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13 April 2012

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**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-09-92-PT
Date: 13 April 2012
Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Bakone Justice Moloto
Judge Christoph Flügge

Registrar: Mr John Hocking

Decision of: 13 April 2012

PROSECUTOR

v.

RATKO MLADIĆ

PUBLIC

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

Office of the Prosecutor

Mr Dermot Groome
Mr Peter McCloskey

Counsel for Ratko Mladić

Mr Branko Lukić
Mr Mićodrag Stojanović

I. PROCEDURAL HISTORY

1. On 9 December 2011, the Prosecution filed a motion ("Motion"), requesting that the Chamber take judicial notice of certain adjudicated facts ("Proposed Facts").¹ On 19 January 2012, the Chamber informed the parties that it would issue separate decisions on the Motion, each addressing one of the three Annexes of Proposed Facts.² On 28 February 2012, the Chamber issued its first decision on the Motion, addressing the Proposed Facts contained in Annex A ("First Decision").³ The parties were also informed that the procedure for rebuttal evidence would be addressed in a separate decision.⁴ On 21 March 2012, the Chamber issued its second decision on the Motion, addressing the Proposed Facts contained in Annex B ("Second Decision").⁵ For the full procedural history, the Chamber refers to paragraphs 1 through 3 of the First Decision.

II. SUBMISSIONS OF THE PARTIES

2. The Prosecution requests that the Chamber take judicial notice of 1,210 Proposed Facts contained in Annex C to the Motion.⁶ The Defence objects to the Chamber taking judicial notice of all 1,210 Proposed Facts.⁷ The Chamber recalls and refers to the parties' submissions in relation to the Chamber taking judicial notice of Proposed Facts as set out in the First Decision.⁸

III. APPLICABLE LAW

3. The Chamber recalls and refers to the applicable law governing requests for judicial notice of adjudicated facts pursuant to Rule 94 of the Rules of Procedure and Evidence ("Rules") as set out in the First Decision.⁹

IV. DISCUSSION

A. General considerations

¹ Prosecution Motion for Judicial Notice of Adjudicated Facts, 9 December 2011.

² T. 171.

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

⁴ First Decision, para. 9.

⁵ Second Decision on Prosecution Motion for Judicial Notice of Adjudicated Facts, 21 March 2012.

⁶ Motion, paras 1, 17-19, 33, Annex C.

⁷ Defence Response to Prosecution Motion for Judicial Notice of Adjudicated Facts Filed 9 December 2011, 1 February 2012 ("Response"). Due to a clerical error, the Defence filed a corrigendum to the Response on 2 February 2012 (Corrigendum to Defence Response to Prosecution motion for Judicial Notice of Adjudicated Facts Filed 9 December 2011, 2 February 2012), para. 17.

⁸ First Decision, paras 4-5; See Motion, paras 1-2, 4-7, 10-11, 13-14, 24; and Response, paras 7-8, 13-14, 19, 21.

⁹ First Decision, paras 6-8.

4. The Chamber recalls and refers to the General Considerations in the First Decision related to: 1) reading a Proposed Fact in context;¹⁰ 2) taking judicial notice of facts of common knowledge pursuant to Rule 94 (A);¹¹ 3) citations to portions of Appeals judgements;¹² and 4) instances where a Proposed Fact refers to a document in which a certain issue was reported or stated.¹³ The Chamber also recalls and refers to its General Consideration in the Second Decision concerning references to multiple sources from different judgements.¹⁴ Pursuant to Rule 94 (A), the Chamber takes judicial notice of Proposed Facts Nos 1676-1677, 1947, and 1958. Proposed Fact No. 1675, which constitutes a fact of common knowledge, will not be further considered, as it is repetitive of Proposed Facts Nos 1676-1677.

