UNITED NATIONS

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

Case No.: IT-95-5/18-PT

Date: 9 July 2009

Original: English

IN THE TRIAL CHAMBER

Before: **Judge Iain Bonomy, Presiding**
Judge Christoph Flügge
Judge Michèle Picard

Registrar: **Mr. John Hocking**

Decision of: **9 July 2009**

PROSECUTOR

v.

RADOVAN KARADŽIĆ

PUBLIC

DECISION ON THIRD PROSECUTION MOTION FOR JUDICIAL NOTICE OF ADJUDICATED FACTS

Office of the Prosecutor:

Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

The Accused:

Mr. Radovan Karadžić

THIS TRIAL CHAMBER of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 ("Tribunal") is seised of the "Third Prosecution Motion for Judicial Notice of Adjudicated Facts", filed on 7 April 2009 ("Motion"), and hereby renders its decision thereon.

I. Background and Submissions

1. The Motion was preceded by the "First Prosecution Motion for Judicial Notice of Adjudicated Facts" ("First Motion"), filed on 27 October 2008, and the "Second Prosecution Motion for Judicial Notice of Adjudicated Facts and *Corrigendum* to First Prosecution Motion for Judicial Notice of Adjudicated Facts" ("Second Motion"), filed on 17 March 2009. On 5 June 2009, the Chamber rendered its "Decision on First Prosecution Motion for Judicial Notice of Adjudicated Facts" ("First Decision on Adjudicated Facts") granting the First Motion in part. However, it remains seised of the Second Motion, the Accused's response being due on 27 July 2009.

2. In the Motion, the Office of the Prosecutor ("Prosecution") requests that the Chamber exercise its power under Rule 94(B) of the Tribunal's Rules of Procedure and Evidence ("Rules") to take judicial notice of facts relating to events in the enclave of Srebrenica in 1995,[1] some of which were adjudicated by the Trial and Appeals Chambers in the *Krstić*[2] and the *Blagojević*[3] cases. The Prosecution incorporates by reference its submissions in the First Motion and the Second Motion concerning the legal requirements to be met before judicial notice can be taken of an adjudicated fact.[4] It then submits that the adjudicated facts listed in Appendix A to the Motion meet the requirements set out in relevant Tribunal jurisprudence, and that taking judicial notice of those facts would achieve judicial economy while preserving the Accused's right to a fair, public, and expeditious trial.[5]

3. On 14 April 2009, the Accused filed his "Motion for Extension of Time to Respond to 2nd and 3rd Motions for Judicial Notice of Adjudicated Facts" ("Motion for Extension of Time"), requesting an extension of time until 21 January 2010 to respond to the Motion and to the

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[1] Motion, para. 1.

[2] *See Prosecutor v. Krstić*, Case No. IT-98-33-T, Judgement, 2 August 2001 ("*Krstić* Trial Judgement"); *Prosecutor v. Krstić,* Case No. IT-98-33-A, Judgement, 19 April 2004 ("*Krstić* Appeal Judgement").

[3] *See Prosecutor v. Blagojević and Jokić,* Case No. IT-02-60-T, Judgement, 17 January 2005 ("*Blagojević* Trial Judgement"); *Prosecutor v. Blagojević and Jokić,* Case No. IT-02-60-A, Judgement, 9 May 2007 ("*Blagojević* Appeal Judgement").

[4] Motion, para. 3; *see also* First Motion, paras. 3-4, 6, 8; Second Motion, footnote 17.

[5] Motion, para. 3.

Second Motion, and arguing that the sheer volume of both motions made it impossible for him to respond adequately within the normal fourteen day limit.[6] On 16 April 2009, the Prosecution filed its "Prosecution Response to Motion for Extension of Time to Respond to 2nd and 3rd Motions for Judicial Notice of Adjudicated Facts", opposing the Motion for Extension of Time, and arguing that the Accused had "failed to show good cause for his request in accordance with Rule 127(A)(i) of the Rules" by failing to provide specific justification for the alleged time extension.[7] On 17 April 2009, the pre-trial Judge issued a "Decision on Motion for Extension of Time to Respond to the Second and Third Motions for Judicial Notice of Adjudicated Facts", considering it to be in the interests of justice and sound pre-trial management to grant an extension of time, but finding that a much shorter period of time than that requested by the Accused would suffice. He then ordered the Accused to submit his response to the Motion no later than 1 June 2009.[8]

4. On 29 May 2009, the Accused filed a "Response to Third Prosecution Motion for Judicial Notice of Adjudicated Facts and Motion for List of Witnesses to be Eliminated" ("Response") wherein he incorporates by reference the arguments raised under the heading "General Considerations" of his "Response to First Prosecution Motion for Judicial Notice of Adjudicated Facts", filed on 30 March 2009 ("Response to First Motion").[9] As an additional consideration, the Accused argues in his Response that "taking judicial notice of adjudicated facts is a new creation of international criminal procedure that does not exist in either common-law or civil-law national systems".[10] He also alleges that it would place an unreasonable burden on him in terms of the time and resources needed to rebut the 1,889 facts contained in the three motions for judicial notice filed by the Prosecution. Therefore, the process of taking judicial notice of these facts would frustrate rather than promote judicial economy.[11]

5. The Accused further requests the Chamber to deny judicial notice of certain facts on the basis that they solely rely on documentary evidence. He submits that a clear distinction between the authenticity of documents and the reliability of the content of documents must be made; accordingly, only the existence and authenticity of documents can be judicially noticed, but not the veracity of their contents. To support his contention, the Accused refers to case law of the

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[6] Motion for Extension of Time, paras. 3–4.

[7] Prosecution Response to Motion for Extension of Time to Respond to 2nd and 3rd Motions for Judicial Notice of Adjudicated Facts, 16 April 2009, paras. 1–2.

[8] Decision on Motion for Extension of Time to Respond to the Second and Third Motions for Judicial Notice of Adjudicated Facts, 17 April 2009, paras. 4–5.

[9] Response, para. 2; *see* Response to First Motion, paras. 2–12.

[10] Response, para. 3.

[11] Response, para. 4.

International Criminal Tribunal for Rwanda ("ICTR") as well as to article 13(c)(5)(d) of the Charter of the International Tribunal for the Far East.[12]

6. Furthermore, the Accused argues that, even if the Chamber agrees to take judicial notice of adjudicated facts, it should nevertheless decline to do so in relation to certain facts on the basis that they do not meet the legal requirements under the Tribunal's jurisprudence.[13] In this context, he contends that, according to the Tribunal's jurisprudence, facts that go to his alleged criminal responsibility are not appropriate for judicial notice. For this reason, certain facts which relate specifically to the objective or to the conduct of the members of a joint criminal enterprise ("JCE") alleged in the Indictment should not be subject to judicial notice by the Chamber.[14]

7. The Accused finally requests the Chamber to order the Prosecution to submit a list of witnesses to be eliminated in the event that judicial notice is taken of any of the facts contained in the three motions on adjudicated facts filed by the Prosecution, indicating which adjudicated facts pertain to each of the witnesses to be eliminated.[15] He alleges that such action would enable the Chamber to determine to what extent taking notice of the proposed adjudicated facts would save time and promote judicial economy,[16] and would provide "the complete picture of just what is to be going to be gained by infringing upon the rights of the accused to a fair trial in the name of expeditiousness".[17]

8. On 3 June 2009, the Prosecution filed its "Prosecution Request for Leave to Reply to "Response to Third Prosecution Motion for Judicial Notice of Adjudicated Facts"" requesting the Chamber's leave to reply to the Response as necessary in order to address the Accused's contentions concerning the permissibility of taking judicial notice of factual findings relating to the contents of a document, and the Accused's request to order the Prosecution to submit a list of witnesses to be eliminated. At the Status Conference held on 3 June 2009, the pre-trial Judge granted the Prosecution leave to reply to the Response on the latter issue,[18] and a "Prosecution Reply to the "Response to Third Prosecution Motion for Judicial Notice of Adjudicated Facts and Motion for List of Witnesses to be Eliminated"" was filed on 4 June 2009 ("Reply"). In it, the Prosecution submits that the Accused's request is premature, as the list requested by the Accused cannot be provided until the Prosecution is aware of the exact number of adjudicated

[12] Response, paras. 5–8.
[13] Response, paras. 9–26, Annex A.
[14] Response, paras. 11–17.
[15] Response, paras. 24–26.
[16] Response, para. 25.
[17] Response, para. 26.

facts which the Chamber is prepared to take judicial notice of. Moreover, the content of such a list would depend on the nature of the challenge, if any, that the Accused intends to present in relation to adjudicated facts that have been the subject of judicial notice.[19]

II. Applicable Law

9. Rule 94(B) of the Rules provides that:

> At the request of a party or *proprio motu*, a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to matters at issue in the current proceedings.

10. Rule 94(B) aims at achieving judicial economy and harmonising judgements of the Tribunal by conferring on the Trial Chamber discretionary power to take judicial notice of facts or documents from other proceedings. The Appeals Chamber has held that "[w]hen applying Rule 94 of the Rules, a balance between the purpose of taking judicial notice, namely to promote judicial economy, and the fundamental right of the accused to a fair trial must be achieved".[20] The Appeals Chamber has further held that "while it is possible to take judicial notice of adjudicated facts regarding the existence of [...] crimes, the *actus reus* and the *mens rea* supporting the responsibility of the accused for the crimes in question must be proven by other means than judicial notice".[21]

11. As to the effects of taking judicial notice, the Appeals Chamber has held that "by taking judicial notice of an adjudicated fact, a Chamber establishes a well-founded presumption for the accuracy of this fact, which therefore does not have to be proven again at trial".[22] It has also established that

> judicial notice does not shift the ultimate burden of persuasion, which remains with the Prosecution. . . [T]he effect is only to relieve the Prosecution of its initial burden to produce evidence on the point; the defence may then put the point into question by introducing reliable and credible evidence to the contrary.[23]

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[18] Status Conference, T. 303–305 (3 June 2009).

[19] Reply, para. 1.

[20] *Prosecutor v. Nikolić*, Case No. IT-02-60/1-A, Decision on Appellant's Motion for Judicial Notice, 1 April 2005, para. 12.

[21] *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-AR73.1, Decision on Interlocutory Appeal against Trial Chamber's Decision on Prosecution's Motion for Judicial Notice of Adjudicated Facts and Prosecution's Catalogue of Agreed Facts, 26 June 2007 ("*Dragomir Milošević* Appeal Decision"), para. 16.

[22] *Prosecutor v. Milošević*, Case No. IT-02-54-AR73.5, Decision on the Prosecution's Interlocutory Appeal against the Trial Chamber's 10 April 2003 Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 28 October 2003, p. 4.

[23] *Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-AR73(C), Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice, 16 June 2006 ("*Karemera* Appeal Decision"), para. 42.

12. In exercising its discretion under Rule 94(B), the Trial Chamber must assess: (1) whether each adjudicated fact satisfies the various requirements enumerated in the Tribunal's case law for judicial notice, and (2) whether a fact, despite having satisfied the aforementioned requirements, should be excluded on the basis that its judicial notice would not be in the interests of justice.[24] The requirements of Rule 94(B) have been established by other Chambers[25] as follows:

(a) The fact must be relevant to the current proceedings;[26]

(b) The fact must be distinct, concrete, and identifiable;[27]

(c) The fact, as formulated by the moving party, must not differ in any substantial way from the formulation of the original judgement;[28]

(d) The fact must not be unclear or misleading in the context in which it is placed in the moving party's motion.[29] In addition, the fact must be denied judicial notice "if it will become unclear or misleading because one or more of the surrounding purported facts will be denied judicial notice";[30]

(e) The fact must be identified with adequate precision by the moving party;[31]

(f) The fact must not contain characterisations or findings of an essentially legal nature;[32]

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[24] *See* First Decision on Adjudicated Facts, para. 9 citing *Prosecutor v. Popović et al.*, Case No. IT-05-88-T, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts with Annex, 26 September 2006 ("*Popović* Decision"), para. 4.

[25] *See Prosecutor v. Lukić*, Case No. IT-98-32/1-PT, Decision on Prosecution's Motion for Judicial Notice of Adjudicated Facts, 22 August 2008, para. 20.

[26] *Prosecutor v. Niyitegeka,* ICTR-96-14-A, Reasons for Oral Decision Rendered 21 April 2004 on Appellant's Motion for Admission of Additional Evidence and for Judicial Notice, 17 May 2004, para. 16.

[27] *See, e.g., Prosecutor v. Perišić*, Case No. IT-04-81-PT, Decision on Prosecution's Motion for Judicial Notice of Adjudicated Facts Concerning Sarajevo, 26 June 2008 ("*Perišic* Decision"), para. 18; *Prosecutor v. Stanišić*, Case No. IT-04-79-PT, Decision on Judicial Notice, 14 December 2007 ("*Stanišić* Decision"), para. 37; *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Motion for Judicial Notice of Adjudicated Facts Pursuant to Rule 94(B), 14 March 2006, para. 12; *Prosecutor v. Hadžihasanović et al.*, Case No. IT-01-47-T, Decision on Judicial Notice of Adjudicated Facts Following the Motions Submitted by Counsel for the Accused Hadžihasanović and Kubura on 20 January 2005, 14 April 2005 ("*Hadžihasanović* Decision"), p. 5; *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, Decision on Third and Fourth Prosecution Motions for Judicial Notice of Adjudicated Facts, 24 March 2005 ("*Krajišnik* Decision"), para. 14.

[28] *Krajišnik* Decision, para. 14.

[29] *Karemera* Appeal Decision, para. 55; *Popović* Decision, para. 8.

[30] *Popović* Decision, para. 8

[31] *Prosecutor v. Kupreškić*, Case No. IT-95-16-A, Decision on the Motions of Drago Josipović, Zoran Kupreškić and Vlatko Kupreškić to Admit Additional Evidence Pursuant to Rule 115 and for Judicial Notice to be Taken Pursuant to Rule 94(B), 8 May 2001 ("*Kupreškić* Appeal Decision"), para. 12; *Popović* Decision, para. 9.

[32] *Dragomir Milošević* Appeal Decision, paras. 19–22; *Popović* Decision, para. 10; *Krajišnik* Decision, para. 15. *See also, Hadžihasanović* Decision, p. 5; *Prosecutor v. Mejakić*, Case No. IT-02-65-PT, Decision on Prosecution Motion for Judicial Notice pursuant to Rule 94(B), 1 April 2004, p. 4; *Prosecutor v. Blagojević et al.*, Case No. IT-02-60-T, Decision on Prosecution's Motion for Judicial Notice of Adjudicated Facts and Documentary Evidence, 19 December 2003, para. 16; *Prosecutor v. Prlić et al.*, Case No. IT-04-74-PT, Decision on Motion for Judicial Notice of Adjudicated Facts Pursuant to Rule 94(B), 14 March 2006, para. 12.

(g) The fact must not be based on an agreement between the parties to the original proceedings;[33]

(h) The fact must not relate to the acts, conduct, or mental state of the accused;[34] and

(i) The fact must clearly not be subject to pending appeal or review.[35]

III. Discussion

A. General considerations

13. The Chamber notes that it has already dealt with the Accused's submission that judicial notice of adjudicated facts is unlawful and inconsistent with international law in its First Decision on Adjudicated Facts,[36] and that the Accused's submission in his Response in relation to this issue does not contain any reasoning beyond that set out in his Response to First Motion.[37] The Chamber reiterates that the Accused has not alleged any reason substantiating this claim, and rejects his assertion that taking judicial notice of adjudicated facts is unlawful and inconsistent with international law. As stated in its First Decision on Adjudicated Facts, Rule 94(B) of the Rules is clear as to the discretion of a Trial Chamber to take judicial notice of adjudicated facts, and the Chamber is bound by the Rules. The Chamber will therefore follow the relevant jurisprudence of the Appeals Chamber and other Trial Chambers when determining whether to take judicial notice or not of the proposed facts.

14. In his Response, the Accused contends that certain proposed facts in the Motion are solely based on documentary evidence, and that, therefore, judicial notice thereof may not be taken by the Chamber.[38] Referring to ICTR case law, he claims that only the existence and the authenticity of such documents may be judicially noticed.[39] The Chamber notes that the case law referred to in the Response relates to requests to take judicial notice of documents which have not yet been referred to in any previous judgement to establish a certain fact.[40] However,

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[33] *Popović* Decision, para. 11; *Prosecutor v. Mejakić et al.*, IT-02-65-PT, Decision on Prosecution Motion for Judicial Notice Pursuant to Rule 94(B), 1 April 2004, p. 4; *Prosecutor v. Krajišnik*, Case No. IT-00-39-PT, Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts and for Admission of Written Statements of Witnesses Pursuant to Rule 92 *bis*, 28 February 2003, para. 15.

[34] *Karemera* Appeal Decision, para. 50.

[35] *Kupreškić* Appeal Decision, para. 6.

[36] *See* First Decision on Adjudicated Facts, para. 11.

[37] *See* Response to First Motion.

[38] This challenge relates to proposed facts 1397, 1399, 1405–1407, 1410–1411, 1413, 1417–1418, 1420–1422, 1425, 1430–1433, 1438, 1450–1451, 1465, 1473–1475, 1484, 1487, 1495–1497, 1505, 1507, 1512, 1516, 1520–1521, 1524, 1527, 1535, 1547, 1573, 1579, 1586, 1589, 1605–1606, 1608, 1632, 1638, 1667, 1692, 1695–1698, 1701–1704, 1720–1725, 1727–1728, 1735, 1754, 1777, 1782–1783, 1785–1789, 1793, 1798–1801, 1803–1806, 1809–1810, 1814–1825, 1836, 1852–1858, 1861, 1875–1877, 1879–1880, 1883–1886, and 1889.

