

17 DECEMBER 2009

**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-05-88/2-PT

Date: 17 December 2009

Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Kimberly Prost, Presiding  
Judge Christoph Flügge  
Judge Antoine Kesia-Mbe Mindua

**Registrar:** Mr. John Hocking

**Decision of:** 17 December 2009

**PROSECUTOR**

v.

**ZDRAVKO TOLIMIR*****PUBLIC***

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**DECISION ON PROSECUTION MOTION FOR JUDICIAL NOTICE OF  
ADJUDICATED FACTS PURSUANT TO RULE 94(B)**

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**Office of the Prosecutor**

Mr. Peter McCloskey

**The Accused**

Zdravko Tolimir

**TRIAL CHAMBER II** 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 “Prosecution’s Motion for Judicial Notice of Adjudicated Facts Pursuant to Rule 94(B), with Attached Appendix A”, filed on 13 February 2009 (“Motion”), and hereby renders its decision thereon.

## I. SUBMISSIONS OF THE PARTIES

1. The Prosecution filed the Motion requesting the Trial Chamber to take judicial notice, pursuant to Rule 94(B) of the Rules of Procedure and Evidence (“Rules”), of 604 facts that it claims were adjudicated in one or more of four prior judgements of Chambers of this Tribunal:<sup>1</sup> the *Krstić* Trial Judgement of November 2001,<sup>2</sup> the *Krstić* Appeal Judgement of April 2004,<sup>3</sup> the *Blagojević and Jokić* Trial Judgement of January 2005,<sup>4</sup> and the *Blagojević and Jokić* Appeal Judgement of May 2007.<sup>5</sup>

2. The Prosecution submits that:

- (a) The proposed adjudicated facts (“Proposed Adjudicated Facts”) annexed to the Motion fulfil the requirements set by the Tribunal’s jurisprudence;<sup>6</sup>
- (b) Judicial notice of the proposed facts is in the interests of justice and fully respects the Accused’s right to a fair, public and expeditious trial;<sup>7</sup>
- (c) Judicial notice of the proposed facts will promote efficiency in the trial proceedings by reducing the time and resources necessary to conduct the trial.<sup>8</sup>

3. The Accused Zdravko Tolimir submitted a response to the Motion on 29 April 2009, with the English version being filed on 29 May 2009 (“Response”).<sup>9</sup> The Accused requests that the Motion be denied in its entirety as the adjudicated facts would deny his right to a fair trial. In particular, The Accused contends that:

<sup>1</sup> Motion, para. 1; Annex A.

<sup>2</sup> *Prosecutor v. Krstić*, Case No. IT-98-33-T, Judgement, 2 August 2001 (“*Krstić* Trial Judgement”).

<sup>3</sup> *Prosecutor v. Krstić*, Case No. IT-98-33-A, Judgement, 19 April 2004 (“*Krstić* Appeal Judgement”).

<sup>4</sup> *Prosecutor v. Blagojević and Jokić*, Case No. IT-02-60-T, Judgement, 17 January 2005 (“*Blagojević and Jokić* Trial Judgement”).

<sup>5</sup> *Prosecutor v. Blagojević and Jokić*, Case No. IT-02-60-A, Judgement, 9 May 2007 (“*Blagojević and Jokić* Appeal Judgement”).

<sup>6</sup> Motion, paras. 2, 10.

<sup>7</sup> Motion, paras. 2, 11-14.

<sup>8</sup> Motion, paras. 2, 15-17.

<sup>9</sup> Response to the Prosecution’s Motion for Judicial Notice of Adjudicated Facts Pursuant to Rule 94 (B), 29 April 2009 (BCS), 29 May 2009 (English); on 17 April 2009, The Trial Chamber granted an extension of time to file this response as the Accused did not receive a BCS translation of the Indictment until 30 March 2009; see Decision on Tolimir’s Motion for an Extension of Time to File a Response to the Prosecution’s Motion for Judicial Notice of Adjudicated Facts and Motion for an Order of Verification of Translation of the Indictment, 17 April 2009.

- (a) The facts remain reasonably contestable and fail to satisfy one or more of the legal requirements for judicial notice;<sup>10</sup>
- (b) The *Blagojević and Jokić* and *Krstić* Judgements are unsuitable sources of facts, with some of the facts in the former case having been subject to the agreement of the parties;<sup>11</sup>
- (c) Judicial notice of these facts would bestow presumed accuracy on prior interpretations of contestable evidence;<sup>12</sup>
- (d) Judicial notice of the proposed facts will not promote trial efficiency as the Accused would be forced to spend a great deal of time rebutting them.<sup>13</sup>

4. On 5 June 2009, the Prosecution submitted a Leave to Reply and a Reply to the Response (“Reply”).<sup>14</sup> The Prosecution requests leave to reply and requests the Trial Chamber to reject the Tolimir Response and take judicial notice of all proposed adjudicated facts, except insofar as it requested the withdrawal of one fact and rewording of three others.<sup>15</sup> The Prosecution argues that:

- (a) In no way would admission of the proposed adjudicated facts jeopardise the promotion of judicial economy or the right of the accused to a fair trial;<sup>16</sup>
- (b) The Accused has made several incorrect assertions in his Response, in particular regarding the rewording of previously adjudicated facts being significant;<sup>17</sup>
- (c) The facts which were the subject of an agreement between the parties in the *Blagojević and Jokić* case were, in fact, previously adjudicated in the *Krstić* case.<sup>18</sup>

## II. APPLICABLE LAW

5. Judicial notice of adjudicated facts is governed by Rule 94(B), which provides as follows:

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

<sup>10</sup> Response, paras. 8-9.

<sup>11</sup> Response, paras. 10-14.

<sup>12</sup> Response, paras. 16-19.

<sup>13</sup> Response, para. 20.

<sup>14</sup> Prosecution’s Request for Leave to Reply and Reply to Accused Tolimir’s Response to the Prosecution’s Motion for Judicial Notice of Adjudicated Facts Pursuant to Rule 94(B), 5 June 2009.

<sup>15</sup> Reply, para. 7. Specifically, in relation to Proposed Adjudicated Fact 58, the Prosecution requests the removal of the reference to the *Blagojević* Trial Judgement para. 116; in relation to Proposed Adjudicated Fact 185, the Prosecution requests that the reference be amended from *Blagojević* Trial Judgement para. 159 in order to refer to the *Krstić* Trial Judgement para. 131; and in relation to Proposed Adjudicated Fact 226, the Prosecution requests the insertion of the word “warehouse” in between “the” and “in Kravica”. Finally, the Prosecution requests the withdrawal of Proposed Adjudicated Fact 212.

<sup>16</sup> Reply, para. 3.

<sup>17</sup> Reply, paras. 4-5.

<sup>18</sup> Reply, para. 6.

other proceedings of the Tribunal relating to matters at issue in the current proceedings.

Rule 94(B) allows a Trial Chamber to take judicial notice of relevant facts adjudicated in a previous trial or appeal judgement, after having heard the parties, even if a party objects to the taking of judicial notice of a particular fact.<sup>19</sup> Rule 94(B) confers a discretionary power on the Trial Chamber to determine whether or not to take judicial notice of an adjudicated fact.<sup>20</sup>

6. The aims of Rule 94(B) are to achieve judicial economy and harmonise the judgements of the Tribunal by granting the Trial Chamber the discretion to take judicial notice of facts or documents from other proceedings. As the Appeals Chamber has noted, however, when applying Rule 94(B), the Trial Chamber must achieve a balance between promoting these aims and safeguarding the fundamental right of the accused to a fair trial.<sup>21</sup>

7. The assessment of whether a purported adjudicated fact could be judicially noticed pursuant to Rule 94(B) is a two-step process:<sup>22</sup> first, the Trial Chamber must determine whether the fact fulfils a number of admissibility requirements (“Admissibility Requirements”) that have been set forth in the jurisprudence of the Tribunal; second, for each fact that fulfils these requirements, the Trial Chamber must determine whether, in its discretion, it should nevertheless withhold judicial notice on the ground that taking judicial notice of the fact in question would not serve the interests of justice.<sup>23</sup>

8. The Admissibility Requirements are the following:

(a) The fact must have some relevance to an issue in the current proceedings;

<sup>19</sup> See *Prosecutor v. Popović et al.*, No. IT-05-88-T, Decision of Prosecution Motion of Judicial Notice of Adjudicated Facts with Annex, 26 September 2006, (“*Popović Decision*”), para. 3; *Prosecutor v. Kupreškić, Kupreškić, Kupreškić, Josipović, and Šantić*, 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 et al. Appeal Decision*”), para. 6; *Prosecutor v. Blagojević and Jokić*, Case No. IT-02-60-T, Decision on Prosecution’s Motion for Judicial Notice of Adjudicated Facts and Documentary Evidence, 19 December 2003 (“*Blagojević and Jokić Trial Decision*”), para. 15; *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-T, Decision on Prosecution’s Motion for Judicial Notice of Adjudicated Facts and Prosecution’s Catalogue of Agreed Facts with Dissenting Opinion of Judge Harhoff (“*Milošević April Decision*”), 10 April 2007, para. 23.

<sup>20</sup> See *Popović Decision*, para. 3; *Prosecutor v. Karemera, Ngirumpatse, and Nzirorera*, Case No. ICTR-98-44-AR73(C), Decision on Prosecutor’s Interlocutory Appeal of Decision on Judicial Notice, (“*Karemera Appeals Decision*”), 16 June 2006, para. 41; *Prosecutor v. Slobodan 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, pp. 3–4; *Prosecutor v. Prlić, Stojić, Praljak, Petković, Ćorić, and Pušić*, Case No. IT-04-74-PT, Decision on Motion for Judicial Notice of Adjudicated Facts Pursuant to Rule 94(B) (*Prlić Pre-Trial Decision*), 14 March 2006, para. 9.

<sup>21</sup> *Prosecutor v. Nikolić*, Case No. IT-02-60/1-A, Decision on Appellant’s Motion for Judicial Notice, 1 April 2005 (“*Nikolić Appeal Decision*”), para. 12.

<sup>22</sup> *Popović Decision*, para. 4.

<sup>23</sup> *Milošević April Decision*, paras. 27–28; *Prosecutor v. Rasim Delić*, Case No. IT-04-83-PT, Decision on Prosecution’s Motion for Judicial Notice of Adjudicated Facts and Joint Motion Concerning Agreed Facts, 9 July 2007 (“*Delić Decision*”), para. 11.

- (b) The fact must be distinct, concrete, and identifiable;
- (c) The fact must be identified with adequate precision by the moving party;
- (d) The fact as formulated by the moving party must not differ in any substantial way from the formulation of the original judgement;
- (e) The fact must not be unclear or misleading in the context in which it is placed in the moving party's motion;
- (f) The fact must not contain characterisations of an essentially legal nature;
- (g) The fact must not be based on an agreement between the parties to the original proceedings;
- (g) The fact must not relate to the acts, conduct, or mental state of the accused; and
- (h) The fact must clearly not be subject to pending appeal or review.<sup>24</sup>

The Chamber will examine each of these requirements in the context of its respective application in the following section.

9. The Appeals Chamber in *Milošević* established the legal effect of judicially noticing an adjudicated fact: “[B]y taking 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, but which subject to that presumption may be challenged at that trial”.<sup>25</sup> This holding was reaffirmed by the Appeals Chamber in *Karemera*: “In the case of judicial notice under Rule 94(B), the 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”.<sup>26</sup>

<sup>24</sup> *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-AR73.1, Decision on Interlocutory Appeals 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, paras. 16–17, 21–22; *Milošević* April Decision, para. 27; *Delić* Decision, para. 10; *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-T, Decision on Appeals Chamber Remand of Judicial Notice of Adjudicated Facts with Separate Opinion of Judge Robinson", 18 July 2007, para. 11; *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-T, Decision on Defence Request for Judicial Notice of Adjudicated Facts", 29 August 2007, p. 2; *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-T, Decision on the Prosecution Motion to Take Judicial Notice of Facts under Rule 94(B) of the Rules of Procedure and Evidence, 14 December 2007 (English translation), 10 December 2007 (French original), para. 9.

<sup>25</sup> *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 ("*Milošević* Appeal Decision"), p. 4 (footnote removed).

<sup>26</sup> *Karemera et al.* Appeal Decision, para. 42 (footnotes removed). *Accord Prlić et al.* Pre-Trial Decision, para. 10; *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts and for Admission of Written Statements of Witnesses pursuant to Rule 92bis, 28 February 2003 ("*Krajišnik* February 2003 Trial Decision"), paras. 16–17.

10. The logical implication of the *Karemera* Chamber's language is that when a Trial Chamber judicially notices an adjudicated fact, that fact is admitted into evidence.<sup>27</sup> Like all rebuttable evidence, judicially noticed adjudicated facts remain subject to challenge by the non-moving party during the course of trial. Moreover, the Trial Chamber in future relevant deliberations, and particularly in those relating to the final judgement, retains the obligation to assess the facts' weight, "taking into consideration the evidence in the ... case in its entirety".<sup>28</sup> Perhaps most importantly, while the burden of producing evidence is shifted to the accused when the Chamber judicially notices an adjudicated fact proposed by the Prosecution, the burden of persuasion—that is, proof beyond a reasonable doubt—always remains on the Prosecution.<sup>29</sup>

### III. DISCUSSION

#### A. Admissibility Requirements<sup>30</sup>

##### 1. The fact must have some relevance to an issue in the current proceedings

11. A Trial Chamber must withhold judicial notice of any purported adjudicated fact that, in its consideration, has no relevance to any issue in the proceedings before it. Although the evidence upon which the original Chamber based its factual finding may have been relevant to those proceedings, the Chamber considering the proposed adjudicated fact must consider whether such evidence is also relevant to the current proceedings. Since judicially noticing an adjudicated fact has the effect of admitting that fact into evidence,<sup>31</sup> taking judicial notice of irrelevant facts holds the danger of overburdening the evidentiary record. As the Appeals Chamber has held, "Rule 94 is not

<sup>27</sup> See *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* March 2005 Trial Decision"), p. 10.

<sup>28</sup> *Ibid.*, para. 17. Accord *Prlić et al.* Pre-Trial Decision, para. 11 ("Adjudicated facts that are judicially noticed by way of Rule 94(B) of the Rules remain to be assessed by the Trial Chamber to determine what conclusions, if any, can be drawn from them, which will require their consideration together with all of the evidence brought at trial.").

<sup>29</sup> *Karemera et al.* Appeal Decision, para. 49.

<sup>30</sup> While older jurisprudence is inconsistent on whether a requirement exists that the purported adjudicated fact not be in dispute between the parties, the Prosecution is correct in stating that there is nothing in either Rule 94(B) of the Rules, nor in the currently binding or persuasive jurisprudence construing it, that prevents a Trial Chamber from taking judicial notice of facts that are in dispute. As noted by Judge Shahabuddeen, the phrase "at issue" in Rule 94(B) has been authoritatively defined to embrace issues over which the parties are in active dispute. *Milošević* Appeal Decision, Separate Opinion of Judge Shahabuddeen, paras. 26–30. This Trial Chamber joins the Trial Chambers in *Krajišnik* and *Prlić* in endorsing this interpretation of Rule 94(B). *Prlić et al.* Pre-Trial Decision, para. 10 ("As a party may challenge, at trial, a fact that has been judicially noticed, it follows that a Chamber is not restricted to taking judicial notice of facts that are not the subject of dispute between the parties."); *Krajišnik* March 2005 Trial Decision, para. 14 n. 45.

