

**UNITED  
NATIONS**

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

Case No. IT-05-88-T  
Date: 1 September 2009

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**IN THE TRIAL CHAMBER**

**Before:** Judge Carmel Agius, Presiding  
Judge O-Gon Kwon  
Judge Kimberly Prost  
Judge Ole Bjørn Støle, Reserve Judge

**Registrar:** Mr. John Hocking

**THE PROSECUTOR**

v.

**VUJADIN POPOVIĆ  
LJUBIŠA BEARA  
DRAGO NIKOLIĆ  
LJUBOMIR BOROVCANIN  
RADIVOJE MILETIĆ  
MILAN GVERO  
VINKO PANDUREVIĆ**

**PUBLIC**

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**CORRIGENDUM TO THE PROSECUTION FINAL TRIAL BRIEF**

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John Ostojić and Predrag Nikolić for Ljubiša Beara  
Aleksandar Lazarević and Christopher Gosnell for Ljubomir Borovčanin  
Jelena Nikolić and Stéphane Bourgon for Drago Nikolić  
Natacha Fauveau Ivanović and Nenad Petrušić for Radivoje Miletić  
Dragan Krgović and David Josse for Milan Gvero  
Peter Haynes and Simon Davis for Vinko Pandurević

**THE INTERNATIONAL CRIMINAL TRIBUNAL  
FOR THE FORMER YUGOSLAVIA**

**Case No. IT-05-88-T**

**THE PROSECUTOR**

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**CORRIGENDUM TO THE PROSECUTION FINAL TRIAL BRIEF**

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**I. INTRODUCTION**

1. On 30 July 2009, the Prosecution filed its Final Trial Brief. During the course of preparations for closing arguments and after speaking with Defence Counsel, the Prosecution has identified several errors in its Final Trial Brief which it would like to draw to the attention of the Trial Chamber and Defence Counsel.<sup>1</sup> The Prosecution also notes that two of the Potočari opportunistic killings have been dropped from the Indictment and that there is insufficient evidence for a finding beyond reasonable doubt in relation to one of the opportunistic killings at the Kravica Supermarket.

**II. ERRATA**

2. The reference at paras. 668 and 2687 to Stanoje Birčaković's testimony is incorrect. Birčavokić did not testify that "Jasikovac passed on Nikolić's instruction to the MPs, ordering them to stay around and to be at the ready." Rather, Birčaković testified simply that he was told to "stay around and be at the ready." At T.10770, Birčaković confirmed that this instruction came from Jasikovac. He did not refer to Drago Nikolić in the context of this order.

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<sup>1</sup> The Defence teams have already been notified of the errata by way of email dated 31 August 2009.

3. The reference at para. 1691 to Exh. P00033 is incorrect and should be disregarded. As the cited exhibit itself and the transcript reference at fn. 4153 note, this document was drafted by the Intelligence and Security sector, not by Operations and Training.

4. The reference at para. 1730 to Ratko Miljanović as an "Operations and Training officer" is incorrect. Miljanović was chief of the department for operations and logistics within the logistics section of the Main Staff.

5. The reference at para. 1733 to intercept P01327a as an example of General Miletić's involvement in Žepa is incorrect. This intercept does not refer to Tolimir's upcoming involvement in the Žepa transportations the next day, 25 July. Rather, Tolimir is referring in the intercept to Gen. Miletić telling Tolimir that Tolimir would have to go to Goražde to deal with problems concerning convoys entering the Goražde enclave.

6. In addition, the following paragraphs of the legal section of the Prosecution's Final Trial Brief, refer to certain conclusions of fact reached in the *Krstić* and/or *Blagojević* Trial and/or Appeals Judgments:

- (a) Genocide: Para. 2828; Para. 2832 (first sentence). (The Prosecution notes that the second sentence should refer to "the Bosnian Muslim population of Eastern Bosnia," not "the Bosnian Muslim population of Srebrenica.");
- (b) Crimes against humanity (chapeau): paras. 2857-2858; para. 2863 (last sentence) (excluding the *Martic* TJ and AJ references at footnote 6032); and
- (c) Crimes against humanity (forcible transfer): para. 2892.

7. These citations were made in error, as the Prosecution did not intend to rely on factual conclusions made by other Trial or Appellate Chambers, nor will the Prosecution argue in its closing argument that the Trial Chamber should do so (except of course for judicially-noticed facts).

### **III. OPPORTUNISTIC KILLINGS NO LONGER CHARGED**

8. The Prosecution also notes that two of the Potočari opportunistic killings (Indictment paras. 31.1(b) and (c)) were dropped in the 15 February 2008 "Prosecution Submission Concerning Paragraphs 31.1b and 31.1c of the Indictment."

9. In addition, with respect to the Kravica Supermarket opportunistic killing involving the prisoner who had a gun placed in his mouth before being summarily executed (Indictment para. 31.3), the Prosecution recognises that there is insufficient evidence upon this record for a finding beyond a reasonable doubt as to this killing. However, the Prosecution will argue that the other killings referred to in this paragraph of the Indictment have been proven.

10. The Prosecution apologises for these errors and recognises that more errors may subsequently be discovered, in which case a second corrigendum may be filed.

Word Count: 624

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Dated this 1<sup>st</sup> day of September 2009  
At The Hague, The Netherlands