[39] Response, paras. 5–9.

[40] *Prosecutor v. Semanza*, Case No. ICTR-97-20-I, Decision on the Prosecutor's Motion for Judicial Notice and Presumptions of Facts Pursuant to Rules 94 and 54, 3 November 2000, para. 38; *cf.* Appendix B of the Motion;

all the proposed facts in the Motion which are based on documentary evidence have already been established in a Tribunal judgement; the Chamber considers this to be a significant distinction which should be noted. Consequently, the Chamber rejects the Accused's submission in relation to proposed facts which are based on documentary evidence, and will consider taking judicial notice of them as long as the remaining requirements set out in paragraph 12 above are met.

15. Furthermore, the Chamber notes that some of the proposed facts challenged by the Accused on the aforementioned basis relate solely to the existence and the content of certain documents.[41] The Chamber is mindful that these facts are to be distinguished from other proposed facts directly relating to certain events or circumstances in the area of Srebrenica, which are also based on documentary evidence.[42] However, while noting that Rule 94(B) in its second part provides for taking judicial notice of documentary evidence from other proceedings, the Chamber understands that the Prosecution has submitted the proposed facts for consideration of the Chamber under the first part of Rule 94(B), by requesting the Chamber to take judicial notice thereof as facts established in a previous judgement. Hence, the test set out under paragraph 12 above equally applies to facts relating to the existence and the content of a certain document. Since these facts have also been established in a previous judgement, they are appropriate for judicial notice.

16. Regarding the Accused's request that the Prosecution be ordered to submit a list of witnesses to be eliminated in the event that judicial notice is taken of any of the proposed adjudicated facts in the Motion, the Chamber considers that requesting the Prosecution to provide a list of witnesses to be eliminated from its Rule 65*ter* witness list on the basis that the witnesses can be substituted by certain adjudicated facts is premature and does not promote judicial economy, as the Prosecution must be aware of the full pool of adjudicated facts which the Chamber is prepared to take judicial notice of before it is able to perform such task. Additionally, the content of such a list would be dependant on the nature of the challenge that the Accused might intend to present in relation to adjudicated facts of which judicial notice has

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Prosecutor v. Bizimgu, Case No. ICTR-97-20-I, Decision on the Prosecutor's Motion for Judicial Notice Pursuant to Rules 73, 89 and 94, 2 December 2003, para. 39. Article 13(c)(5)(d) of the Charter of the Military Tribunal for the Far East, a provision mentioned by the Accused in his Response to support his point of view, equally relates to taking judicial notice of mere documents.

[41] *E.g.* proposed fact 1405 states that "[o]n 16 April 1993, the UN Security Council passed Resolution 819, declaring that "all parties and others treat Srebrenica and its surroundings as a 'safe area' that should be free from armed attack or any other hostile act. At the same time, the Security Council created, with Resolution 824, two other UN protected enclaves, Žepa and Goražde." This category further embraces, *inter alia*, proposed facts 1397, 1399, 1406, 1407, 1410, and 1638.

[42] Proposed fact 1398, which is taken from paragraph 20 of the *Krstić* Trial Judgement stating that "[b]y September 1992, Bosnian Muslim forces from Srebrenica had linked up with those in Žepa, a Muslim-held town to the south of Srebrenica", may serve as an example for this category.

been taken. As a result, the Chamber will not order the Prosecution at this time to submit the list requested by the Accused.

17. In this context, the Chamber further notes that the Prosecution has provided a list of 17 witnesses that it intends to withdraw from its "Prosecution's Fourth Motion for Admission of Statements and Transcripts of Evidence in lieu of *Viva Voce* Testimony Pursuant to Rule 92*bis*, Sarajevo Siege Witnesses", filed on 29 May 2009 in relation to the First Decision on Adjudicated Facts. The Prosecution has however indicated that it does not intend to remove these 17 witnesses from its Rule 65 *ter* witness list.[43] The Chamber considers that to be appropriate since circumstances may arise in which the Prosecution might wish to re-submit its application for admission of these witnesses' testimony pursuant to Rule 92*bis*, if the judicially noticed facts are eventually challenged by the Accused through the introduction of "reliable and credible evidence to the contrary".[44]

B. The further requirements for judicial notice under Rule 94(B)

18. The Accused has directed certain challenges against certain proposed facts on the basis that they do not meet one or more requirements of the test set out under paragraph 12 above. The Chamber not only has given consideration to all of these, but also has considered whether each and every one of the facts proposed by the Prosecution meets the aforementioned test in its entirety.

[a] The fact must be relevant to the current proceedings

19. The Accused does not challenge any of the proposed facts on the basis that it is irrelevant to the current proceedings. In light of its review of the facts, the Chamber considers that this requirement is met by all the facts contained in the Motion.

[b] The fact must be distinct, concrete, and identifiable

20. The Chamber is satisfied that, in contrast to the Accused's contentions in Annex A to his Response, the word "improving" does not make fact 1442 insufficiently distinct and concrete. The same applies to the wordings "heavy fire", as well as "pushed back towards the town", in proposed fact 1480.[45]

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[43] *Prosecutor v. Karadžić,* Case No. IT-95-5/18-PT, Prosecution's Submission on Withdrawal of Seventeen Witnesses Contained in the Prosecution's Fourth Rule 92 *bis* Motion, 24 June 2009, paras. 3–4.

[44] *Karemera* Appeal Decision, para. 42.

[45] Proposed fact 1442 states that "[t]he Drina Corps of the VRS was formed in November 1992, with the specific objective of 'improving' the situation of Bosnian Serb people living in the Middle Podrinje region, of which

21. Although the Accused has not submitted that proposed fact 1428 does not meet the requirement dealt with under the current heading, the Chamber finds that the wording "a two-year period of *relative* stability followed the establishment of the enclave"[46] is insufficiently distinct and concrete. The same applies to proposed facts 1580, 1693, and 1694:[47] even when read together with the surrounding facts in the original judgement, it remains unclear who the parties to the agreement mentioned in proposed fact 1580 are; similarly, it is not clear where exactly "the sound of light arms and machinegun fire" was heard (proposed fact 1693); also, it is not evident what is meant by "the buses came back the same way" (proposed fact 1694), since the surrounding facts do not speak about the previous journey of any buses. As a result, notwithstanding the absence of a challenge raised by the Accused in relation to proposed facts 1580, 1693, and 1694, the Chamber will not take judicial notice of them.

[c] The fact must not differ in any substantial way from the formulation of the original judgement

22. The Chamber notes the Accused's contention that the difference between proposed facts 1424, 1430, 1432, 1439, 1488, 1493, 1500, 1513, 1515, 1519, 1575, 1609, 1632, 1663, 1688, and 1793 and the relevant parts of the original judgements is a substantial one. However, after comparing the proposed facts with their source in the original judgement, the Chamber is satisfied that such differences as there are, are minor in nature, and that all of these facts clearly meet requirement [c] of the test set out in paragraph 12 above.

23. In contrast, the Chamber will not take judicial notice of proposed fact 1541, as it substantially differs from the cited paragraph of the *Blagojević* Trial Judgement,[48] which does not contain all the information set out in the proposed fact.[49] The Chamber also notes that,

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Srebrenica was an important part", and proposed fact 1480 states that "[s]imultaneously, the defending ABiH forces came under heavy fire and were pushed back towards the town."

[46] Cf. *Krstić* Trial Judgement, para. 25 (emphasis added).

[47] Proposed fact 1580 states that: "[w]hile it was agreed that the injured would be transported first, the VRS refused to adhere to this agreement. When Colonel Karremans complained to General Mladić, Mladić stated that the organisation of the transport would be determined by the VRS." Proposed fact 1693 states that: [t]he sound of light arms and machinegun fire was heard. The shooting lasted for about half an hour". Proposed fact 1694 states that "[t]he buses came back the same way. The buses were followed by the APC and some time later the excavator."

[48] Proposed fact 1541 states that "[t]he DutchBat representatives, still unable to contact the official Bosnian Muslim military or civilian leaders of Srebrenica, had again brought Mr. Mandzić, along with two more unofficial representatives from the Potočari refugees: Ms. Čamila Omanović, an economist; and Mr. Ibro Nuhanović, a businessman". It does not adequately reflect the finding contained in paragraph 159 of the *Blagojević* Trial Judgement that "Nesib Mandžić again represented the Bosnian Muslims and was joined by Čamila Omanović, a Bosnian Muslim born in Srebrenica, and Ibro Nuhanović, a Bosnian Muslim from Vlasenica".

[49] The wording of proposed fact 1541 seems to be inferred from paragraph 131 of the *Krstić* Trial Judgement; however, this source is not cited in the Motion. While noting its discretionary power to correct minor errors in the Motion, the Chamber does not deem it fit to add a new source which is not even indirectly referred to in the Motion.

while the relevant part of the *Blagojević* Trial Judgement states that "[t]hese escorts were accepted – or rather tolerated – by the VRS for the first convoys on 12 July", proposed fact 1577 omits the wording "or rather tolerated". Considering that "tolerating" has a different connotation from "accepting", the Chamber finds the difference between the original judgement and proposed fact 1577 to be a substantial one, and will therefore decline to take judicial notice of this proposed fact.

24. Additionally, the Chamber notes that certain words of the relevant parts of the original judgements have been omitted in the text of proposed fact 1511. The Chamber has considered whether it should change this proposed fact back to the wording of the original judgement, but finds that, if it made such corrections, the fact in question would not meet the test set out in paragraph 12 above; for this reason, the Chamber considers that proposed fact 1511 substantially differs from the original judgement and will decline to take judicial notice of it.[50] Similar considerations apply to proposed fact 1637; while noting that this fact is not challenged by the Accused in his Response, the Chamber is satisfied that the difference between this fact and the original judgement is a substantial one, and will therefore not take judicial notice of it.[51] The Chamber also considers that fact 1741 (which has not been challenged by the Accused) has been reformulated in a way that does not accurately reflect the meaning of the relevant part in the original judgement, and will also not take judicial notice of it.[52]

25. Furthermore, the Chamber is satisfied that fact 1661 does not reflect the findings in paragraphs 169 and 171 of the *Blagojević* Trial Judgement in an adequate way: while fact 1661 states that "single shots were heard not far from the White House", the aforementioned parts of the *Blagojević* Trial Judgement state that "[s]houts, and sometimes shots, were heard from the White House" and that "DutchBat patrols attempted to monitor the situation but the VRS did not allow them to enter the White House." The information that "single" shots were heard "not far" from the White House, is thus not contained in the *Blagojević* Trial Judgement; as a result, the Chamber considers that proposed fact 1661 differs substantially from the original judgement and will not take judicial notice of it.

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[50] If changed back to the original wording of para. 165 the *Blagojević* Trial Judgement ("Before the end of the ceasefire at 10:00 on 12 July and **more or less** coinciding with the third Hotel Fontana meeting, the VRS carried out an attack in the north of the enclave."), proposed fact 1511 would not be sufficiently distinct and concrete.

[51] Proposed fact 1637 would be unclear in the context of the Motion if it was changed back to the original wording of paragraph 235 of the *Blagojević* Trial Judgement, which states that "[a]t a meeting held at the Bratunac Brigade Headquarters on 16 July, part of the MUP **Task** force was deployed to search the terrain between Srebrenica and Konjević Polje."

[52] Proposed fact 1741 states that "[f]rom the checkpoint a number of prisoners were taken to a nearby school". In contrast, paragraph 216 of the *Krstić* Trial Judgement states that: "[f[rom the checkpoint Witness D was taken to a nearby school, where a number of prisoners were held." The Chamber considers that the fmding that prisoners

26. Proposed fact 1508 starts with the wording "as a result", thus indicating that the fact that "the inhabitants were forced to flee from their houses to the UN compound" was caused by the fact that "[t]he refugees in the compound could see Serb soldiers setting houses and haystacks on fire" (proposed fact 1507). However, upon a close examination of the paragraph from which proposed fact 1508 was taken, the Chamber is satisfied that the wording "as a result" refers to the finding of the *Blagojević* Trial Chamber that "[i]n the early morning on 12 July, VRS soldiers with German Shepherd dogs in the northern direction of the enclave threw hand grenades into civilian houses in Potočari."[53] The Chamber therefore considers that proposed fact 1508 differs substantially from the original judgement and will decline to take judicial notice of it.

27. Finally, while noting that the Accused challenges proposed fact 1522 on the basis that it is not identifiable, he bases his argument on the premise that the fact substantially differs from paragraph 126 of the *Krstić* Trial Judgement, and thus the Chamber finds it appropriate to deal with this fact under the current heading. The Accused additionally challenges proposed fact 1522 on the basis that the proposed fact was not identifiable in the footnote of the *Krstić* Trial Judgement to which the paragraph of the *Krstić* Appeal Judgement cited in the Motion refers. The *Krstić* Appeal Judgement refers to paragraph 130 of the *Krstić* Trial Judgement which is clearly a misprinting for 126. Upon comparing the proposed fact with the original judgements, the Chamber considers that the fact adequately reflects the wording of the relevant passages in the *Krstić* Trial Judgement and the *Krstić* Appeal Judgement;[54] and finds that this is sufficient. The Chamber therefore rejects the arguments raised by the Accused.

28. As previously noted by the Chamber in its First Decision on Adjudicated Facts, if a proposed fact contains only a minor inaccuracy or ambiguity, it is within the Chamber's discretion to correct such inaccuracy or ambiguity as long as the resultant correction accurately reflects the fact adjudicated in the original judgement.[55] This applies not only to typographical errors but also to inaccuracies as to the time and location of the events referred to in a proposed

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were held in the school does not implicate that they were taken to the school from the checkpoint. Hence, proposed fact 1741 substantially differs from the original judgement and judicial notice will not be taken of it.

[53] *Blagojević* Trial Judgement, para. 163.

[54] Proposed fact 1522 states that "Colonel Karremans sought assurances that DutchBat and the Bosnian Muslim population would be allowed to withdraw from the area, and General Mladić stated that the Bosnian Muslim civilian population was not the target of his actions." The relevant passages of the *Krstić* Trial Judgement state that "Colonel Karremans [...] sought assurances that Dutch Bat and the Bosnian Muslim population would be allowed to withdraw from the area. General Mladić stated that the Bosnian Muslim civilian population was not the target of his actions [...]." The relevant passages of the *Krstić* Appeal Judgement state that "Colonel Karremans of DutchBat sought assurances from General Mladić that the Bosnian Muslim population of Srebrenica, together with DutchBat personnel, would be to withdraw from the area. General Mladić stated that the Bosnian Muslim civilian population was not the target of his actions."

[55] *Popović* Decision, para. 10; *cf.* First Decision on Adjudicated Facts, para. 22.

fact, which can be corrected having regard to either the original judgement or the surrounding facts proposed in the motion.[56] Therefore, in order to render the relevant proposed facts consistent in every respect with the factual adjudication made in either the *Blagojević* or the *Krstić* Trial Judgements, the Chamber has corrected minor errors in the following proposed facts:

- Proposed fact 1476 shall read as follows: "In the days following 6 July 1995, the five UNPROFOR observation posts in the southern part of the enclave fell one by one in the face of the advance of the **VRS**."

- Proposed fact 1514 shall read as follows: "DutchBat soldiers working together with the Bosnian Muslim representatives attempted to make a list of the men **above** the age of 15 in and around the UNPROFOR headquarters."

- Proposed fact 1630 shall read as follows: "Attack resumed on 14 and 15 July against the third **of the** column that had managed to cross the asphalt road between Konjević Polje and Nova Kasaba on 11-12 July."

[d] The fact must not be unclear or misleading in the context in which it is placed in the Motion

29. It is essential to have regard to the surrounding proposed facts in the Motion when assessing whether a particular fact is unclear or misleading.[57]

30. In his Response, the Accused claims that proposed facts 1426 and 1427 are "out of context". However, considering that the facts deal with the Army of Bosnia Herzegovina violating the "safe area agreement" mentioned in proposed fact 1411, and that the violation of this agreement by the Bosnian Serb forces is described in proposed facts 1424 and 1425, the Chamber is satisfied that requirement [d] of the test set forth in paragraph 12 above is met. While noting that the Accused contests proposed fact 1459 as "out of context", the Chamber is satisfied that this fact meets requirement [d] of the test set out under paragraph 12 above: as in the case of the facts surrounding it, this fact deals with the commanders of the Bratunac Brigade, and supplements the information given in fact 1458.

31. The Accused also challenges proposed facts 1471 and 1641 on the basis that they are "out of context". The Chamber notes that these facts are identical, and will therefore decline to

[56] *See Stanišić* Decision, para. 38 and First Decision on Adjudicated Facts, para. 22.
[57] *Popović* Decision, para. 8.

take judicial notice of proposed fact 1641, as discussed in paragraph 59 below. In relation to proposed fact 1471, the Chamber considers that it relates to the presence of a particular unit (i.e. the 65th Regiment) in the Drina Corps Zone of Responsibility, and it does not find that proposed fact 1471 is unclear or misleading within the context of the Motion.