<sup>31</sup> See para. 10, *supra*.

a mechanism that may be employed to circumvent the ordinary requirement of relevance and thereby clutter the record with matters that would not otherwise be admitted.”<sup>32</sup>

12. The Trial Chamber has assessed the Proposed Adjudicated Facts from the *Krstić* and *Blagojević and Jokić* Judgements in the framework of the Indictment and the evidence on the record. The Trial Chamber notes that the Proposed Adjudicated Facts partially relate to the political situation in the early 1990s in the Former Yugoslavia, as well as the demographics and geography of the Srebrenica area. Moreover, all but one, Proposed Adjudicated Fact No. 580, are primarily concerned with the events which occurred around Srebrenica in July 1995, and as such, are relevant to the current proceedings. In the view of the Trial Chamber, however, Proposed Adjudicated Fact No. 580, is irrelevant and therefore inadmissible.

## 2. The fact must be distinct, concrete, and identifiable

13. A Trial Chamber must withhold judicial notice of a purported adjudicated fact if it is not distinct, concrete and identifiable in the findings of the original judgement.<sup>33</sup> In order to determine whether a purported fact is distinct, concrete, and identifiable, the Chamber must examine the purported fact in the context of the original judgement, “with specific reference to the place referred to in the judgement and to the indictment period of that case”.<sup>34</sup> The Chamber must also deny judicial notice where a purported fact is inextricably commingled either with other facts that do not themselves fulfil the requirements for judicial notice under Rule 94(B), or with other accessory facts that serve to obscure the principal fact.<sup>35</sup>

14. The Trial Chamber observes that, even when considered in the context of the original judgement, a proposed fact may be insufficiently distinct and concrete, thereby rendering the fact inadmissible.<sup>36</sup> For example, the Trial Chamber considers that the terms “poorly trained” in Proposed Adjudicated Fact 42, “many skirmishes” in Proposed Adjudicated Fact 67, “many murders” in Proposed Adjudicated Fact 440, and “matters relating to the column” in Proposed Adjudicated Fact 531 are insufficiently concrete so as to render the fact admissible as an adjudicated fact. Similarly, the Trial Chamber is of the view that some of the proposed facts lack

<sup>32</sup> *Semanza v. Prosecutor*, Case No. ICTR-97-20-A, Judgement, 20 May 2005, para. 189. *Accord Nikolić Appeal Decision*, para. 52; *Krajišnik March 2005 Trial Decision*, para. 17.

<sup>33</sup> *See Prlić et al.* Pre-Trial Decision, para. 12; *Prosecutor v. Hadžihasanović and Kubura*, Case No. IT-01-47-T, Decision on Judicial Notice of Adjudicated Facts Following the Motion Submitted by Counsel for the Accused Hadžihasanović and Kubura on 20 January 2005, 14 April 2005 (“*Hadžihasanović and Kubura Trial Decision*”), p. 5; *Krajišnik March 2005 Trial Decision*, para. 14; *Krajišnik February 2003 Trial Decision*, para. 15; *Blagojević and Jokić Trial Decision*, para. 16.

<sup>34</sup> *Krajišnik March 2005 Trial Decision*, para. 14, n. 44. *Accord Hadžihasanović and Kubura Trial Decision*, p. 6.

<sup>35</sup> *See Prlić et al.* Pre-Trial Decision, para. 12.

<sup>36</sup> *See Prosecutor v. Karadžić*, Case No. IT-05-5/18-PT, Decision on Third Prosecution Motion for Judicial Notice of Adjudicated Facts (“*Karadžić Decision*”), 9 July 2009, para. 21.

sufficient specificity so as to be concrete and admissible as an adjudicated fact. As a result, the Trial Chamber considers that Proposed Facts Nos. 42, 57, 63, 67, 80, 86, 137, 191, 192, 246, 254-264, 265, 440, 445, 484, 485, 486, 507, 531, and 539 are insufficiently distinct and concrete and are therefore inadmissible.

3. The fact must be identified with adequate precision by the moving party

15. A Trial Chamber must withhold judicial notice of a purported adjudicated fact if the moving party has not identified the fact with adequate precision.<sup>37</sup> As the Appeals Chamber has held, “[a] request must specifically point out the paragraph(s) or parts of the judgment of which [the moving party] wishes judicial notice to be taken”.<sup>38</sup>

16. Having evaluated the remaining Proposed Adjudicated Facts, the Trial Chamber considers that the Prosecution has identified them with adequate precision so as to satisfy this requirement for admission.

4. The fact as formulated by the moving party must not differ in any substantial way from the formulation of the original judgement

17. A Trial Chamber must withhold judicial notice of a purported adjudicated fact if the moving party’s formulation of the fact is not the same as, or at least substantially similar to, the formulation used by the Trial or Appeals Chamber in the original judgement.<sup>39</sup> Facts altered in a substantial way by the moving party cannot be considered to have been truly adjudicated. Nevertheless, this Trial Chamber considers that if the moving party’s formulation contains only a minor inaccuracy or ambiguity as a result of its abstraction from the context of the original judgement, the Chamber may, in its discretion, correct the inaccuracy or ambiguity *proprio motu*. In such circumstances, the correction should introduce no substantive change to the proposed fact, and the purpose of such correction should be to render the formulation consistent with the meaning intended by the original

<sup>37</sup> See *Kupreškić et al.* Appeal Decision, para. 12; *Nikolić* Appeal Decision, paras. 47, 56; *Prosecutor v. Bizimungu, Mugenzi, Bicamumpaka, and Mugiraneza*, Case No. ICTR-99-50-T, Decision on Prosper Mugiraneza’s First Motion for Judicial Notice pursuant to Rule 94(B), 10 December 2004, para. 13 (holding that a blanket reference to adjudicated facts set out in specific paragraphs of a judgement will not be entertained).

<sup>38</sup> *Kupreškić et al.* Appeal Decision, para. 12.

<sup>39</sup> See *Krajišnik* March 2005 Trial Decision, para. 14; *Blagojević and Jokić* Trial Decision, para. 16. The Trial Chamber declines to endorse the apparent holding of the *Prlić* Trial Chamber that the moving party must reproduce the formulation of the original judgement “exactly”. See *Prlić et al.* Pre-Trial Decision, 16 (excluding three purported adjudicated facts because the Prosecution in its motion “d[id] not use *exactly* the same language as used in the original language of [the relevant] Judgements”) (emphasis added).



Chamber. The fact corrected in this manner may then be judicially noticed, as long as it fulfils all the other admissibility requirements of Rule 94(B).<sup>40</sup>

18. The Trial Chamber observes that Proposed Adjudicated Fact No. 544 refers to prisoners being “beaten and ... killed” throughout the day of 13 July in Nova Kasaba. In support of its proposal, the Prosecution cites to paragraph 242 of the *Blagojević and Jokić* Trial Judgement. The Trial Chamber notes that, in fact, paragraph 242 is located in a section of the judgement pertaining to events at Sandići Meadow, and the relevant sentence reads as follows: “[t]here is evidence that throughout the day prisoners were beaten and some were killed”. Since paragraph 242 does not refer to events at Nova Kasaba, and the surrounding paragraphs refer to events at Sandići Meadow, the Trial Chamber considers that Proposed Fact 544 substantially differs from its formulation in the original judgement and is therefore inadmissible.

5. The fact must not be unclear or misleading in the context in which it is placed in the moving party’s motion

19. A Trial Chamber must also withhold judicial notice of a purported adjudicated fact if it is unclear or misleading in the context in which it has been placed in the moving party’s motion. As the Appeals Chamber has held, “[a] Trial Chamber can and indeed must decline to take judicial notice of facts if it considers that the way they are formulated—abstracted from the context of the judgement ... whence they came—is misleading or inconsistent with the facts actually adjudicated in the cases in question.”<sup>41</sup> When evaluating the clarity and accuracy of a given fact, the examination cannot be done in isolation and regard should be given to the surrounding Proposed Adjudicated Facts.<sup>42</sup> A Trial Chamber must deny judicial notice if the fact in question is unclear or misleading in this context, or if it will become unclear or misleading because one or more of the surrounding purported facts will be denied judicial notice.<sup>43</sup>

20. Having evaluated the Proposed Adjudicated Facts, the Trial Chamber notes that Proposed Adjudicated Fact No. 65 is, in fact, a part of a longer sentence in the original judgement. In the view of the Trial Chamber, Fact No. 65 is unclear when considered apart from the remainder of the sentence, and is thus unclear in the context of the motion. It is therefore inadmissible.

<sup>40</sup> Cf. *Prosecutor v. Stanković*, Case No. IT-96-23/2-PT, Decision on Prosecution’s Motion for Judicial Notice pursuant to Rule 94(B), 16 May 2003 (“*Stanković* Pre-Trial Decision”), para. 16 & p. 8 nn. 20–25 (examining the *Kunarac* Trial and Appeal Judgements to determine whether instances of the term “Foča” in certain of the Prosecution’s proposed adjudicated facts referred to the town of Foča or the municipality of Foča, and supplying the missing qualifications *proprio motu*).

<sup>41</sup> *Karemera* Appeals Decision, para. 55.

<sup>42</sup> *Popović* Decision, para. 8.

<sup>43</sup> *Popović* Decision, para. 8.

21. Moreover, the Trial Chamber considers that Proposed Adjudicated Fact 211 is also unclear in the context of the Prosecution's motion. In the view of the Trial Chamber, the term "small scale" from paragraph 196 of the *Krstić* Trial Judgement is unclear when considered outside the context of the further sentence in paragraph 196 which specifies the number of persons executed at Jadar River.<sup>44</sup> The Trial Chamber further observes that the Prosecution has not submitted any other Proposed Adjudicated Facts relevant to this site. Accordingly, the Trial Chamber considers that Proposed Adjudicated Fact 211 is unclear in the context of the motion and is therefore inadmissible.

6. The fact must not contain characterisations of an essentially legal nature

22. A Trial Chamber may only judicially notice a purported adjudicated fact where it represents the factual—and not the legal—findings of a Trial Chamber or the Appeals Chamber.<sup>45</sup> This Trial Chamber endorses the position of the Trial Chamber in *Krajišnik* that judicial notice must be denied where the fact contains characterisations that are of an "essentially" legal nature: "[M]any findings have a legal aspect, if one is to construe this expression broadly. It is therefore necessary to determine on a case-by-case basis whether the proposed fact contains findings or characterizations which are of an *essentially* legal nature, and which must, therefore, be excluded."<sup>46</sup>

23. The Trial Chamber observes that Proposed Adjudicated Fact 83 states that "[t]he attack was clearly directed against the Bosnian Muslim civilian population in the Srebrenica enclave" and is taken from the section of the *Blagojević and Jokić* Trial Judgement containing legal findings. While this Trial Chamber shares the view of the *Karadžić* Trial Chamber, which specified that "the remainder of the cited paragraph of the original judgement is irrelevant to whether judicial notice of a proposed fact is appropriate,"<sup>47</sup> the Trial Chamber also observes that the language of Proposed Adjudicated Fact 83 effectively mirrors the language of the chapeau element of Article 5 of the Statute. It is therefore inadmissible.

24. Similarly, the Trial Chamber observes that the full text of Proposed Adjudicated Fact 196 in its original formulation in paragraph 543 of the *Krstić* Trial Judgement reads as follows: "[i]t has been established beyond all reasonable doubt that Bosnian Muslim men residing in the enclave

<sup>44</sup> The Trial Chamber further considers that even in the context of paragraph 196, the term "small scale" is insufficiently concrete.

<sup>45</sup> *Prlić et al.* Pre-Trial Decision, para. 12; *Krajišnik* March 2005 Trial Decision, para. 14; *Blagojević and Jokić* Trial Decision, para. 16; *Prosecutor v. Milošević*, Case No. IT-02-54-T, Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 10 April 2003 ("*Milošević* April 2003 Trial Decision"), p. 3; *Krajišnik* February 2003 Trial Decision, para. 15.

<sup>46</sup> *Krajišnik* March 2005 Trial Decision, para. 15 (emphasis in original). *Accord Prosecutor v. Mejakić, Gruban, Fuštar, and Knežević*, Case No. IT-02-65-PT, Decision on Prosecution Motion for Judicial Notice pursuant to Rule 94(B), 1 April 2004 ("*Mejakić et al.* Pre-Trial Decision"), p. 4 ("Trial Chambers may take judicial notice of factual findings in other cases but not the legal characterisation of such facts").

were murdered, in mass executions or individually”. The Trial Chamber considers that in this context, the term “murder” is used in a legal sense, and as a result, the proposed adjudicated fact contains an essentially legal characteristic. Accordingly, Proposed Adjudicated Fact 196 is inadmissible.

7. The fact must not be based on an agreement between the parties to the original proceedings

25. A Trial Chamber must withhold judicial notice of a purported adjudicated fact if the finding in the original judgement is based on an agreement between the parties to those proceedings.<sup>48</sup> Such agreed facts may, for example, be the result of a plea agreement under Rules 62 *bis* and 62 *ter*, or an agreement between the parties on matters of fact in accordance with Rule 65 *ter*(H). In this Trial Chamber’s view, if a Chamber cannot readily determine, from an examination of the citations in the original judgement, that the fact was not based on an agreement between the parties, it must deny judicial notice of the fact.<sup>49</sup> However, the Trial Chamber also notes that according to the jurisprudence of the Tribunal, 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”.<sup>50</sup>

26. The Accused has submitted that some of the Proposed Adjudicated Facts were the subject of an agreement in previous proceedings<sup>51</sup> or were not contested in previous proceedings.<sup>52</sup> The Trial Chamber notes, however, that in each of these instances, the Prosecution has provided a citation to at least one judgement in which the relevant trial chamber based its factual finding primarily on evidence adduced before it in the relevant proceeding.<sup>53</sup> While it is indicated in some instances that such evidence corroborated a fact which had been subject to an agreement between the parties, primary reliance was placed upon the evidence rather than the agreed-upon fact.<sup>54</sup> Accordingly, the

<sup>47</sup> *Karadžić* Decision, para. 44.

<sup>48</sup> See *Milošević* April 2003 Trial Decision, p. 3 (considering that, “[f]or a fact to be capable of admission under Rule 94(B)[,] it should have been the subject of adjudication and not based on an agreement between parties in previous proceedings”). *Accord Mejakić et al.* Pre-Trial Decision, p. 4; *Krajišnik* February 2003 Trial Decision, para. 15.

<sup>49</sup> See *Krajišnik* March 2005 Trial Decision, para. 14 n. 46.

<sup>50</sup> *Popović* Decision, para. 11.

<sup>51</sup> See, e.g. Response, paras. 125 (referring to Proposed Adjudicated Fact No. 14), 145 (referring to Proposed Adjudicated Facts Nos. 22-24), 194 (referring to Proposed Adjudicated Fact. No. 127), and 200 (referring to Proposed Adjudicated Facts Nos. 156-194).

<sup>52</sup> See, e.g. Response, paras. 110 (referring to Proposed Adjudicated Fact No. 124), 133 (referring to Proposed Adjudicated Facts No. 17), and 196 (referring to Proposed Adjudicated Fact. No. 196).

<sup>53</sup> See, e.g. Proposed Adjudicated Fact No. 188. In support of the Motion, the Prosecution has provided a citation to the *Blagojević* Trial Judgement, para. 161. The judgement itself provides a citation to the testimony of a witness, as well as to an agreed-upon fact. See *Blagojević* Trial Judgement, fn. 552.

<sup>54</sup> See, e.g. *Blagojević* Trial Judgement, fn. 552.

Trial Chamber considers that the Accused's argument is without merit and the remaining Proposed Adjudicated Facts satisfy this admissibility requirement.

