

IT-09-92-PT  
D37990 - D37969  
21 March 2012

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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-09-92-PT  
Date: 21 March 2012  
Original: English

**IN TRIAL CHAMBER I**

**Before:** Judge Alphons Oric, Presiding  
Judge Bakone Justice Moloto  
Judge Christoph Flüge

**Registrar:** Mr John Hocking

**Decision of:** 21 March 2012

**PROSECUTOR**

**v.**

**RATKO MLADIĆ**

***PUBLIC***

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**SECOND DECISION ON PROSECUTION MOTION FOR  
JUDICIAL NOTICE OF ADJUDICATED FACTS**

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**Office of the Prosecutor**

Mr. Dermot Groome  
Mr. Peter McCloskey

**Counsel for Ratko Mladić**

Mr. Branko Lukić  
Mr. Miodrag Stojanović

## I. PROCEDURAL HISTORY

1. On 9 December 2011, the Prosecution filed a motion, requesting that the Chamber take judicial notice of certain adjudicated facts (“Motion” and “Proposed Facts”, respectively).<sup>1</sup> On 19 January 2012, the Chamber informed the parties that it would issue separate decisions on the Motion, each addressing one of the three thematically ordered Annexes of Proposed Facts.<sup>2</sup> On 28 February 2012, the Chamber issued its first decision on the Motion, addressing those Proposed Facts contained in Annex A (“First Decision”).<sup>3</sup> For the full procedural history, the Chamber refers to paragraphs 1 through 3 of the First Decision.

## II. SUBMISSIONS OF THE PARTIES

2. The Prosecution requests that the Chamber take judicial notice of the 404 Proposed Facts contained in Annex B to the Motion.<sup>4</sup> The Defence objects to the Chamber taking judicial notice of all 404 Proposed Facts.<sup>5</sup> The Chamber recalls and refers to the parties’ submissions in relation to the Chamber taking judicial notice of Proposed Facts as set out in the First Decision.<sup>6</sup>

## III. APPLICABLE LAW

3. The Chamber recalls and refers to the applicable law governing requests for judicial notice of adjudicated facts pursuant to Rule 94 of the Tribunal’s Rules of Procedure and Evidence (“Rules”) as set out in the First Decision.<sup>7</sup>

## IV. DISCUSSION

### A. General considerations

4. The Chamber recalls and refers to the General Considerations in the First Decision related to: 1) reading a Proposed Fact in conjunction with other Proposed Facts;<sup>8</sup> 2) achieving the

<sup>1</sup> Prosecution Motion for Judicial Notice of Adjudicated Facts, 9 December 2011.

<sup>2</sup> T, 171.

<sup>3</sup> First Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 28 February 2012.

<sup>4</sup> Motion, paras 1, 17-19, 33, Annex B; Corrigendum to Prosecution Motion for Judicial Notice of Adjudicated Facts, 14 December 2011 (“Corrigendum”). The Proposed Fact between Proposed Facts Nos 1588 and 1589 was not numbered in the Motion. The Prosecution assigned this Proposed Fact No 2883 in the Corrigendum.

<sup>5</sup> Defence Response to Prosecution Motion for Judicial Notice of Adjudicated Facts Filed 9 December 2011, 1 February 2012 (“Response”), para. 17.

<sup>6</sup> First Decision, paras 4-5; See Motion, paras 1-2, 4-7, 10-11, 13-14, 24. See Response, paras 7-8, 13-14, 19, 21.

<sup>7</sup> First Decision, paras 6-8.

<sup>8</sup> First Decision, para. 10. For example, Proposed Facts Nos 1276, 1277, 1279, 1280, 1281, and 1282 are to be read together. Proposed Fact 1282 would not, without being reformulated, meet the requirement that an adjudicated fact must be distinct, concrete, and identifiable. However, the time and place references become clear when read with

appropriate balance between fairness and expediency of the trial;<sup>9</sup> 3) taking judicial notice of the large number of Proposed Facts not *per se* affecting the fairness of the trial;<sup>10</sup> 4) instances where a Proposed Fact refers to a document in which a certain issue was reported or stated;<sup>11</sup> 5) instances where a Proposed Fact refers to a statement made by a person or an entity;<sup>12</sup> 6) taking judicial notice of Proposed Facts referring to military rules and regulations;<sup>13</sup> and 7) instances where Proposed Facts are improperly cited, referring to different parts of the relevant judgement from where they originate.<sup>14</sup>

5. Similarly, the Chamber recalls and refers to the General Considerations in the First Decision related to: 1) taking judicial notice of facts of common knowledge pursuant to Rule 94 (A);<sup>15</sup> 2) instances where the Prosecution has cited to a finding in an Appeal Chamber's judgement which contains a summary or reformulation of portions of a Trial Chamber's judgement;<sup>16</sup> and 3) instances where a Proposed Fact represents exclusively the content of documentary material that the Chamber considers will be tendered at trial.<sup>17</sup> Pursuant to Rule 94 (A), the Chamber takes judicial notice of Proposed Fact No. 1272. Proposed Fact No. 1289 is sourced to the Trial and Appeal Chambers' judgements in *Prosecutor v. Krstić* ("Krstić Trial Judgement" and "Krstić Appeal Judgement").<sup>18</sup> However, only the *Krstić* Appeal Judgement contains the Proposed Fact. The Chamber carefully reviewed the *Krstić* Trial Judgement and found that the phrasing of the Proposed Fact is not supported therein. Proposed Facts Nos 1359, and 1361-1362, which concern the "2 July 1995 Drina Corps Order, Krivaja 95, Attack Plan", represent exclusively the content of documentary material that the Chamber considers will be tendered at trial. Therefore, consistent with the above General Considerations, the Chamber will not take judicial notice of Proposed Facts Nos 1289, 1359, and 1361-1362.

6. A number of Proposed Facts are based on multiple sources from different judgements. Where the Prosecution has provided multiple judgement sources for one Proposed Fact, the

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the surrounding Proposed Facts. Proposed Facts Nos 1317 and 1318 are also to be read together. When read with Proposed Fact No. 1317, the meaning of "[f]ollowing this" in Proposed Fact No. 1318 is clearly in reference to "the raid of 26 June 1995".

<sup>9</sup> First Decision, para. 11.

<sup>10</sup> First Decision, para. 12.

<sup>11</sup> First Decision, para. 13. This is relevant to, for example, Proposed Facts Nos 1286-1288, which relate to statements contained in United Nations Security Council Resolution 819.

<sup>12</sup> First Decision, para. 14. This is relevant to, for example, Proposed Fact Nos 1290 and 1437, which relate to a press release by the UN Security Council.