32. The Accused argues that proposed fact 1551 is misleading in the context of the Motion. However, it does not appear to the Chamber to be so. The wording cited by the Accused to support his challenge merely recounts the testimony of Nikolić and Members of the Bratunac Brigade Military Police. In contrast, proposed fact 1551 refers to the factual findings of paragraph 212 of the *Blagojević* Trial Judgement, and is sufficiently connected to the surrounding facts.

33. The Chamber further notes that proposed facts 1447 and 1452 are the only facts dealing with the "Krijava 95 operation".[58] The facts proposed in the Motion do not provide any further information about this operation. For this reason, proposed facts 1447 and 1452 are unclear in the context of the proposed facts included in the Motion, and the Chamber will not take judicial notice of them.

34. The Accused challenges proposed fact 1556 on the basis that it is a "misleading quotation" and "out of context" because it does not adequately reflect the content of the relevant paragraph of the original judgement. The Chamber notes that the Accused seems to have misunderstood the meaning of the requirement that "the fact must not be unclear or misleading in the context", and points out that the remainder of the cited paragraph of the original judgement is irrelevant to whether a fact is misleading in the context of the Motion. "Misleading in the context" does not relate to the context of the original judgement, but to the context of the Motion. As a result, the Chamber rejects the reasoning submitted by the Accused in relation to proposed fact 1556.

35. Proposed fact 1535 states that "[a]t the Hotel Fontana meetings on the evening of 11 July, Mladić asked UNPROFOR to organise the buses for the transport of the Bosnian Muslim refugees out of the enclave." However, that does not fit with the earlier proposed fact 1532 that Mladić himself would "provide the vehicles to transport the Srebrenica refugees out of Potočari." From reading paragraphs 126–129 and 360 of the *Krstić* Trial Judgement, as well as paragraphs 152–158 of the *Blagojević* Trial Judgement, it appears to the Chamber that Mladić first asked whether UNPROFOR would be able to provide any buses for the transport of the

[58] Proposed fact 1447 states that "Krstić was to command the Krivaja 95 operation". Proposed fact 1452 reads as follows "[u]pon the commencement of Krivaja 95 on 6 July 1995, General Krstić was Chief of Staff of the Drina Corps."

Bosnian Muslim civilian population, and subsequently stated that he himself would provide the vehicles to perform this plan. For this reason, proposed fact 1535 does not reflect the chronology of the original judgements, and the Chamber will not take judicial notice of it.

36. The Chamber considers that the wording "[i]n addition" at the beginning of proposed fact 1620, which states that "[s]everal thousand Bosnian Muslim men from the column who were captured on 13 July 1995 were collected in or near the Sandići Meadow and on the Nova Kasaba football field", is misleading in the context of the Motion. Proposed fact 1620 refers to the number of men held prisoner at the Nova Kasaba football field, which is also one of the sites mentioned in fact 1619. Thus, the number of men in proposed fact 1620, as it is currently cast in the Motion, is not to be added to the number of men mentioned in 1619, but included therein. For this reason, the Chamber will not take judicial notice of proposed fact 1620.

[e] The fact must be identified with adequate precision by the moving party

37. The Accused challenges certain facts on the basis that they cannot be traced back to a witness statement or to any other original source and are therefore not identifiable.[59] The Chamber understands this submission as relating either to the fact that the witness the Chamber relied upon to establish the fact in the original judgement testified in closed session,[60] or to an incorrect citation in the original judgement,[61] or to the complete absence of a source in the original judgement.[62] Recalling its First Decision on Adjudicated Facts, the Chamber considers that whether a factual finding is "identifiable" is not dependant on being able to trace it back to an original source as, for example, a witness statement, and it is therefore satisfied that requirement [b] of the test is met if the fact can be identified in the original judgement. Additionally, the Chamber reiterates that it is not the task of the Chamber to assess whether another Trial Chamber has properly edited the text or the footnotes of its judgement.[63]

38. Furthermore, the Accused challenges a certain group of facts on the basis that they are "not concrete"[64], "not identifiable",[65] "not consistent",[66] or cannot be traced back to the relevant

[59] *See* proposed facts 1394, 1412, 1414, 1416, 1419, 1422, 1424, 1435, 1448, 1462, 1469, 1470, 1472, 1477, 1478, 1481, 1482, 1494, 1500, 1519, 1522, 1526, 1535, 1561, 1569, 1570, 1582, 1595, 1630, 1664, 1665, and 1748.
[60] *See* proposed facts 1394, 1478, and 1482.
[61] *See* proposed fact 1469.
[62] *See* proposed facts 1414, 1416, 1424, 1435, 1470, 1500, 1519, 1526, 1535, 1561, 1582, 1630, 1664, 1665, and 1748.
[63] *See* First Decision on Adjudicated Facts, para. 16.
[64] *See* proposed fact 1477.
[65] *See* proposed fact 1412.
[66] *See* proposed facts 1448, 1569, and 1595.

witness statement.[67] While noting that the Accused does not use consistent language to dispute these facts in his Response, the Chamber understands that the Accused advances the same argument in relation to them, alleging a difference between the content of the witness's testimony and the original judgement. The Chamber again recalls that it is irrelevant whether a factual finding made in a previous judgement can be traced back to a witness statement.[68] Consequently, it is also irrelevant whether the language in the original judgement differs from the witness statement where that language was taken. For this reason, the Chamber dismisses the argument submitted by the Accused in relation to proposed facts 1412, 1422, 1448, 1462, 1477, 1569, and 1595.

39. Specifically, the Accused challenges proposed fact 1570 on the basis that it is not mentioned in the original judgement. However, since fact 1570 was clearly stated as established in the second sentence of the cited paragraph of the *Blagojević* Trial Judgement, the Chamber is satisfied that it meets requirement [b] of the test set out under paragraph 12 above.

[f] The fact must not contain characterisations or findings of an essentially legal nature

40. The Chamber is mindful, as in its First Decision on Adjudicated Facts, that taking judicial notice of adjudicated facts does not serve the purpose of importing legal conclusions from past proceedings. While a finding is a legal conclusion when it involves interpretation or application of legal principles, many findings have a "legal aspect" in the broad sense of that term. The Chamber considers that it is necessary to determine on a case-by-case basis whether the proposed fact must be excluded because it contains findings or conclusions which are of an essentially legal nature, or whether the factual content prevails.

41. The Chamber notes the Accused's repeated submissions that several proposed facts use certain legally significant terms, namely "attack", "combatants", "soldiers", "military threat", "civilians", "civilian population", "civilian clothes", "hospital", or "systematically", in such a way as to render them essentially legal in nature.[69] It also is mindful of the Accused's contention that certain facts allude to legal terms derived from international criminal law or international humanitarian law.[70] Again, the Chamber has carefully assessed each of the disputed facts in determining whether it contains findings or conclusions of an essentially legal nature, and is satisfied that in only two of the facts challenged by the Accused, one of the above

[67] *See* proposed fact 1422.

[68] *See* First Decision on Adjudicated Facts, para. 16.

[69] See the challenges to proposed facts 1487, 1498, 1511, 1572, 1575, 1584, 1586, 1589, 1593, 1596, 1603, 1629, 1630, 1635, 1647, 1649, 1651, 1653, 1667, 1729, and 1888 in Annex A to the Response.

[70] *See* the challenges to proposed facts 1430, 1548, and 1646 in Annex A to the Response.

terms is used in such a way as to render a part of the proposed fact essentially legal in nature. The Chamber will therefore decline to take judicial notice of the second sentence of proposed fact 1498. As discussed below in paragraph 49, judicial notice of proposed fact 1729 will be declined in its entirety for different reasons.

42. Specifically, proposed facts 1404, 1407, 1410, and 1589 are challenged by the Accused on the basis that they contain legal conclusions or findings with legal consequences attached to them. The Chamber is not convinced by this contention, and notes the relevant wordings of the facts in quotation marks. For example, proposed fact 1404 states that "[t]he evacuations were, however, opposed by the Bosnian Muslim government in Sarajevo as contributing to the '*ethnic cleansing*' of the territory",[71] and proposed fact 1407 states that "Resolution 819 further called for '*the immediate cessation of armed attacks by Bosnian Serb paramilitary units against Srebrenica and their immediate withdrawal from the areas surrounding Srebrenica*'".[72] The Chamber is satisfied that the facts proposed by the Prosecution are not that "ethnic cleansing" or an "armed attack" took place, but amount, instead, to the finding that these terms were contained in a document the Chamber referred to in the original judgements.

43. The Chamber also notes that the Accused challenges proposed facts 1472 and 1481 on the basis that these facts are based on a witness's testimony in which a legal term was used. The Chamber accepts this contention, but again recalls that the witness statement to which the relevant factual finding in the original judgement might be traced back, is irrelevant to whether the test set out above under paragraph 12 above is met.[73] It considers that proposed facts solely have to be analysed against the text of the original judgement. Noting that the relevant passages of the original judgements do not contain conclusions or findings of an essentially legal nature,[74] the Chamber dismisses the argument submitted by the Accused in relation to proposed facts 1472 and 1481.

44. Furthermore, the Accused challenges proposed facts 1447 and 1473 on the basis that the remainder of the relevant paragraph of the original judgement from which these facts are taken contains legal terms.[75] The Chamber has already determined that it will not take judicial notice of proposed fact 1447. Regarding proposed fact 1473, the Chamber reiterates that the remainder of the cited paragraph of the original judgement is irrelevant to whether judicial notice of a

[71] Emphasis added.
[72] Emphasis added.
[73] *See* First Decision on Adjudicated Facts, para. 16.
[74] Since the legal terms used in the relevant witness statements have been replaced by factual wordings.
[75] Response, para. 22.

proposed fact is appropriate, and that the remaining requirements of the test set out under paragraph 12 above are met.

45. However, the Chamber will not take judicial notice of proposed fact 1506,[76] as it considers that the legal terms contained in this fact ("murder", "rapes", "terror campaign") render it essentially legal in nature. Similar considerations apply to proposed fact 1591 which states that "[t]he Srebrenica citizens who gathered in Potočari were not returned to their homes *as soon as hostilities in the area in question* had *ceased*."[77] The Accused argues that this fact contains the exact wording of article 49 of the Fourth Geneva Convention, i.e. "[p]ersons thus evacuated shall be transferred back to their homes *as soon as hostilities in the area in question* have *ceased*",[78] and it is therefore used to state that the transfer of the Bosnian Muslim population outside the Srebrenica enclave was unlawful, and that a breach of article 49 of the Fourth Geneva Convention occurred.[79] The Chamber considers that proposed fact 1591 contains conclusions which amount to findings of an essentially legal nature, and will therefore not take judicial notice of it. In addition, although the exact words of article 49 of the Fourth Geneva Convention are not reproduced in proposed fact 1592, the Chamber finds that the effect is the same, and will therefore decline to take judicial notice of this fact.

[g] The fact must not be based on an agreement between the parties to the original proceedings

46. With regard to proposed facts 1398, 1400, 1401, 1402, 1403, 1404, 1409, 1413, and 1434, the Accused contends that, since these facts were not contested at trial, they cannot be judicially noticed in the current case. The Chamber recalls that the requirement needed in order to take judicial notice of the proposed facts is whether these facts are "adjudicated" and not whether the facts were contested during the original proceedings.[80] Accordingly, if the Chamber to the original proceedings has made a factual finding based on evidence during the proceedings, it is irrelevant whether this evidence was contested at trial or not. The Chamber considers that it

[76] This fact states that "[o]n 12 and 13 July 1995, upon the arrival of Serb forces in Potočari, the Bosnian Muslim refugees taking shelter in and around the compound were subjected to a terror campaign comprised of threats, insults, looting and burning of nearby houses, beatings, rapes, and murders."

[77] Emphasis added.

[78] Emphasis added.

[79] *See* the challenge to proposed fact 1591 in Annex A to the Response.

[80] *Prosecutor v. Perišić,* Case No. IT-04-81-PT, Decision on Prosecution's Motion for Judicial Notice of Adjudicated Facts Relevant to the Srebrenica Crime Base ("*Perišić* Trial Decision), 22 September 2008, para. 35.

is evident from the original judgements that all of the above-mentioned facts amount to factual findings,[81] and therefore rejects the argument raised by the Accused.

47. The Accused further contends that proposed facts 1402, 1425, 1441, 1444, 1445, 1446, 1502, 1514, 1522, 1532, 1545, 1586, 1590, 1594, 1596, 1597, 1604, 1618, 1620, 1621, 1624, 1625, and 1667 cannot be judicially noticed since they were agreed upon by the parties in the *Blagojević* case. The Chamber accepts this contention, but notes that all of these facts have also been established in the *Krstić* Trial Judgement without any reference therein to an agreement of the parties. It considers that, as long as in one of the referred original judgements the fact was supported by sufficient evidence, it meets requirement [f] of the test set out in paragraph 12 above.[82]

48. The Chamber notes that the Accused has contested proposed facts 1452, 1460, 1539, 1658, and 1668 on the basis that they rely upon an agreement to the original proceedings. The Chamber has already determined that it will not take judicial notice of proposed fact 1452 as set out under paragraph 33 above. As far as the other proposed facts are concerned, it has been established in the Tribunal's jurisprudence that a fact is only considered to be based on an agreement "where the structure of the relevant footnote in the original judgement cites the agreed facts between the parties as a primary source of authority".[83] Taking into consideration that the footnotes in the original judgements relevant to proposed facts 1460, 1539, 1607,[84] and 1658 do not refer to agreed facts as primary authority, that challenge fails.

49. However, with respect to proposed fact 1736, the Chamber notes that the relevant footnotes of the *Blagojević* Trial Judgement refer to an agreed fact as primary authority. Hence, it will deny judicial notice of this fact. Similarly, the footnotes relevant to the first sentence of proposed fact 1729 rely on an agreed fact as a primary authority. Since the second sentence of proposed fact 1729 is unclear without reference to the first sentence, judicial notice of proposed fact 1729 in its entirety will be denied.

[h] The fact must not relate to the acts, conduct, or mental state of the accused

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[81] For example, in relation to proposed fact 1398, the *Krstić* Trial Chamber stated that it had "relied upon the Secretary-General's Report as an accurate accounting of the events leading up to the take-over of Srebrenica, at least on matters where no contrary evidence has been presented at trial" *(Krstić* Trial Judgement, para. 13 footnote 11).

[82] *Prosecutor v. Popović*, Case No. IT-05-88-T, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts with Annex, ("*Popović* Trial Decision"), 26 September 2006, para. 11.

[83] *Perišić* Trial Decision, para. 35; *Popović* Trial Decision, para. 11.

[84] The *Blagojević* Appeal Judgement referred to in the Motion does not provide a footnote for the proposed fact but refers to paragraph 222 of the *Blagojević* Trial Judgement; however, in this paragraph, the *Blagojević* Trial Chamber primarily refers to witness statements and uses the reference to the agreed fact as merely additional authority.

50. In relation to the Accused's contention that facts relating to the members or objective of an alleged JCE cannot be subject to judicial notice, the Chamber notes that there is no such limitation in the test set out in paragraph 12 above, which requires only that the proposed facts do not relate to the acts, conduct, or mental state of the Accused. The Chamber acknowledges that another Chamber has taken the approach that judicial notice cannot be taken of facts relating the conduct of members or the objective of an alleged JCE.[85] However, it recalls Tribunal jurisprudence establishing that judicial notice may be taken of facts relating to the conduct of other persons for which the Accused is being held criminally responsible through one or more forms of liability in Article 7 (1) or (3) of the Tribunal's Statute.[86] For this reason, the Chamber dismisses the arguments submitted by the Accused in paragraphs 11 to 17 of his Response.[87]

51. The Accused challenges proposed facts 1437 and 1483 on the basis that the remainder of the relevant paragraph of the original judgement from which the facts were taken relates to his criminal responsibility. The Chamber again reiterates that the remainder of the cited paragraph of the original judgement is irrelevant to whether judicial notice of a proposed fact will be taken. For this reason, it dismisses the argument submitted by the Accused in relation to proposed facts 1437 and 1483.

52. The Accused challenges proposed fact 1466 on the basis that the *Blagojević* Trial Judgement, when establishing this fact, relied on a document going "to his [the Accused's] criminal responsibility." The Chamber does not agree with the Accused's contention that the document referred to in the relevant footnotes of the *Blagojević* Trial Judgement goes to his criminal responsibility; however, the issue of resubordination contained in proposed fact 1466 could indeed bear a relationship to issues relating to the acts, conduct, or mental state of the Accused.[88] Hence, judicial notice of proposed fact 1466 will be declined.

[i] The fact must clearly not be subject to pending appeal or review

53. The Accused challenges proposed facts 1453, 1454, and 1461 on the basis that they refer to persons[89] whose cases are still pending before the Tribunal. However, the Chamber considers that the stage of the proceedings against persons mentioned in a proposed fact is irrelevant to

[85] *Cf. Prosecutor v. Šešelj*, Case No. IT-67-03-T, Decision on Prosecution Motion to Take Judicial Notice of Facts under Rule 94(B) of the Rules of Procedure and Evidence, 10 December 2007, para. 13.

[86] *Prosecutor v. Karemera et al.*, Case No. ICTR-98-44-AR73(C), Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice, 16 June 2006 ("*Karemera* Appeal Decision"), para.52; *see also Perišic* Decision, para. 41.

[87] *Cf.* First Decision on Adjudicated Facts, paras. 14, 35–36.