8. The fact must not relate to the acts, conduct, or mental state of the accused

27. A Trial Chamber must withhold judicial notice of any purported adjudicated fact relating to "the acts, conduct, and mental state of the accused".<sup>55</sup> The Appeals Chamber has held that this "complete exclusion" "strikes a balance between the procedural rights of the [a]ccused and the interest of expediency", as judicially noticing such facts may impermissibly infringe the accused's right to hear and confront the witnesses against him or her.<sup>56</sup> Moreover, the factual findings of another Chamber bearing on the acts, conduct, and mental state of a person not on trial before it may not be reliable as evidence in that person's trial, as the accused in the previous proceedings may have had significantly less incentive to contest those facts, or indeed may have expressed agreement with them in an attempt to allow the blame to fall on someone else.<sup>57</sup> The Trial Chamber notes, however, that this exclusion focuses narrowly on the deeds, behaviour, and mental state of the accused—that is, on the conduct of the accused fulfilling the physical and mental elements of the form of responsibility through which he or she is charged with responsibility.<sup>58</sup>

28. The Trial Chamber highlights that this prohibition does not apply to the conduct of other persons for whose criminal acts and omissions the accused is alleged to be responsible through one or more of the forms of responsibility in Articles 7(1), 7(3), and 4(3)(e) of the Statute.<sup>59</sup> Such persons may include, for instance, alleged subordinates whose criminal conduct the accused is charged with failing to prevent or punish, persons said to have participated with the accused in a joint criminal enterprise, and persons the accused is alleged to have aided and abetted.<sup>60</sup> Accordingly, in the view of the Trial Chamber, the Accused's argument that some of the Proposed

<sup>55</sup> *Karemera* Appeals Decision, paras. 47, 51–52 (quotation at para. 52).

<sup>56</sup> *Karemera* Appeals Decision, para. 51.

<sup>57</sup> *Karemera* Appeals Decision, para. 51.

<sup>58</sup> *Karemera* Appeals Decision, para. 52 (citing *Prosecutor v. Galić*, Case No. IT-98-29-AR73.2, Decision on Interlocutory Appeal Concerning Rule 92bis(C), 7 June 2002 ("Galić Appeal Decision"), para. 9). *See also* *Prosecutor v. Milošević*, Case No. IT-02-54-PT, Decision on Prosecution's Request to Have Written Statements Admitted under Rule 92bis, 21 March 2002, para. 22 ("The phrase 'acts and conduct of the accused' in Rule 92bis is a plain expression and should be given its ordinary meaning: deeds and behaviour of the accused. No mention is made of acts and conduct by alleged co-perpetrators, subordinates or, indeed, anybody else.").

<sup>59</sup> *Karemera* Appeals Decision, para. 52.

<sup>60</sup> *Karemera* Appeals Decision, para. 52. The *Karemera* Appeals Chamber drew a distinction between adjudicated facts going to the "acts, conduct, and mental state of the accused" and all those facts merely bearing on the accused's criminal responsibility in some way. As the purpose of a criminal trial is to adjudicate the criminal responsibility of the accused, "judicial notice under Rule 94(B) is in fact available *only* for adjudicated facts that bear, at least in some respect, on the criminal responsibility of the accused." *Karemera et al.* Appeal Decision, para. 51, para. 48 (emphasis in original).

Adjudicated Facts are rendered inadmissible because they relate to the acts and conduct of his alleged subordinates is unpersuasive.<sup>61</sup>

29. Having evaluated the remaining Proposed Adjudicated Facts, therefore, the Trial Chamber is satisfied that none of them relate to the acts, conduct, or mental state of the Accused in this case. The Trial Chamber highlights, however, that where the proposed fact goes to the core of the case and relates to the conduct of others for whose criminal acts and omissions the accused is alleged to be responsible, the Trial Chamber may nevertheless exercise its discretion to withhold judicial notice if it considers that doing so would be in the interests of justice.<sup>62</sup> Even in such instances, though, the proposed fact remains admissible pursuant to the admissibility requirements set out above. Accordingly, the Trial Chamber considers that each of the remaining Proposed Adjudicated Facts satisfies this admissibility requirement.

9. The fact must clearly not be subject to pending appeal or review

30. A Trial Chamber may only judicially notice a purported adjudicated fact if that fact itself is clearly not subject to pending appeal or review proceedings<sup>63</sup> or is not inextricably commingled with those findings that have been challenged by a party.<sup>64</sup> Having evaluated the remaining Proposed Adjudicated Facts, however, the Trial Chamber notes that none are subject to pending appeal or review. Accordingly, the Trial Chamber considers that they satisfy the admissibility requirement.

**B. Discretionary Considerations**

31. Where a Trial Chamber determines that a purported adjudicated fact meets all nine of the admissibility requirements set forth above, it may take judicial notice of it.<sup>65</sup> Nevertheless, as the power of judicial notice under Rule 94(B) is discretionary, the Chamber always retains the right to withhold judicial notice of any adjudicated fact, even if it fulfils all of the admissibility requirements, if the Chamber determines that taking such notice would not serve the interests of

<sup>61</sup> Response, paras. 190 (referring to Proposed Adjudicated Facts 112 and 114), 198 (referring to Proposed Adjudicated Facts 143 and 155).

<sup>62</sup> See para. 33, *infra*.

<sup>63</sup> See *Kupreškić et al.* Appeal Decision, para. 6; *Prlić et al.* Pre-Trial Decision, paras. 12, 15.

<sup>64</sup> See *Prlić et al.* Pre-Trial Decision, para. 15 (holding that “only those facts which are clearly not under appeal ... may ... be considered as having been finally adjudicated by the Trial Chamber”); *Hadžihasanović and Kubura* Trial Decision, pp. 5–6; *Krajišnik* March 2005 Trial Decision, para. 14; *Mejakić et al.* Pre-Trial Decision, p. 4; *Krajišnik* February 2003 Trial Decision, para. 14; *Blagojević and Jokić* Trial Decision, paras. 16, 18–19; *Prosecutor v. Ljubičić*, Case No. IT-00-41-PT, Decision on Prosecution’s Motion for Judicial Notice of Adjudicated Facts, 23 January 2003 (“*Ljubičić* Pre-Trial Decision”), pp. 5–6.

<sup>65</sup> See *Prlić et al.* Pre-Trial Decision, para. 12.

justice.<sup>66</sup> This Trial Chamber has examined the admissible adjudicated facts in the Prosecution Motion having full regard to this principle, and has decided to deny judicial notice to a number of facts because taking such notice of them would not further the interests of justice. The following discussion highlights some of the considerations the Chamber has borne in mind in performing this portion of the analysis.

32. The Trial Chamber recalls that its paramount duty is to ensure that the conduct of trial proceedings in this case is both fair and expeditious, and that the rights of the Accused are preserved in accordance with Articles 20 and 21 of the Statute of the Tribunal. In this regard, a key factor the Chamber has considered when determining whether to take judicial notice of the Prosecution's proposed adjudicated facts is whether taking such notice will achieve judicial economy while still preserving the right of the Accused to a fair, public, and expeditious trial.<sup>67</sup> Judicial notice may advance judicial economy by "condens[ing] the relevant proceedings to what is essential for the case of each party without rehearing supplementary allegations already proven in past proceedings".<sup>68</sup> However, because taking judicial notice of an adjudicated fact establishes a presumption of its accuracy that may be rebutted by the non-moving party at trial,<sup>69</sup> the Trial Chamber has been mindful of the possibility that anticipated attempts at rebuttal by the Accused may consume excessive time and resources, consequently frustrating the principle of judicial economy.<sup>70</sup> The Accused has indicated his intention to challenge many of the facts proposed by the Prosecution for judicial notice.<sup>71</sup> Moreover, the Trial Chamber has also had regard to whether the volume or type of evidence the Accused can be expected to produce in rebuttal may place such a significant burden on him that it jeopardises his right to a fair trial. This is particularly the case when the proposed fact goes to the core of the case.

33. In the view of the Trial Chamber, a proposed fact may go to the core of the case for a number of reasons. For example, a proposed fact may relate to a specific allegation against the

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<sup>66</sup> See *Karemera et al.* Appeal Decision, para. 41; *Krajišnik* March 2005 Trial Decision, para. 12; *Milošević* Appeal Decision, pp. 3–4.

<sup>67</sup> See *Karemera et al.* Appeal Decision, paras. 39, 41; *Krajišnik* March 2005 Trial Decision, para. 12; *Mejakić et al.* Pre-Trial Decision, p. 5.

<sup>68</sup> *Krajišnik* February 2003 Trial Decision, para. 11.

<sup>69</sup> *Karemera et al.* Appeal Decision, para. 42.

<sup>70</sup> See *Krajišnik* March 2005 Trial Decision, para. 16; *Mejakić et al.* Pre-Trial Decision, p. 5; *Prosecutor v. Milošević*, Case No. IT-02-54-T, Final Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 16 December 2003, paras. 11–12, 19.

<sup>71</sup> Response, para. 17.

Accused,<sup>72</sup> or may pertain to an objective of the joint criminal enterprise alleged by the Prosecution.<sup>73</sup> A proposed fact might also relate to the acts and conduct of persons for whose criminal conduct the Accused is allegedly responsible.<sup>74</sup> As the Trial Chamber has explained above, such proposed facts are not inadmissible, yet the Trial Chamber retains its discretion to withhold judicial notice when it considers that such facts go to the core of the case and that taking judicial notice of them would not serve the interests of justice. Similarly, the Trial Chamber considers that a proposed adjudicated fact that relates to a highly contested issue may also go to the core of the case.<sup>75</sup> In each instance where a proposed fact goes to the core of the case, the Trial Chamber considers that it would not serve the interests of justice to take judicial notice of it.

34. Finally, the Trial Chamber observes that a number of proposed facts appear to be repetitive when compared with other proposed facts. Proposed Adjudicated Fact 193 merely repeats the information contained in Proposed Adjudicated Fact 190. Similarly, the Trial Chamber considers that Proposed Adjudicated Fact 245 contains essentially the same information as Proposed Adjudicated Fact 243. Likewise, Proposed Adjudicated Fact 489 is mostly repetitive of Proposed Adjudicated Facts 487 and 508. The Trial Chamber will thus exercise its discretion to withhold notice of Proposed Adjudicated Facts Nos. 193, 245, and 489.

#### IV. CONCLUSION

35. With the foregoing considerations in mind, the Chamber has decided to withhold judicial notice of the following purported adjudicated facts because they do not fulfil at least one of the admissibility requirements established in the jurisprudence of the Tribunal:

- (a) Proposed facts which lack relevance to the current proceeding: 580.
- (b) Proposed facts which are not distinct, concrete and identifiable: 42, 57, 63, 67, 80, 86, 137, 191, 192, 246, 254-264, 265, 440, 445, 484, 485, 486, 507, 531, and 539.
- (c) Proposed facts which differ in a substantial way from the formulation of the original judgement: 544.
- (d) Proposed facts which are unclear or misleading in the context in which they are placed in the Prosecution Motion: 65, 211.
- (e) Proposed facts which contain characterisations of an essentially legal nature: 83 and 196.

<sup>72</sup> See, e.g. Proposed Facts Nos. 50, 51, 55, 127, 129, and 130.

<sup>73</sup> See, e.g. Proposed Facts Nos. 79, 81, 82, 106, 107, and 488.

<sup>74</sup> See, e.g. Proposed Facts Nos. 112, 114, 128, 155, 323-333, 335-341, 517, and 529.

<sup>75</sup> See, e.g. Proposed Facts Nos. 121, 122, 123, 142, and 527.

36. In addition, the Trial Chamber exercises its discretion to withhold judicial notice of the following proposed adjudicated facts because, under the circumstances discussed in further detail above, judicially noticing them would not serve the interests of justice: 50, 51, 55, 79, 81-82, 106, 107, 112, 114, 121, 122, 123, 127, 128, 129, 130, 142, 155, 193, 245, 323-333, 335-341, 488, 489, 517, 527 and 529.

37. The Trial Chamber holds that the remainder of the proposed adjudicated facts are suitable for judicial notice, subject to the reformulations and typographical corrections implemented in the Annex to this Decision.<sup>76</sup> These facts meet all nine of the admissibility requirements discussed above. Moreover, the Chamber considers that judicially noticing these facts, both individually and as a group, will further the interests of justice while not jeopardising the Accused's right to a fair, public, and expeditious trial.

## V. DISPOSITION

Pursuant to Rules 54, 94(B), 126 *bis*, and 127 of the Rules, the Trial Chamber hereby **GRANTS** the Prosecution Motion in part, and decides as follows:

- (a) The Trial Chamber grants leave to the Prosecution to file the Reply and allows the amendments requested therein;
- (b) The Trial Chamber takes judicial notice of the adjudicated facts in the Annex, in the manner formulated therein;
- (c) The remaining proposed adjudicated facts in the Motion are denied judicial notice.

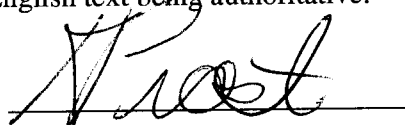
**DENIES** the Motion in all other respects.

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<sup>76</sup> Such typographical corrections include corrections to the text, as well as to the citation. *See e.g.* Proposed Adjudicated Facts Nos. 1-8, 18, 185, 233, and 240-241.



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

A handwritten signature in black ink, appearing to read 'Kimberly Prost', written over a horizontal line.

Kimberly Prost  
Presiding

Dated this 17th day of December 2009  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

## ANNEX

As explained in the Disposition, the adjudicated facts set forth below have been judicially noticed and admitted into evidence. The following abbreviations are used for relevant prior judgements of the Tribunal:

**KJ:** *Krstić* Trial Judgement

**KA:** *Krstić* Appeal Judgement

**BJJ:** *Blagojević and Jokić* Trial Judgement

**BJA:** *Blagojević and Jokić* Appeal Judgment

## PART I: GENERAL FACTUAL ALLEGATIONS

### BACKGROUND TO THE CONFLICT AND THE BEGINNING OF ETHNIC CLEANSING

#### *1991-1992: The Break-Up of the Former Yugoslavia*

1. From 1945 until 1990, Yugoslavia was composed of six Republics: Bosnia and Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia. Certain Republics were populated predominantly by one ethnic group: for example, Serbs in Serbia and Croats in Croatia. **KJ 7**
2. Bosnia and Herzegovina ("Bosnia") was the most multi-ethnic of all the Republics, with a pre-war population of 44 percent Muslim, 31 percent Serb, and 17 percent Croat. **KJ 7**
3. The Second World War was a time of particularly bitter strife in the former Yugoslavia, with accusations of atrocities emanating from all quarters. Marshal Tito's post-war government discouraged ethnic division and nationalism with a focus on the unity of the communist state. Thus, relative calm and peaceful inter-ethnic relations marked the period from 1945 until 1990. Nevertheless, the various groups remained conscious of their separate identities. **KJ 8**
4. In the late 1980s, economic woes and the end of communist rule set the stage for rising nationalism and ethnic friction. **KJ 9**
5. The Republics of Slovenia and Croatia both declared independence from the Federal Republic of Yugoslavia in June 1991. **KJ 9**
6. Macedonia broke off successfully in September 1991. **KJ 9**
7. Bosnia began its journey to independence with a parliamentary declaration of sovereignty on 15 October 1991. **KJ 10**
8. The Republic of Bosnia and Herzegovina was recognised by the European Community on 6 April 1992 and by the United States the following day. International recognition did not end the matter, however, and a fierce struggle for territorial control ensued among the three major groups in Bosnia: Muslim, Serb and Croat. In the Eastern part of Bosnia, which is close to Serbia, the conflict was particularly fierce between the Bosnian Serbs and the Bosnian Muslims. **KJ 10**