5. In relation to the general objections of the Defence, the Chamber recalls and refers to its Discussion in the First Decision regarding: 1) taking judicial notice of a large number of Proposed Facts not *per se* affecting the fairness of the trial;¹⁵ 2) the Chamber being bound by other Trial Chambers' decisions with regard to Proposed Facts;¹⁶ 3) striking the right balance between fairness and expediency of the trial;¹⁷ 4) referrals to incorrect paragraphs in the original judgements;¹⁸ and 5) taking judicial notice of Proposed Facts relating to military rules or regulations.¹⁹

6. In instances where the Chamber is satisfied that only a portion of a Proposed Fact meets the requirements for judicial notice, it will take judicial notice of that particular portion only. An Annex to this decision contains a list of adjudicated facts reformulated or redacted by the Chamber. Furthermore, the Chamber will not make purely editorial corrections to the Proposed Facts, such as adding a full stop at the end of a sentence, unless another reformulation is also required.

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

¹⁰ First Decision, para. 10. For example, Proposed Facts Nos 1779 and 1781-1782 are to be read together for context.

¹¹ First Decision, para. 17.

¹² First Decision, para. 16. This applies to Proposed Facts Nos 1838, 1841, 1868, 2527, and 2821.

¹³ First Decision, para. 13. This can be illustrated by For example, in evaluating Proposed Fact No. 2844, the Chamber would take judicial notice of the fact that an SRK report of 30 June 1995, signed by the SRK Commander General Dragomir Milošević stated that the artillery forces responded with precision to the Muslim artillery attacks, and that in one such response on 28 June they hit the BHRT[V], radio and television centre, and that the centre of media lied against the just struggle of the Serb people. The Chamber would not take judicial notice of the veracity of the description of the facts in the report.

¹⁴ Second Decision, para. 6.

¹⁵ First Decision, para. 12.

¹⁶ First Decision, para. 19.

¹⁷ First Decision, para. 11.

¹⁸ First Decision, para. 20.

¹⁹ First Decision, para. 18.

7. The Chamber recalls and refers to its Discussion in the First Decision related to the distinction between a factual finding and a mere recitation of evidence presented before a Trial Chamber.²⁰

8. The Chamber notes that the Trial Judgement in the case of *Prosecutor v. Stanislav Galić* (“*Galić* Trial Judgement”) is constructed in such a way that certain sections contain both a recitation of evidence and the factual findings made by the Trial Chamber. In its selection of Proposed Facts, the Prosecution often directed the Chamber to the parts of the *Galić* Trial Judgement where evidence is (re)presented and discussed. For example, Proposed Fact No. 2415, which represents evidence given by a witness with respect to the shelling incident in Ailpašino on 22 January 1994, states the following:

Witness AI testified that the morning had been exceptionally peaceful, with no shooting.

Based on the testimony of this witness and other evidence presented before it, the *Galić* Trial Chamber made the following finding:

The attack was carried out on an otherwise quiet day during a lull in hostilities.

This finding was also submitted by the Prosecution as Proposed Fact No. 2427. Accordingly, the Chamber will further consider Proposed Fact No. 2427 and not Proposed Fact No. 2415.

9. The Prosecution has not always directed the Chamber in a similar manner to the portions of the *Galić* Trial Judgement where the Trial Chamber makes its findings, but has instead submitted certain Proposed Facts originating from paragraphs where evidence is merely discussed. However, in certain instances, where the Chamber was able to easily identify that a particular portion of evidence, representing a Proposed Fact, was later restated or accepted by the *Galić* Trial Chamber when reaching its findings, the Chamber will further consider these Proposed Facts for the purpose of taking judicial notice. With respect to sniping and shelling incidents (Chapter III, “Factual and Legal Findings”, Section C, Subsections 1-3), there appear to be two ways in which the *Galić* Trial Chamber approved the evidence presented before it. The first case is where a discussion of evidence is followed by the Trial Chamber’s explicit acceptance of the description of the incident as recounted by a witness.²¹ In such situations, the Chamber is satisfied that the *Galić* Trial Chamber made findings on all of the details of the incident, unless there is an indication that a particular

²⁰ First Decision, paras 22-23.