<sup>13</sup> First Decision, para. 18.

<sup>14</sup> First Decision, para. 20.

<sup>15</sup> First Decision, para. 17.

<sup>16</sup> First Decision, para. 16. This is relevant to Proposed Facts Nos 1310, 1315, 1416, 1418, 1420, 1438, 1442, 1454, 1476, 1480, 1483, 1503, 1534, and 1617.

<sup>17</sup> First Decision, para. 15.

<sup>18</sup> *Prosecutor v. Radislav Krstić*, Case No. IT-98-33, Judgement, 2 August 2001; *Prosecutor v. Radislav Krstić*, Case No. IT-98-33-A, Judgement, 19 April 2004.

Chamber considers it sufficient that the factual finding can be found in one of the sources, so long as it is not contradicted by any other source. Where the factual finding contained in multiple sources conflict, the Chamber will either delete the contradicting information where possible or will not further consider the Proposed Fact.

7. The Prosecution has submitted 13 Proposed Facts, Proposed Facts Nos 1660-1672, under the heading of "Reliability of Intercepted Communications".<sup>19</sup> The Chamber considers that these Proposed Facts relate to three different matters.

8. First, Proposed Facts Nos 1660-1663 represent the *Krstić* Trial Chamber's discussion of the transcripts of intercepted conversations, i.e. the evidence, in relation to this evidence's chain of intellectual custody, and directly relate to the coming into existence of the transcripts. Put differently, these Proposed Facts represent the evidence presented to establish that the words written in the transcripts by Bosnian officials are authentic reflections of the words actually spoken in the intercepted telephone conversations. Second, Proposed Facts Nos 1664-1666 represent the *Krstić* Trial Chamber's discussion of the evidence presented in relation to how the Prosecution processed the transcripts after receiving them from the Bosnian government. These Proposed Facts recount the Prosecution's testing of the intercept transcripts to independently assess whether there was a possible lack of authenticity or other indications of manipulation, notwithstanding the procedures described in Proposed Facts Nos 1660-1663. Finally, Proposed Facts Nos 1667-1672 represent the *Krstić* Trial Chamber's assessments of the Prosecution's testing process and its assessment of the reliability of the transcripts as reliable reproductions of the words spoken in the telephone conversations.

9. The Chamber considers that, in the specific context of the *Krstić* Trial Judgement, the information contained in these Proposed Facts is relevant to this Chamber's consideration of the authenticity of the intercept transcripts, should they be tendered in the present case. The Chamber recalls its instructions to the parties on continuing negotiations on agreed facts beyond the pre-trial stage of the proceedings,<sup>20</sup> and of the Prosecution's indication that it may seek to use the agreed facts negotiations or Rule 71 of the Rules' deposition procedure in relation to its intercept evidence.<sup>21</sup> The Chamber considers that it is more appropriate for the information contained in these Proposed Facts to be addressed through one of the above mentioned processes, or in the alternative, in conjunction with the Prosecution's presentation of evidence, so that the evidence on

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<sup>19</sup> See Motion, Annex B, X. ADDITIONAL RELEVANT FACTS, C. Reliability of Intercepted Communications.

<sup>20</sup> See T. 172.

<sup>21</sup> Transcript of 16 January 65ter meeting, T. 21-26; Prosecution Witness List, 10 February 2012 (Confidential), paras 18-19.

these procedures discussed in the *Krstić* case can be appropriately linked to the corresponding tendered evidence in the present case for this Chamber's consideration. In this respect, the Chamber also recalls its guidance to the parties, issued at the 23 February 2012 Status Conference, on the filing of motions for judicial notice of prior determinations of the authenticity of documents, in which the Chamber informed the parties that it "would prefer that the Prosecution link such a motion or motions to their presentation of evidence".<sup>22</sup> Finally, the Chamber reiterates that the parties should not request that it take judicial notice of another Trial Chamber's discussion or evaluation of evidence, but should clearly identify a finding of that Trial Chamber of which this Chamber can take judicial notice.

10. In the absence of an indication by the Prosecution as to which particular intercepts it will seek to admit into evidence in this case, it is unclear whether either the Bosnian government or the Prosecution's procedures referred to in these Proposed Facts apply to any of the intercept evidence the Prosecution intends to tender in the present case. Therefore, the Chamber denies, without prejudice, the request to take judicial notice of Proposed Facts Nos 1660-1672.

11. Finally, in instances where the Chamber is satisfied that only a portion of a Proposed Fact meets the requirements for judicial notice, it will take judicial notice of that particular portion only. An Annex to this decision contains a list of adjudicated facts reformulated or redacted by the Chamber. The Chamber will not redact the Proposed Facts for the purpose of correcting minor editorial errors, unless a reformulation is also introduced to the Proposed Facts.

**B. The Proposed Fact Must be Distinct, Concrete, and Identifiable**

12. The Chamber recalls and refers to its Discussion in the First Decision related to the distinction between a factual finding made by a Trial Chamber and a mere restatement, discussion, or evaluation of evidence presented before it.<sup>23</sup> Based on those considerations, the Chamber finds that Proposed Facts Nos 1308, 1408, 1436, 1523, 1543, 1545, 1563, 1623, 1625, 1635, 1638, 1645, and 1647-1648 are not the relevant Trial Chamber's findings and they will, therefore, not be further considered by the Chamber.

13. The Chamber recalls and refers to its Discussion in the First Decision in relation to Proposed Facts containing essentially subjective qualifications.<sup>24</sup> The Chamber finds that Proposed

<sup>22</sup> T. 168-169.

<sup>23</sup> First Decision, para. 23.

<sup>24</sup> First Decision, para. 27. For example, Proposed Fact No. 1313 states, "[b]y mid-1995, the humanitarian situation of the Bosnian Muslim civilians and military personnel in the enclave was catastrophic." The Chamber cannot determine any objective meaning of the word "catastrophic" from this Proposed Fact because it only reflects the relevant Trial Chambers' subjective qualification of facts that they found and is not a factual finding itself.

Facts Nos 1313, 1372, 1651-1652, 1655, and 1657-1658 contain essentially subjective qualifications and will not consider them further.

14. Proposed Facts Nos 1358, 1389, 1404, and 1644 are vague and unclear. Therefore, these Proposed Facts will not be further considered.

15. The Chamber recalls and refers to its Discussion in the First Decision related to repetitive Proposed Facts.<sup>25</sup> The Chamber finds that Proposed Facts Nos 1417 and 1429 are identical to each other and also both overlap with Proposed Fact No. 1416 and, therefore, Proposed Facts Nos 1429 and 1417 will not be further considered. Additionally, based on the underlying evidence, Proposed Facts Nos 1319, 1418, 1425, 1427, 1446, 1475, 1494, 1500, 1504, 1567-1568, 1582, and 1607 overlap with other Proposed Facts<sup>26</sup> and will not be further considered.