**1992-1993: CONFLICT IN SREBRENICA**

9. The town of Srebrenica is nestled in a valley in eastern Bosnia, about fifteen kilometres from the Serbian border. **KJ 11; KA 2; BJJ 94**
10. Srebrenica town is one kilometre wide and two kilometres long. **BJJ 119**
11. 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. **KJ 11; BJJ 94**
12. In 1991, the population of the municipality was 37,000, of which 73 percent were Muslim and 25 percent were Serb. **KJ 11; BJ 94; KA 15, n. 25**
13. During the conflict the Central Podrinje region, which included Srebrenica, was an area of significant strategic importance. For the Bosnian Serbs, control of this region was necessary in order to achieve their minimum goal of forming a political entity in Bosnia. **KJ 12.**
14. Despite Srebrenica's predominantly Muslim population, Serb paramilitaries from the area and neighbouring parts of eastern Bosnia gained control of the town for several weeks early in 1992. **KJ 13)**
15. In May 1992, however, 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. **KJ 13**
16. On 12 May 1992, Mimčilo 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 Serbian States." **BJJ 96**
17. By September 1992, Bosnian Muslim forces from Srebrenica had linked up with those in Žepa, a Muslim-held town to the south of Srebrenica. **KJ 13**
18. In November 1992, General Ratko Mladić issued Operational Directive 4, which outlined further operations of the 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." **BJJ 97**
19. 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. **KJ 13**
20. In January 1993, Bosnian Muslim forces attacked the Bosnian Serb village of Kravica. Over the next few months, the Bosnian Serbs responded with a counter-offensive, eventually capturing the villages of Konjević Polje and Cerska, severing the link between Srebrenica and Žepa and reducing the size of the Srebrenica enclave to 150 square kilometres. **KJ 14**
21. Bosnian Muslim residents of the outlying areas converged on Srebrenica town and its population swelled to between 50,000 and 60,000 people. **KJ 14; KA 15 n 26; BJJ 98**
22. 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. **KJ 15; BJJ 98**

23. By March 1993, when General Philippe Morillon of France -- 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. **KJ 15**
24. 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. **KJ 16; BJJ 99; BJJ 101**
25. 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". **BJJ 101**

**APRIL 1993: THE SECURITY COUNCIL DECLARES SREBRENICA A "SAFE AREA"**

26. 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 Resolution 824, two other UN protected enclaves, Žepa and Gorazde. **KJ 18; KA 2, 16, n. 29; BJJ 100**
27. 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." **BJJ 100**
28. 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. **KA 16**
29. This guarantee of protection was re-affirmed by the commander of UNPROFOR, General Philippe Morillon. **KJ 15, 19-20; KA 16**
30. 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." **BJJ 102**
31. UNPROFOR commanders negotiated a cease-fire agreement signed by General 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. **KJ 19**
32. 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. **KJ 19**
33. On 18 April 1993, the first group of UNPROFOR troops arrived in Srebrenica. **KJ 20; BJJ 102**
34. Fresh troops were rotated approximately every six months after that (18 April 1993). **KJ 20**
35. 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). **KJ 20; BJJ 107, 108**
36. 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. **KJ 20**
37. In January 1995, a new set of UNPROFOR troops (a battalion from the Netherlands, referred to as "DutchBat") rotated into the enclave. **KJ 20**
38. Initially DutchBat had eight observation posts around the perimeter of the enclave; four additional OPs were added between February and July 1995. **BJJ 109**

39. Most of the time, groups of Bosnian Serb and Bosnian Muslim soldiers also maintained shadow positions near these outposts. **KJ 20**
40. The Bosnian Serb forces surrounding the enclave were equipped with tanks, armoured vehicles, artillery and mortars. **KJ 21**
41. 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. **KJ 21**
- ~~42. The ABiH soldiers in the enclave did not have heavy weapons and were poorly trained. **BJJ 115**~~
43. Reconnaissance and sabotage activities were carried out by the 28<sup>th</sup> Division of the Army of Bosnia and Herzegovina ("ABiH") on a regular basis against the VRS forces in the area. **KJ 21; BJJ 114-115**
44. Both parties to the conflict violated the "safe area" agreement. **KJ 22; BJJ 115, 117**
45. DutchBat personnel were prevented from returning to the enclave by Bosnian Serb forces and equipment and ammunition were also prevented from getting in. **KJ 22; BJ 111**
46. 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. **KJ 23**
47. 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 28<sup>th</sup> Division was continuously arming itself; and at least some humanitarian aid coming into the enclave was appropriated by the ABiH. **KJ 24**
48. Despite these 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. **KJ 25**

**1995: THE SITUATION IN THE SREBRENICA "SAFE AREA" DETERIORATES**

49. By early 1995, fewer and fewer supply convoys were making it through to the Srebrenica enclave. **KJ 26; BJJ 111-112**
- ~~50. Even before the offensive of July 1995 and as early as January 1995, the Bosnian Serb forces tried to prevent the humanitarian convoys getting through to the enclave. **KJ 566**~~
- ~~51. Beginning in February 1995, elements of the Bratunac Brigade restricted the movement of international convoys of humanitarian aid and supplies into the Srebrenica "safe area" at the Žuti Most checkpoint. **BJA 32**~~
52. 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. **KJ 26; BJJ 111-112**
53. It was estimated that without new supplies, almost half of the population of Srebrenica would be without food after mid-June. **BJJ 112**
54. Eventually, the peacekeepers had so little fuel that they were forced to start patrolling the enclave on foot. **KJ 26; BJ 112**

55. ~~The restriction of international convoys impacted the rotation and readiness of DutchBat troops and caused further deterioration of the humanitarian situation in the Srebrenica enclave. BJA 32~~
56. The military capability of DutchBat was further hampered by the VRS refusal to allow soldiers re-entry into the enclave after their leave. **BJJ 111**
57. ~~DutchBat soldiers who went out of the area on leave were not allowed to return and their numbers dropped from 600 to 400 men. KJ 26~~
58. In April 1995, the Dutch soldiers noticed a build-up of Bosnian Serb forces near two of the observation posts. **KJ 27;**
59. New Bosnian Serb soldiers were arriving in the area and they had new rifles, complete uniforms and were younger. **BJJ 116**

### THE ATTACK ON AND FALL OF THE SREBRENICA ENCLAVE

#### SPRING 1995: THE BOSNIAN SERBS PLAN TO ATTACK THE SREBRENICA "SAFE AREA"

60. In March 1995, Radovan Karadžić, President of Republika Srpska ("RS"), issued a directive to the VRS concerning the long-term strategy of the VRS forces in the enclave. **KJ 28; BJJ 106**
61. This directive, referred to as "Directive 7", specified that the VRS was to "complete the physical separation of Srebrenica from Žepa as soon as possible, preventing communication between individuals in the two enclaves." **KA 88; BJJ 106**
62. The directive specified that the VRS was to "create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of both enclaves." **KJ 28; KA 88; BJJ 106**
63. ~~Blocking aid convoys was a part of the plan. KJ 28; KA 89~~
64. By mid-1995, the humanitarian situation of the Bosnian Muslim civilians and military personnel in the enclave was catastrophic. **KJ 28; BJJ 111**
65. ~~Several persons died from starvation on 7 and 8 July 1995. KJ 566~~
66. On 31 March 1995, the VRS Main Staff issued Directive 7.1, signed by General Mladić. Directive 7.1 was issued "on the basis of Directive No. 7" and directed the Drina Corps to, *inter alia*, conduct "active combat operations...around the enclaves." **KA 89; BJJ 106**
67. ~~In the spring of 1995, there were many skirmishes between VRS soldiers and ABiH soldiers. BJJ 117~~
68. In the months before the Srebrenica attack, elements of the Bratunac Brigade shelled and opened sniper fire on the enclave. **BJA 43**
69. The Bratunac Brigade also opened fire on Srebrenica on 25 May 1995. **BJJ 117**
70. On 31 May 1995, Bosnian Serb forces captured OP Echo, which lay in the Southeast corner of the enclave. **KJ 30**
71. A raiding party of Bosniacs attacked the nearby Serb village of Višnjica, in the early morning of 26 June 1995. Although it was a relatively low intensity attack, some houses were burned and several people were killed. **KJ 30**
72. On 2 July 1995, the then-commander of the Drina Corps, General-Major Milenko Živanović, signed two orders on 2 July 1995, laying out the plans for the attack on the enclave and ordering various units of the Drina Corps to ready themselves for combat. The operation was code-named "Krivaja 95." **KJ 30; BJJ 120**

**THE OBJECTIVE OF KRIVAJA 95**

73. Krivaja 95 included specific orders to the Drina Corps' subordinate units of the Bratunac Brigade, the Zvornik Brigade, the Milići Brigade and parts of the Skelani Brigade. **BJJ 120**
74. The attack carried out by the VRS and MUP was planned and defined in the "Krivaja 95" order. **BJJ 551**
75. Colonel Radislav Krstić was to command the Krivaja 95 operation. **BJJ 120**
76. The initial Krivaja 95 plan did not include taking the town of Srebrenica. An assessment had been made by the VRS command that conditions were not right at that moment for capturing Srebrenica town. **KJ 119**
77. The plan for Krivaja 95 specifically directed the Drina Corps to "split apart the enclaves of Žepa and Srebrenica and to reduce them to their urban areas." **KJ 120; BJJ 120**
78. The plan also referred to "reducing the enclaves in size" and specified that the Drina Corps was to "improve the tactical positions of the forces in the depth of the area, and to create conditions for the elimination of the enclaves." **KJ 120**
- ~~79. The plan for Krivaja 95 was aimed at reducing the "safe area" of Srebrenica to its urban core and was a step towards the larger VRS goal of plunging the Bosnian Muslim population into humanitarian crisis and, ultimately, eliminating the enclave. **KJ 121**~~
- ~~80. The objective of Krivaja 95, although perhaps restricted initially to blocking communications between the two enclaves and reducing the Srebrenica enclave to its urban core, was quickly extended. **KJ 568**~~
- ~~81. When no resistance was being offered by the Bosnian Muslim forces or the international community, the operation's objective was broadened on 9 July by issuing the order to seize the town. **KJ 568**~~
- ~~82. Operation Krivaja 95 then became an instrument of the policy designed to drive out the Bosnian Muslim population. **KJ 568**~~
- ~~83. The attack was clearly directed against the Bosnian Muslim civilian population in the Srebrenica enclave. **BJJ 552**~~

**6-11 JULY 1995: THE TAKE-OVER OF SREBRENICA**

84. The start of the attack was scheduled for 04:00 on 6 July. **BJJ 124**
85. On 6 July the attack on Srebrenica commenced. **BJJ 125**
- ~~86. Early in the morning five rockets exploded near the DutchBat headquarters in Potočari. **BJJ 125**~~
87. 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. **BJJ 125**
88. Srebrenica remained under fire until the enclave fell. **BJJ 125**
89. 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 Bosnian Serb forces. **KJ 31; BJJ 127**
90. Soldiers at the OPs were detained and forced to hand over their equipment, including in one case an armoured personnel carrier ("APC"). **BJJ 127**

91. Some of the Dutch soldiers retreated into the enclave after their posts were attacked, but the crews of other observation posts surrendered into Bosnian Serb custody. **KJ 31**
92. The DutchBat soldiers who were detained were taken to Bratunac and Milići. **BJJ 128**
93. Simultaneously, the defending ABiH forces came under heavy fire and were pushed back towards the town. **KJ 31**
94. Contrary to the expectations of the VRS, the ABiH showed very little resistance. **BJJ 125**
95. 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. **KJ 32; BJJ 129**
96. By the evening of 9 July, the VRS had pressed four kilometres deep into the enclave, halting just one kilometre short of Srebrenica town. **KJ 33**
97. Late on 9 July, President Karadžić issued a new order authorising the VRS to capture the town of Srebrenica. **KJ 33; BJJ 130**
98. When President Karadžić sent the order for the VRS to take the enclave on 9 July, it came with instructions that it be delivered "personally" to General Krstić. **KJ 334**
99. Shelling continued on 10 and 11 July. **KJ 122; BJJ 125**
100. On the morning of 10 July, the situation in Srebrenica town was tense. Residents, some armed, crowded the streets. **KJ 34**
101. 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. **BJJ 129**
102. 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. **KJ 122**
103. Thousands of residents, desperate for protection, crowded around the UNPROFOR Bravo Company compound in Srebrenica, eventually forcing their way inside. **KJ 123; BJJ 132, 141**
104. The chaotic scene was exacerbated when mortar shells landed inside the compound around noon on 11 July, wounding several people. **KJ 123; BJJ 141**
105. 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. **KJ 123; BJJ 132**
- ~~106. 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. **BJA 43**~~
- ~~107. The VRS also embarked upon a campaign of burning Bosnian Muslim houses. **KJ 123; BJJ 131**~~
108. Many of the Bosnian Muslim men decided to take to the woods in the north-western part of the Srebrenica enclave. **BJJ 142**
109. DutchBat Commander Colonel 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. **KJ 34**
110. NATO planes also attempted to bomb VRS artillery positions overlooking the town, but had to abort the operation due to poor visibility. **KJ 34**



111. 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. **KJ 34**
- ~~112. Upon their arrival in Srebrenica town, members of the 10<sup>th</sup> Sabotage Detachment were calling on the few people who remained there to leave their houses. The approximately 200 people whom they found were mostly civilians. **BJJ 145**~~
113. Late in the afternoon of 11 July, 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. The moment was captured on film by Serbian journalist, Zoran Petrović. **KJ 36**
- ~~114. Soldiers from the 10<sup>th</sup> Sabotage Detachment were present at a checkpoint during the VRS victory walk through Srebrenica on 11 July and the Commander of that unit, Mićo Pelemiš, was in the centre of Srebrenica town on that day. **KJ 278**~~
115. On 11 July, President Karadžić appointed Miroslav Deronjić as the Civilian Commissioner of the "Serbian Municipality of Srebrenica". His tasks included revitalizing the area for the return of dislocated Serbs. **BJJ 135**
116. Civilian protection units were deployed to "clean up" Srebrenica town and Potočari. **BJJ 134**

**THE COLUMN OF BOSNIAN MUSLIM MEN**

117. 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. **KJ 60; BJJ 218** (gives date of 10 July)
118. 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. **KJ 60; BJJ 218**
119. At around midnight on 11 July, the column started moving along the axis between Konjević Polje and Bratunac. **KJ 62; BJJ 220**
120. 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 28<sup>th</sup> Division, then came civilians mixed with soldiers and the last section of the column was the Independent Battalion of the 28<sup>th</sup> Division. **KJ 61**
- ~~121. 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 28<sup>th</sup> Division of the ABiH, formed a column and proceeded toward Muslim-held territory in Tuzla. **BJA 57**~~
- ~~122. The estimated number of members of the 28<sup>th</sup> Division of the ABiH present in the enclave and among the column, ranged from about 1,000 soldiers to 4,000 soldiers. **BJJ 552**~~
- ~~123. The vast majority of the people present in the enclave itself and in the column were civilians. **BJJ 552**~~
124. The column gathered near the villages of Jaglici and Šušnjari and began to trek north. **KJ 61; BJJ 219**
125. The group consisted predominately of boys and men who were between the ages of 16 and 65. **BJJ 220**

126. A small number of women, children and elderly travelled with the column in the woods. **KJ 61; BJJ 220**

#### THE MAIN STAFF SECTOR FOR INTELLIGENCE AND SECURITY AFFAIRS

- ~~127. The security and intelligence organs were controlled centrally by the security and intelligence organ of the superior command. **BJA 85**~~
- ~~128. Lieutenant Colonel Popović, the Drina Corps assistant commander for security, Colonel Ljubiša Beara, the Main Staff chief of security, and General Mladić, the commander of the VRS Main Staff, issued orders directly to Momir Nikolić and to members of the Bratunac Brigade Military Police. **BJA 85**~~
- ~~129. The command of the Main Staff security organ was not disconnected from the brigade command. **BJA 85**~~
- ~~130. The security organ of the brigade could receive orders from two commanders, the superior commander for security and the unit commander. **BJA 85**~~