[88] Footnotes 251 and 252 stating: "Ex. D 62/1, Order of President Karadžić".

requirement [i] of the test set forth in paragraph 12 above, where the fact in question has already been adjudicated in proceedings which have been concluded and are not subject of appeal or review. Noting that the above-mentioned facts have already been established in the *Krstić* case, the Chamber is satisfied that these facts meet requirement [i].

Discretion to refuse notice

54. As stated in paragraph 12 above, the Chamber notes that it is in its discretionary power to determine whether a fact, despite having satisfied the aforementioned requirements, should be excluded on the basis that to take judicial notice thereof would not be in the interests of justice, and makes the following considerations.

55. The Chamber notes that the Prosecution has frequently provided in the Motion two references in relation to one proposed adjudicated fact, and considers that providing two references for one proposed fact is unnecessary and does not promote judicial economy. The Chamber will however take judicial notice of these facts as long as the "double references" to the *Krstić* and *Blagojević* Trial Judgements are not contradictory, and if at least one of them corresponds to the referred judgement.

56. Where there are differences in the way in which a proposed fact is expressed, the Chamber has had regard to this issue in determining whether judicial notice can be taken of that proposed fact. For some of the "double references", the Chamber has found that only one reference relates to a part of a judgement that contains information relevant to the proposed fact concerned. In some instances, the Chamber has relied exclusively on one reference rather than both and, by exercising its discretionary power, has deemed it appropriate to disregard the irrelevant references in the Motion. Examples of situations where the Chamber considers that a proposed fact is soundly based on an adjudicated fact in the *Krstić* Trial Judgement, but not in the *Blagojević* Trial Judgement are proposed facts 1404, 1526, 1558, 1562, 1564,[90] 1566, 1748,[91] 1779, 1794, 1800, 1804, 1814, 1820, 1853, 1854, and 1855. The Chamber further considers that proposed fact 1516 is soundly based on adjudicated facts in the *Blagojević* and *Krstić* Trial Judgements, but not on the paragraph cited from the *Krstić* Appeal Judgement. In relation to this fact, the reference to the irrelevant judgement will not be taken into account.

57. The Chamber considers that the "double references" provided for certain proposed facts are materially inconsistent with each other, and that it is not in the interest of justice to take

[89] Popović is mentioned in proposed fact 1453, Pandurević in proposed fact 1454, and Beara in proposed fact 1461.
[90] This fact is not challenged by the Accused in his Response.
[91] This fact is not challenged by the Accused in his Response.

judicial notice of these facts, if the references have contradictory language. The Chamber will therefore decline to take judicial notice of certain proposed facts as follows:

- While proposed fact 1417 and the *Krstić* Trial Judgement (paragraph 20) state that "a new set of UNPROFOR troops (a battalion from the Netherlands, referred to as 'DutchBat') rotated into the enclave of January 1995", the *Blagojević* Trial Judgement (footnote 320) states that this event took place in January 1994.

- With respect to proposed fact 1441, the cited passages of the *Blagojević* Trial Judgement and the *Krstić* Trial Judgement differ as to the date of the attack on an observation post: paragraph 30 of the *Krstić* Trial Judgement and proposed fact 1441 refer to "31 May", while paragraph 111 of the *Blagojević* Trial Judgement refers to "early June". The Chamber will therefore not take judicial notice of this proposed fact.

- Regarding proposed fact 1529, the *Blagojević* Trial Judgement and the *Krstić* Trial Judgement differ as to those attending the second meeting in Hotel Fontana.[92] Thus, the Chamber will not take judicial notice of proposed fact 1529.

- Similarly, the original judgements cited to support proposed fact 1565[93] vary as to the time of the arrival of the buses mentioned in the fact.[94] The Chamber will thus not take judicial notice of this proposed fact.

58. While noting that the Accused challenges proposed facts 1415 and 1719 on the basis that one of the referred judgements is inconsistent with the other, the Chamber considers that the references provided for these facts do not substantially differ from each of the facts nor from each other.[95]

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[92] *Krstić* Trial Judgement, para. 128, *Krstić* Appeal Judgement para. 85, and proposed fact 1529: "This time General Živanović was not present but General Krstić was. Colonel Kosorić and Major Momir Nikolić from the Drina Corps were also in attendance at this meeting." Cfr. *Blagojević* Trial Judgement para. 154: "The VRS delegation consisted of General Mladić, Colonel Janković, General Krstić, and Lieutenant Colonel Kosorić. [...]. Captain Nikolić was in a room next to the one where the meeting took place and could overhear the conversation." The Chamber notes that Colonel Janković is not mentioned in the *Blagojević* Trial Judgement, and that the original judgements also differ as to the status of Captain Nikolić.

[93] This fact is not challenged by the Accused in his Response.

[94] *Krstić* Trial Judgement, para. 135 and proposed fact 1656: "by around noon"; *Blagojević* Trial Judgement para. 180: "during the afternoon".

[95] Proposed fact 1415 is taken out of paragraph 20 of the *Krstić* Trial Judgement and states that "[t]he peacekeepers were lightly armed and at any one time numbered no more than 600 men (a much smaller force than had been originally requested)." In comparison, the relevant passage of the *Blagojević* Trial Judgement (paragraph 107), also cited in the Motion as a source for this fact, states that "on 18 January 1995, approximately 600 personnel were deployed in the Srebrenica 'safe area', of whom approximately 300 were infantry soldiers." With regard to proposed fact 1719, the original judgements vary in relation to the number of victims whose gender could be determined and was male. The proposed fact corresponds to paragraph 209 of the *Krstić* Trial Judgement, and states that "[t]he gender of the victims exhumed at Glogova 2 could be determined in 109 [out of 139] cases and

59. The Chamber notes that proposed facts 1549 and 1646 contain essentially the same information, and will therefore not take judicial notice of proposed fact 1646, in order to avoid repetition.[96] The same applies to proposed fact 1546 which merely repeats the information provided in proposed fact 1545.[97] Similarly, proposed fact 1888 does not go beyond the content of proposed fact 1649.[98] Finally, proposed fact 1471 contains exactly the same wording as proposed fact 1641.[99] As a result, the Chamber will decline to take judicial notice of proposed facts 1546, 1641, 1646, and 1888.

60. While noting that proposed facts 1740 to 1742 are not challenged by the Accused, the Chamber considers that these facts are unclear and repetitive. Being mindful that it has already determined that judicial notice of proposed fact 1741 will be declined as set out above in paragraph 24 above, the Chamber further exercises its discretion to refuse judicial notice of proposed facts 1740 and 1742.

61. The Chamber notes that the Accused argues that taking judicial notice of all the facts proposed by the Prosecution would place an unreasonable and unfair burden on him and that, as the process of rebutting the evidence takes excessive time and resources, it would frustrate, rather than promote, judicial economy.[100] As in its First Decision on Adjudicated Facts,[101] and in addition to the foregoing considerations, the Chamber has carefully assessed whether judicial notice of the proposed facts that meet the above requirements would advance judicial economy while safeguarding the rights of the Accused. The Chamber is not persuaded that the Accused would require more time and facilities to rebut adjudicated facts than would be necessary in order to counter the evidence to be presented by the Prosecution should the Chamber decline to take judicial notice of adjudicated facts, and notes that a significant period of time would be

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all were male". In relation to both proposed facts 1415 and 1719, the Chamber considers that the finding of the *Blagojević* Trial Chamber does not go beyond, but falls short of the content of the proposed fact and the *Krstić* Trial Judgement. Thus, the two referred judgements are not inconsistent with each other or with the proposed fact.

[96] Proposed fact 1549 states that "[n]o effort thereafter was made to distinguish the soldiers from the civilians", proposed fact 1646 states that "[i]n executing the captured Bosnian Muslim men, no effort was made to distinguish the soldiers from the civilians." Additionally both of these facts refer to para. 547 of the *Krstić* Trial Judgement.

[97] Proposed fact 1546 states that "[a]t the Hotel Fontana meeting on 12 July 1995, General Mladić said that military-aged men in the crowd at Potočari would be screened for war crimes" whereas proposed fact 1545 states that "General Mladić also informed those present that all men between the ages of about 17 and 70 would have to be separated and screened to separate out possible 'war criminals.'"

[98] "Some of the victims were severely handicapped" is the content of proposed fact 1888. Proposed fact 1649 states that "[s]ome of the victims were severely handicapped and, for that reason, unlikely to have been combatants." Additionally both of these facts refer to para. 75 of the *Krstić* Trial Judgement.

[99] Both proposed fact 1471 and 1641 state that "[t]he Drina Corps command was well aware of the presence of the 65th Protection Regiment within its zone of responsibility following the takeover of Srebrenica and was organising cooperative action with it to block the column of Muslim men." They both refer to paragraph 282 of the *Krstić* Trial Judgement.

[100] Response, para. 4.

required for the presentation of the relevant testimony in chief. Therefore, the Chamber dismisses the aforementioned argument, and will not decline judicial notice of adjudicated facts on the basis that rebutting these facts would require an additional amount of time.

62. Finally, the Chamber is satisfied that none of the facts in the Motion which meet the requirements of Rule 94(B), as set out in paragraph 12 above, should be excluded on the basis that judicial notice would not be in the interests of justice.

IV. Disposition

63. Accordingly, the Trial Chamber, pursuant to Rules 54 and 94(B) of the Rules, hereby **GRANTS** the Motion in part, and decides as follows:

- The Trial Chamber denies the Motion for List of Witnesses to be Eliminated;
- The Trial Chamber takes judicial notice of the adjudicated facts in the Annex attached to this decision, in the manner formulated therein;
- The following adjudicated facts proposed in the Motion are denied judicial notice: proposed facts 1417, 1428, 1441, 1447, 1452, 1466, 1506, 1508, 1511, 1529, 1535, 1541, 1546, 1565, 1577, 1580, 1591, 1592, 1620, 1637, 1641, 1646, 1661, 1693, 1694, 1729, 1736, 1740, 1741, 1742, and 1888.

Done in English and French, the English text being authoritative.

Judge Iain Bonomy
Presiding

Dated this ninth day of July 2009
At The Hague
The Netherlands

[Seal of the Tribunal]

[101] First Decision on Adjudicated Facts, para. 35.

ANNEX

Proposed Fact No.	Proposed Adjudicated Fact
1393.	The town of Srebrenica is nestled in a valley in eastern Bosnia.
1394.	Srebrenica town is one kilometre wide and two kilometres long.
1395.	Before the war, many of Srebrenica's residents worked in the factories at Potočari, a few kilometres north of Srebrenica, or in the zinc and bauxite mines to the south and northeast of the town.
1396.	In 1991, the population of the municipality was 37,000, of which 73 percent were Muslim and 25 percent were Serb.
1397.	On 12 May 1992, Momčilo Krajišnik, the President of the National Assembly of the Serbian People of Bosnia and Herzegovina, signed the "Decision on Strategic Objectives of the Serbian People", which includes one objective relating to the area of Srebrenica, namely, to "establish a corridor in the Drina river valley, that is eliminate the Drina as a border separating Serb states."
1398.	By September 1992, Bosnian Muslim forces from Srebrenica had linked up with those in Žepa, a Muslim-held town to the south of Srebrenica.
1399.	In November 1992, General Ratko Mladić issued Operational Directive 4, which outlined further operations of the Bosnian Serb Army ("VRS"). Included in the Directive are orders to the Drina Corps to defend "Zvornik and the corridor, while the rest of its forces in the wider Podrinje region shall exhaust the enemy, inflict the heaviest possible losses on him and force him to leave the Birač, Žepa, and Goražde areas together with the Muslim population. First offer the able-bodied and armed men to surrender, and if they refuse, destroy them."
1400.	By January 1993, the enclave had been further expanded to include the Bosnian Muslim-held enclave of Cerska located to the west of Srebrenica. At this time the Srebrenica enclave reached its peak size of 900 square kilometres, although it was never linked to the main area of Bosnian-held land in the west and remained a vulnerable island amid Serb-controlled territory.
1401.	Bosnian Muslim residents of the outlying areas converged on Srebrenica town and its population swelled to between 50,000 and 60,000 people.
1402.	The advancing Bosnian Serb forces had destroyed the town's water supplies and there was almost no running water. People relied on makeshift generators for electricity. Food, medicine, and other essentials were extremely scarce.
1403.	By March 1993, when French General Philippe Morillon, the Commander of the UN Protection Force ("UNPROFOR"), visited Srebrenica, the town was overcrowded and siege conditions prevailed. Before leaving, General Morillon told the panicked residents of Srebrenica at a public gathering that the town was under the protection of the UN and that he would never abandon them.
1404.	Between March and April 1993, approximately 8,000 to 9,000 Bosnian Muslims were evacuated from Srebrenica under the auspices of the UN High Commissioner for Refugees ("UNHCR"). The evacuations were, however, opposed by the Bosnian Muslim government in Sarajevo as contributing to the "ethnic cleansing" of the territory.
1405.	On 16 April 1993, the UN Security Council passed Resolution 819, declaring that "all parties and others treat Srebrenica and its surroundings as a 'safe area' that should be free from armed attack or any other hostile act." At the same time, the Security Council created, with

Proposed Fact No.	Proposed Adjudicated Fact
	Resolution 824, two other UN protected enclaves, Žepa and Goražde.
1406.	The Security Council stated in Resolution 819 that it "condemns and rejects the deliberate actions of the Bosnian Serb party to force the evacuation of the civilian population from Srebrenica and its surrounding areas ... as part of its abhorrent campaign of ethnic cleansing".
1407.	Resolution 819 further called for "the immediate cessation of armed attacks by Bosnian Serb paramilitary units against Srebrenica and their immediate withdrawal from the areas surrounding Srebrenica."
1408.	The town of Srebrenica was the most visible of the "safe areas" established by the UN Security Council in Bosnia. By 1995 it had received significant attention in the international media.
1409.	This guarantee of protection was reaffirmed by the commander of UNPROFOR.
1410.	When the "safe area" of Srebrenica was established, the Security Council called upon the Secretary-General to "take immediate steps to increase the presence of the United Nations Protection Forces in Srebrenica and its surroundings."
1411.	UNPROFOR commanders negotiated a cease-fire agreement signed by General Sefer Halilović and General Ratko Mladić (the Commander of the Main Staff of the VRS) which called for the enclave to be disarmed under the supervision of UNPROFOR troops.
1412.	However, there was discord about the precise boundaries of the territory subject to the agreement, specifically, whether the agreement covered only the urban area of Srebrenica.
1413.	On 18 April 1993, the first group of UNPROFOR troops arrived in Srebrenica.
1414.	Fresh troops were rotated approximately every six months after 18 April 1993.
1415.	The peacekeepers were lightly armed and at any one time numbered no more than 600 men (a much smaller force than had been originally requested).
1416.	They established a small command centre (the "Bravo Company compound") in Srebrenica itself and a larger main compound about five kilometres north of the town in Potočari.
1417.	~~In January 1995, a new set of UNPROFOR troops (a battalion from the Netherlands, referred to as "DutchBat") rotated into the enclave.~~
1418.	Initially DutchBat had eight observation posts ("Ops") around the perimeter of the enclave; four additional Ops were added between February and July 1995.
1419.	Most of the time, groups of Bosnian Serb and Bosnian Muslim soldiers also maintained shadow positions near these outposts.
1420.	The Bosnian Serb forces surrounding the enclave were equipped with tanks, armoured vehicles, artillery and mortars.
1421.	The VRS was organised on a geographic basis and Srebrenica fell within the domain of the Drina Corps. Between 1,000 and 2,000 soldiers from three Drina Corps Brigades were deployed around the enclave.

Proposed Fact No.	Proposed Adjudicated Fact
1422.	The ABiH soldiers in the enclave did not have heavy weapons and were poorly trained.
1423.	Reconnaissance and sabotage activities were carried out by the 28th Division of the Army of Bosnia and Herzegovina ("ABiH") on a regular basis against the VRS forces in the area.
1424.	Both parties to the conflict violated the "safe area" agreement.
1425.	The Bosnian Serbs deliberately tried to limit access to the enclave by international aid convoys. DutchBat personnel were prevented from returning to the enclave by Bosnian Serb forces, and equipment and ammunition were also prevented from getting in.
1426.	Insofar as the ABiH was concerned, immediately after signing the "safe area" agreement, General Halilović ordered members of the ABiH in Srebrenica to pull all armed personnel and military equipment out of the newly established demilitarised zone. He also ordered that no serviceable weapons or ammunition be handed over to UNPROFOR. Accordingly, only old and dysfunctional weapons were handed over and anything that was still in working order was retained.
1427.	Bosnian Muslim helicopters flew in violation of the no-fly zone; the ABiH opened fire toward Bosnian Serb lines and moved through the "safe area"; the 28th Division was continuously arming itself; and at least some humanitarian aid coming into the enclave was appropriated by the ABiH.
1428.	~~Despite violations of the "safe area" agreement by both sides to the conflict, a two-year period of relative stability followed the establishment of the enclave, although the prevailing conditions for the inhabitants of Srebrenica were far from ideal.~~
1429.	By early 1995, fewer and fewer supply convoys were making it through to the Srebrenica enclave.
1430.	The already meagre resources of the civilian population dwindled further, and even the UN forces started running dangerously low on food, medicine, fuel, and ammunition.
1431.	It was estimated that without new supplies almost half of the population of Srebrenica would be without food after mid-June.
1432.	Eventually, the peacekeepers had so little fuel that they were forced to start patrolling the enclave on foot.
1433.	The restriction of international convoys impacted the rotation and readiness of troops of the Dutch Battalion of UNPROFOR ("Dutchbat") and caused further deterioration of the humanitarian situation in the Srebrenica enclave.
1434.	The military capability of Dutch Bat was further hampered by the VRS refusal to allow soldiers re-entry into the enclave after their leave.
1435.	In March and April 1995, the Dutch soldiers noticed a build-up of Bosnian Serb forces near two of the observation posts, OP Romeo and OP Quebec.
1436.	New Bosnian Serb soldiers were arriving in the area and they had new rifles, complete uniforms, and were younger.
1437.	By mid-1995, the humanitarian situation of the Bosnian Muslim civilians and military personnel in the enclave was catastrophic.