16. The Chamber merged certain Proposed Facts with others and, therefore, the following Proposed Facts will not be considered further: Proposed Facts Nos 1430, 1434, 1490, and 1553.<sup>27</sup> Finally, Proposed Fact No. 1620 is partially repetitive of Proposed Fact No. 1612. The remaining portion has been merged with Proposed Fact No. 1617 and, therefore, Proposed Fact no. 1620 will not be considered further.

17. In conclusion, the Chamber is satisfied that the following Proposed Facts do not fulfil the first criterion for judicial notice: Proposed Facts Nos 1308, 1313, 1319, 1358, 1372, 1389, 1404, 1408, 1417-1418, 1425, 1427, 1429-1430, 1434, 1436, 1439, 1446, 1475, 1490, 1494, 1500, 1504, 1523, 1543, 1545, 1553, 1563, 1567-1568, 1582, 1607, 1620, 1623, 1625, 1635, 1638, 1644-1645, 1647-1648, 1651-1652, 1655, and 1657-1658.

18. The Chamber also identified a number of Proposed Facts that do not satisfy the requisite criterion and which the Chamber cannot take judicial notice of in their present form. However, instead of rejecting them in their entirety, the Chamber will reformulate or redact these Proposed Facts in accordance with the requirements of this criterion.

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<sup>25</sup> First Decision, para. 28.

<sup>26</sup> Proposed Fact No. 1319 is similar to Proposed Facts Nos 248, 302, and 1324; Proposed Fact No. 1418 is similar to Proposed Fact No. 1421; Proposed Facts Nos 1425 and 1427 are similar to Proposed Fact No. 1426; Proposed Fact No. 1446 is similar to Proposed Fact No. 1442; Proposed Fact No. 1475 is similar to Proposed Fact No. 1474; Proposed Fact No. 1494 is similar to Proposed Fact No. 1495; Proposed Fact No. 1500 is similar to Proposed Facts No. 1499; Proposed Fact No. 1504 is similar to Proposed Fact No. 1503; Proposed Fact No. 1567 is similar to Proposed Fact No. 1566; Proposed Fact No. 1568 is similar to Proposed Fact No. 1565; Proposed Fact No. 1582 is similar to Proposed Fact No. 1584; and Proposed Fact No. 1607 is similar to Proposed Facts Nos 1604 and 1609.

<sup>27</sup> Proposed Fact No. 1430 was merged with Proposed Fact No. 1416, Proposed Fact No. 1434 was merged with Proposed Fact No. 1426, Proposed Fact No. 1490 was merged with Proposed Fact No. 1499, and Proposed Fact No. 1553 was merged with Proposed Fact No. 1465.

19. In this respect, the Chamber considers that a large number of Proposed Facts are not clear, distinct, and identifiable in their present form.<sup>28</sup> For example, Proposed Facts Nos 1303, 1310, 1336, 1346, 1353, 1366, 1399, 1402, 1459, 1520, 1558, and 1615 lack time or place references. Generally, when the Chamber adds a time or place reference, it can be found in one of the surrounding paragraphs within the relevant trial judgement. For example, for Fact No. 1346, the added time reference and job title were added from paragraph 62 of the Trial Chamber's judgement in *Prosecutor v. Blagojević* ("Blagojević Trial Judgement").<sup>29</sup>

20. Also in relation to this first criterion, Proposed Facts Nos 1388 and 1547 do not only contain the relevant Trial Chamber's findings, but also refer to evidence presented before that Trial Chamber upon which no finding was made. Certain Proposed Facts contain cross-references to other parts of the judgements they originate from.<sup>30</sup> Some parts of certain Proposed Facts overlap with information contained in other Proposed Facts.<sup>31</sup> Some Proposed Facts contain, in addition to factual findings, essentially subjective qualifications by the original Trial Chamber.<sup>32</sup>

21. Finally, in relation to evidence containing contradictory elements within judgement sources, Proposed Fact No. 1391 states:

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.

The Prosecution provided two sources for this Proposed Fact, the *Krstić* Trial Judgement and the *Blagojević* Trial Judgement. The *Blagojević* Trial Judgement contains an estimate of 24,000-35,000 Bosnian Muslims in Potočari, whereas the *Krstić* Trial Judgement contains the 20,000-25,000 person estimate found in the Proposed Fact.<sup>33</sup> Similarly, Proposed Fact No. 1393 contains a different estimate from that of Proposed Fact No. 1391 as to the number of Bosnian Muslims in

<sup>28</sup> Proposed Facts Nos 1270, 1296-1298, 1303, 1310, 1317, 1325, 1327, 1329, 1336, 1340, 1342, 1346, 1349, 1353, 1366, 1368, 1374, 1395, 1399, 1402, 1459, 1465, 1467, 1477, 1520, 1558, 1570, 1606, 1615, and 1656.

<sup>29</sup> *Prosecutor v. Vidoje Blagojević*, Case No. IT-02-60, Judgement, 24 January 2005. In the Annex to the Motion, the Proposed Fact was sourced to paragraph 34 of the *Blagojević* Trial Judgement.

<sup>30</sup> Proposed Facts Nos 1277, 1297, 1312, 1316, 1381, 1384, 1491, 1521, 1580, 1596, 1597, 1616, and 1643.

<sup>31</sup> Parts of Proposed Fact No. 1270 overlap with information contained in Proposed Facts Nos 147 and 1702, parts of Proposed Fact No. 1392 overlap with information contained in Proposed Fact No. 1393, parts of Proposed Fact No. 1501 overlap with information contained in Proposed Fact No. 1497, and parts of Proposed Fact No. 1577 overlap with information contained in Proposed Facts Nos 1571 and 1572.

<sup>32</sup> Proposed Facts Nos 1270, 1280, 1284, 1307, 1317, 1324, 1375, 1378-1379, 1390, 1393-1394, 1399, 1407, 1580, 1641, 1653-1654, and 1656.

<sup>33</sup> See *Blagojević* Trial Judgement, para. 146 and *Krstić* Trial Judgement, para. 37.

Potočari<sup>34</sup>. Finally, the sources for Proposed Facts Nos 1439 and 1442 contain contradictory information as to the date of the events mentioned.