#### OVERVIEW AND STRUCTURE OF THE DRINA CORPS

131. 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. **KJ 98;**
132. It 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. **KJ 98**
133. The Drina Corps Headquarters was established first in Han Pijesak and later moved to Vlasenica. **KJ 98; BJJ 38**
134. General Živanović assumed the role of Drina Corps Commander at the time of its formation. **KJ 99; BJJ 38 (Fact 78)**
135. In addition to the Commander, the Drina Corps also had a Chief of Staff and three Assistant Commanders. **KJ 99; BJJ 38**
136. 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). **KJ 99; BJJ 38**
- ~~137. Krstić was a General Major in the VRS and Commander of the Drina Corps at the time the crimes at issue were committed. **KA 3, 45**~~
138. 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 Motorized Brigade ("2nd Romanija Brigade"); 1st Birać Infantry Brigade ("Birać 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 the 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. **KJ 100**
139. 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. **KJ 101**

140. In July 1995, the Commander of the Main Staff was General Mladić. In turn, the Main Staff was subordinate to President Karadžić, the Supreme Commander of the VRS. **KJ 101**

#### **CODES AND NUMBERS USED BY THE DRINA CORPS IN JULY 1995**

141. 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. **KJ 103**
- ~~142. The term "parcel" was a reference to captured Bosnian Muslims. **KA 76**~~

#### **TEMPORARY UNITS IN THE DRINA CORPS ZONE**

143. 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 Protection Regiment (a unit created to provide protection and combat services for the Main Staff). **KJ 101**
144. MUP units could be re-subordinated to the VRS for various purposes, including to reinforce the VRS during combat activities, in accordance with the law in effect in the RS. **BJJ 76**
145. 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. **BJJ 76**
146. 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. **KJ 277**
147. 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. **KJ 287**
148. On 12 July, a part of the MUP Task Force was tasked with securing the road between Konjević Polje and Bratunac. **BJJ 239**
149. 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. **KJ 286**
150. 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. **KJ 286**
151. 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. **KJ 192**
152. 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. **KJ 192**
153. Colonel Milanović proposed, in the absence of available personnel from the Drina Corps Command, the appointment of the Commander of the Bratunac Brigade, Colonel Blagojević, as the commander of the forces engaged in sweeping the terrain. General Krstić subsequently accepted this proposal. **KJ 192**
154. The Drina Corps was well aware of the presence of MUP units within its zone of responsibility, as well as the action being taken by MUP units to block and capture Bosnian Muslim men in the column. **KJ 289**

155. ~~The Drina Corps command was well aware of the presence of the 65<sup>th</sup> 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. KJ 282~~

### THREE MEETINGS AT HOTEL FONTANA

#### FIRST MEETING AT HOTEL FONTANA, 11 JULY 1995, 20:00 HOURS

156. 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. **KJ 126; KA 85; BJJ 150**
157. The DutchBat delegation, consisting of Colonel Thomas Karremans, Major Pieter Boering and other officers, was accompanied to the Hotel Fontana by Major Momir Nikolić of the Bratunac Brigade. **BJJ 150**
158. Upon arrival at the hotel, the DutchBat delegation saw several of their own soldiers held as hostages in a room in the hotel. **BJJ 150**
159. The fate of the Bosnian Muslims following the fall of Srebrenica was discussed at these meetings, including the plan to transport the civilian population. **KJ 129, 130; BJJ 150**
160. General Mladić led the meeting, which lasted approximately one hour. **KJ 126**
161. 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 Major Momir Nikolić, the Assistant Commander for Intelligence and Security of the Bratunac Brigade. **KJ 126**
162. The VRS was represented by General Mladić and Colonel Radislav Janković of the Main Staff, and by General Živanović and Lieutenant Colonel Kosorić of the Drina Corps. **BJJ 150**
163. 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. **KJ 126; KA 86; BJJ 152**
164. 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." **BJJ 152**
165. 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. **KJ 127; BJJ 152**
166. Like General Mladić, however, Colonel Karremans had no idea how to get in contact with military or civilian leaders of Srebrenica. **KJ 127**
167. The meeting concluded with General Mladić telling Colonel Karremans to return later that same evening at 23:00 for a second meeting. **KJ 127; BJJ 152**

#### SECOND MEETING AT THE HOTEL FONTANA, 11 JULY 1995, 23:00 HOURS

168. As General Mladić had directed, the second meeting convened at the Hotel Fontana took place at around 23:00 that same evening. **KJ 128; BJJ 154**
169. General Mladić again presided at the meeting. **KJ 128**
170. This time General Živanović was not present but General Krstić was. Lt. Colonel Kosorić and Major Nikolić were also in attendance at this meeting. **KJ 128; KA 85; BJJ 154**

171. General Krstić represented the Drina Corps and he sat next to General Mladić, although he did not speak. **KJ 339**
172. The DutchBat representatives arrived with a schoolteacher named Nesib Mandžić, an unofficial Bosnian Muslim representative who was plucked from the crowd in Potočari. **KJ 128; BJJ 154**
173. As the meeting began, the death cries of a pig being slaughtered just outside the window could be heard in the meeting room. **KJ 128; BJJ 155**
174. General Mladić then placed the broken signboard from the Srebrenica Town Hall on the table. **KJ 128; BJJ 155**
175. General Mladić stated that he would provide the vehicles to transport the Srebrenica refugees out of Potočari. **KJ 129; BJJ 158**
176. 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." **KJ 130; BJJ 156**
177. 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. **KJ 130**
178. 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. **KJ 360; KA 86; BJJ 152**
179. General Mladić scheduled a follow-up meeting for the next morning. **KJ 130**

**THIRD MEETING AT THE HOTEL FONTANA, 12 JULY 1995, 10:00 HOURS**

180. On 12 July 1995 at about 10:00, General Mladić convened the third and final meeting to discuss the fate of the Srebrenica Muslims. **KJ 131; BJJ 159**
181. General Mladić had brought a broken vase from the Srebrenica Municipal Assembly and described it "as the greatest trophy of his life." **BJJ 160**
182. General Mladić dominated the meeting, with General Krstić sitting at his side. Lt. Colonel Kosoric was also present as a representative of the Drina Corps at the meeting. **KJ 131; BJJ 159**
183. Also in attendance were Miroslav Deronjić, the newly-appointed Civilian Commissioner for Srebrenica; Ljubisav Simić, President of the Bratunac Municipal Assembly; Sribislav Davidović, President of the Executive Board of the Bratunac Municipality; and Dragomir Vasić, Chief of the Zvornik Centre for Public Security. **BBJ 159**
184. By this time, the VRS had obtained information about the existence of the Bosnian Muslim column attempting to break out of the former enclave. **KJ 131**
185. The DutchBat representatives, still unable to contact the official Bosnian Muslim military or civilian leaders of Srebrenica, had again brought Mr. Mandžić, along with two more unofficial representatives from the Potočari refugees: Ms. Čamila Omanović, an economist; and Mr. Ibro Nuhanović, a businessman. **KJ 131; BJJ 159**
186. General Mladić again made it clear that survival of the Srebrenica Muslims was conditional upon a military surrender. **KJ 132; KA 91; BJJ 160**
187. General Mladić stated that he would provide the vehicles. **KJ 132**

188. The transportation of the Bosnian Muslim population was to be done with the assistance of UNPROFOR to ensure that the transportation was carried out in a humane manner. **BJJ 161**
189. General Mladić stipulated that the fuel would have to be provided by someone else and suggested that UNPROFOR assume responsibility for this. **KJ 132**
190. 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." **KJ 134; BJJ 160**
- ~~191. The Main Staff was heavily involved in the direction of events following the takeover of Srebrenica. **KA 54**~~
- ~~192. The Main Staff could not and did not handle the Srebrenica follow-up operation on its own and had to rely upon Drina Corps resources. **KA 54, 61**~~
- ~~193. 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. **KJ 156** (no mention of exchange of POWs in the para. except in reference to past practice); **KA 100; BJJ 177** (General Mladić and other members of the VRS also told DutchBat that the men would be made prisoners of war and would later be taken to a prison camp and exchanged.)~~
194. The Drina Corps Bratunac Brigade had prepared a list, dated 12 July, of 387 suspected Bosnian Muslim war criminals in the Srebrenica enclave. **KJ 156; KA 87**

## **PART II: EVIDENCE REGARDING THE CHARGED CRIMES**

### **OPERATION TO MURDER THE ABLE-BODIED BOSNIAN MUSLIM MEN OF SREBRENICA**

195. Thousands of Bosnian Muslim men from the Srebrenica enclave were executed and buried in different locations in the Srebrenica, Bratunac and Zvornik municipalities. **BJJ 291**
- ~~196. Bosnian Muslim men residing in the enclave were murdered, in mass executions or individually. **KJ 543**~~
197. Although there is evidence that a small number of killings in Potočari and afterwards involved women, children and elderly, virtually all the persons killed in the aftermath of the fall of Srebrenica were Bosnian Muslim males of military age. **KJ 504**
198. The majority of the military aged Bosnian Muslim males who fled Srebrenica in July 1995 were killed. **KJ 504**
199. Almost to a man, the thousands of Bosnian Muslim prisoners captured following the take-over of Srebrenica, were executed. **KJ 67**
200. 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. **KJ 67**
201. Most, however, were slaughtered in carefully orchestrated mass executions, commencing on 13 July 1995, in the region just north of Srebrenica. **KJ 67**
202. Serious bodily or mental harm was done to the few individuals who survived the mass executions. **KJ 543**
203. In executing the captured Bosnian Muslim men, no effort was made to distinguish the soldiers from the civilians. **KJ 547; KA 26**
204. Except for the 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. **KJ 547**

205. All of the executions systematically targeted Bosnian Muslim men of military age, regardless of whether they were civilians or soldiers. **KJ 546**
206. The groups of Bosnian Muslims killed by the VRS included boys and elderly men normally considered outside the range of military age. **KA 27**
207. Some of the victims were severely handicapped and, for that reason, unlikely to have been combatants. **KJ 75, n. 155; KA 26**
208. Between 7,000 – 8,000 Bosnian Muslim men were systematically murdered. **KA 2; BJJ 569**
209. The massacred men amounted to about one fifth of the overall Srebrenica community. **KJ 592-594; KA 28**
210. The mass executions mainly took place between 13 and 16 July, while executions of smaller scale continued until 19 July. **KJ 546**

## LARGE-SCALE & ORGANISED KILLINGS

### 13 JULY MURDERS: JADAR RIVER

- ~~211. A small scale execution took place at Jadar River prior to midday on 13 July. **KJ 196**~~

### CERSKA VALLEY

- ~~212. The first of the large scale executions happened on the afternoon of 13 July 1995 in the Cerska Valley. **KJ 201 (Fact 305)**~~
213. 150 men were transported to an area along the road in Cerska Valley about 3 km from Konjević Polje and summarily executed. **BJJ 567(c)**
214. Two or three buses, followed by an APC and a backhoe, were seen driving towards Cerska at about 14:00 on 13 July. **KJ 201; BJJ 294**
215. The sound of light arms and machinegun fire was heard. The shooting lasted for about half an hour. **BJJ 294**
216. The buses came back the same way. The buses were followed by the APC and some time later the excavator. **BJJ 294**
217. Between 7 and 18 July 1996, investigators from the OTP, 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. **KJ 202**
218. 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. **KJ 202; BJJ 295**
219. 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. **KJ 202; BJJ 295, 567**
220. All of the bodies exhumed were male, with a mean age from 14 to 50. **KJ 202**
221. Of the bodies exhumed, 147 were wearing civilian clothes. **KJ 202; BJJ 295**
222. Forty-eight wire ligatures were recovered from the grave, about half of which were still in place binding the victims' hands behind their backs. **KJ 202; BJJ 295**

- 223. Experts were able to positively identify nine of the exhumed bodies as persons listed as missing following the take-over of Srebrenica. All nine were Bosnian Muslim men. **KJ 202**
- 224. The Cerska Valley road is in the zone of operations of the Drina Corps, specifically either the Milići Brigade or the Vlasenica Brigade. **KJ 203**

**13 JULY MURDERS: KRAVICA WAREHOUSE**

- 225. Between 1,000 and 1,500 Bosnian Muslim men from the column fleeing through the woods, who had been captured and detained in the Sandići Meadow, were bussed or marched to the Kravica Warehouse on the afternoon of 13 July 1995. **KJ 205; BJJ 245**
- 226. On the evening of 13 July 1995 approximately 1,000 Bosnian Muslim men were executed at the warehouse in Kravica. **BJA 294**
- 227. At around 18:00, when the warehouse was full, the soldiers started throwing grenades and shooting directly into the midst of the men packed inside. **KJ 205; BJJ 297**
- 228. Guards surrounding the building killed prisoners who tried to escape through the windows. **KJ 206**
- 229. By the time the shooting stopped, the warehouse was filled with corpses. **KJ 206**
- 230. The next morning, 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. **KJ 207; BJJ 299**
- 231. 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. **KJ 207**
- 232. 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. **BJJ 306, 567(d)**
- 233. 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. **BJJ 306**
- 234. 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. **BJJ 371**
- 235. The OTP sent a team of experts to examine the 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. **KJ 208**

**13 JULY MURDERS: SANDIĆI**

- 236. Between 1,000 and 4,000 Bosnian Muslim men captured from the column were detained in the Sandići Meadow on 13 July. **KJ 171; BJJ 240**
- 237. The soldiers guarding the men in the Sandići Meadow forced them to drop their belongings into big piles and to hand over their valuables. **KJ 171; BJJ 240**
- 238. 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. **KJ 171; BJJ 240**
- 239. While the prisoners were in the meadow they were given very little food and some water. **BJJ 241-242**
- 240. 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. **BJJ 242**



241. Approximately 30 men were taken away on a truck, with spades and pickaxes, and were not seen again. **BJJ 242**
242. 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. **KJ 171; BJJ 243**

**13 JULY MURDERS: LUKE SCHOOL NEAR TIŠĆA**

243. 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. **KJ 216**
244. As the buses carrying the women, children and elderly headed north towards Bosnian Muslim-held territory, they were stopped along the way and again screened for men. **KJ 56; BJJ 185**
- ~~245. Bosnian Serb forces systematically stopped the buses transporting the women, children and the elderly at Tišća and checked that no men were hiding on board. **KJ 547**~~
- ~~246. Those men found in the buses were removed and subsequently executed. **KJ 547**~~
247. The Bosnian Muslim men who managed to get to Luke by bus were separated by VRS soldiers and detained in the nearby elementary school. **BJJ 188**
248. From the checkpoint a number of prisoners were taken to a nearby school. **KJ 216**
249. At the school, a soldier on a field telephone appeared to be transmitting and receiving orders. **KJ 216**
250. 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. **KJ 216; BJJ 315**
251. General Krstić had been involved in issuing orders to Drina Corps units about securing the stretch of the road from Vlasenica up toward Tišća, where the civilians were disembarking. **KJ 369; KA 97**
252. 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. **KJ 369**
253. 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. **KJ 217**