Proposed Fact No.	Proposed Adjudicated Fact
1438.	In the spring of 1995, there were many skirmishes between VRS soldiers and ABiH soldiers.
1439.	Elements of the Bratunac Brigade, including the 1st and 3rd Battalion, were involved in sniping and shelling of the Srebrenica enclave in the months before the enclave was attacked.
1440.	The Bratunac Brigade also opened fire on Srebrenica on 25 May 1995.
1441.	~~On 31 May 1995, Bosnian Serb forces captured OP Echo, which lay in the southeast corner of the enclave.~~
1442.	The Drina Corps of the VRS was formed in November 1992, with the specific objective of "improving" the situation of Bosnian Serb people living in the Middle Podrinje region, of which Srebrenica was an important part.
1443.	The Drina Corps was organised along the lines of the former JNA Corps and, as was the case with the VRS generally, JNA operating methodologies were almost completely adopted.
1444.	The Drina Corps Headquarters was established first in Han Pijesak and were later moved to Vlasenica.
1445.	In addition to the Commander, the Drina Corps also had a Chief of Staff and three Assistant Commanders.
1446.	In July 1995, General Radislav Krstić was the Chief of Staff of the Drina Corps until his appointment as Corps Commander. Colonel Slobodan Cerović was Assistant Commander for Moral, Legal, and Religious Affairs; and Colonel Lazar Aćamović was Assistant Commander for Rear Services (or Logistics).
1447.	~~Krstić was to command the Krivaja 95 operation.~~
1448.	In July 1995, the Drina Corps was composed of the following subordinate Brigades: Zvornik Brigade; 1st Bratunac Light Infantry Brigade ("Bratunac Brigade"); 1st Vlasenica Light Infantry Brigade ("Vlasenica Brigade"); 2nd Romanija Motorised Brigade ("2nd Romanija Brigade"); 1st Birač Infantry Brigade ("Birač Brigade"); 1st Milići Light Infantry Brigade ("Milići Brigade"); 1st Podrinje Light Infantry Brigade ("1st Podrinje Brigade"); 5th Podrinje Light Infantry Brigade ("5th Podrinje Brigade"); and 1st Skelani Separate Infantry Battalion ("Skelani Battalion"). These Brigades had combat capabilities and were supported by the 5th Mixed Artillery Regiment, the 5th Engineers Battalion, the 5th Communications Battalion and the 5th Military Police Battalion.
1449.	The Drina Corps came under the Command of the Main Staff of the VRS, along with the 1st and 2nd Krajina Corps, the East Bosnia Corps, the Hercegovina Corps and the Sarajevo-Romanija Corps.
1450.	General Živanović assumed the role of Drina Corps Commander at the time of its formation in November 1992.
1451.	General Radislav Krstić was born in the village of Nedjeljište, in the municipality of Vlasenica, Bosnia on 15 February 1948. Prior to the war in Bosnia, General Krstić was a Lieutenant Colonel in the JNA and he joined the VRS in July 1992. On 8 August 1994, the RS Minister of Defence appointed him as Chief of Staff/Deputy Commander of the Drina Corps, effective 15 August 1994. General Krstić assumed his new duty from the outgoing officer on 29 September 1994.

Proposed Fact No.	Proposed Adjudicated Fact
1452.	~~Upon the commencement of Krivaja 95 on 6 July 1995, General Krstić was Chief of Staff of the Drina Corps.~~
1453.	Lieutenant Colonel Vujadin Popović was Assistant Commander for Security for the Drina Corps.
1454.	In July 1995, Lieutenant Colonel Vinko Pandurević was the Commander of the Zvornik Brigade.
1455.	Dragan Obrenović was the Chief of Staff of the Zvornik Brigade.
1456.	Dragan Jokić was the Chief of Engineering of the Zvornik Brigade and held the rank of Major between 11 July 1995 and 1 November 1995.
1457.	The security department, headed by Lieutenant Drago Nikolić was directly subordinate to the Commander of the Zvornik Brigade.
1458.	On 25 May 1995, Blagojević was appointed as the Commander of the Bratunac Brigade. In July 1995, Blagojević held the rank of Colonel. He remained in this position until mid-1996 when he was re-assigned to the VRS Main Staff, later named the VRS General Staff.
1459.	Colonel Blagojević remained in command and control of all units of the Bratunac Brigade, including those members of the security organ, as well as the Bratunac Brigade Military Police between 11 July 1995 and 1 November 1995.
1460.	The code names used to refer to relevant Drina Corps subordinate Brigades, as well as the Drina Corps Headquarters, were as follows: "Palma" was the Zvornik Brigade, "Badem" was the Bratunac Brigade, and "Zlatar" was the Command of the Drina Corps.
1461.	Colonel Ljubiša Beara was the head of Security of the VRS Main Staff.
1462.	Two units were also directly subordinated to the Main Staff: the 10th Sabotage Detachment (a unit primarily used for wartime sabotage activities), and the 65th Protective Regiment (a unit created to provide protection and combat services for the Main Staff).
1463.	MUP forces, including a special MUP unit as well as units of municipal police, were also operating in the Drina Corps zone of responsibility during July 1995.
1464.	In July 1995, Tomislav Kovač was the acting Minister of Interior. The civilian police was organised in two sections: the regular police force and the special police brigade.
1465.	In accordance with the law in effect in the RS, MUP units could be re-subordinated to the VRS for various purposes, including to reinforce the VRS during combat activities. When re-subordinated, the MUP forces followed orders issued by the VRS. The commander of the VRS unit to which the MUP unit was re-subordinated and the commander of the MUP unit coordinated their work in carrying out the tasks assigned by the VRS.
1466.	~~MUP forces were engaged in combat operations for a specific time to carry out a precisely described task. During their resubordination, MUP forces retained their formation and could not be disintegrated or separated.~~
1467.	MUP forces, including a special MUP unit as well as units of municipal police, were also operating in the Drina Corps zone of responsibility during July 1995.
1468.	On 11 July 1995, before the VRS found out about the formation and movement of the Bosnian Muslim column, the Main Staff ordered the Drina Corps to take pre-emptive steps, "by arrangement and co-operation with the MUP" to block the passage of Bosnian Muslims to and from the enclave.

Proposed Fact No.	Proposed Adjudicated Fact
1469.	MUP units were present in Potočari and they were also placed along the Bratunac-Konjević Polje road, where they engaged in blocking and capturing large numbers of men from the Bosnian Muslim column on 13 July 1995.
1470.	Upon the withdrawal of the 28th Division from the enclave following the take-over of Srebrenica, MUP forces were incorporated into the "follow-up" operation.
1471.	The Drina Corps command was well aware of the presence of the 65th Protection Regiment within its zone of responsibility following the takeover of Srebrenica and was organising cooperative action with it to block the column of Muslim men.
1472.	The VRS offensive on Srebrenica began in earnest on 6 July 1995.
1473.	Early in the morning five rockets exploded near the DutchBat headquarters in Potočari.
1474.	Shelling on 7 and 8 July was relatively quiet due to weather conditions but intensified on July 9. Targets included Srebrenica town, Potočari and DutchBat positions.
1475.	Srebrenica remained under fire until the enclave fell.
1476.	In the days following 6 July 1995, the five UNPROFOR observation posts in the southern part of the enclave fell one by one in the face of the advance of the VRS.
1477.	Soldiers at the OPs were detained and forced to hand over their equipment, including in one case an armoured personnel carrier ("APC").
1478.	Some of the Dutch soldiers retreated into the enclave after their posts were attacked, but the crews of the other observation posts surrendered into Bosnian Serb custody.
1479.	The DutchBat soldiers who were detained were taken to Bratunac and Milići.
1480.	Simultaneously, the defending ABiH forces came under heavy fire and were pushed back towards the town.
1481.	Contrary to the expectations of the VRS, the ABiH showed very little resistance.
1482.	Once the southern perimeter began to collapse, about 4,000 Bosnian Muslim residents, who had been living in a nearby Swedish housing complex for refugees, fled north into Srebrenica town.
1483.	By the evening of 9 July, the VRS had pressed four kilometres deep into the enclave, halting just one kilometre short of Srebrenica town.
1484.	Shelling continued on 10 and 11 July.
1485.	On the morning of 10 July, the situation in Srebrenica town was tense. Residents, some armed, crowded the streets.

Proposed Fact No.	Proposed Adjudicated Fact
1486.	By 10 July, some 30,000 refugees from the surrounding area had gathered around the UN Base in Srebrenica town and at the UNPROFOR Headquarters in Potočari.
1487.	On 10 July, shells fired by the VRS hit a hospital where 2,000 civilians had gathered for refuge, and six of them were killed.
1488.	On 11 July, the VRS entered the town of Srebrenica.
1489.	On 11 July, the VRS, including elements of the Bratunac Brigade, shelled and shot at a column of civilian refugees headed from Srebrenica town to Potočari.
1490.	Thousands of residents, desperate for protection, crowded around the UNPROFOR Bravo Company compound in Srebrenica, eventually forcing their way inside.
1491.	The chaotic scene was exacerbated when mortar shells landed inside the compound around noon on 11 July, wounding several people.
1492.	Following the shelling of Bravo Company and with the encouragement of the DutchBat troops, Bosnian Muslim residents from Srebrenica began to move north towards Potočari.
1493.	The VRS also embarked upon a campaign of burning Bosnian Muslim houses.
1494.	Many of the Bosnian Muslim men decided to take to the woods in the northwestern part of the Srebrenica enclave.
1495.	DutchBat Commander Colonel Thomas Karremans sent urgent requests for NATO air support to defend the town, but no assistance was forthcoming until around 14:30 on 11 July, when NATO bombed VRS tanks advancing towards the town.
1496.	NATO planes also attempted to bomb VRS artillery positions overlooking the town, but had to abort the operation due to poor visibility.
1497.	NATO plans to continue the air strikes were abandoned following VRS threats to kill Dutch troops being held in the custody of the VRS, as well as threats to shell the UN Potočari compound on the outside of the town, and surrounding areas, where 20,000 to 30,000 civilians had fled.
1498.	Upon their arrival in Srebrenica town, members of the 10th Sabotage Detachment were calling on the few people who remained there to leave their houses.
1499.	Late in the afternoon of 11 July 1995, General Mladić, accompanied by General Živanović (then Commander of the Drina Corps), General Krstić (then Deputy Commander and Chief of Staff of the Drina Corps) and other VRS officers, took a triumphant walk through the empty streets of Srebrenica town.
1500.	Faced with the reality that Srebrenica had fallen under the control of Bosnian Serb forces, thousands of Bosnian Muslim residents from Srebrenica fled to Potočari seeking protection within the UN compound.
1501.	The refugees fleeing to Potočari were shot at and shelled.
1502.	By the end of 11 July, an estimated 20,000 to 25,000 Bosnian Muslims were gathered in Potočari. Several thousand had pressed inside the UN compound itself, while the rest were spread throughout the neighbouring factories and fields.

Proposed Fact No.	Proposed Adjudicated Fact
1503.	There was very little food or water in Potočari from 11 to 13 July and the July heat was stifling.
1504.	The small water supply available was insufficient for the 20,000 to 30,000 refugees who were outside the UNPROFOR compound.
1505.	The standards of hygiene within Potočari had completely deteriorated. Many of the refugees seeking shelter in the UNPROFOR headquarters were injured and there was a dramatic shortage of medical supplies.
1506.	~~On 12 and 13 July 1995, upon the arrival of Serb forces in Potočari, the Bosnian Muslim refugees taking shelter in and around the compound were subjected to a terror campaign comprised of threats, insults, looting and burning of nearby houses, beatings, rapes, and murders.~~
1507.	The refugees in the compound could see Serb soldiers setting houses and haystacks on fire.
1508.	~~As a result, the inhabitants were forced to flee from their houses to the UN compound.~~
1509.	Screams, gunshots and other frightening noises were audible throughout the night and no one could sleep. Soldiers were picking people out of the crowd and taking them away; some returned, others did not.
1510.	As a consequence of the threatening atmosphere, several refugees committed suicide, or attempted to do so.
1511.	~~Before the end of the ceasefire at 10:00 on 12 July and coinciding with the third Hotel Fontana meeting, the VRS carried out an attack in the north of the enclave.~~
1512.	Throughout the afternoon of 12 July, Serb soldiers mingled in the crowd.
1513.	On 12 July, Major Franken drew up a list containing the names of the men in and around the compound. Major Franken made his list in an effort to safeguard their lives by establishing a record of their presence in the compound.
1514.	DutchBat soldiers working together with the Bosnian Muslim representatives attempted to make a list of the men above the age of 15 in and around the UNPROFOR headquarters.
1515.	Many of the Bosnian Muslims refused to have their names recorded because they feared that the list would be found by the Serb army and put them further at risk.
1516.	At around 20:00 on 11 July 1995, General Mladić summoned UNPROFOR leaders for the first of three meetings with VRS officials at the Hotel Fontana in Bratunac.
1517.	The DutchBat delegation, consisting of Colonel Karremans, Major Pieter Boering, and other officers, was accompanied to the Hotel Fontana by Captain Momir Nikolić of the Bratunac Brigade.
1518.	Upon arrival at the hotel, the DutchBat delegation saw several of their own soldiers held as hostages in a room in the hotel.
1519.	General Mladić led the meeting, which lasted approximately one hour.

Proposed Fact No.	Proposed Adjudicated Fact
1520.	General Živanović, then-Commander of the Drina Corps, was present along with other Drina Corps officers, including Lieutenant Colonel Svetozar Kosorić, the Drina Corps Chief of Intelligence, and Captain First Class Momir Nikolić, the Assistant Commander for Intelligence and Security of the Bratunac Brigade.
1521.	The VRS was represented by General Mladić and Colonel Janković of the Main Staff, and by General Živanović and Lieutenant Colonel Kosorić of the Drina Corps.
1522.	Colonel Karremans sought assurances that DutchBat and the Bosnian Muslim population would be allowed to withdraw from the area, and General Mladić stated that the Bosnian Muslim civilian population was not the target of his actions.
1523.	General Mladić stated that the goal of the meeting was to work out an arrangement with the representatives, but immediately thereafter said "you can all leave, all stay, or all die here."
1524.	During the meeting, General Mladić asked the UNPROFOR leaders to put him in contact with a representative of the ABiH, as well as Bosnian Muslim civilian representatives.
1525.	Like General Mladić, however, Colonel Karremans had no idea how to get in contact with military or civilian leaders of Srebrenica.
1526.	The meeting concluded with General Mladić telling Colonel Karremans to return later that same evening at 23:00 for a second meeting.
1527.	As General Mladić had directed, the second meeting at the Hotel Fontana took place around 23:00 that same evening.
1528.	General Mladić again presided at the meeting.
1529.	~~This time General Živanović was not present but General Krstić was. Colonel Kosorić and Major Momir Nikolić from the Drina Corps were also in attendance at this meeting.~~
1530.	General Krstić represented the Drina Corps and he sat next to General Mladić, although he did not speak.
1531.	The DutchBat representatives arrived with a schoolteacher named Nesib Mandžić, an unofficial Bosnian Muslim representative who was plucked from the crowd in Potočari.
1532.	General Mladić stated that he would provide the vehicles to transport the Srebrenica refugees out of Potočari.
1533.	General Mladić demanded that all ABiH troops within the area of the former enclave lay down their arms and made it clear that, if this did not happen, the survival of the Bosnian Muslim population would be in danger. He said he wanted a clear position on whether the Bosnian Muslims wanted to "survive, stay, or disappear".
1534.	Mr. Mandžić pleaded with General Mladić that he did not know where the 28th Division was, and in any event had no power to commit the ABiH to any course of action, nor did he have the authority to negotiate on behalf of the civilian population.
1535.	~~At the Hotel Fontana meetings on the evening of 11 July, General Mladić asked UNPROFOR to organise the buses for the transport of the Bosnian Muslim refugees out of the enclave.~~
1536.	General Mladić scheduled a follow-up meeting for the next morning.
1537.	On 12 July 1995 at about 10:00, General Mladić convened the third and final meeting to discuss the fate of the Srebrenica Muslims.