22. Therefore, the Proposed Facts discussed in paragraphs 19 to 21 will be reformulated (See Annex).

**C. The Proposed Fact Must be Relevant to the Matters at Issue in the Current Proceedings**

23. The Prosecution submits that the Proposed Facts have some relevance to an issue in the current proceedings.<sup>35</sup> The Defence challenges a large number of Proposed Facts on this basis.<sup>36</sup> The Chamber recalls and refers to its Discussion in the First Decision in relation to the criterion that a Proposed Fact must be relevant to the matters at issue in the current proceedings, and with regard to the Chamber's consideration of the Defence's objections on this basis.<sup>37</sup> The Chamber assessed each Proposed Fact on a case by case basis and found that all the Proposed Facts contained in Annex B to the Motion are relevant to the matters at issue in the current proceedings.

**D. The Proposed Fact Must not Contain any Findings or Characterizations that are of an Essentially Legal Nature**

24. The Prosecution submits that the Proposed Facts in Annex B to the Motion fulfil this criterion.<sup>38</sup> The Defence submits that certain Proposed Facts do not satisfy this criterion.<sup>39</sup> The Chamber recalls and refers to its Discussion in the First Decision related to whether a term used in a Proposed Fact is of a legal or a factual nature.<sup>40</sup> The Chamber finds that Proposed Facts No. 1422 contains findings or characterizations of an essentially legal nature. The Chamber will, therefore, not take judicial notice of this Proposed Fact. Portions of Proposed Fact No. 1438, also contains findings or characterizations that are of an essentially legal nature. However, rather than rejecting this Proposed Fact, the Chamber will reformulate it so that it contains only factual findings (see Annex).

<sup>34</sup> The Chamber has not redacted the estimates contained in Proposed Facts Nos 1376 and 1385 because the geographic area referenced in these two Proposed Facts differs from that of Proposed Fact Nos 1391 and 1393, i.e. only Potočari.

<sup>35</sup> Motion, paras 6-7, 13-14.

<sup>36</sup> Response, paras 16-17 (code B1, C1, C12).

<sup>37</sup> First Decision, paras 33-34.

<sup>38</sup> Motion, para. 6.

<sup>39</sup> Response, para. 16 (Code C10).

<sup>40</sup> First Decision, para. 36.



**E. The Proposed Fact Must not be Based on an Agreement Between the Parties to the Original Proceedings**

25. The Prosecution submits that the Proposed Facts in Annex B to the Motion fulfil this criterion.<sup>41</sup> The Defence challenges a number of Proposed Facts based on this criterion, and also submits that when the original judgement contains no source reference, there is a risk that the finding is based on an agreed fact and, therefore, the Chamber should deny taking judicial notice of such Proposed Facts.<sup>42</sup>

26. In the *Krstić* Trial Judgement, the Trial Chamber clearly indicates, either in a footnote or in the text, when a finding is based on an agreed fact.<sup>43</sup> Proposed Fact No. 1332 is sourced to a sentence in paragraph 311 of the *Krstić* Trial Judgement, which begins with the phrase “[t]here was no dispute between the parties” and has no footnote. The Chamber considers that this is a strong textual indication that the Proposed Fact is based on an agreement between the parties in the original proceedings, and the Chamber will, therefore, not further consider the Proposed Fact. Additionally, the Chamber considers that Proposed Fact No. 1331 is partially based on an agreement between the parties. As proposed in Annex B to the Motion, the Proposed Fact states:

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.

The source for this Proposed Fact is paragraph 298 of the *Krstić* Trial Judgement. The final sentence of this Proposed Fact is footnoted in the *Krstić* Trial Judgement to “Stipulations” and a portion of the transcript.<sup>44</sup> Upon review, the Chamber did not find the date mentioned in the Proposed Fact, 29 September 1994, in the transcript,<sup>45</sup> suggesting that this date was agreed on between the parties. Therefore, the Chamber will redact the final sentence of this Proposed Fact (see Annex).

27. Proposed Fact No. 1501 is partially based on agreed facts in the *Krstić* case. The remaining portion of this Proposed Fact overlaps with Proposed Fact No. 1497<sup>46</sup> and, therefore, the Chamber will not consider this Proposed Fact further.

<sup>41</sup> Motion, para. 6.

<sup>42</sup> Response, paras 16 (code C4, C7, C9), 19.

<sup>43</sup> See, for example, *Krstić* Trial Judgement, para. 299, fn. 779, where the finding is footnoted to “Agreed Facts”. See also paras 173, 413, fns 417, 1098, respectively, where the findings are footnoted to “Stipulations”.

<sup>44</sup> *Krstić* Trial Judgement, fn. 777.

<sup>45</sup> *Prosecutor v. Radislav Krstić*, Case No. IT-98-33, Transcript of 16 October 2000, T. 5980.

<sup>46</sup> See supra para. 20, fn. 31.

28. All of the agreed facts in the *Blagojević* case are contained in a Trial Chamber decision of 19 December 2003 (“*Blagojević* Agreed Facts” and “*Blagojević* Agreed Facts Decision”, respectively).<sup>47</sup> In the *Blagojević* Agreed Facts Decision, the Trial Chamber accepted a large number of facts proposed for judicial notice under Rule 94 (B) as agreed facts pursuant to Rule 65 *ter* (H) of the Rules.<sup>48</sup> All of the *Blagojević* Agreed Facts originated from the *Krstić* Trial Judgement. A large number of Proposed Facts in Annex B to the Motion are identical to the *Blagojević* Agreed Facts; however, some of these Agreed Facts are not cited as such in the *Blagojević* Trial Judgement.<sup>49</sup> For those Proposed Facts which have both the *Blagojević* and the *Krstić* Trial Judgements as sources, and where the *Blagojević* Trial Judgement source is identical to a *Blagojević* Agreed Fact, the Chamber will only consider the *Krstić* Trial Judgement source to determine whether the Proposed Fact meets the requirements for taking judicial notice.<sup>50</sup>

29. For example, Proposed Fact No. 1552 is sourced to both the *Blagojević* and the *Krstić* Trial Judgements and is identical to *Blagojević* Agreed Fact No. 189. Therefore, as stated above, in addressing this Proposed Fact, the Chamber will review the Proposed Fact based on the *Krstić* Trial Judgement. The *Krstić* Trial Judgement clearly indicates that it is restating the evidence of

<sup>47</sup> See *Blagojević* Trial Judgement, para. 896; See also *Prosecutor v. Vidoje Blagojević*, Case No. IT-02-60-T, Decision on Prosecution’s Motion for Judicial Notice of Adjudicated Facts and Documentary Evidence, 19 December 2003.

<sup>48</sup> *Blagojević* Agreed Facts Decision, paras 11-14, 20-21, IV. DISPOSITION, Annex A; See *Prosecutor v. Vidoje Blagojević*, Case No. IT-02-60-T, Prosecution’s Motion for Judicial Notice of Adjudicated Facts and Documentary Evidence, 23 June 2003, Annex A.