**14 JULY MURDERS**

- ~~254. The large scale executions in the north took place between 14 and 17 July. **KJ 67 (Fact 344)**~~
- ~~255. They were led to sites located in remote places for execution. **KJ 547**~~
- ~~256. Most of the mass executions followed a well-established pattern. The men were first taken to empty schools or warehouses. After being detained there for some hours, they were loaded onto buses or trucks and taken to another site for execution. Usually, the execution fields were in isolated locations. **KJ 68**~~
- ~~257. Others were jammed into buildings and killed by rounds of automatic rifles or machine gunfire, or with hand grenades hurled into the buildings. Bulldozers usually arrived immediately after the execution was completed, to bury the corpses. Soldiers would sometimes start digging the graves while the executions were still in progress. **KJ 547**~~

258. ~~The prisoners were unarmed and, in many cases, steps had been taken to minimise resistance, such as blindfolding them, binding their wrists behind their backs with ligatures or removing their shoes. KJ 68~~
259. ~~The men were sometimes blindfolded, barefoot or with their wrists bound behind their backs and were lined up and shot in rounds. KJ 547~~
260. ~~Once at the killing fields, the men were taken off the trucks in small groups, lined up and shot. KJ 68~~
261. ~~Those who survived the initial round of gunfire were individually shot with an extra round, though sometimes only after they had been left to suffer for a time. KJ 68~~
262. ~~Bosnian Serb soldiers would come back to the execution sites a few hours later and check that no one had been left alive. KJ 547~~
263. ~~Immediately afterwards, and sometimes even during the executions, earth moving equipment arrived and the bodies were buried, either in the spot where they were killed or in another nearby location. KJ 68~~
264. ~~At several of the sites, a few wounded people survived by pretending to be dead and then later escaping. KJ 69~~

#### 14 JULY: MOVEMENT OF PRISONERS FROM BRATUNAC TO THE ZVORNIK AREA

265. ~~After being detained in Bratunac for between one and three days, the prisoners were transported elsewhere. KJ 66; BJJ 243~~
266. On 13 and 14 July, Zvornik Brigade resources had been used to locate detention sites for the prisoners. KA 109
267. 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. KJ 67
268. 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. BJJ 285

#### 14 JULY MURDERS: ORAHOVAC

269. 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. KJ 220; BJJ 316
270. Orahovac is located within the zone of responsibility of the 4th Battalion of the Zvornik Brigade. KJ 224; KA 123
271. At some point late in the evening of 13 July, a detachment of military police from the Zvornik Brigade was dispatched to Orahovac. KJ 224; KA 123
272. 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. KJ 220
273. The gym was packed and stifling. KJ 220; BJJ 320
274. The VRS soldiers guarding the school forced them to leave their belongings outside before entering the school. BJJ 319

275. Occasionally the guards would shoot at the ceiling to quiet the panicked prisoners. **KJ 220**
276. The prisoners were not given any food and only a little water. **BJJ 320**
277. General Mladić arrived in the late afternoon and looked at the prisoners. **BJJ 320**
278. 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. **KJ 221; BJJ 327, 567 (f)** (no mention of water offered)
279. The prisoners were then taken in trucks to the execution fields less than one kilometre away. **KJ 221**
280. The men were lined up and shot in the back; those who survived the initial gunfire were killed with an extra shot. **KJ 221; BJJ 327**
281. Two adjacent meadows were used; once one was full of bodies, the executioners moved to the other. **KJ 221; BJJ 329**
282. The shooting continued until dark when a loader and an excavator appeared at the site to dig a mass grave. **BJJ 328**
283. On 14 and 15 July, Zvornik Brigade resources had been used to assist with the executions at Orahovac and Petkovci Dam. **KA 109**
284. 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. **BJJ 372**
285. An Opel "Record" belonging to the Zvornik Brigade visited the Orahovac area on 13 and 14 July. **KJ 224; KA 123 n. 203**
286. Records of the Zvornik Brigade's Engineer Company reflect the presence of a number of vehicles in Orahovac on 14 July: a TAM 75 (small size transportation vehicle), which made two round-trips between the base and Orahovac; a Mercedes 2626 which towed an excavator to the village of Križeviči (located one kilometre from Orahovac); one excavator, which went from the base to Orahovac, spent six hours digging and then returned to base; and an excavator-loader that went from the base to Orahovac and spent five hours working. **KJ 224; KA 123 n. 203**
287. The Zvornik Brigade's fuel disbursement log shows that 200 litres of diesel fuel were distributed to the Engineer Company on 14 July. **KJ 224; KA 123 n. 203**
288. In addition, the Engineer Company Daily Orders Journal lists the following items on both 15 and 16 July: work with BGH-700 (excavator) in Orahovac; work with ULT 220 (loader) in Orahovac. **KJ 224; KA 123 n. 203**
289. Zvornik Brigade vehicle utilisation records also show that, on 15 and 16 July, one ULT 220 (loader) was operating for five hours at Orahovac and a TAM 75 truck made three or four trips between the base and Orahovac. Also on 15 July, 40 litres of diesel fuel were disbursed to the Rear Services Battalion, operating out of Orahovac and, on 16 July, a Mercedes truck towed an excavator with a trailer between the base and Orahovac, and a TAM 75 truck made two trips to Kozluk. **KJ 224; KA 123, 127 n. 203**
290. The Zvornik Brigade participated in the execution of Bosnian Muslim men at Orahovac on 14 July 1995. 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. Personnel from the 4th Battalion of the Zvornik Brigade were present at Orahovac during the executions, assisting in their commission. **KJ 225, 449; KA 124**

291. Zvornik Brigade resources had been used to locate detention sites for the prisoners on July 13 and July 14. **KA 109**
292. The 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. **KJ 225; KA 124**

**14 JULY MURDERS: PETKOVCI SCHOOL**

293. A large group of about 1,500-2,000 prisoners from Bratunac was driven north to the Petkovci School on the afternoon of 14 July 1995. **KJ 226; BJJ 283, 567** (citing number of 1,000)
294. 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. **KJ 226; BJJ 338**
295. Periodically, soldiers came in and beat the prisoners or called them out to be killed. **KJ 226; BJJ 338, 340**
296. Eventually the men were called out in small groups. They were told to strip to the waist, take off their shoes and their hands were tied behind their backs. **KJ 226**
297. Vehicle and Daily Order Records of the Zvornik Brigade established that drivers and trucks from the 6<sup>th</sup> Infantry Battalion of the Zvornik Brigade were used to transport the prisoners from Petkovci School to the detention site at Petkovci Dam on 15 July and that the Zvornik Brigade Engineer Company was assigned to work with earthmoving equipment to assist in the burial of the victims. **KJ 231, KA 125**

**14 JULY MURDERS: THE PETKOVCI DAM**

298. Vehicle records for the 6th Infantry Battalion of the Zvornik Brigade show that two trucks made a total of 10 roundtrips between Petkovci and the Dam on 15 July, with two members of the 6th Infantry Battalion assigned as drivers of the vehicles. **KJ 231; KA 125**
299. On the evening 14 July and early morning 15 July approximately 1,000 men were transported from the Petkovci School to the nearby Dam. **BJJ 567**
300. 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. **KJ 231**
301. Sometime during the night of 14 July, the men were taken in trucks to a stony area near the Petkovci Dam. **KJ 226; BJJ 340-341**
302. 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. **KJ 227; BJJ 341, 567**
303. When the soldiers were finished with a round of killing, they laughed and made jokes. Then they walked around killing the wounded. **KJ 227**
304. By the morning, mechanical loaders had arrived and were collecting the bodies. **KJ 228; BJJ 342**
305. The Zvornik Brigade Daily Orders record shows that, on 15 July, the Zvornik Brigade Engineer Company was assigned to work with a ULT loader and an excavator in Petkovci. **KJ 231**
306. Members of the Zvornik Brigade were near the Petkovci School and Dam at the time that prisoners were detained and subsequently executed at the Petkovci Dam. **BJJ 375**
307. The 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 and the

Zvornik Brigade Engineer Company was assigned to work with earthmoving equipment to assist with the burial of the victims from Petkovci Dam. **KJ 232**

**15 JULY MURDERS: KOZLUK**

- 308. A large scale execution and burial operation was carried out at Kozluk between 15 and 16 July. **BJJ 357**
- 309. On 15 or 16 July 1995, 500 Bosnian Muslim men were transported to Kozluk, near the Drina River, and executed along the riverbank. **BJJ 567 (I)**
- 310. Extensive forensic evidence exists that around 500 men were executed at the edge of the Drina River. **BJJ 357**
- 311. Members of the Zvornik Brigade Engineering Company participated in the burial of Bosnian Muslim men in mass graves at Kozluk on 16 July. **BJJ 379**
- 312. The Kozluk execution site is located within the zone of responsibility of the Zvornik Brigade. **KJ 252**
- 313. On 16 July an excavator-loader belonging to the Zvornik Brigade operated for eight hours in Kozluk. **KJ 252; KA 127 n. 208**
- 314. Excavators and bulldozers from the Zvornik Brigade had operated in the Kozluk area from 16 July and this equipment was used for work related to the burial of the victims executed there. **KA 127**
- 315. A truck belonging to the Zvornik Brigade made two trips between Orahovac and Kozluk on that same day. **KJ 252**
- 316. A bulldozer operated in Kozluk for 1.5 hours on 18 July and another hour on 19 July. **KJ 252; KA 127 n. 208**
- 317. The Zvornik Brigade Engineer Company Orders Journal shows assignments on 18 July to improve the trench in Kozluk and the transport of a bulldozer to Kozluk. **KJ 252**
- 318. The extensive amount of Zvornik Brigade engineering work at Kozluk around this time was connected to the burial of bodies in the Kozluk grave. **KJ 253; KA 127**

**15 JULY MURDERS: KULA SCHOOL NEAR PILICA**

- 319. On 14 July 1995, more prisoners from Bratunac were bussed northward to a school in the village of Pilica, north of Zvornik. **KJ 233; BJJ 347, 567**
- 320. The men were held at the Pilica School for two nights. **KJ 233; BJJ 349**
- 321. As at other detention facilities, there was no food or water and several men died in the school gym from heat and dehydration. **KJ 233; BJJ 348, 567**
- 322. On 15 July, the soldiers took jewellery, watches and money from the prisoners. **BJJ 348**

**16 JULY MURDERS: BRANJEVO FARM**

323. 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. **BJJ 766; BJA 159**
324. On 16 July the men were called out of the school and loaded onto buses with their hands tied behind their backs. **KJ 233; BJJ 349**
325. The Bratunac Brigade Military Police Platoon log for 16 July recorded that "one police patrol remained in Pilica to secure and watch over the Bosnian Muslims." **KJ 246; KA 126**
326. They were then driven to the Branjevo Military Farm, where groups of 10 were lined up and shot. **KJ 233; BJJ 349**
327. 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. **BJJ 349**
328. On 16 July, members of the 10th Sabotage Detachment participated in the execution of the Bosnian Muslim men at Branjevo Farm. **KJ 279; BJJ 350**
329. Dražen Erdemović was a member of the VRS 10th Sabotage Detachment (a Main Staff subordinate unit) and participated in the mass execution. **KJ 234; BJJ 350**
330. When some of the soldiers recognised acquaintances from Srebrenica, they beat and humiliated them before killing them. **KJ 234**
331. Between 1,000 and 1,200 men were killed in the course of that day at this execution site. **KJ 236; BJJ 349, 567 (i)**
332. Erdemović and the other members of his unit received orders relating to the executions at Branjevo Farm on the morning of 16 July. **KJ 239**
333. The shootings began at 10:00 and continued until 15:00. **KJ 240; KA 67; BJJ 349**
334. The Branjevo Farm itself was under the direct authority and control of the 1st Infantry Battalion of the Zvornik Brigade. **KJ 241**
335. 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. **BJA 159**
336. Further, 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. **KJ 241**
337. On 17 July 1995, the Zvornik Brigade Engineering Company provided an excavator which was used to dig a mass grave. **BJA 159**
338. The Fuel Disbursal Log reveals that 100 litres of diesel fuel was disbursed to a BGH 700 on 17 July. **KJ 241**
339. The Daily Orders Journal of the Zvornik Brigade Engineering Company records work assignments of a ULT 220 in Branjevo and transportation of a BGH 700 to Branjevo on 17 July. **KJ 241**
340. On 17 July members of the Zvornik Brigade Engineering Company participated in digging the mass graves following the execution of approximately 1000 Bosnian Muslim men at the Branjevo Military Farm. **BJJ 377**
341. Aerial photographs show an excavator digging a hole at Branjevo on 17 July 1995. **KJ 241**

**16 JULY MURDERS: PILICA CULTURAL CENTRE ("PILICA DOM")**

- 342. On 16 July 1995, approximately 500 Bosnian Muslim men were killed by VRS Soldiers in the Pilica Cultural Centre. **BJJ 355, 567 (k)**
- 343. On 16 July, the Bratunac Brigade assisted with the executions that took place at the Pilica Cultural Dom. **KJ 452**
- 344. The next day the dead bodies were loaded onto a truck and buried at Branjevo Military Farm, which is about three kilometres from the Pilica Cultural Centre. **BJJ 355**
- 345. The OTP 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. **KJ 245**
- 346. 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, ceilings and floors. **KJ 245; BJJ 356**
- 347. The Pilica Cultural Centre is in the Drina Corps zone of responsibility. **KJ 246**

**JULY-AUGUST MURDERS: NEZUK**

- 348. Units under the command of the Zvornik Brigade participated in the execution at Nezuk on 19 July 1995. **KJ 256 (no number); KA 127**

**REBURIAL OPERATION**

- 349. Commencing in the early autumn of 1995, the Bosnian Serbs engaged in a concerted effort to conceal the mass killings by relocating the primary graves to remote secondary gravesites. **KJ 257; BJJ 383**
- 350. The reburial operation took place some time in late September to late October. **BJJ 388**
- 351. During a period of several weeks in September and early October 1995, Bosnian Serb forces dug up many of the primary mass gravesites and reburied the bodies in still more remote locations. **KJ 78**
- 352. The operation was carried out on the ground by the Bratunac and Zvornik Brigades. Within the Bratunac Brigade, Major Momir Nikolić, the Chief of Security and Intelligence, was tasked with the organisation of the operation. **BJJ 383**
- 353. OTP investigators were first allowed to visit the area in January 1996. **BJJ 381**
- 354. 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. **BJJ 381**
- 355. Commencing in 1996, the OTP conducted exhumations of 21 gravesites associated with the take-over of Srebrenica: four in 1996 (at Cerska, Nova Kasaba, Orahovac (also known as Lažete 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 (Lažete 1, Lažete 2C, Ravnice and Glogova 1). **KJ 71**
- 356. 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. **KJ 71**

357. The mass graves at the Dam near Petkovci, Kozluk, Glogova, Orahovac and Branjevo Military Farm were disturbed and bodies were exhumed from those graves. **BJJ 382**
358. As a result of ballistics, soil analysis and materials analyses, links were discovered between certain primary gravesites and certain secondary gravesites. **KJ 71**
359. Among the identity documents and belongings found in the mass graves were license cards and other papers with references to Srebrenica. **KJ 74**
360. 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. **KJ 74**
361. Other artefacts found at the majority of the gravesites, such as verses from the Koran, suggest the presence of victims with Muslim religious affiliation. **KJ 74**
362. 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. **KJ 74**
363. 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. **KJ 74**
364. 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 13-24 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. **KJ 74**
365. Investigators discovered at least 448 blindfolds on or with the bodies uncovered during the exhumations at ten separate sites. **KJ 75**
366. 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. **KJ 75**
367. The overwhelming majority of victims located in the graves, for whom a cause of death could be determined, were killed by gunshot wounds. **KJ 75**
368. Some of the victims were severely handicapped. **KJ 75**
369. 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 (Lažete 2) and Hodžići Road 5; Orahovac (Lažete 1) and Hodžići Road 3 and 4; Glogova and Zeleni Jadar 5; and Kozluk and Čančari Road 3. **KJ 78**
370. All of the primary and secondary mass gravesites associated with the take-over of Srebrenica located by the OTP were within the Drina Corps area of responsibility. **KJ 257**
371. 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. **BJJ 389**
372. A journal, recording the issues raised during periodic meetings convened by the Commander of the Bratunac Brigade with his Command Staff, indicates that, on 16 October, Major Momir Nikolić, the Assistant Commander for Intelligence and Security, stated that the Brigade was engaged in tasks issued by the VRS Main staff. Captain Nikolić used the word “asanacija” to describe this work. “Asanacija” (which translates as “restoration of the terrain”) is used in military lexicon to refer to finding, identifying and burying the dead. **KJ 259**