Proposed Fact No.	Proposed Adjudicated Fact
1538.	General Mladić dominated the meeting, with General Krstić sitting at his side. Colonel Kosorić was also present as a representative of the Drina Corps at the meeting.
1539.	Also in attendance were Miroslav Deronjić, the newly-appointed Civilian Commissioner for Srebrenica; Ljubisav Simić, President of the Bratunac Municipal Assembly; Srbislav Davidović, President of the Executive Board of the Bratunac Municipality; and Dragomir Vasić, Chief of the Zvornik Centre for Public Security.
1540.	By this time, the VRS had obtained information about the existence of the Bosnian Muslim column attempting to break out of the former enclave.
1541.	~~The DutchBat representatives, still unable to contact the official Bosnian Muslim military or civilian leaders of Srebrenica, had again brought Mr. Mandzić, along with two more unofficial representatives from the Potočari refugees: Ms. ^amila Omanovi}, an economist; and Mr. Ibro Nuhanovi}, a businessman.~~
1542.	General Mladić again made it clear that survival of the Srebrenica Muslims was conditional upon a military surrender.
1543.	General Mladić stated that he would provide the vehicles.
1544.	General Mladić stipulated that the fuel would have to be provided by someone else and suggested that UNPROFOR assume responsibility for this.
1545.	General Mladić also informed those present that all men between the ages of about 17 and 70 would have to be separated and screened to separate out possible "war criminals."
1546.	~~At the Hotel Fontana meeting on 12 July 1995, General Mladić said that military-aged men in the crowd at Potočari would be screened for war crimes.~~
1547.	The Drina Corps Bratunac Brigade had prepared a list, dated 12 July, of 387 suspected Bosnian Muslim war criminals in the Srebrenica enclave.
1548.	The military aged men who fled Potočari were systematically separated from the other refugees.
1549.	No effort thereafter was made to distinguish the soldiers from the civilians.
1550.	The separations continued throughout 12 and 13 July.
1551.	Elements of the Bratunac Brigade participated in the separations of Bosnian Muslim men from the Bosnian women, children and elderly in Potočari. Members of the Bratunac Brigade Military Police participated in the separations, by actively separating men from their families and by providing security for the other units engaged in the separations.
1552.	The separations were frequently aggressive. DutchBat members protested, especially when the men were too young or too old to reasonably be screened for war criminals or to be considered members of the military, and when the soldiers were being violent.
1553.	The assistant commander for security and intelligence, Captain Nikolić, participated in the separations of Bosnian Muslim men from the rest of the Bosnian Muslim population in Potočari on 12 and 13 July.

Proposed Fact No.	Proposed Adjudicated Fact
1554.	Drina Corps officers were present in Potočari on 12 and 13 July and, in addition, Drina Corps units were seen in the vicinity of Potočari on 12 and 13 July.
1555.	General Krstić was in Potočari for between an hour and two hours in the afternoon of 12 July 1995 and he was present with other VRS officers, including General Mladić, overseeing the bussing of the Bosnian Muslim women, children and elderly.
1556.	General Krstić was present within the area of the former Srebrenica enclave at least up until the evening of 13 July, by which time the first mass executions had already taken place.
1557.	Members of the Bratunac Brigade also were present in Potočari at the time when the women, children, and elderly were moved out. One of these, Major Momir Nikolić (the Bratunac Brigade Assistant Commander for Intelligence and Security), was known to soldiers and UN Military Observers in the area as a liaison officer prior to the takeover of Srebrenica.
1558.	Major Nikolić was seen in Potočari on both 12 and 13 July.
1559.	There was also an array of non-Drina Corps Serb forces present in Potočari on 12 and 13 July.
1560.	In Potočari members of the Bratunac Brigade and MUP Special Police Brigade were seen, as well as civilian police officers from the Bratunac municipal police, the 10th Sabotage Detachment and the Drina Wolves.
1561.	There were VRS Main Staff officers reporting directly to General Mladić.
1562.	Serb military police wearing blue uniforms with black belts and driving police vehicles were identified.
1563.	A person who identified himself as Captain Mane from the police and his commander, who went by the code name of "Stalin", were also present in Potočari.
1564.	Serb forces from outside the Srebrenica area had also been brought in.
1565.	~~By around noon on 12 July 1995, dozens of buses and trucks were arriving in Potočari to collect the Bosnian Muslim women, children, and elderly.~~
1566.	Early in the morning of 12 July, General Živanović signed an order addressed to all the subordinate units of the Drina Corps directing that "all buses and mini-buses belonging to the VRS be secured for use by the Drina Corps," arrive at the Bratunac stadium by 16:30, and follow instructions about locations for fuel distribution.
	The order further stated that the Drina Corps Command had sent a message to the RS Ministry of Defence asking for private buses to be mobilised.
1567.	The same morning, the RS Ministry of Defence sent three orders to its local secretariats directed them to procure buses and send them to Bratunac.
1568.	The Bratunac Brigade was monitoring fuel disbursements to buses and trucks on 12 and 13 July.
1569.	Buses procured by the Drina Corps were used for the transportation of Bosnian Muslim prisoners to detention and execution sites.

Proposed Fact No.	Proposed Adjudicated Fact
1570.	The Bratunac Brigade contributed vehicles and fuel to the transfer operation.
1571.	The Bosnian Muslim women, children and elderly, as well as a small number of men, who boarded the buses on July 12, bound for Bosnian Muslim held territory, were counted by members of the Bratunac Brigade Military Police, present in Potočari pursuant to an order by Captain Momir Nikolić of the Bratunac Brigade. Members of the MUP assisted in this task.
1572.	Drina Corps Command officers and units were present in Potočari monitoring the transportation of the Bosnian Muslim civilians out of the area on 12 and 13 July 1995.
1573.	On 12 and 13 July 1995, the women, children, and elderly were bussed out of Potočari, under the control of VRS forces, to Bosnian Muslim-held territory near Kladanj.
1574.	Some soldiers were hitting and abusing the refugees as they boarded the buses.
1575.	On 12 and 13 July 1995, about 25,000 Bosnian Muslim civilians were bussed outside the enclave of Srebrenica to the territory under BiH control.
1576.	On 12 July, a DutchBat soldier spoke to Colonel Svetozar Kosorić about arranging for DutchBat troops to accompany a convoy of Bosnian Muslim refugees from Potočari.
1577.	~~These escorts were tolerated by the VRS for the first convoys on 12 July. Thereafter, the VRS stopped the escorts.~~
1578.	Members of the Bratunac Brigade Military Police coordinated the boarding of the buses by the Bosnian Muslim refugees.
1579.	Elements of the Bratunac Brigade regulated traffic as the buses passed through Bratunac on their way to Konjević Polje.
1580.	~~While it was agreed that the injured would be transported first, the VRS refused to adhere to this agreement. When Colonel Karremans complained to General Mladić, Mladić stated that the organisation of the transport would be determined by the VRS.~~
1581.	Along the road, some village residents taunted the passengers with the three-fingered Serb salute. Others threw stones at the passing buses.
1582.	Most of the women, children, and elderly arrived safely at Tišća.
1583.	After disembarking, they were forced to continue on foot for several kilometres through the "no-man's land" between the Bosnian Serb and Bosnian Muslim lines to Kladanj.
1584.	DutchBat soldiers attempted to escort the buses carrying the Bosnian Muslim civilians out of Potočari. They succeeded in accompanying the first convoy of refugees on 12 July, but thereafter they were stopped along the way and their vehicles were stolen at gunpoint.
1585.	The VRS stole 16 to 18 DutchBat jeeps, as well as around 100 small arms, which rendered further DutchBat escorts impossible.
1586.	The removal of the Bosnian Muslim civilian population from Potočari was completed on the evening of 13 July by 20:00.
1587.	On the evening of 13 July, General Krstić issued his order directing units of the Drina Corps to search the area of the former Srebrenica enclave for Bosnian Muslims.

Proposed Fact No.	Proposed Adjudicated Fact
1588.	When UN soldiers visited the town of Srebrenica on 14 July, they did not find a single Bosnian Muslim alive in the town.
1589.	On 14 July, the UN Security Council expressed concern about the forced relocation of civilians from the Srebrenica "safe area" by the Bosnian Serbs, asserting it was a clear violation of their human rights.
1590.	On 17 July, in the face of growing international condenmation, Major Robert Franken, the Deputy Commander of DutchBat, met with a VRS delegation to discuss the situation of wounded Bosnian Muslims in the area of the former enclave.
1591.	~~The Srebrenica citizens who gathered in Potočari were not returned to their homes as soon as hostilities in the area in question had ceased.~~
1592.	~~Active hostilities in Srebrenica town itself and to the south of the enclave had already ceased by the time people were bussed out of Potočari.~~
1593.	No military threat was present following the taking of Srebrenica.
1594.	As the situation in Potočari escalated towards crisis on the evening of 11 July 1995, word spread through the Bosnian Muslim community that the able-bodied men should take to the woods, form a column together with members of the 28th Division of the ABiH, and attempt a breakthrough towards Bosnian Muslim-held territory in the north.
1595.	At around 22:00 on the evening of 11 July, the "division command", together with the Bosnian Muslim municipal authorities of Srebrenica, made the decision to form the column.
1596.	On 12 July 1995, as the crisis deepened in Srebrenica, 10.000 to 15.000 mostly Bosnian Muslim men and boys, both civilians and members of the 28th Division of the ABiH, formed a column and proceeded toward Muslim-held territory in Tuzla.
1597.	The column gathered near the villages of Jaglici and Šušnjari and began to trek north.
1598.	The group consisted predominately of boys and men who were between the ages of 16 and 65.
1599.	A small number of women, children, and elderly travelled with the column in the woods.
1600.	As the Bosnian Muslim column attempted to break out of the enclave, it first moved through the area of responsibility of the Bratunac Brigade.
1601.	Leaving the area of the Bratunac Brigade, the column moved up towards the Zvornik Brigade's zone of responsibility.
1602.	The Drina Corps' subordinate Brigades, particularly the Bratunac and Zvornik Brigades, engaged in combat with the column as it attempted to break through to Bosnian Muslim held territory.
1603.	Around one third of the men in the column were Bosnian Muslim soldiers from the 28th Division, although not all of the soldiers were armed. The head of the column was comprised of units of the 28th Division, then came civilians mixed with soldiers, and the last section of the column was the Independent Battalion of the 28th Division.

Proposed Fact No.	Proposed Adjudicated Fact
1604.	At around midnight on 11 July, the column started moving along the axis between Konjević Polje and Bratunac.
1605.	In the days following the 11 and 12 July meetings at the Hotel Fontana, VRS units, including units of the Drina Corps that were not engaged in the Žepa campaign, were assigned to block the column.
1606.	In addition to these Drina Corps units, non-Drina Corps units, including the MUP Special Police Brigade, elements of the Military Police Battalion of the 65th Protection Regiment, and subsequently elements of the municipal police, also took action to block the column.
1607.	Between 12 and 17 July 1995, the Drina Corps carried out searches of the area with the purpose of capturing the men from the column.
1608.	The Drina Corps' subordinate Brigades, particularly the Zvornik and Bratunac Brigades, were continuously reporting to the Drina Corps Command about matters relating to the column between 12 and 18 July.
1609.	On 12 July, Bosnian Serb forces launched an artillery attack against the column that was crossing an asphalt road between the area of Konjević Polje and Nova Kasaba en route to Tuzla.
1610.	Only about one third of the men successfully made it across the asphalt road and the column was split in two parts.
1611.	Heavy shooting and shelling continued against the remainder of the column throughout the day and during the night.
1612.	By the afternoon or early evening of 12 July 1995, the Bosnian Serb forces were capturing large numbers of these men in the rear.
1613.	Ambushes were set up and, in other places, the Bosnian Serbs shouted into the forest, urging the men to surrender and promising that the Geneva Conventions would be complied with.
1614.	In some places, Bosnian Serb forces fired into the woods with anti-aircraft guns and other weapons, or used stolen UN equipment to deceive the Bosnian Muslim men into believing that the UN or the Red Cross were present to monitor the treatment accorded to them upon capture.
1615.	By the morning of 13 July, a group of approximately 2,000 to 3,000 people from the column had reached an area between Konjević Polje and Nova Kasaba.
1616.	On 13 July 1995, MUP forces were deployed along the stretch of road between Konjevi} Polje and Bratunac where the bulk of the Bosnian Muslim prisoners were captured from the column.
1617.	Bosnian Serb forces stripped the captured Muslim men of their personal belongings and, in some cases, carried out random summary executions.
1618.	The largest groups of Bosnian Muslim men from the column were captured along the road between Bratunac and Konjević Polje on 13 July.
1619.	Several thousand Bosnian Muslim men from the column who were captured on 13 July 1995 were collected in or near the Sandići Meadow and on the Nova Kasaba football field.
1620.	~~In addition, an estimated 1,500 and 3,000 men captured from the column were held prisoner on the Nova Kasaba football field on 13 July.~~

Proposed Fact No.	Proposed Adjudicated Fact
1621.	As in the Sandići Meadow, the men at Nova Kasaba were forced to turn over their valuables and abandon their belongings.
1622.	Throughout the day prisoners were beaten and some were killed.
1623.	General Mladić visited the Novo Kasaba field in the afternoon of 13 July.
1624.	Late in the afternoon of 13 July, General Mladić visited the meadow and told the men that they would not be hurt, but would be exchanged as prisoners of war, and that their families had been transported safely to Tuzla.
1625.	The Bosnian Serb forces on the scene began shepherding the men out of the meadow. Some were put on buses or marched towards the nearby Kravica Warehouse. Others were loaded on buses and trucks and taken to Bratunac and other nearby locations.
1626.	The Bosnian Muslim men who had surrendered or had been captured were also detained in buses and trucks. In Kravica, some trucks stopped by a supermarket on 13 July. Around 119 men were detained in one truck.
1627.	When the last escorted convoy returned towards Potočari on 13 July, the football field was empty, apart from the body of a dead man and a pile of burning personal belongings.
1628.	On 13 July, the column continued its journey up along the Kalesija-Zvornik road, where they too were caught in ambushes and suffered further casualties. After one unsuccessful attempt to move forward to the Bosnian Muslim front lines on 15 July, the head of the column finally managed to break through to Bosnian Muslim-held territory on 16 July.
1629.	ABiH forces attacking from the direction of Tuzla assisted by piercing a line of about one-and-a-half kilometres for the emerging column.
1630.	Attack resumed on 14 and 15 July against the third of the column that had managed to cross the asphalt road between Konjević Polje and Nova Kasaba on 11-12 July.
1631.	The Drina Corps Command knew that thousands of Bosnian Muslim prisoners had been captured along the Bratunac-Konjević Polje Road on 13 July 1995.
1632.	Pursuant to an order issued by General Krstić on 13 July 1995, Drina Corps units were also involved in conducting sweep operations in the area of the former enclave.
1633.	Three subordinate units of the Drina Corps, namely, the Bratunac Brigade, the Skelani Separate Battalion and the Milići Brigade, were directed to conduct search operations in and around the former enclave for Bosnian Muslim stragglers, and to report back to General Krstić by 17 July 1995 on their efforts.
1634.	Colonel Ignjat Milanović, the Drina Corps Chief of Anti-Aircraft Defence, reported back to General Krstić on the situation within the zones of the Bratunac Brigade, the Milići Brigade, and the Skelani Separate Battalion on 15 July.
1635.	Colonel Milanović wrote that he had acquainted himself with the situation to the east of the Milići-Konjević Polje-Bratunac road, and that large groups of enemy soldiers were still present in this area. He indicated that the Bratunac Brigade was still searching this terrain.
1636.	Colonel Milanović proposed, in the absence of available personnel from the Drina Corps Command, the appointment of the Commander of the Bratunac Brigade, Colonel Vidoje Blagojević, as the commander of the forces engaged in sweeping the terrain. General Krstić subsequently accepted this proposal.

Proposed Fact No.	Proposed Adjudicated Fact
1637.	~~At a meeting held at the Bratunac Brigade Headquarters on 16 July, part of the MUP force was deployed to search the terrain between Srebrenica and Konjević Polje.~~
1638.	On 16 July, Colonel Blagojević reported that he had visited all units involved in blocking the enemy, including the MUP, and that he had "defined their tasks, and organised their joint actions and communications."
1639.	In the morning of 17 July the search commenced in Kravica, moving in the direction of Konjević Polje.
1640.	By the evening, about 200 Bosnian Muslims had surrendered, including four children.
1641.	~~The Drina Corps command was well aware of the presence of the 65th Protection Regiment within its zone of responsibility following the takeover of Srebrenica and was organising cooperative action with it to block the column of Muslim men.~~
1642.	Thousands of Bosnian Muslim men from the Srebrenica enclave were executed and buried in different locations in the Srebrenica, Bratunac and Zvornik municipalities.
1643.	Between 7,000 – 8,000 Bosnian Muslim men were systematically murdered.
1644.	Some were killed individually or in small groups by the soldiers who captured them and some were killed in the places where they were temporarily detained.
1645.	Most, however, were slaughtered in carefully orchestrated mass executions, commencing on 13 July 1995, in the region just north of Srebrenica.
1646.	~~In executing the captured Bosnian Muslim men, no effort was made to distinguish the soldiers from the civilians.~~
1647.	All of the executions systematically targeted Bosnian Muslim men of military age, regardless of whether they were civilians or soldiers.
1648.	The groups of Bosnian Muslims killed by the VRS included boys and elderly men normally considered outside the range of military age.
1649.	Some of the victims were severely handicapped and, for that reason, unlikely to have been combatants.
1650.	Serious bodily or mental harm was done to the few individuals who survived the mass executions.
1651.	During the days immediately after the fall of the Srebrenica enclave, a number of corpses were discovered in the Potočari area. The bodies of nine men who had been killed were discovered on 12 July by DutchBat in a field near the river, about 500 metres from the UN Compound. The dead men were all dressed in civilian clothes and had been shot in the back. The location where the bodies were found is on the west side of the main road. Budak is on the west side of the main road
1652.	From the morning of 12 July, Bosnian Serb forces began gathering men from the refugee population in Potočari and holding them in separate locations.
1653.	As the Bosnian Muslim refugees began boarding the buses, Bosnian Serb soldiers systematically separated out men of military age who were trying to clamour aboard. Occasionally, younger and older men were stopped as well.