²¹ For example, the last sentence of para. 267 of the *Galić* Trial Judgement states: “The Trial Chamber is satisfied that the incident occurred as recounted by the witness”; and the first sentence of para. 375 states the following: “The Majority is convinced that the shelling incident of 1 June 1993 [...] occurred as recounted by eye-witnesses.”

portion was not accepted.²² The second case refers to situations where the Trial Chamber clearly restates certain portions of evidence in its findings, and it is clear from the language and the context that the Trial Chamber made findings on these particular portions of evidence. The Chamber is satisfied that such Proposed Facts constitute factual findings made by the *Galić* Trial Chamber. For example, Proposed Fact No. 2499, sourced from paragraph 454 and representing the testimony of an individual known as Witness AF in the *Galić* case, is later confirmed to a great extent in paragraph 491 of the *Galić* Trial Judgement. Although the Prosecution did not refer to paragraph 491 as the source of Proposed Fact No. 2499, the Chamber will consider it when making its decision.²³ Consequently, the Chamber will modify Proposed Fact No. 2499 in accordance with paragraph 491.²⁴ The Chamber underlines that only the portions of Proposed Facts that are actually reflected in the Trial Chamber's findings will be further considered and examined against the other criteria for taking judicial notice.

10. In line with its General Considerations related to instances where a Proposed Fact refers to a document in which a certain issue was reported or stated,²⁵ the Chamber will further consider Proposed Facts from Chapter III, Section C, Subsections 1-3 of the *Galić* Trial Judgement, even though they originate from the part of the Judgement where evidence is discussed, when it is clear from the language used by the Trial Chamber that the content of this evidence is implicitly evaluated and accepted.²⁶

11. Furthermore, Proposed Facts originating from Chapter III, Section B of the *Galić* Trial Judgement contain historical facts pertaining to the break-up of the Socialist Federal Republic of

²² Proposed Facts Nos 2239-2249 are accepted in their entirety by the Trial Chamber in the last sentence of para. 267 of the Trial Judgement; Proposed Facts Nos 2267-2271 and 2273-2274 are accepted in their entirety in para. 319; Proposed Facts Nos 2364-2368 and 2370-2383 are accepted in their entirety in para. 375; Proposed Facts Nos 2585-2594 are accepted in their entirety in the last sentence of para. 547; Proposed Facts Nos 2606-2613 are accepted in their entirety in para. 248; Proposed Facts Nos 2629-2635 are accepted in their entirety in the last sentence of para. 519; Proposed Fact No. 2638 is partially accepted in the last sentence of para. 520; Proposed Facts 2646-2653 are accepted in their entirety in the last two sentences of para. 552; Proposed Facts Nos 2664-2671 and 2673 are accepted in their entirety in the last sentence of para. 273; and Proposed Facts Nos 2694-2703 are accepted in their entirety in para. 279.

²³ Similarly, Proposed Fact No. 2017 is confirmed by the Trial Chamber in para. 591 of the Trial Judgement; Proposed Facts Nos 2018-2019, 2039, 2048, 2134-2135, 2159, and 2161 are confirmed in para. 583; Proposed Facts Nos 2093 and 2094 are confirmed in para. 509; Proposed Fact No. 2224 is partially confirmed in para. 355; Proposed Fact No. 2227 is partially confirmed in para. 355 and footnote 1123; Proposed Fact No. 2396 is confirmed in para. 382; Proposed Fact No. 2482 is confirmed in para. 463; and Proposed Fact No. 2680 is partially confirmed in para. 276.

²⁴ Similarly, Proposed Fact No. 2227 will be modified in accordance with the original judgment.

²⁵ See *supra* para. 4.

²⁶ This is the case, for example, with Proposed Facts Nos 2444 and 2458.

Yugoslavia,²⁷ and, as such, they represent factual findings of the *Galić* Trial Chamber, which can therefore be judicially noticed, subject to them meeting the other criteria for taking judicial notice.

12. Lastly, in Chapter IV of the *Galić* Trial Judgement, the factual findings are mostly located in the “Conclusions” Subsections. The Chamber will therefore further consider Proposed Facts originating from other subsections of this chapter only when it is clear from the language and the context that these Proposed Facts constitute factual findings of the Trial Chamber.²⁸

13. In the Trial Judgement of *Prosecutor v. Dragomir Milošević* (“*Dragomir Milošević* Trial Judgement”), the Trial Chamber’s findings on sniping and shelling incidents are located under the “Findings” headings in Chapter II - “Evidence”, Section E, Subsections 4-6. Subsection 5 does not contain any “Findings”. The Chamber considers that, in this Subsection, only Proposed Facts Nos 2090 and 2109 represent factual findings of the Trial Chamber. In relation to Subsections 4 and 6, in view of the construction of this Trial Judgement, the Chamber will not further consider any Proposed Facts located outside the “Findings” sections, save for the following two situations.