<sup>49</sup> See, for example, Proposed Fact No. 1553, which is only cited in the *Blagojević* Trial Judgement to witness testimony, but, as originally proposed, is identical to *Blagojević* Agreed Fact No. 190. Proposed Fact No. 1553 has been merged with Proposed Fact No 1465. See *supra* para. 12, footnote 22.

<sup>50</sup> Proposed Fact No. 1273 is identical to *Blagojević* Agreed Fact No. 10; Proposed Fact No. 1274 is identical to *Blagojević* Agreed Fact No. 11; Proposed Fact No. 1282 is identical to *Blagojević* Agreed Fact No. 19; Proposed Fact No. 1283 is identical to *Blagojević* Agreed Fact No. 20; Proposed Fact No. 1285 is identical to *Blagojević* Agreed Fact No. 21; Proposed Fact No. 1286 is identical to *Blagojević* Agreed Fact No. 23; Proposed Fact Nos 1291 and 1293 are identical to *Blagojević* Agreed Fact No. 25; Proposed Fact No. 1301 is identical to *Blagojević* Agreed Fact No. 32; Proposed Fact No. 1306 is identical to *Blagojević* Agreed Fact No. 37; Proposed Fact No. 1307 is identical to *Blagojević* Agreed Fact No. 38; Proposed Fact No. 1309 is identical to *Blagojević* Agreed Fact No. 39; Proposed Fact No. 1318 is identical to *Blagojević* Agreed Fact No. 49; Proposed Fact No. 1324 is identical to *Blagojević* Agreed Fact No. 53; Proposed Fact No. 1325 is identical to *Blagojević* Agreed Fact No. 56; Proposed Fact No. 1328 is identical to *Blagojević* Agreed Fact No. 55; Proposed Fact No. 1330 is identical to *Blagojević* Agreed Fact No. 57; Proposed Fact No. 1333 is identical to *Blagojević* Agreed Fact No. 62; Proposed Fact No. 1373 is identical to *Blagojević* Agreed Fact No. 69; Proposed Fact Nos 1378 and 1379 are identical to *Blagojević* Agreed Fact No. 76; Proposed Fact No. 1380 is identical to *Blagojević* Agreed Fact No. 77; Proposed Fact No. 1390 is identical to *Blagojević* Agreed Fact No. 83; Proposed Fact No. 1396 is identical to *Blagojević* Agreed Fact No. 98; Proposed Fact No. 1409 is identical to *Blagojević* Agreed Fact No. 135; Proposed Fact No. 1411 is identical to *Blagojević* Agreed Fact No. 136; Proposed Fact No. 1412 is identical to *Blagojević* Agreed Fact No. 137; Proposed Fact No. 1421 is identical to *Blagojević* Agreed Fact No. 140; Proposed Fact No. 1435 is identical to *Blagojević* Agreed Fact No. 146; Proposed Fact No. 1440 is identical to *Blagojević* Agreed Fact No. 167; Proposed Fact No. 1443 is identical to *Blagojević* Agreed Fact No. 168; Proposed Fact No. 1465 is identical to *Blagojević* Agreed Fact No. 194; Proposed Fact No. 1496 is identical to *Blagojević* Agreed Fact No. 203; Proposed Fact No. 1524 is identical to *Blagojević* Agreed Fact No. 216; Proposed Fact No. 1526 is identical to a portion of *Blagojević* Agreed Fact No. 217; Proposed Fact No. 1527 is identical to *Blagojević* Agreed Fact No. 218; and Proposed Fact No. 1557 is identical to *Blagojević* Agreed Fact No. 192.

witnesses, rather than making a factual finding.<sup>51</sup> Similarly, Proposed Fact No. 1392, as originally proposed, contains repetitive information and the remaining portion is vague and contains an essentially subjective qualification of the original Trial Chamber.<sup>52</sup> This Proposed Fact is sourced to both the *Blagojević* and the *Krstić* Trial Judgements and is identical to *Blagojević* Agreed Fact No. 84. Clarifying factual information for this Proposed Fact is contained in another portion of the *Blagojević* Trial Judgement, but is not in the *Krstić* Trial Judgement. Based on the foregoing, the Chamber will not take judicial notice of Proposed Facts Nos 1552 and 1392.

30. In relation to those Proposed Facts which have the *Blagojević* Trial Judgement as the sole source, and where this source is identical to a *Blagojević* Agreed Fact, the Chamber considers that a fact adjudicated based on an agreement between the parties can be judicially noticed if the fact has already been adjudicated by another Trial Chamber. For example, Proposed Fact No. 1300 is identical to *Blagojević* Agreed Fact No. 31, and is only sourced to the *Blagojević* Trial Judgement. However, Proposed Fact No. 1300 originates from the *Krstić* Trial Judgement and represents a finding of that Trial Chamber at paragraph 21 therein. Similarly, the last sentence of Proposed Fact No. 1510 is similar to *Blagojević* Agreed Fact No. 205, and is only sourced to the *Blagojević* Trial Judgement. However, the information contained in the Proposed Fact is a finding of the *Krstić* Trial Chamber which is located in the Judgement at paragraph 66.

31. Given the fact that the Prosecution did not cite the *Krstić* Trial Judgement as a source for either of these Proposed Facts, the Chamber considers it inappropriate to take judicial notice of them at the request of the Prosecution. However, as the Chamber is aware that these Proposed Facts represent findings of the *Krstić* Trial Chamber, it would consider taking judicial notice of them, *proprio motu*, after having heard from the parties pursuant to Rule 94 (B) of the Rules. Therefore, the Chamber denies taking judicial notice of Proposed Facts Nos 1300 and 1510 as requested in the Motion. The Chamber instructs the parties to inform it of their position in relation to the Chamber taking judicial notice, *proprio motu*, of the *Krstić* Trial Chamber's findings referred to in the above paragraph.

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<sup>51</sup> The text in the *Krstić* Trial Judgement begins with, "[w]itnesses estimated [...]". This was not included in the *Blagojević* Trial Judgement.

<sup>52</sup> See *supra* para. 20, footnote 31.