Proposed Fact No.	Proposed Adjudicated Fact
1654.	The separated men were taken to a building in Potočari referred to as the "White House".
1655.	The Bosnian Muslim Men were forced to leave passports and identity cards in front of the White House.
1656.	Drina Corps officers were also seen in the vicinity of the "White House" during the time the separated men were detained there.
1657.	At all times, the lawn in front of the White House held large numbers of visibly frightened men, who were taken into the White House at regular intervals.
1658.	DutchBat patrols attempted to monitor the situation but the VRS did not allow them to enter the White House.
1659.	One Dutch officer was removed from the premises at gunpoint.
1660.	In the afternoon of 12 July, UNMO Colonel Joseph Kingori, alarmed at reports that Bosnian Muslim men were being taken behind the White House and shot, asked General Mladić to explain the situation.
1661.	~~Single shots were heard not far from the White House.~~
1662.	A DutchBat soldier witnessed the execution of a Bosnian Muslim man behind the White House on 13 July.
1663.	Most of the men detained in the White House were bussed to Bratunac, from the afternoon of 12 July throughout 13 July, and were subsequently led to execution sites.
1664.	Beginning on the afternoon of 12 July and continuing throughout 13 July, men detained in the White House were placed on separate buses from the women, children and elderly and were taken out of the Potočari compound to detention sites in Bratunac.
1665.	The Bosnian Muslim men who were transported out of Potočari on 13 July were taken in the direction of Bratunac and ultimately to the Zvornik Brigade area of responsibility.
1666.	Identification papers and personal belongings were taken away from both Bosnian Muslim men at Potočari and from men captured from the column.
1667.	After all of the Bosnian Muslim civilians had gone from Potočari, the piles of personal effects, including identity cards, which had been taken from the Bosnian Muslim men and boys were set on fire.
1668.	From 12 to 14 July 1995, several thousand Bosnian Muslim men were detained without adequate food and water in and around the Vuk Karadžić School and on board the between 80 to 120 buses lining the streets of Bratunac town.
1669.	Around 2,000-3,000 men were detained in Bratunac town at the Vuk Karadžić School and the buildings surrounding it.
1670.	The Vuk Karadžić School and the various buildings surrounding it were secured by several units of the Republika Srpska armed forces, including by members of the Bratunac Brigade Military Police Platoon, by the special police, by the civilian police of the MUP, as well as by members of the Drina Wolves and paramilitary formations.

Proposed Fact No.	Proposed Adjudicated Fact
1671.	The prisoners detained at the Vuk Karadžić School building were deprived of sufficient water and of medical aid.
1672.	Prisoners would frequently be taken out of the school by VRS soldiers in camouflage uniforms and policemen in blue uniforms.
1673.	One of the prisoners was brutally beaten by a policeman around the head and shoulders with an automatic rifle, and ended up covered in blood. He was later called outside by the same policeman and those inside heard awful screams. The man never returned. Men were removed in this manner on several occasions and day and night the sound of prisoners groaning and screaming outside the school could be heard.
1674.	On the evening of 12 July, prisoners were detained in a warehouse-looking building called the hangar, which was located behind the Vuk Karadžić School.
1675.	The hangar became so full that there was not enough space for everyone to sit down and the detained men complained that they would suffocate due to the lack of space and air. The soldiers threatened to kill them if they did not keep silent.
1676.	One man was taken from the hangar, and the prisoners then heard blunt blows and his screams and moans. When the screams stopped, the soldiers came back with flashlights and called out again for people from various towns to identify themselves. When no prisoners responded, the soldiers selected people at random with the beam of a flashlight.
1677.	On a few occasions, soldiers brought beaten up prisoners back into the hangar.
1678.	Some men had to hold badly beaten prisoners due to the lack of space and some of the wounded died overnight.
1679.	On 13 July, the soldiers allowed the prisoners to take the dead bodies out of the hangar. Ten men were chosen to load the bodies in vehicles and these men never came back.
1680.	Trucks also arrived a second time to take away dead bodies and also on this occasion ten prisoners were ordered to load the bodies. Also these ten men were never seen again.
1681.	Prisoners returning from the toilet would be selected at random and killed.
1682.	On 13 July, prisoners were also detained in buses parked outside the Vuk Karadžić School.
1683.	Groups of men were taken from the buses to the school all through the night and did not return.
1684.	Between 12 and 14 July, more than 50 Bosnian Muslim men were summarily executed in and around the Vuk Karadžić School.
1685.	Members of the Bratunac Brigade Military Police participated in guarding hundreds of Bosnian Muslim men detained in the Vuk Karadžić school complex and the buses parked around Bratunac town on the night of 12 and 13 July.
1686.	The representative for the Bratunac Department of Defence arranged for a truck which transported the bodies from the school to Glogova where a grave had already been dug.
1687.	After the bodies had been removed, approximately 20-30 women from Bratunac, who had been arrested for looting in Potočari and Srebrenica, were ordered by the municipality to clean up the school.

Proposed Fact No.	Proposed Adjudicated Fact
1688.	A mentally retarded Bosnian Muslim in a bus outside the Vuk Karadžić School had fallen asleep and, upon being suddenly awoken by a member of the military police, accidentally hit the policeman's flak jacket. The man was removed from the bus and taken to the school. A short burst of gun-fire was heard and the man did not come back.
1689.	On the morning of 13 July, 16 Bosnian Muslim men who had been captured from the column were transported by bus from the warehouse in Konjević Polje to the Jadar River bank. Amongst them was a 15 year old boy.
1690.	After the men got off the bus they were lined up alongside the river. Four Serb soldiers who had escorted them in the bus opened fire with their automatic rifles.
1691.	One of the Bosnian Muslim men survived as he threw himself into the river after he was hit by a bullet.
1692.	The Cerska Valley road is in the zone of operations of the Drina Corps, specifically either the Milići Brigade or the Vlasenica Brigade.
1693.	~~The sound of light arms and machinegun fire was heard. The shooting lasted for about half an hour.~~
1694.	~~The buses came back the same way. The buses were followed by the APC and some time later the excavator.~~
1695.	150 men were transported to area along road in Cerska Valley about 3 km from Konjević Polje and summarily executed.
1696.	Between 7 and 18 July 1996, investigators from the Office of the Prosecutor, in conjunction with a team from Physicians for Human Rights, exhumed a mass grave to the southwest of the road through the Cerska Valley from the main road from Konjević Polje to Nova Kasaba.
1697.	Physical evidence indicates that the Cerska Valley victims had been placed on the roadside while their executioners stood across the road and that soil from the northeast side of the road was used to cover the bodies where they fell.
1698.	One hundred and fifty bodies were recovered from a mass grave near Cerska, and the cause of death for 149 was determined to be gunshot wounds.
1699.	All of the bodies exhumed were male, with a mean age from 14 to 50.
1700.	Of the bodies exhumed, 147 were wearing civilian clothes.
1701.	Forty-eight wire ligatures were recovered from the grave, about half of which were still in place binding the victims hands behind their backs.
1702.	Experts were able to positively identify nine of the exhumed bodies as persons listed as missing following the takeover of Srebrenica. All nine were Bosnian Muslim men.
1703.	Investigation into the cartridges discovered at the grave site revealed that the cartridges found in the grave itself matched with those found along the road at the gravesite, indicating that the victims in the grave were shot at the gravesite.
1704.	The bodies of the victims had been covered by transferring earth removed from the roadside opposite to the burial site, using earthmoving equipment.

Proposed Fact No.	Proposed Adjudicated Fact
1705.	Between 1,000 and 1,500 Bosnian Muslim men from the column fleeing through the woods, who had been captured and detained in Sandići Meadow, were bussed or marched to the Kravica Warehouse on the afternoon of 13 July 1995.
1706.	At around 18.00 hours, when the warehouse was full, the soldiers started throwing grenades and shooting directly into the midst of the men packed inside.
1707.	Guards surrounding the building killed prisoners who tried to escape through the windows.
1708.	By the time the shooting stopped, the warehouse was filled with corpses.
1709.	On the evening of 13 July 1995, approximately 1,000 Bosnian Muslim men were executed in a warehouse in Kravica.
1710.	The next morning (14 July 1995), the soldiers called out to see if any of the wounded men were still alive. Upon identifying some wounded prisoners, the guards made some of them sing Serb songs and then they killed them.
1711.	After the last one had been killed, an excavator began taking the bodies out of the warehouse. A water tank was used to wash the blood off the asphalt.
1712.	On the evening of 13 July, Colonel Beara, together with Miroslav Deronjić and others, began organising the burials of the Bosnian Muslim men killed at the Kravica Warehouse.
1713.	Between 14 and 16 July, the bodies of the Bosnian Muslim men were taken in trucks from the Kravica Warehouse to be buried at grave sites in Glogova and Ravnice.
1714.	Members of the Bratunac Brigade participated in the burial of the victims of the Kravica Warehouse massacre on 14 July 1995 at Glogova.
1715.	A loader of the *Rad* Utilities Company was used to load the bodies onto the trucks. It was operated by two members of the Bratunac Brigade.
1716.	Members of the Engineering Company of the Zvornik Brigade participated in the burial operation at Glogova following the mass executions at the Kravica Warehouse on 15 July 1995.
1717.	The OTP sent a team of experts to examine the Kravica warehouse on 30 September 1996. Experts determined the presence of bullet strikes, explosives residue, bullets and shell cases, as well as human blood, bones and tissue adhering to the walls and floors of the building.
1718.	The Glogova 2 gravesite was exhumed by the Office of the Prosecutor between 11 September and 22 October 1999. A minimum number of 139 individuals were found.
1719.	The gender of the victims exhumed at Glogova 2 could be determined in 109 cases and all were male.
1720.	Most of the victims exhumed at Glogova 2 died of gunshot wounds and in 22 cases there was evidence of charring to the bodies. No ligatures or blindfolds were uncovered.
1721.	Broken masonry and door frames and other artefacts found at the primary gravesite of Glogova 1 also matched the Kravica Warehouse.
1722.	The primary graves in Glogova contained the bodies of victims who had been injured as a result of an explosive blast in the form of grenades and shrapnel.

Proposed Fact No.	Proposed Adjudicated Fact
1723.	Exhumations were conducted at Glogova 1 between 7 August and 20 October 2000.
1724.	The bodies of at least 191 individuals were located at Glogova 1.
1725.	In one of the sub-graves at Glogova 1, 12 individuals bound with ligatures were found, along with evidence of blindfolds on three bodies.
1726.	The primary gravesite at Glogova 1 is less than 400 metres from the command post of the 1st Infantry Battalion of the Bratunac Brigade.
1727.	The Office of the Prosecutor exhumed the Zeleni Jadar 5 site between 1 and 21 October 1998.
1728.	Of at least 145 individuals in the grave, 120 were determined to be male, with the remainder undetermined. The predominant cause of death was gunshot wounds. Two ligatures were recovered, but no blindfolds were found.
1729.	~~Between 1,000 and 4,000 Bosnian Muslim men captured from the column were detained in the Sandići Meadow, located on the Konjević Polje-Bratunac road on 13 July. The majority of the men were civilians.~~
1730.	The soldiers guarding the men in the Sandići Meadow forced them to drop their belongings into big piles and to hand over their valuables.
1731.	While the prisoners were in the meadow they were given very little food and some water. The men were forced to lie on their stomachs, even for long periods of time, to make the Serb salute and to sing Serbian songs, such as "Long live the king, long live Serbia".
1732.	One man was made to call out to the Bosnian Muslim men in the column that it was "safe to come to the Serbs".
1733.	A prisoner who had told a Bosnian Serb officer that he had been in the firing unit, was beaten. Another man who reached out to get some water was kicked in the head by the soldiers and then shot.
1734.	During the course of the day those who were wounded or injured were sent to a house close to the meadow and were later executed.
1735.	Approximately 30 men were taken away on a truck, with spades and pickaxes, and were not seen again.
1736.	~~The Bosnian Serb forces present began ordering the men out of the meadow. While some of the detainees were marched towards the nearby Kravica Warehouse, others were loaded on buses and trucks and taken towards Bratunac and other nearby locations.~~
1737.	As the buses crowded with Bosnian Muslim women, children and elderly made their way from Potočari to Kladanj, they were stopped at Tišća, searched, and the Bosnian Muslim men found on board were removed from the bus.
1738.	The Chief of Staff of the Milići Brigade and troops from his unit were present at the Tišća screening site upon orders from the Drina Corps Command.
1739.	Drina Corps personnel were present in Tišća on 12 July 1995. A DutchBat officer escorting one of the first convoys of buses and trucks came across Major Sarkić, the Chief of Staff of the Milići Brigade, at the Tišća checkpoint.

Proposed Fact No.	Proposed Adjudicated Fact
1740.	~~The Bosnian Muslim men who managed to get to Luke by bus were separated by VRS soldiers and detained in the nearby elementary school.~~
1741.	~~From the checkpoint a number of prisoners were taken to a nearby school.~~
1742.	~~On 13 July VRS soldiers detained 22 Bosnian Muslim men at the Luke school. The men were taken off the buses and trucks that drove along the road near the school.~~
1743.	At the school, a soldier on a field telephone appeared to be transmitting and receiving orders.
1744.	In the evening, the men kept at the school were all taken into the school house and were questioned by VRS soldiers.
1745.	An elderly man was hit with the metal rod he used as a walking stick.
1746.	Sometime around midnight 23 men were loaded onto a truck with their hands tied behind their backs. The truck reached a stopping point, and soldiers came around to the back of the truck and started shooting the prisoners.
1747.	The Bosnian Muslim men, from Potočari as well as from Sandići and Nova Kasaba, who had spent the night on 13 July in Bratunac town went in a long column of buses the following day to various temporary detention facilities and execution sites in the Bratunac and Zvornik municipalities.
1748.	After being detained in Bratunac for between one and three days, the prisoners were transported elsewhere.
1749.	On 13 and 14 July, Zvornik Brigade resources had been used to locate detention sites for the prisoners.
1750.	Prisoners not killed on 13 July 1995 were subsequently bussed to execution sites further north of Bratunac, within the zone of responsibility of the Zvornik Brigade.
1751.	Members of the Bratunac Brigade Military Police were part of the VRS units that were escorting Bosnian Muslim men to the Zvornik municipality and guarding them at the detention facilities.
1752.	Members of the Bratunac Brigade Military Police participated in the transfer of Bosnian Muslim prisoners to Zvornik on the morning of 14 July. Momir Nikolić gave the instructions to the Military Police to escort the buses to Zvornik.
1753.	Orahovac is located within the zone of responsibility of the 4th Battalion of the Zvornik Brigade.
1754.	At some point late in the evening of 13 July, a detachment of military police from the Zvornik Brigade was dispatched to Orahovac.
1755.	A large group of the prisoners who had been held overnight in Bratunac were bussed in a convoy of 30 vehicles to the Grbavci school in Orahovac early in the morning of 14 July 1995.
1756.	When they got there, the school gym was already half-filled with prisoners who had been arriving since the early morning hours and, within a few hours, the building was completely full.

Proposed Fact No.	Proposed Adjudicated Fact
1757.	Between 1,000 and 2,500 Bosnian Muslim men were detained from around noon on 14 July at the Grbavci School at Orahovac.
1758.	The VRS soldiers guarding the school forced them to leave their belongings outside before entering the school.
1759.	Detainees at the Grbavci school were not given any food and were only given a little water. People fainted due to the heat.
1760.	The gym was packed and stifling.
1761.	Occasionally the guards would shoot at the ceiling to quiet the panicked prisoners.
1762.	Some prisoners were taken outside and killed.
1763.	Later on 14 July, the prisoners from the Grbavci School at Orahovac were brought to a nearby field and executed.
1764.	After being held in the gym for several hours, the men were led out in small groups to the execution fields that afternoon. Each prisoner was blindfolded and given a drink of water as he left the gym.
1765.	The prisoners were then taken in trucks to the execution fields less than one kilometre away.
1766.	The men were lined up and shot in the back; those who survived the initial gunfire were killed with an extra shot.
1767.	Two adjacent meadows were used; once one was full of bodies, the executioners moved to the other.
1768.	The executions continued throughout the afternoon and after the night fell and lasted until around 05:00 in the morning of 15 July. At night, the execution field was lit up using the headlights of either a loader or an excavator.
1769.	Members of the Bratunac Brigade Military Police participated in the transport of Bosnian Muslim men from Bratunac to the Grbavci school in Orahovac, in the Zvornik municipality, in the early afternoon of 14 July.
1770.	Soldiers from the Zvornik Brigade command and the 4th Battalion of the Zvornik Brigade assisted in guarding the prisoners at the Grbavci School in Orahovac.
1771.	Members of the Zvornik Brigade Military Police assisted in the detention of prisoners, with the approval of Dragan Obrenović, the deputy commander of the Zvornik Brigade, who knew of the murder operation at the time when he allowed the Military Police members to assist Drago Nikolić.
1772.	Members of the Zvornik Brigade participated in the detention, execution and burial of Bosnian Muslim men at the Grbavci School and nearby field in Orahovac on 14 July 1995.
1773.	Personnel from the 4th Battalion of the Zvornik Brigade were present at Orahovac during the executions, assisting in their commission.
1774.	Members of the security organ of the Zvornik Brigade were involved in the execution operation in Orahovac.

