the recently announced verdict in the *Hadzihasanovic* case at the ICTY in which the charges included responsibility for destruction of cultural monuments by mujahidin, the ruling of the Court was that the Bosnian Government army, at least at the time of the charges, did not have control over the mujahidin and therefore it was not held responsible for that.

As far as what I know about attacks on Serb monuments by Bosnian Government forces: basically, as far as I know, the attacks that did occur were concentrated in the final phase of the war, when the Bosnian Serb front line was collapsing, especially in north-western Bosnia, and the Bosnian army retook large swathes of territory. In that territory, in the large cities, the Serb Orthodox monuments were generally left alone. However, these include many municipalities where I did extensive fieldwork so I was able to observe that in a number of village settings the Serb Orthodox churches were burnt out. When I interrogated local people about that, they said that

much of the destruction was the work of civilians, sometimes of ordinary soldiers and they claimed, at least — I have no way of confirming this — that officers tried to stop them. I think as a matter of common sense, it makes a good deal of sense to suppose that if there had been a Government policy to have Orthodox churches destroyed, then we would not see the intact churches in the cities. At the same time, the Bosnian Government officials made rather proud statements about how the Serb churches were okay in towns where mosques and Catholic churches were not, so at least their public front was that this is not something we do and this is what makes us different from the other side. Now it is, of course, not always the fact that people do what they say they do. So, these are informal observations, obviously.

The PRESIDENT: Thank you. We now come to the final question to be put this morning. Vice-President.

The VICE-PRESIDENT: Dr. Riedlmayer. You describe yourself as a student of Ottoman history and the question was put to you whether certain mosques had stood on a place where a church was originally built in the Middle Ages, to which in that particular case you did not have an answer. But you then said that in certain places in Bosnia and Herzegovina and probably in the Balkans, it was the policy of the Ottomans, or it was reported that the Ottomans turned the major churches into a mosque and left the lesser or smaller churches to their Christian population. Then I noticed in one of the exhibits that you spoke of a cathedral, Serb cathedral, that had been built during the Ottoman time. Can you please tell me what exactly was the policy of the Ottomans. Was it to destroy Orthodox churches, to tolerate them, to encourage them? Briefly. I know this is not easy because the Ottoman rule was a long one in the Balkans.

Mr. RIEDLMAYER: Thank you. I assume you are referring to Cajnice. In the case of Cajnice where you saw the large Orthodox church with the miracle working icon and at the opposite corner the mosque which actually looks somewhat smaller. The church was rebuilt several times during the Ottoman rule; it is a very curious situation because technically, according to Sharia law which the Ottomans at least nominally observed, pre-existing churches and synagogues can be rebuilt, but no bigger or fancier than they had been before. In fact, this was

violated left and right. The most famous example of it is the old synagogue in Sarajevo. Before the Ottoman conquest there were no Jews in Sarajevo so therefore family legal fiction invented a pre-existing synagogue which was then built on [inaudible] endowment land. Similarly, in Zitomislic, south of Mostar — which is the monastery I mentioned in my presentation — there had been a small pre-existing Orthodox church which was then successively enlarged with Ottoman Government permission in the sixteenth and seventeenth centuries and, in fact, there were even churches and monasteries that were built with contributions from Muslim donors. The most striking example is in one of the towns I mentioned in my presentation, Meresina (?), where the town's Orthodox church was built in the nineteenth century next to the main old mosque in town on land that was donated by the Islamic community so that the Serb peasants who would come to market in the town, which was mainly Muslim, would have a place to worship. When I visited the site, of course, the mosque was gone and the church was still there.

The PRESIDENT: Thank you. This brings to an end the hearing of Dr. Riedlmayer. We thank you very much for appearing before us.

The Court will meet on Monday 20 March at 10 o'clock in the morning to hear the evidence or statement of the second expert called by Bosnia and Herzegovina.

The Court now rises.

Ms KORNER: Madam President, I am sorry. I do apologize. Before you rise, may I just mention one procedural matter. The Court has laid down fairly strict rules about the conduct of this part of the case. I wonder if you and the Court would care to consider an extra one: that, if documents are to be put to witnesses on things that they have said, the document must be available in court so that in fairness to the witness he can see what it is that is being said that he said.

The PRESIDENT: Ms Korner, of course we take all requests from counsel very seriously. You will understand that the questions went to the impartiality of the witness and it was his own writings. So, I think in the particular circumstance he has not been surprised by the references to his own writings.

Ms KORNER: I think, and I do apologize for detaining you a little longer, I think the problem, however, is as you saw this morning, that the witness says: can I see that, because I can't remember exactly what I said. And if it is taken out of context we have no way of checking it unless we have the article.

The PRESIDENT: Yes, the Court will take your point into consideration. Thank you.

The Court rose at 1.10 p.m.