**F. The Proposed Fact Must not have been Contested on Appeal, or, if it has, the Fact has been Settled on Appeal**

32. The Prosecution submits that the Proposed Facts are not findings challenged on appeal.<sup>53</sup> The Defence challenges 19 Proposed Facts on this basis,<sup>54</sup> submitting that these Proposed Facts are currently contested on appeal as multiple appellants of the Trial Judgement in *Prosecutor v. Vujadin Popović et al.* (“Popović Trial Judgement”)<sup>55</sup> have challenged the fairness of the trial and/or alleged a miscarriage of justice on appeal.<sup>56</sup>

33. The Chamber recalls that for it to take judicial notice, a Proposed Fact must not have been contested on appeal, or, if it has, the Proposed Fact has been settled on appeal.<sup>57</sup> If a particular finding on a fact is not the subject of appeal, judicial notice may be taken of it in other proceedings notwithstanding an appeal pending on other aspects.<sup>58</sup> The Defence has not identified, and neither has the Chamber found, any of the challenged Proposed Facts originating from the *Popović* Trial Judgement as being the subject of an appeal. The fact that the *Popović* Trial Judgement is subject to appeal on the grounds raised by the Defence in its Response does not prevent the Chamber from taking judicial notice of Proposed Facts originating from that Judgement. Therefore, the Chamber finds that all 19 Proposed Facts satisfy this criterion, but notes that Proposed Fact Nos 1319, 1635 and 1638 are denied under separate criteria.<sup>59</sup> However, should the *Popović* Trial Judgement, or portions of it, ultimately be reversed on appeal, the Defence may request that the Chamber reconsider its decision on any of the Proposed Facts sourced to that Trial Judgement of which this Chamber takes judicial notice.

**G. The Proposed Fact Must not Relate to Acts, Conduct, or Mental State of the Accused**

34. The Prosecution submits that all of the Proposed Facts in Annex B to the Motion satisfy this criterion.<sup>60</sup> The Defence challenges a number of Proposed Facts under this criterion.<sup>61</sup> The Chamber

<sup>53</sup> Motion, para. 19.

<sup>54</sup> Proposed Facts Nos 1319-1322, 1329, 1338-1344, and 1628-1644.

<sup>55</sup> *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88, Judgement, 10 June 2010.

<sup>56</sup> Response, paras 6, 16 (code C11).

<sup>57</sup> First Decision, para. 8 (v), citing *Prosecutor v. Zoran Kupreškić et al.*, 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, para. 6; *Krajišnik* Decision of 28 February 2003, paras 14-15.

<sup>58</sup> See, for example, *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-AR73.5, Separate Opinion of Judge Shahabuddeen Appended to the Appeals Chamber’s Decision Dated 28 October 2003 on the Prosecution’s Interlocutory Appeal Against the Trial Chamber’s 10 April 2003 Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 31 October 2003, para. 34.

<sup>59</sup> Proposed Fact No. 1319 is already denied on the basis that it is repetitive of other Proposed Facts. See supra para. 15. Proposed Facts Nos 1635 and 1638 are already denied on the basis that they do not represent the relevant Trial Chamber’s finding, but contain only a discussion or evaluation of evidence presented before it. See supra para. 12.

<sup>60</sup> Motion, paras 8-9.

recalls and refers to its Discussion in the First Decision related to the criminal conduct of others for which the Prosecution alleges the Accused is criminally responsible, but do not touch upon acts, conduct or *mens rea* of the Accused.<sup>62</sup> Based on those considerations, the Chamber is satisfied that all the Proposed Facts meet this criterion.

**H. The Proposed Fact as Formulated by the Moving Party Must not Differ in any Substantial Way from the Facts Actually Adjudicated in the Original Judgement**

35. The Prosecution submits that the Proposed Facts do not differ in a substantial way from the facts actually adjudicated in the original judgements.<sup>63</sup> The Defence challenges a number of Proposed Facts on this basis.<sup>64</sup> The Chamber recalls and refers to its Discussion in the First Decision related to this criterion.<sup>65</sup> The Chamber finds that Proposed Fact No. 1301 is inconsistent with the original judgement. Proposed Fact No. 1592 is also inconsistent with the original judgement due to a typographical error. The Chamber will reformulate these Proposed Facts (see Annex).

## V. DISPOSITION

36. Based on the reasoning set forth above and pursuant to Rules 54 and 94 of the Rules, the Chamber:

**GRANTS** the Motion in part and takes judicial notice of the following Proposed Facts:

1) 1271, 1273-1276, 1278-1279, 1281-1283, 1285-1288, 1290-1295, 1299, 1302, 1304-1306, 1309, 1311, 1314-1315, 1318, 1320-1323, 1325-1326, 1328, 1330, 1333-1335, 1337-1339, 1341, 1343-1345, 1347-1348, 1350-1352, 1354-1357, 1360, 1363-1365, 1367, 1369-1371, 1373, 1377, 1380, 1382-1383, 1386-1387, 1396-1398, 1400-1401, 1403, 1405-1406, 1409-1415, 1419-1421, 1423-1424, 1428, 1431-1433, 1435, 1437, 1440-1441, 1443-1445, 1447-1458, 1460-1464, 1466, 1468-1474, 1476, 1478-1481, 1482-1486, 1487-1489, 1492-1493, 1495-1498, 1502-1503, 1505-1509, 1511-1519, 1522, 1524-1542, 1544, 1546, 1548-1551, 1554-1557, 1559-1562, 1564-1566, 1569, 1571-1576, 1578-1579, 1581, 1583-1591, 1593-1595, 1598-1605, 1608-1614, 1618-1619, 1621-1622, 1624, 1626-1634, 1636-1637, 1639-1640, 1642, 1646, 1649-1650, 1659, and 2883 pursuant to Rule 94 (B);

<sup>61</sup> Response, para. 16 (code C5).

<sup>62</sup> First Decision, para. 44.

<sup>63</sup> Motion, paras 6-7.

<sup>64</sup> Response, para. 16 (code C3 and C6).

<sup>65</sup> First Decision, paras 46-47.

2) 1270, 1277, 1280, 1284, 1296-1298, 1301, 1303, 1307, 1310, 1312, 1316-1317, 1324, 1327, 1329, 1331, 1336, 1340, 1342, 1346, 1349, 1353, 1366, 1368, 1374-1375, 1378-1379, 1381, 1384, 1388, 1390-1391, 1393-1395, 1399, 1402, 1407, 1416, 1426, 1438-1439, 1442, 1459, 1465, 1467, 1477, 1491, 1499, 1520-1521, 1547, 1558, 1570, 1577, 1580, 1592, 1596-1597, 1606, 1615-1617, 1641, 1643, 1653-1654, and 1656 pursuant to Rule 94 (B), subject to the changes indicated in the present decision (see also Annex);

3) 1272 pursuant to Rule 94 (A);