Proposed Fact No.	Proposed Adjudicated Fact
1775.	The "clean-up operation" at the Grbavci school was organised by Miomir Jasikovi}, the commander of the Military Police of the Zvornik Brigade.
1776.	Machinery and equipment belonging to the Engineers Company of the Zvornik Brigade was engaged in tasks relating to the burial of the victims from Orahovac between 14 and 16 July 1995.
1777.	Members of the Zvornik Brigade Engineering Company participated in the burials from the night of 14 July through the morning of 15 July, using the equipment belonging to the Zvornik Brigade Engineering Company.
1778.	Aerial photos show that the ground in Orahovac was disturbed between 5 and 27 July 1995.
1779.	Two primary mass graves were uncovered in the area, and were named "Lazete 1" and "Lazete 2" by investigators.
1780.	The Lazete 1 gravesite was exhumed by the Office of the Prosecutor between 13 July and 3 August 2000.
1781.	All of the 130 individuals uncovered in Lazete 1 for whom gender could be determined were male.
1782.	One hundred and thirty-eight blindfolds were uncovered in the Lazete 1 grave.
1783.	Identification material for 23 individuals, listed as missing following the fall of Srebrenica, was located during the exhumations at this site.
1784.	The gravesite Lazete 2 was partly exhumed by a joint team from the Office of the Prosecutor and Physicians for Human Rights between 19 August and 9 September 1996 and completed in 2000.
1785.	One hundred and forty-seven blindfolds were located in the Lazete 2 grave. One victim also had his legs bound with a cloth sack.
1786.	Twenty-one individuals, listed as missing following the takeover of Srebrenica, were positively identified during the first exhumation of the Lazete 2 gravesite. All of them were Bosnian Muslim men. Identification documents for a further four men listed as missing following the fall of Srebrenica were uncovered during the exhumations at this site in 2000.
1787.	On 11 April 1996, investigators from the Office of the Prosecutor uncovered numerous strips of cloth in a "rubbish" site on the grounds of the Grbavci School next to the gymnasium. These cloth strips were indistinguishable from the blindfolds uncovered during the exhumation of the Lazete 2 gravesite.
1788.	Forensic analysis of soil/pollen samples, blindfolds, ligatures, shell cases, and aerial images of creation/disturbance dates further revealed that bodies from the Lazete 1 and Lazete 2 graves were removed and reburied at secondary graves named Hodžići Road 3, 4, and 5. Aerial images show that these secondary gravesites were created between 7 September and 2 October 1995, and all of them were exhumed by the Office of the Prosecutor in 1998.
1789.	Following a similar pattern to the other Srebrenica-related gravesites, the overwhelming majority of bodies at Hodžići Road 3, 4, and 5 were determined to be male and to have died of gunshot wounds. Although only one ligature was located during exhumations at these three sites, a total of 90 blindfolds were found.

Proposed Fact No.	Proposed Adjudicated Fact
1790.	On 14 July, approximately 1000 males from detention sites in and around Bratunac were transported to the Petkovci School.
1791.	As at the other detention sites, the conditions at Petkovci School were deplorable. It was extremely hot and crowded, the men had no food or water and some prisoners became so thirsty they resorted to drinking their own urine.
1792.	Periodically, soldiers came in and beat the prisoners or called them out to be killed.
1793.	On the evening of 14 July and the early morning of 15 July, approximately 1000 men were transported from the Petkovci School to the nearby Dam and executed by automatic gunfire. The victims were buried in mass graves at the Dam. Subsequently, their remains were moved to secondary mass graves nearby.
1794.	Groups of five or ten prisoners were taken off the trucks. They were then lined up and shot. Some begged for water before being killed, but none was provided.
1795.	When the soldiers were finished with a round of killing, they laughed and made jokes. Then they walked around killing the wounded.
1796.	Drivers and trucks from the 6th Infantry Battalion of the Zvornik Brigade were used to transport the prisoners from the detention site to the execution site at Petkovci Dam on 15 July 1995
1797.	The Zvornik Brigade Engineer Company was assigned to work with earthmoving equipment to assist with the burial of the victims from Petkovci Dam.
1798.	A team of investigators from the Office of the Prosecutor exhumed a gravesite at the Petkovci Dam between 15 and 25 April 1998.
1799.	The minimum number of individuals located within this grave was 43, but only 15 could be identified as male, with the remainder undetermined. Six body parts showed definite gunshot wounds, with a further 17 showing probable or possible gunshot wounds.
1800.	Forensic tests show that a mass gravesite known as Liplje 2 is a secondary gravesite associated with the primary gravesite at Petkovci Dam.
1801.	The Liplje 2 gravesite was exhumed by the Office of the Prosecutor between 7 and 25 August 1998.
1802.	Aerial images reveal that Liplje 2 was created between 7 September and 2 October 1995.
1803.	Traces of mechanical teeth marks and wheel tracks show the grave was dug by a wheeled front loader with a toothed bucket.
1804.	A minimum number of 191 individuals were located in this grave, with 122 determined to be male and the remainder undetermined.
1805.	Where cause of death could be determined, gunshot wounds predominated.
1806.	While 23 ligatures were uncovered at Liplje 2, no definite blindfolds were found.
1807.	The execution site at the Petkovci Dam is located less than two kilometres from the command post of the Zvornik Brigade's 6th Infantry Battalion in Baljkovica.

Proposed Fact No.	Proposed Adjudicated Fact
1808.	On 14 and 15 July 1995, Zvornik Brigade resources had been used to assist with the executions at Orahovac and Petkovci Dam
1809.	A large scale execution and burial operation was carried out at Kozluk between 15 and 16 July.
1810.	The Kozluk execution site is located within the zone of responsibility of the Zvornik Brigade.
1811.	The Zvornik Brigade excavators and bulldozers operating in the Kozluk area from 16 July 1995 were involved in work related to the burial of victims from the Kozluk execution site.
1812.	Members of the Zvornik Brigade Engineering Company participated in the burial of Bosnian Muslim men in mass graves at Kozluk on 16 July 1995.
1813.	In 1999, the Office of the Prosecutor exhumed a grave near the town of Kozluk.
1814.	The minimum number of bodies uncovered from the Kozluk grave was 340, and all the individuals for whom gender could be determined were male.
1815.	Gunshot wounds were the overwhelming cause of death for those bodies in which a cause could be ascertained.
1816.	A number of bodies exhumed at Kozluk showed signs of pre-existing disability or chronic disease, ranging from arthritis to amputations.
1817.	Fifty-five blindfolds and 168 ligatures were uncovered at the Kozluk grave.
1818.	Plant specimens found in the grave proved that the executions of the victims occurred around the middle of July.
1819.	Aerial images show that the Kozluk mass gravesite was created between 5 and 17 July 1995 and that it was disturbed again between 7 and 27 September 1995.
1820.	The Kozluk primary grave is linked with the secondary grave at Čančari Road 3, which was exhumed by the Office of the Prosecutor between 27 May and 10 June 1998.
1821.	Aerial photographs show the Čančari Road 3 gravesite was first excavated after 27 September 1995, and back filled prior to 2 October 1995.
1822.	In addition to the usual analyses of soil, material, and shell cases, the link between the two graves was established by the presence at both sites of fragments of green glass bottles and bottle labels known to have come from the Vetinka bottling factory near the Kozluk mass grave.
1823.	In the Čančari Road 3 gravesite, all of the bodies for which gender could be determined were male, and gunshot wounds were the predominant cause of death for those individuals for which a cause could be ascertained.
1824.	Eight blindfolds and 37 ligatures were located during the exhumation at the Čančari Road 3 gravesite.
1825.	All the victims that were found in the primary and secondary graves wore civilian clothing.

Proposed Fact No.	Proposed Adjudicated Fact
1826.	On 14 July 1995, more prisoners from Bratunac were bused northward to a school in the village of Pilica, north of Zvornik.
1827.	As at other detention facilities, there was no food or water and several men died in the school gym from heat and dehydration.
1828.	The men were held at the Pilica School for two nights.
1829.	The Pilica School was also called Kula School.
1830.	At the Pilica School the prisoners were guarded by VRS soldiers who rotated in shifts.
1831.	During the night "two or three men died [...] from lack of air" at the Pilica School
1832.	Shooting and people crying for help were heard from behind the school.
1833.	At the Pilica School the prisoners were not always allowed to go to the toilet. When they were allowed, some of them were beaten by the soldiers with their rifles.
1834.	On 15 July, the soldiers took jewellery, watches and money from the prisoners.
1835.	At the Pilica School, during the night of 15 July men were taken out and screaming was heard. Some of the men did not return.
1836.	The Branjevo Farm itself was under the direct authority and control of the 1st Infantry Battalion of the Zvornik Brigade.
1837.	On 16 July, Bosnian Muslim men, who had been detained for two days at the Pilica School, were taken by bus to the nearby Branjevo Military Farm and executed.
1838.	On 16 July the men were called out of the school and loaded onto buses with their hands tied behind their backs.
1839.	The buses that brought the prisoners to Branjevo Farm displayed the markings of "Centrotrans Sarajevo" and "Drinatrans Zvornik" transportation companies.
1840.	Upon reaching the Farm, Drina Corps military police, who had escorted the buses of prisoners, began unloading the Bosnian Mulsim men ten at a time to be then taken away and executed.
1841.	The prisoners were taken off the buses in groups and brought to a meadow. Soldiers, standing in a line, told the men to turn their backs and shot the prisoners with automatic rifles and machine guns.
1842.	After every group of Bosnian Muslim men was executed, the soldiers asked if there was anybody still alive. The men who responded were then also killed.
1843.	When some of the soldiers recognised acquaintances from Srebrenica, they beat and humiliated them before killing them.

Proposed Fact No.	Proposed Adjudicated Fact
1844.	The killing field was covered with around 1000 dead bodies when heavy machinery arrived to bury them at the site.
1845.	Aerial photographs, taken on 17 July 1995, of an area around the Branjevo Military Farm, show a large number of bodies lying in the field near the farm, as well as traces of the excavator that collected the bodies from the field.
1846.	Drina Corps Military Police were engaged in guarding the Bosnian Muslim prisoners in the buses that took them to the execution site at the Branjevo Military Farm.
1847.	Members of the 10th Sabotage Detachment of the Main Staff took part in the killings at Branjevo Military Farm.
1848.	Drazen Erdemović, a member of the VRS 10th Sabotage Detachment, participated in the mass execution.
1849.	Mr. Erdemović and the other members of his unit received orders relating to the executions on the morning of 16 July 1995.
1850.	Zvornik Brigade equipment was used for activities relating to the burial of the victims in Branjevo Farm.
1851.	On 17 July members of the Zvornik Brigade Engineering Company participated in digging the mass graves following the execution of approximately 1,000 Bosnian Muslim men at the Branjevo Military Farm.
1852.	The Branjevo Military Farm gravesite (also known as the Pilica gravesite) was exhumed between 10 and 24 September 1996 by the Office of the Prosecutor and a team from Physicians for Human Rights.
1853.	Where the gender of the bodies could be determined it was male, and where cause of death could be determined it was by gunshot wounds.
1854.	Eighty-three ligatures and two cloth blindfolds were located in this grave. Positive identification was made for 13 individuals who were missing following the takeover of Srebrenica. All of them were Bosnian Muslim men.
1855.	A gravesite known as Čančari Road 12 was determined to be a secondary grave associated with the primary site at Branjevo Military Farm. Aerial images show this secondary grave was created between 7 and 27 September 1995 and backfilled prior to 2 October 1995.
1856.	Where the cause of death could be determined, it was by gunshot.
1857.	Sixteen ligatures and eight blindfolds were also uncovered in this grave.
1858.	One individual was positively identified as a Bosnian Muslim man listed as missing following the takeover of Srebrenica.
1859.	The Pilica Cultural Centre is in the Drina Corps zone of responsibility.
1860.	On 16 July, approximately 500 Bosnian Muslim men were killed by VRS soldiers in the Pilica Cultural Centre.

Proposed Fact No.	Proposed Adjudicated Fact
1861.	A DNA analysis of blood and tissue samples collected at the Pilica Cultural Centre identified the samples as being of human origin.
1862.	Markings from gun shots were found on the wall behind the stage, indicating that men were put on the stage before being executed and appear to have been shot at by soldiers located in the balcony overlooking the stage.
1863.	The Office of the Prosecutor sent a team of experts to conduct a forensic examination of the Pilica Dom between 27 and 29 September 1996, and again on 2 October 1998.
1864.	During a period of several weeks, in September and early October 1995, Bosnian Serb forces dug up a number of the primary mass graves containing the bodies of executed Bosnian Muslim men and reburied them in secondary graves in still more remote locations.
1865.	The reburial operation, which took place some time in September and October 1995, was ordered by the VRS Main Staff. Colonel Beara, Chief of Security of the Main Staff, and Lieutenant Colonel Popović, Assistant Commander for Security of the Drina Corps, directed this operation.
1866.	The reburial operation was carried out on the ground by the Bratunac and Zvornik Brigades.
1867.	Members of the Zvornik Brigade Engineering Company, together with non-Zvornik Brigade Troops, exhumed bodies in primary graves and transported them to the new graves, using Zvornik Brigade equipment.
1868.	Within the Bratunac Brigade, Captain Nikolić, the Chief of Security and Intelligence, was tasked with the organisation of the operation.
1869.	Within the Zvornik Brigade the Assistant Commander for Security, 2nd Lieutenant Drago Nikolić, was responsible for the operation.
1870.	The VRS Main Staff provided fuel to the Zvornik Brigade for the reburial operation and allocated the task of maintaining the records of fuel distribution to Captain Milorad Trbi}, security officer in the Zvornik Brigade.
1871.	2nd Lieutenant Drago Nikolić and the Zvornik Brigade Military Police provided traffic security during the reburial operation which took place some time in late September to late October 1995.
1872.	Mass graves at the Dam near Petkovci, Kozluk, Glogova, Orahovac, and Branjevo Military Farm were disturbed and bodies were exhumed from those graves.
1873.	The longest distance between primary and secondary gravesites (Branjevo Farm to Čančari Road) was 40 kilometres.
1874.	Office of the Prosecutor investigators were first allowed to visit the area in January 1996.
1875.	Forensic evidence showed that there were two types of mass graves, "primary graves", in which individuals were placed soon after their deaths and "secondary graves", into which the same individuals were later reburied.
1876.	Commencing in 1996, the Office of the Prosecutor conducted exhumations of 21 gravesites associated with the takeover of Srebrenica: four in 1996 (at Cerska, Nova Kasaba, Orahovac (also known as Lazete 2) and Branjevo Military Farm (Pilica)); eight in 1998 (Petkovci Dam, Čančari Road 12, Čančari Road 3, Hodžići Road 3, Hodžići Road 4, Hodžići Road 5, Lipje 2, and Zeleni Jadar 5); five in 1999 (Kozluk, Nova Kasaba, Konjević Polje 1, Konjević Polje 2, and Glogova 2); and four in 2000 (Lazete 1, Lazete 2C, Ravnice, and Glogova 1).

Proposed Fact No.	Proposed Adjudicated Fact
1877.	Of the 21 gravesites exhumed, 14 were primary gravesites, where bodies had been put directly after the individuals were killed. Of these, eight were subsequently disturbed and bodies were removed and reburied elsewhere, often in secondary gravesites located in more remote regions. Seven of the exhumed gravesites were secondary burial sites.
1878.	All of the primary and secondary mass gravesites associated with the takeover of Srebrenica located by the Office of the Prosecutor were within the Drina Corps area of responsibility.
1879.	As a result of ballistics, soil analysis, and materials analyses, links were discovered between certain primary gravesites and certain secondary gravesites.
1880.	Among the identity documents and belongings found in the mass graves were license cards and other papers with references to Srebrenica.
1881.	Some bodies were positively identified in the graves as former Srebrenica residents, on the basis of distinctive personal items found with the bodies such as jewellery, artificial limbs, and photographs.
1882.	The gender distribution of the persons listed as missing from Srebrenica on the ICRC list (cross-referenced with other sources) correlates with the gender distribution of the bodies exhumed from the graves.
1883.	The overwhelming majority of people registered as missing from Srebrenica are men. Only one of the 1,843 bodies for which gender could be determined was female.
1884.	There is a correlation between the age distribution of persons listed as missing and the bodies exhumed from the Srebrenica graves: 26.4 percent of persons listed as missing were between 13 to 24 years, and 17.5 percent of bodies exhumed fell within this age group; 73.6 percent of persons listed as missing were over 25 years of age, and 82.8 percent of bodies exhumed fell within this age group.
1885.	Investigators discovered at least 448 blindfolds on or with the bodies uncovered during the exhumations at ten separate sites.
1886.	At least 423 ligatures were located during exhumations at 13 separate sites. Some of the ligatures were made of cloth and string, but predominately they were made of wire.
1887.	The overwhelming majority of victims located in the graves for whom a cause of death could be determined were killed by gunshot wounds.
1888.	~~Some of the victims were severely handicapped.~~
1889.	Forensic tests have linked certain primary gravesites and certain secondary gravesites, namely: Branjevo Military Farm and Čančari Road 12; Petkovci Dam and Liplje 2; Orahovac (Lazete 2) and Hodžići Road 5; Orahovac (Lazete 1) and Hodžći Road 3 and 4; Glogova and Zeleni Jadar 5; and Kozluk and Čančari Road 3.