14. First, when it is clear from the language or the context in which the Proposed Facts are placed that they represent the *Dragomir Milošević* Trial Chamber’s findings. This can be illustrated by Proposed Fact No. 2804, which originates from paragraph 342 of the *Dragomir Milošević* Trial Judgement, and is thus located outside the “Findings” section. The Proposed Fact states:

Sredenik was a civilian area, with a civilian population.

In the original Judgement, this fact reads:

Based on the evidence of Derviša Selmanović, Nedžib Đozo, Tarik Žunić and Lt. Col. Konings, the Trial Chamber finds that Sredrenik was a civilian area, with a civilian population.

It clearly follows that Proposed Fact No. 2804 represents a factual finding of the *Dragomir Milošević* Trial Chamber, and it will therefore be further considered.²⁹

Second, the Chamber will further consider the Proposed Fact when it is clearly restated by the Trial Chamber in the “Findings” section, even if the Prosecution did not direct the Chamber to this portion of the Judgement. For example, even though Proposed Facts Nos 1888, 1889, and 1891 are taken from paragraphs 94, 95, and 97 of the *Dragomir Milošević* Trial Judgement, where evidence

²⁷ See *Galić* Trial Judgement, para. 191. The Trial Chamber announces its “review of events preceding the Indictment Period for a better understanding of the context in which the case is situated, in particular the history of the break-up of the Socialist Federal Republic of Yugoslavia, which has been described in previous Judgements of this Tribunal and need not be repeated in lengthy detail [...]”

²⁸ This is the case, for example, with Proposed Facts Nos 1774 and 1775.

²⁹ This is the case with Proposed Facts Nos 2297, 2299-2300, 2535, 2798, 2804, 2848, and 2880.

is discussed, the Chamber notes that they are restated by the *Dragomir Milošević* Trial Chamber in the “Findings” section at paragraph 107 of the Judgement. The Chamber will therefore further consider these Proposed Facts.³⁰

15. Furthermore, with respect to the “Evidence” Chapter of the *Dragomir Milošević* Trial Judgement, the Chamber notes that although Subsections 1 and 2 of Section A do not contain any subsections explicitly characterised as “Findings”, they contain what are essentially factual findings of the *Dragomir Milošević* Trial Chamber, referring to historical and geographical facts, and that therefore Proposed Facts originating from these portions of the Judgement may be judicially noticed, subject to them meeting the other criteria for taking judicial notice.³¹

16. A number of Proposed Facts referring to historical events, in both the *Galić* Trial Judgement (Chapter III, Section B) and *Dragomir Milošević* Trial Judgement (Chapter II, Section A, Subsections 1 and 2) come from the expert report of Mr. Robert Donia. The Chamber recalls that Mr. Donia has not yet drafted an updated report for the present case.³² In this respect, the Chamber refers the Prosecution to its guidance given at the Status Conference, on 10 November 2011, where the parties were instructed not to request that the Chamber take judicial notice of those facts for which they intend to present other evidence, to avoid having the same matter entered into the evidentiary record twice.³³ In situations where witness testimony or an expert report overlap with one or several judicially noticed facts, the Chamber expects the parties to demonstrate in advance why they are seeking to have it introduced.³⁴

17. Additionally, Subsection 3 of Section A in the “Evidence” Chapter in the *Dragomir Milošević* Trial Judgement, contains information related to the United Nations presence in Sarajevo, and that in this respect the evidence presented before the *Dragomir Milošević* Trial Chamber was “largely uncontested.”³⁵ Although there is no “Findings” section, the Chamber will further consider Proposed Facts originating from Subsection 3, unless it is clear from the text of the original Judgement that the Proposed Fact had been contested by the parties.³⁶ Subsection 4 of Section A

³⁰ Similarly, Proposed Fact No. 2302 is confirmed by the Trial Chamber in para. 265; Proposed Fact No. 2315 is partially confirmed in paras 339 and 341; Proposed Fact No. 2354 is partially confirmed in para. 378 of the Trial Judgement; Proposed Facts Nos 2529-2530 are confirmed in para. 495; Proposed Fact No. 2549 is partially confirmed in para. 531; Proposed Fact No. 2807 is partially confirmed in para. 364; and Proposed Fact No. 2844 is confirmed in para. 622.