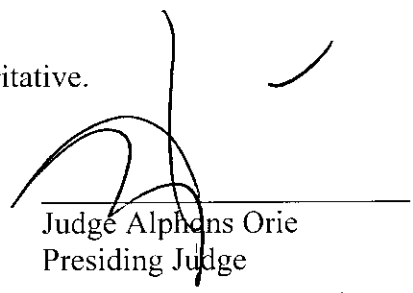
**DENIES**, without prejudice, taking judicial notice of Proposed Facts Nos 1660-1672;

**INSTRUCTS** the parties to inform it within 10 days of their position in relation to the Chamber taking judicial notice, *proprio motu*, of the *Krstić* Trial Chamber's findings in relation to Proposed Facts Nos 1300 and 1510;

**DEFERS** its decisions on Proposed Facts contained in Annex C, and on the Rebuttal Evidence Procedure; and

**DISMISSES** the remainder of the Motion.

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

  
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Judge Alphons Orié  
Presiding Judge

Dated this twenty-first of March 2012  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

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**ANNEX TO SECOND DECISION ON PROSECUTION  
MOTION FOR JUDICIAL NOTICE OF ADJUDICATED  
FACTS**

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**Table of the Adjudicated Facts Modified by the Chamber**

The Proposed Fact Number	The Modified Adjudicated Fact
<b>I. THE BACKGROUND TO THE CONFLICT</b>	
<b>A. The Conflict in Srebrenica: 1992 to 1993</b>	
1270	The Republic of Bosnia and Herzegovina was recognised by the United States on 7 April 1992. International recognition of Bosnia and Herzegovina in April 1992 did not end the matter, however, and a struggle for territorial control ensued among the three major groups in Bosnia: Muslim, Serb and Croat.
1277	In May 1992, a group of Bosnian Muslim fighters under the leadership of Naser Orić managed to recapture Srebrenica. Over the next several months, Orić and his men pressed outward in a series of raids.
1280	By January 1993, the enclave had been further expanded to include the Bosnian Muslim-held enclave of Čerska 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 an island amid Serb-controlled territory.
1284	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 residents of Srebrenica at a public gathering that the town was under the protection of the UN and that he would never abandon them.
<b>B. The Security Council Declares Srebrenica a Safe Area: April 1993</b>	
1296	Initially, DutchBat had eight observation posts around the perimeter of the enclave; four additional observation posts were added between February and July 1995.
1297	Most of the time, groups of Bosnian Serb and Bosnian Muslim soldiers maintained shadow positions near the observation outposts marking the perimeter of the enclave.
1298	The Bosnian Serb forces from three Drina Corps Brigades surrounding the enclave were equipped with tanks, armoured vehicles, artillery and mortars.
1301	The number of men in the 28 <sup>th</sup> Division outnumbered those in the Drina Corps and reconnaissance and sabotage activities were carried out on a regular basis against the VRS forces in the area.
1303	In the spring of 1995, DutchBat personnel were prevented from returning to the enclave by Bosnian Serb forces, and equipment and ammunition were also prevented from getting in.



<b>C. Spring 1995: The Bosnian Serbs Plan to Attack the Srebrenica "Safe Area"</b>	
1307	The already meagre resources of the civilian population dwindled further, and even UN forces started running low on food, medicine, fuel, and ammunition.
1310	By February 1995, the restriction of international convoys impacted the rotation and readiness of troops of the Dutch Battalion of UNPROFOR and caused further deterioration of the humanitarian situation in the Srebrenica enclave.
1312	The military capability of Dutch Bat was hampered by the VRS refusal to allow soldiers re-entry into the enclave after their leave.
1316	The Bratunac Brigade opened fire on Srebrenica on 25 May 1995.
1317	On May 31 1995, Bosnian Serb forces captured outpost Echo, which lay in the southeast corner of the enclave. In response, a raiding party of Bosniacs attacked the nearby Serb village of Višnjica, in the early morning of 26 June 1995. Some houses were burned and several people were killed.
<b>II. THE STRUCTURE OF THE VRS</b>	
<b>C. Background to the Drina Corps</b>	
1324	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 a part.
1327	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.
1329	In July 1995, the Drina Corps Forward Command Post was established initially at Pribičevac and later moved to Krivače, which was located between Han Pijesak and Žepa.
1331	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.
1336	In July 1995, Lieutenant Colonel Vujadin Popović was Assistant Commander for Security for the Drina Corps.
1340	In July 1995, one forward command post was located in the village of Kitovnice, in the hamlet of Delići ("Kitovnice IKM"), 15 kilometres from the Standard Barracks, in the direction of the village of Orahovac.
1342	The 1 <sup>st</sup> Battalion of the Zvornik Brigade was located in Lokanj, the neighbouring village of Pilica, and was commanded by Lieutenant Milan Stanojević; the 2nd Battalion, located in the village of Malešić, which was approximately 14 kilometres

	away from Ročević, was commanded by Srećko Ačimović; the 3rd Battalion, located in Boškovići, was commanded by Captain Branko Studen; the 4th Battalion, located in Rebići, was commanded by 2nd Lieutenant Pero Vidaković, with Lazar Ristić as the Deputy Commander; the 5th Battalion, located in Kiseljak, was commanded by 2nd Lieutenant Vladen Matić; the 6th Battalion, located in Petkovci, was commanded by Captain 1st Class Ostoja Stanišić, with Marko Milošević as the Deputy Commander; the 7th Battalion, located in Memići, was commanded by 2nd Lieutenant Drago Beatović; and the 8th Battalion was commanded by Captain 1st Class Radika Petrović, with Boško Petrović as the Deputy Commander.
1346	In July 1995, Dragan Obrenović was the Chief of Staff and Deputy Brigade Commander of the Zvornik Brigade.
1349	On 25 May 1995, Vidoje 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.
<b>D. Temporary Units in the Drina Corps Zone of Responsibility</b>	
1353	In July 1995, Tomislav Kovač was the acting Minister of Interior in Republika Srpska. The civilian police was organised in two sections: the regular police force and the special police brigade.
<b>III. THE ATTACK ON AND FALL OF THE SREBRENICA ENCLAVE</b>	
<b>B. The Takeover of Srebrenica</b>	
1366	Srebrenica remained under fire until the enclave fell on 11 July 1995.
1368	Soldiers at the observation posts were detained and forced to hand over their equipment, including in one case an armoured personnel carrier.
1374	By the evening of 9 July, the VRS Drina Corps had pressed four kilometres deep into the enclave, halting just one kilometre short of Srebrenica town.
1375	On the morning of 10 July, residents in Srebrenica town, some armed, crowded the streets.
1378	Thousands of residents crowded around the UNPROFOR Bravo Company compound in Srebrenica, eventually forcing their way inside.
1379	Around noon on 11 July, mortar shells landed inside the compound, wounding several people.
1381	The VRS embarked upon a campaign of burning Bosnian Muslim houses.
1384	NATO planes attempted to bomb VRS artillery positions overlooking the town, but had to abort the operation due to poor visibility.
1388	On 11 July, President Karadžić appointed Miroslav Deronjić as the Civilian