373. The longest distance between primary and secondary gravesites (Branjevo Farm to Čančari Road) was 40 kilometres. **KJ 260**

**GLOGOVA 1 AND 2 PRIMARY GRAVES (KRAVICA WAREHOUSE EXECUTIONS) TO THE  
ZELENI JADAR, BUDAK AND BLJEČEVA SECONDARY GRAVES**

374. Forensic evidence suggests links between the Kravica Warehouse, the primary mass grave known as Glogova 2, and the secondary grave known as Zeleni Jadar 5. **KJ 209**
375. The Glogova 2 gravesite was exhumed by the OTP between 11 September and 22 October 1999. A minimum number of 139 individuals were found. **KJ 209**
376. The graves at the Glogova site contained a total of 317 individuals executed in the Kravica Warehouse. **BJJ 313, 314**
377. Evidence was found that bodies from the Glogova burial site were moved to Zeleni Jadar. **BJJ 313, 314**
378. The gender of the victims exhumed at Glogova 2 could be determined in all 126 cases and all were male. **KJ 209; BJJ 312**
379. Predominantly the victims died of gunshot wounds, and in 22 cases there was evidence of charring to the bodies. Two ligatures were recovered but no blindfolds were found. **KJ 209**
380. The Glogova 2 grave site contained at least 110 bodies showing signs of charring, and at least 92 of the victims died as a result of gunshot wounds. **BJJ 312**
381. Broken masonry and door frames, and other artefacts found at the primary gravesite of Glogova 1 revealed matches with the Kravica Warehouse execution site, suggesting that some of the victims from the Kravica Warehouse were buried there. **KJ 210**
382. 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. **BJJ 312**
383. Exhumations were conducted at Glogova 1 between 7 August and 20 October 2000. **KJ 210**
384. The bodies of at least 191 individuals were located at Glogova 1. **KJ 210; BJJ 312**
385. In one of the subgraves at Glogova 1, 12 individuals bound with ligatures were found, along with evidence of blindfolds on three bodies. **KJ 210**
386. The primary gravesite at Glogova 1 is less than 400 meters from the command post of the 1st Infantry Battalion of the Bratunac Brigade. **KJ 212**
387. During the reburial operation, which lasted a couple of nights, the members of the Civilian Protection unit used at least one loader and an excavator for the exhumations at the Glogova grave site. **BJJ 386**
388. The OTP exhumed the Zeleni Jadar 5 site between 1 and 21 October 1998. **KJ 209**
389. Of at least 145 individuals in the grave, 120 were determined to be male with the remainder undetermined, and the predominant cause of death was gunshot wounds. Two ligatures were recovered, but no blindfolds were found. **KJ 209**

**LAŽETE 1 AND 2 PRIMARY GRAVES (ORAHOVAC EXECUTIONS) TO THE HODŽIĆI ROAD  
SECONDARY GRAVES**

390. Two primary mass graves were uncovered in the Orahovac area, and were named "Lažete-1" and "Lažete-2" by investigators. **KJ 222; BJJ 336** (During the exhumations 294 individuals were recovered, all wearing civilian clothes and most blindfolded and killed by gunshots.)
391. The Lažete 1 gravesite was exhumed by the Prosecution between 13 July and 3 August 2000. **KJ 222**
392. All of the 130 individuals uncovered in Lažete 1, for whom gender could be determined, were male. **KJ 222**
393. One hundred and thirty-eight blindfolds were uncovered in the Lažete 1 grave. **KJ 222**
394. Identification material for twenty-three individuals, listed as missing following the fall of Srebrenica, was located during the exhumations at this site. **KJ 222**
395. The gravesite Lažete 2 was partly exhumed by a joint team from the OTP and Physicians for Human Rights between 19 August and 9 September 1996 and completed in 2000. **KJ 222**
396. All of the victims associated with Lažete 2 were male and the experts determined that the vast majority died of gunshot injuries. **KJ 222**
397. 147 blindfolds were located in the Lažete 2 grave. One victim also had his legs bound with a cloth sack. **KJ 222**
398. Twenty-one individuals, listed as missing following the take-over of Srebrenica, were positively identified during the first exhumation of the Lažete 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. **KJ 222**
399. On 11 April 1996, investigators from the OTP 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 Lažete 2 gravesite. **KJ 222**
400. Bodies from the Lažete 1 and Lažete 2 graves were removed and reburied at secondary graves named Hodžići Road 3, 4 and 5. These secondary gravesites were created between 7 September and 2 October 1995 and all of them were exhumed by the OTP in 1998. **KJ 223; BJJ 336**
401. 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. The total minimum number of individuals exhumed at the three gravesites was 184. **KJ 223; BJJ 336**

**THE PETKOVCI DAM PRIMARY GRAVE TO THE LIPLJE SECONDARY GRAVES**

402. Earth around the Petkovci Dam site was first disturbed between 5 and 27 July 1995, and then again between 7 and 27 September 1995. **KJ 229; BJJ 567**
403. A team of investigators from the OTP exhumed a gravesite at the Petkovci Dam between 15 and 25 April 1998. **KJ 229**
404. 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. **KJ 229; BJJ 346**

- 405. Forensic tests show that a mass grave site known as Liplje 2 is a secondary gravesite associated with the primary gravesite at Petkovci Dam. **KJ 230; BJJ 346**
- 406. The Liplje 2 gravesite was exhumed by the OTP between 7 and 25 August 1998. **KJ 230**
- 407. Aerial images reveal that Liplje 2 was created between 7 September and 2 October 1995. **KJ 230**
- 408. Traces of mechanical teeth marks and wheel tracks show the grave was dug by a wheeled front loader with a toothed bucket. **KJ 230**
- 409. A minimum number of 191 individuals were located in this grave with 122 determined to be male, and the remainder undetermined. **KJ 230; BJJ 346**
- 410. Where cause of death could be determined, gunshot wounds predominated. **KJ 230**
- 411. While 23 ligatures were uncovered at Liplje 2, no definite blindfolds were found. **KJ 230**

#### **KOZLUK PRIMARY GRAVES TO THE ČANČARI ROAD SECONDARY GRAVES**

- 412. On 16 July, the victims were buried in mass graves near the site of their execution. **BJJ 567 (I)**
- 413. In 1999, the OTP exhumed a grave near the town of Kozluk. **KJ 249**
- 414. The minimum number of bodies uncovered from the Kozluk grave was 340 and all the individuals for whom gender could be determined were male. **KJ 250; BJJ 362**
- 415. Gunshot wounds were the overwhelming cause of death for those bodies in which a cause could be ascertained. **KJ 250**
- 416. A number of bodies exhumed at Kozluk showed signs of pre-existing disability or chronic disease ranging from arthritis to amputations. **KJ 250**
- 417. Fifty-five blindfolds and 168 ligatures were uncovered at the Kozluk grave. **KJ 250**
- 418. 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. **KJ 250**
- 419. Plant specimens found in the grave proved that the executions of the victims occurred around the middle of July. **BJJ 362**
- 420. The Kozluk primary grave is linked with the secondary grave at Čančari Road 3, which was exhumed by the OTP between 27 May and 10 June 1998. **KJ 251; BJJ 362**
- 421. Aerial photographs show the Čančari Road 3 gravesite was first excavated after 27 September 1995, and back-filled prior to 2 October 1995. **KJ 251**
- 422. 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 Vitinka bottling factory near the Kozluk mass grave. **KJ 251; BJJ 362**
- 423. 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. **KJ 251**
- 424. Eight blindfolds and 37 ligatures were located during the exhumation. **KJ 251**
- 425. All the victims that were found in the primary and secondary graves wore civilian clothing. **BJJ 362**

#### BRANJEVO FARM PRIMARY GRAVES TO THE ČANČARI ROAD SECONDARY GRAVES

426. 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. **KJ 237**
427. The Branjevo Military Farm gravesite (also known as the Pilica gravesite) was exhumed between 10 and 24 September 1996 by the OTP and a team from Physicians for Human Rights. **KJ 237**
428. Where the gender of the bodies could be determined it was male and where cause of death could be determined it was gunshot wounds. **KJ 237; BJJ 354**
429. Eighty-three ligatures and two cloth blindfolds were located in this grave. Positive identification was made for 13 individuals who were missing following the take-over of Srebrenica. All of them were Bosnian Muslim men. **KJ 237; BJJ 354**
430. Where the cause of death could be determined, it was by gunshot. **KJ 238**
431. Sixteen ligatures and eight blindfolds were also uncovered in this grave. **KJ 238**
432. One individual was positively identified as a Bosnian Muslim man listed as missing following the take-over of Srebrenica. **KJ 238**

#### OPERATION TO FORCIBLY REMOVE THE BOSNIAN MUSLIM POPULATION OF SREBRENICA

(See also **PART 1: GENERAL FACTUAL ALLEGATIONS: THE ATTACK ON AND FALL OF THE SREBRENICA ENCLAVE**)

#### VIOLENCE AND TERROR IN POTOČARI

433. Faced with the reality that Srebrenica had fallen under the Bosnian Serb forces' control, thousands of Bosnian Muslim residents from Srebrenica fled to Potočari seeking protection within the UN compound. **KJ 37; BJJ 141, 143, 143**
434. The refugees fleeing to Potočari were shot at and shelled. **BJJ 144**
435. By the end of 11 July, an estimated 20,000 – 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. **KJ 37; BJJ 146**
436. There was very little food or water in Potočari from 11 to 13 July and the July heat was stifling. **KJ 38; BJJ 147** (temperature reached 35 degrees centigrade)
437. The small water supply available was insufficient for the 20,000 to 30,000 refugees who were outside the UNPROFOR compound. **BJJ 147**
438. 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. **BJJ 147**
439. 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. **KJ 150; BJJ 162-164, 167**
440. ~~Many murders were committed in Potočari on 12, 13 and 14 July.~~ **KJ 488**

441. The refugees in the compound could see Serb soldiers setting houses and haystacks on fire. **KJ 41; BJJ 162**
442. As a result, the inhabitants were forced to flee from their houses to the UN compound. **BJJ 163**
443. 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. **KJ 44**
444. As a consequence of the threatening atmosphere, several refugees committed suicide, or attempted to do so. **BJJ 166**
- ~~445. Killings occurred on 12 July in Potočari. **KJ 43**~~
446. 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. **BJJ 165**
447. Throughout the afternoon of 12 July, Serb soldiers mingled in the crowd. **KJ 42; BJJ 164**
448. 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. **KJ 158**
449. DutchBat soldiers working together with the Bosnian Muslim representatives attempted to make a list of the men around the age of 15 in and around the UNPROFOR headquarters. **BJJ 179**
450. A list of 251 men present within the base was compiled. **BJJ 179**
451. 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. **BJJ 179**

#### **ORGANISATION OF THE BUSES**

452. 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. **KJ 137; BJJ 180**
453. 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. **KJ 137; BJJ 180**
454. The same morning, the RS Ministry of Defence sent three orders to its local secretariats directing them to procure buses and send them to Bratunac. **KJ 137**
455. The Bratunac Brigade was monitoring fuel disbursements to buses and trucks on 12 and 13 July. **KJ 139**
456. The Drina Corps was instrumental in procuring the buses and other vehicles that were used to transport the Bosnian Muslim women, children and elderly out of the Potočari compound on 12 and 13 July 1995, as well as the fuel needed to accomplish this task. **KJ 142**
457. Buses procured by the Drina Corps were used for the transportation of Bosnian Muslim prisoners to detention and execution sites. **KJ 184**
458. The Bratunac Brigade participated in this operation by contributing two buses and fuel, and by regulating traffic. **BJA 53**

# **FORCIBLE TRANSFER OF THE WOMEN, CHILDREN AND THE ELDERLY**

459. Women, children and the elderly were transferred from Potočari in the enclave to Kladanj. **BJA 105**
460. The refugees in Potočari did not have a genuine choice of whether to remain in the Srebrenica enclave. **BJA 105**
461. 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. **KJ 135; BJJ 180**
462. 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. **KJ 48; BJJ 183-185**
463. When the first group of buses pulled into Potočari in the early afternoon of 12 July 1995, the Srebrenica refugees rushed to board them. Most of the residents did not even know where they were headed. **KJ 48; BJJ 183-185**
464. Some soldiers were hitting and abusing the refugees as they boarded the buses. **KJ 48**
465. Four to five buses at a time would stop to be loaded in front of the UNPROFOR compound's main entrance. **BJJ 183**
466. On 12 July, a DutchBat soldier spoke to Colonel Kosorić about arranging for DutchBat troops to accompany a convoy of Bosnian Muslim refugees from Potočari. **KJ 143**
467. These escorts were tolerated by the VRS for the first convoys on 12 July; thereafter, the VRS stopped the escorts. **BJJ 184**
468. DutchBat soldiers accompanied the first convoy of refugees on 12 July 1995. **KJ 50**
469. 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. **KJ 50; BJJ 184**
470. The VRS stole 16-18 DutchBat Jeeps as well as around 100 small arms, which rendered further DutchBat escorts impossible. **BJJ 184**
471. DutchBat soldiers were stopped along the way and their vehicles were stolen at gunpoint. **KJ 50**
472. Members of the Bratunac Brigade Military Police coordinated the boarding of the buses by the Bosnian Muslim refugees. **BJJ 183**
473. MUP played the principal role in the transport of refugees out of Potočari. **BJA 53; BJJ 191**
474. 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. **BJJ 182**
475. Along the road, some village residents taunted the passengers with the three-fingered Serb salute. Others threw stones at the passing buses. **KJ 49**
476. Most of the women, children, and the elderly arrived safely at Tišća. **KJ 49**
477. 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. **KJ 49**
478. The removal of the Bosnian Muslim civilian population from Potočari was completed on the evening of 13 July by 20:00. **KJ 51; BJJ 191**

479. 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. **KJ 519**
480. 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. **KJ 376**
481. When UN soldiers visited the town of Srebrenica on 14 July, they did not find a single Bosnian Muslim alive in the town. **KJ 51**
482. 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. **KJ 148**
483. On 17 July, in the face of growing international condemnation, Major 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. **KJ 148; BJJ 204**
- ~~484. The Srebrenica citizens who gathered in Potočari were not returned to their homes as soon as hostilities in the area in question had ceased. **KJ 525**~~
- ~~485. 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. **KJ 525**~~
- ~~486. No military threat was present following the taking of Srebrenica. **KJ 527**~~

#### SEPARATION OF THE MEN

487. The military aged men who fled to Potočari were systematically separated from the other refugees. **KJ 546**
- ~~488. Following the take over of Srebrenica, Bosnian Serb forces devised and implemented a plan to execute as many as possible of the military aged Bosnian Muslim men present in the enclave. **KJ 87**~~
- ~~489. From the morning of 12 July, Bosnian Serb forces began gathering men from the refugee population in Potočari and holding them in separate locations. **KJ 53**~~
490. 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. **KJ 53**
491. No effort thereafter was made to distinguish the soldiers from the civilians. **KJ 547**
492. 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. **BJJ 168**
493. The separations continued throughout 12 and 13 July. **BJJ 168**
494. Identification papers and personal belongings were taken away from both Bosnian Muslim men at Potočari and from men captured from the column. **KJ 547**