³¹ This applies to Proposed Facts Nos 1673, 1678, 1682-1692, 1695-1701, 1705, 1708-1710, and 1716-1717.

³² See Sixth Prosecution Report on Pre-Trial Preparations (Confidential with Confidential Annexes), Annex C, p. 27.

³³ T. 103.

³⁴ Ibid.

³⁵ See para. 30 of the *Milošević* Trial Judgement.

³⁶ For example, it is clear from footnote no. 133 to para. 39 of the *Dragomir Milošević* Trial Judgement that the first sentence of Proposed Fact No. 1732, which states that “UNMOs were unarmed”, was contested. Consequently,

contains a combination of discussion of evidence and factual findings of the *Dragomir Milošević* Trial Chamber. Proposed Facts originating from this portion of the Judgement will not be further considered unless it is clear from the text that they represent factual findings of the Trial Chamber.³⁷

18. With respect to Subsection 3 of Section B in the “Evidence” Chapter, the Chamber further clarifies that paragraphs 111-136 present evidence, which was largely uncontested. The factual findings of the *Dragomir Milošević* Trial Chamber on this evidence can be found under the “Findings” heading in the same subsection in paragraphs 137-140. With respect to this subsection, the Chamber will therefore only further consider Proposed Facts which originate from the “Findings” section.

19. With regard to Chapter III, Section B, Subsection 1 of the *Dragomir Milošević* Trial Judgement, Proposed Facts originating from paragraphs 959-977 represent a discussion of evidence by the Trial Chamber. Consequently, unless it is evident from the language used by the Trial Chamber that a particular factual finding was made, Proposed Facts originating from this Subsection will not be further considered.³⁸ The same applies to Chapter II, Section E, Subsections 7-9, and Section F, which, to a great extent, contain merely a discussion of evidence.³⁹

20. Based on the above considerations, the Chamber finds that Proposed Facts Nos 1715, 1718, 1738-1744, 1746-1752, 1755, 1768, 1770-1772, 1783-1786, 1797-1804, 1826, 1829, 1832-1833, 1842-1843, 1865, 1870-1873, 1877-1880, 1884-1885, 1890, 1893-1896, 1898-1901, 1906-1916, 1923, 1925-1926, 1928-1929, 1933-1935, 1939, 1944-1946, 1950-1953, 1960, 1965, 1968-1974, 1976-1984, 1988-2007, 2009-2011, 2013-2016, 2026-2035, 2038, 2046, 2059, 2061-2064, 2067-2089, 2091-2092, 2095, 2097-2108, 2110-2114, 2116, 2119-2120, 2123-2132, 2136-2137, 2139, 2141-2142, 2144-2152, 2155-2158, 2163-2205, 2207-2218, 2223, 2225-2226, 2229, 2232, 2235, 2250-2251, 2257-2259, 2261, 2264, 2272, 2276, 2279, 2282, 2285-2296, 2298, 2301, 2305-2314, 2316, 2320-2333, 2338-2342, 2344, 2346-2350, 2355-2361, 2363, 2369, 2384, 2387-2388, 2390, 2392-2395, 2398, 2403-2405, 2409-2425, 2429-2430, 2437-2443, 2445-2457, 2459-2465, 2468-

Proposed Fact No. 1732 will be redacted. The following Proposed Facts originating from Subsection 3, Section A of Chapter II constitute factual findings: Nos 1719, 1728-1730, 1732-1733, 1735-1737.

³⁷ Subsection 4 begins with para. 46, which states the following: “Evidence of various peace initiatives; launched by UNPROFOR, both before and during the Indictment period, was presented during trial.” Furthermore, this Subsection contains sentences such as: “The Defence submitted [...]”, “There is evidence that [...]”, “Col. Dragičević [...] testified that [...]”, which appear to indicate that evidence is being discussed in this subsection. Only the following Proposed Facts represent factual findings: Proposed Facts Nos 1745, 1753, and 1756-1767.