	Commissioner of the "Serbian Municipality of Srebrenica".
1390	Once 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.
1391	By the end of 11 July, 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.
1393	The water supply available was insufficient for the refugees who were outside the UNPROFOR compound.
1394	Many of the refugees seeking shelter in the UNPROFOR headquarters were injured and there was a shortage of medical supplies.
1395	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.
1399	Screams, gunshots and other noises were audible throughout the night between 12 and 13 July 1995 and no one could sleep. Soldiers were picking people out of the crowd and taking them away; some returned, others did not.
<b>IV. THE FORCIBLE REMOVAL OF THE BOSNIAN MUSLIM COMMUNITY</b>	
<b>A. The Separation of the Bosnian Muslim Men</b>	
1402	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. The separations continued throughout 12 and 13 July 1995.
<b>B. The Presence of Drina Corps Officers in Potočari on 12 and 13 July 1995</b>	
1407	The presence of armed members of the Bratunac Brigade in Potočari contributed to the intimidation of the Bosnian Muslim refugees there.
<b>C. Organisation of the Buses to Remove the Bosnian Women, Children and Elderly from Potočari</b>	
1416	The Bratunac Brigade participated in this operation by contributing two buses and fuel, and by regulating traffic as the buses passed through Bratunac on their way to Konjević Polje.
<b>D. The Removal of the Bosnian Muslim Women, Children and Elderly from Potočari</b>	
1426	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 by the VRS who stole 16-18 DutchBat jeeps, as well as around 100 small arms, which rendered further DutchBat escorts impossible.
1438	The VRS transferred thousands of Bosnian Muslim civilians from the Srebrenica enclave.
1439	As the situation in Potočari escalated towards crisis, 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.
<b>E. The Column of Bosnian Muslims who Attempted to Breakthrough Towards Bosnian Muslim-held Territory</b>	
1442	On 11 and 12 July 1995, 10,000 to 15,000 mostly Bosnian Muslim men and boys, both civilians and members of the 28 <sup>th</sup> Division of the ABiH, formed a column and proceeded toward Muslim-held territory in Tuzla.
1459	In the early morning of 13 July along the Bratunac-Konjević Polje Road, the Bosnian Serbs shouted into the forest, urging the men to surrender and promising that the Geneva Conventions would be complied with. In other places, ambushes were set up.
1465	The soldiers guarding the men at Nova Kasaba and Sandići Meadow forced them to turn over their valuables and abandon their belongings.
1467	On 13 July, the head of 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.
<b>V. THE KILLING OF THE BOSNIAN MEN FROM SREBRENICA</b>	
1477	Except for some who were wounded, all the men, whether separated in Potočari or captured from the column, were executed, either in small groups or in carefully orchestrated mass executions.
<b>VI. INDICTMENT SCHEDULE E, PART II: "OPPORTUNISTIC" KILLINGS</b>	
<b>B. Potočari- Schedule E, 14.2</b>	
1491	Drina Corps officers were seen in the vicinity of the "White House" during the time the separated men were detained there.
1499	Identification papers and personal belongings were taken away from both Bosnian Muslim men at Potočari and from men captured from the column; their papers and belongings were piled up and eventually burnt.

<b>C. Bratunac Town- Schedule E, 15.1</b>	
1520	On or after 15 July 1995, 40-50 bodies were discovered in the classrooms at the school in Bratunac.
1521	A 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.
<b>VI. INDICTMENT SCHEDULE E, PART I: LARGE-SCALE AND ORGANISED KILLINGS</b>	
<b>B. Kravica Warehouse- Schedule E.3</b>	
1547	Broken masonry and door frames, and other artefacts found at the primary gravesite of Glogova 1 revealed matches with the Kravica Warehouse execution site.
<b>D. Luke School near Tišća- Schedule E.5</b>	
1558	On 13-14 July 1995, 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.
<b>F. Field near School in Orahovac- Schedule E.6.2</b>	
1570	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, the chief of security of the Zvornik Brigade who was in charge of the detention of the Bosnian Muslim men in Orahovac.
1577	Members of the military police company of the Zvornik Brigade were present immediately prior to the executions, presumably for such purposes as guarding the prisoners and then facilitating their transportation to the execution fields.
<b>G. Petkovci School- Schedule E.7.1</b>	
1580	At Petkovci School, 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.
<b>I. Kozluk- Schedule E.8.2</b>	
1592	A bulldozer operated in Kozluk for 1.5 hours on 18 July and another hour on 19 July.
<b>J. Kula School near Pilica- Schedule E.9.1</b>	
1596	On 14 July 1995, prisoners from Bratunac were bused northward to a school in the

	village of Pilica, north of Zvornik.
1597	There was no food or water and several men died in the school gym from heat and dehydration.
<b>K. Branjevo Military Farm- Schedule E.9.2</b>	
1606	Buses began to arrive at the Branjevo Military Farm, carrying Bosnian Muslim men, some of whom were blindfolded and had their hands tied.
1615	On 16 July 1995, the Zvornik Brigade First Battalion requested that a loader, an excavator and a dump truck be brought to the Branjevo Military Farm on the next day, 17 July.
1616	Zvornik Brigade vehicle records show ULT 220 in operation at Branjevo for eight-and-a-half hours on 17 July and that a truck towed a "BG-700" that day.
1617	On 17 July 1995, the Zvornik Brigade Engineering Company provided an excavator, which was used to dig a mass grave. Members of the Company participated in digging the mass graves.
<b>VIII. THE REBURIAL OPERATION</b>	
1641	There was a concerted campaign to conceal the bodies of the men in these primary gravesites.
<b>IX. SUMMARY OF THE FORENSIC EVIDENCE OF THE EXECUTIONS AND REBURIALS</b>	
1643	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.
<b>X. ADDITIONAL RELEVANT FACTS</b>	
<b>B. The Impact of the Crimes on the Bosnian Muslim Community of Srebrenica</b>	
1653	Often the women have been forced to live in collective and makeshift accommodations for many years, with a reduced standard of living.
1654	The vast majority of Bosnian Muslim women refugees have been unable to find employment. Women forced to become the head of their households following the take-over of Srebrenica have difficulties with the unfamiliar tasks of conducting official family business in the public sphere.
1656	Younger children who survived the take-over of Srebrenica have developed adjustment problems, such as low levels of concentration, nightmares and flashbacks.