#### THE WHITE HOUSE

495. The separated men were taken to a building in Potočari referred to as the "White House". **KJ 53**
496. When they were taken to the "White House", they were forced to leave their belongings, including their wallets and identification papers, in a large pile outside the building prior to entering. **KJ 157; KA 37, 96**

497. They stripped all the male Muslim prisoners, military and civilian, elderly and young of their personal belongings and identification; **BJJ 170-171**
498. The Bosnian Muslim Men were forced to leave passports and identity cards in front of the White House. **BJJ 170**
499. Their papers and belongings were piled up and eventually burnt. **KJ 547**
500. Drina Corps officers were also seen in the vicinity of the "White House" during the time the separated men were detained there. **KJ 158**
501. They were gathered in the "White House" and were forced to leave their identification papers and personal belongings outside the house. **KJ 546**
502. 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. **BJJ 169**
503. DutchBat patrols attempted to monitor the situation but the VRS did not allow them to enter the White House. **BJJ 169, BJJ 171**
504. One Dutch officer was removed from the premises at gunpoint. **BJJ 171**
505. In the afternoon of 12 July, UNMO Major 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. **KJ 365**
506. In an effort to allay his fears, General Mladić took Colonel Kingori to the White House. When they arrived, Colonel Kingori saw General Krstić and other VRS officers there. **KJ 365**
- ~~507. 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. **KJ 546**~~
508. 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. **KJ 59; BJJ 190**
509. 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. **BJJ 192**
510. 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. **KJ 160; KA 96; BJJ 170**

#### **THE PRESENCE OF DRINA CORPS OFFICERS IN POTOČARI ON 12 AND 13 JULY 1995**

511. On 12 and 13 July 1995, as the evacuation of the Bosnian Muslim women, children and elderly proceeded, General Mladić, as well as other Main Staff officers, were present in and around the compound in Potočari. **KJ 143**
512. 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. **KJ 150**
513. General Mladić; the Corps Commander, General Živanović; the Corps Assistant Commander for Security, Colonel Popović; the Corps Assistant Commander for Rear Services, Colonel Lazar Aćamović; and the Corps Chief of Intelligence, Colonel Kosorić were identified by witnesses as being present in Potočari on 12 and 13 July. **KJ 143**
514. 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 take-over of Srebrenica. **KJ 143**

- 515. Major Nikolić was seen in Potočari on both 12 and 13 July. **KJ 143; BJJ 172**
- 516. There was also an array of non-Drina Corps Serb forces present in Potočari on 12 and 13 July. **KJ 151; BJJ 172**
- 517. ~~In Potočari members of the Bratunac Brigade and Ministry of Interior ("MUP") Special Police Brigade were seen, as well as civilian police officers from the Bratunac municipal police, the 10<sup>th</sup> Sabotage Detachment and the Drina Wolves. **BJJ 172**~~
- 518. There were VRS Main Staff officers reporting directly to General Mladić. **KJ 151**
- 519. Serb military police wearing blue uniforms with black belts and driving police vehicles were identified **KJ 151; BJJ 165**
- 520. 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. **KJ 151**
- 521. Serb forces from outside the Srebrenica area had also been brought in. **KJ 151; BJJ 172**
- 522. 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. **KJ 362**
- 523. The VRS forcibly transferred thousands of Bosnian Muslim civilians from the Srebrenica enclave. **BJA 105**

#### THE COLUMN OF BOSNIAN MUSLIM MEN

- 524. As the Bosnian Muslim column attempted to break out of the enclave, it first moved through the area of responsibility of the Bratunac Brigade. **KJ 164**
- 525. Leaving the area of the Bratunac Brigade, the column moved up towards the Zvornik Brigade's zone of responsibility. **KJ 165**
- 526. 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. **KJ 166; BJJ 223**
- 527. ~~A relentless search for the men forming the column started on 12 July and continued throughout 13 July. The few survivors qualified the search as a "man hunt" that left hardly any chance of escape. **KJ 546**~~
- 528. 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. **KJ 162**
- 529. ~~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. **KJ 162**~~
- 530. 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. **BJA 57**
- 531. ~~These Brigades were continuously reporting to the Drina Corps Command about matters relating to the column between 12 and 18 July. **KJ 166**~~

532. 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. **KJ 62; BJJ 221**
533. Only about one third of the men successfully made it across the asphalt road and the column was split in two parts. **KJ 62**
534. Heavy shooting and shelling continued against the remainder of the column throughout the day and during the night. **KJ 62**
535. By the afternoon of 12 July 1995, or early evening at the latest, the Bosnian Serb forces were capturing large numbers of these men in the rear. **KJ 63**
536. 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. **KJ 63; BJJ 227**
537. 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. **KJ 63; BJJ 227, 229**
538. On 13 July 1995, MUP forces were deployed along the stretch of road between Konjević Polje and Bratunac where the bulk of the Bosnian Muslim prisoners were captured from the column. **KJ 172**
- ~~539. Bosnian Serb forces stripped the captured Muslim men of their personal belongings and, in some cases, carried out random summary executions. **KJ 63; BJJ 227**~~
540. The largest groups of Bosnian Muslim men from the column were captured along the road between Bratunac and Konjević Polje on 13 July. **KJ 64, 171; BJJ 227**
541. 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. **KJ 171; BJJ 253**
542. As in the Sandići Meadow, the men at Nova Kasaba were forced to turn over their valuables and abandon their belongings. **KJ 171; BJJ 253**
543. 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. **BJJ 238**
- ~~544. Throughout the day, in Nova Kasaba, prisoners were beaten and some were killed. **BJJ 242**~~
545. 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. **BJJ 256**
546. When the last escorted convoy returned towards Potočari on 13 July, the Nova Kasaba football field was empty apart from the body of a dead man and a pile of burning personal belongings. **BJJ 185**
547. General Mladić visited the Nova Kasaba football field in the afternoon of 13 July. **KJ 171, BJJ 254**
548. 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. **KJ 65**
549. ABiH forces attacking from the direction of Tuzla assisted by piercing a line of about one-and-a-half kilometres for the emerging column. **KJ 65**

- 550. The Drina Corps Command was well aware of the general VRS plan to capture the Bosnian Muslim men trying to break through to Tuzla. **KJ 169**
- 551. The Drina Corps Command knew that thousands of Bosnian Muslim prisoners had been captured along the Bratunac-Konjevic Polje Road on 13 July 1995. **KJ 178**
- 552. Attack resumed on 14 and 15 July against the third column that had managed to cross the asphalt road between Konjevic Polje and Nova Kasaba on 11-12 July. **KJ 546**
- 553. As many as 8,000 to 10,000 men from the Muslim column of 10,000 to 15,000 men were eventually reported as missing. **KJ 546**
- 554. Pursuant to an order issued by General Krstić on 13 July 1995, Drina Corps units were involved in conducting sweep operations in the area of the former enclave. **KJ 192; BJJ 225**
- 555. 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. **KJ 192**
- 556. 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. **BJJ 235**
- 557. In the morning of 17 July the search commenced in Kravica, moving in the direction of Konjević Polje. **BJJ 237**
- 558. By the evening, about 200 Bosnian Muslims in the Konjević Polje area had surrendered, including four children. **BJJ 237**

**“OPPORTUNISTIC” KILLINGS WHICH WERE A FORESEEABLE CONSEQUENCE OF THE  
FORCIBLE REMOVAL OF THE BOSNIAN MUSLIM POPULATION FROM SREBRENICA**

**POTOČARI**

- 559. On 12 July, shots were heard from the White House. **KJ 366**
- 560. Single shots were heard not far from the White House. **BJJ 169, 171**
- 561. On the morning of 12 July 1995, DutchBat soldiers also found corpses of nine or ten men about 700 metres from the UN Compound, near a creek. The men were dressed in civilian clothes and lying in a line. **BJJ 195**
- 562. On 13 July, refugees searching for water came upon clusters of corpses next to a nearby stream. **KJ 47; BJJ 201, 202**
- 563. A DutchBat soldier witnessed the execution of a Bosnian Muslim man behind the White House on 13 July. **BJJ 197**

**BRATUNAC**

- 564. The Bosnian Muslim men who had been separated from the women, children and elderly in Potočari (numbering approximately 1,000) were transported to Bratunac and subsequently joined by Bosnian Muslim men captured from the column. **KJ 66; BJJ 266-267**
- 565. No discernible effort was made to keep the prisoners from Potočari and the men captured from the column separate. These men were held in various locations, such as an abandoned warehouse, an old school and even in the buses and trucks that had brought them there. **KJ 66; BJJ 266-267**

566. The Bosnian Muslim men arriving in Bratunac town during 12 and 13 July were put in temporary detention in facilities, such as in and around the Vuk Karadžić School, in the Bratunac town football stadium, as well as in buses parked along the streets in Bratunac town. **BJJ 264**
567. 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. **BJA 72**
568. Around 2,000-3,000 men were detained in Bratunac town at the Vuk Karadžić School and in the buildings surrounding it. **BJJ 271-272**
569. Men detained in Bratunac between 12 and 14 July 1995 were executed at night opportunistically. **KJ 488**
570. The buildings were secured by several units of the Republika Srpska armed forces, including by members of the Bratunac Brigade Military Police Platoon. **BJJ 271-272**
571. Groups of men were taken from the buses to the school all through the night and did not return. **BJJ 280**
572. During the nights, individual prisoners in Bratunac were called out, and cries of pain and gunfire could be heard. **KJ 66**
573. On 13 July, the soldiers allowed the prisoners to take the dead bodies out of the hangar – one of the buildings located behind the Vuk Karadžić School. **BJJ 277**
574. Detainees from the Vuk Karadžić School loaded a number of corpses of people killed on the night of 12 July 1995 onto trucks. **BJA 98**
575. Later after the prisoners had been transported away from Bratunac, 40-50 bodies were discovered in the classrooms at the school. **BJJ 281**

#### **GRBAVCI SCHOOL AT ORAHOVAC**

576. Some prisoners [detained at the Grbavci school in Orahovac] were taken outside and killed. **KJ 220; BJJ 320**

#### **KULA SCHOOL NEAR PILICA**

577. During the night of 15 July, some men [detained at the Kula school near Pilica] were taken out and beaten by soldiers. Some of these men did not return. **BJJ 348, 567 (i)**

#### **ADDITIONAL RELEVANT FACTS**

#### **WIDESPREAD KNOWLEDGE OF THE CRIMES**

578. As early as 14 July 1995, reports of missing Bosnian Muslim men from Srebrenica began to surface in the international media. **KJ 88; BJJ 380**
579. A series of meetings were held with President Slobodan Milošević and General Ratko Mladić between 14 and 19 July to negotiate access for UNCHR and the ICRC to the area. Despite an agreement being reached, the VRS continued to refuse entry to the areas where the Bosnian Muslim Men were being detained. **BJJ 380**

580. ~~Around 15 July, a Drina Corps officer saw a television film clip showing captured men on a football pitch, presumably Nova Kasaba, while visiting Belgrade. KJ 88~~
581. Shortly thereafter, the missing Bosnian Muslim men became a factor in the negotiations between the VRS and the ABiH at Žepa, the other UN “safe area” which had come under attack by the VRS on 14 July 1995, following the take-over of Srebrenica. **KJ 89**
582. During the course of negotiations between the opposing parties at Žepa, Bosnian Muslim representatives wanted guarantees that the men who were evacuated would be transported in safety and specifically cited the missing men of Srebrenica as an example of why the Bosnian Serb authorities could not be trusted. **KJ 89**
583. The Bosnian Muslim representatives refused Bosnian Serb demands for an “all for all” prisoner-exchange until the Bosnian Serbs accounted for the 6,800 men they believed were missing from Srebrenica at that time. **KJ 89**
584. From 20 July, a preliminary report from UNPROFOR investigators in Tuzla and reports from DutchBat personnel indicated that grave human rights abuses had taken place. **BJJ 380**
585. On 10 August, following the presentation of aerial photographs showing the existence of mass grave near Konjević Polje and Nova Kasaba, the UN Security Council passed Security Resolution 1010, demanding that the Bosnian Serb authorities allow UN and ICRC observers to enter into Srebrenica. **BJJ 380**

**THE IMPACT OF THE CRIMES ON THE BOSNIAN MUSLIM COMMUNITY OF SREBRENICA**

586. In a patriarchal society, such as the one in which the Bosnian Muslims of Srebrenica lived, the elimination of virtually all the men has made it almost impossible for the Bosnian Muslim women who survived the take-over of Srebrenica to successfully re-establish their lives. **KJ 91; KA 28**
587. Often the women have been forced to live in collective and makeshift accommodations for many years, with a dramatically reduced standard of living. **KJ 91**
588. 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 great difficulties with the unfamiliar tasks of conducting official family business in the public sphere. **KJ 91**
589. The adolescent survivors from Srebrenica face significant hurdles as they enter adulthood. Few are employed and returning to Srebrenica is not something these young people even talk about. **KJ 92**
590. Younger children who survived the take-over of Srebrenica have also developed adjustment problems, such as low levels of concentration, nightmares and flashbacks. The absence of male role models is another factor that will inevitably have significant implications for Bosnian Muslim children from Srebrenica in years to come. **KJ 92**
591. The survivors of Srebrenica have unique impediments to their recovery. **KJ 93**
592. For Bosnian Muslim women it is essential to have a clear marital status, whether widowed, divorced or married; a woman whose husband is missing does not fit within any of these categories. **KJ 93; KA 28 n. 48**
593. With the majority of the men killed officially listed as missing, their spouses are unable to remarry and, consequently, to have new children. **KA 28**
594. Moreover, on a psychological level, these women are unable to move forward with the process of recovery without the closure that comes from knowing with certainty what has happened to their family members and properly grieving for them. **KJ 93**

**RELIABILITY OF INTERCEPTED COMMUNICATIONS**

595. Monitoring enemy communications was a standard military practice employed by both parties to the conflict, the objective being to discover the plans and movements of the opposing side in order to take pre-emptory action. **KJ 105**
596. In the interception of communications, the content of conversations were first recorded on tape by Bosnian Muslim interceptors, then transcribed onto a piece of paper or into a notebook and finally typed out on a computer and sent to Headquarters. **KJ 107**
597. The Bosnian Muslim interceptors became familiar with the voices of the VRS participants in the conversations over the course of time. **KJ 108**
598. In the event that a particular word could not be understood, the transcriber rewound the tape until it became clear and, if necessary, sought assistance from a colleague. If this was unsuccessful, the missing words were indicated with three dots or a question mark. **KJ 110**
599. The typist could only change the contents of a conversation with the approval of the original transcriber or after personally listening to the tape. **KJ 110**
600. The OTP diligently checked and cross-referenced the intercept material as part of its "intercept project." **KJ 114**
601. In order to determine whether the material was reliable and genuine, the OTP looked at the internal consistency between the notebooks and the printouts of each conversation. Transcripts of a single conversation, which was recorded by two or more interceptors, were also compared. **KJ 114**
602. The OTP also corroborated the intercepts with information obtained from other sources, such as documents acquired from the VRS, the RS Ministry of Defence and UNPROFOR, as well as aerial images. **KJ 114**
603. Meticulous procedures were used by the OTP for tracking the dates of the intercepted conversations. **KJ 114**
604. All possible measures were taken by the Bosnian Muslim interceptors to ensure the accuracy of the recorded conversations, as would be expected in any prudent army. **KJ 116**