³⁸ See, for example, para. 960, where the Trial Chamber contrasts evidence, only to arrive at a conclusion at the end of the paragraph.

³⁹ By contrast, see, for example Proposed Fact No. 1839, sourced from para. 822 of the *Dragomir Milošević* Trial Judgement, and Proposed Fact No. 2060, sourced from para. 751, which contain findings of the Trial Chamber.

2472, 2479-2481, 2484-2494, 2497-2498, 2500-2503, 2505-2510, 2514, 2516, 2518, 2532-2534, 2536-2538, 2543-2545, 2547, 2550-2553, 2556-2560, 2563, 2565-2569, 2572-2575, 2579, 2581-2584, 2597-2599, 2603, 2605, 2620-2622, 2636, 2640-2641, 2654-2658, 2672, 2675, 2677-2678, 2681-2686, 2688, 2691, 2704, 2713-2718, 2720-2731, 2735-2737, 2742-2744, 2746-2751, 2758, 2761-2768, 2772-2773, 2775-2781, 2784-2785, 2789-2797, 2799-2800, 2805-2806, 2808-2810, 2812-2816, 2818, 2822-2825, 2829, 2831-2832, 2836-2843, 2847, 2850, 2853-2854, 2856-2857, 2859-2863, 2867, 2870, 2873, 2875-2876, 2879, and 2881-2882 are not the relevant Trial Chamber's findings and therefore will not be further considered.

21. The Chamber observes, recalling and referring to its Discussion in the First Decision,⁴⁰ that a number of Proposed Facts contain essentially subjective qualifications which cannot be considered to be of a factual nature. For this reason, Proposed Facts Nos 1897 and 2642 will not be considered further.

22. The Chamber recalls and refers to its Discussion in the First Decision related to repetitive Proposed Facts.⁴¹ The Chamber has carefully examined the following Proposed Facts and considers that, on the basis of the underlying evidence, they substantially overlap with other Proposed Facts: Proposed Facts Nos 1675, 1690-1691, 1702, 1717, 1812, 1831, 1941, 1985, 1987, 2017, 2094, 2109, 2133, 2228, 2254-2255, 2274, 2284, 2315, 2467, 2483, 2512, 2521, 2570, 2596, 2600, 2614-2615, 2692, 2707-2708, 2739-2740, 2798, 2811, 2851, and 2864.⁴² The Chamber finds that Proposed Fact No. 1689 is identical to the first sentence of Proposed Fact No. 110. These Proposed Facts will not be considered further.

⁴⁰ First Decision, para. 27.

⁴¹ First Decision, para. 28.

⁴² Proposed Facts Nos 1690-1691 are repetitive of Proposed Fact No. 134; Proposed Fact No. 1702 is repetitive of Proposed Facts Nos 147 and the second sentence of Proposed Fact No. 287; Proposed Fact No. 1717 is repetitive of Proposed Fact No. 148; Proposed Fact No. 1812 is repetitive of Proposed Fact No. 1809; Proposed Fact No. 1831 is repetitive of Proposed Fact No. 1853; Proposed Fact No. 1941 is repetitive of Proposed Fact No. 1942; Proposed Fact Nos 1985 and 1987 are repetitive of Proposed Fact No. 1986; Proposed Fact No. 2017 is repetitive of Proposed Fact No. 2037; Proposed Fact No. 2094 is repetitive of Proposed Fact No. 2096; Proposed Fact No. 2109 is repetitive of Proposed Fact No. 2090; Proposed Fact No. 2133 is repetitive of Proposed Fact No. 2134; Proposed Fact No. 2228 is repetitive of Proposed Fact No. 2231; Proposed Fact No. 2254 is repetitive of Proposed Facts Nos 2243, 2245 and 2256; Proposed Fact No. 2255 is repetitive of Proposed Fact No. 2256; Proposed Fact No. 2274 is repetitive of Proposed Fact No. 2275; Proposed Fact No. 2284 is repetitive of Proposed Facts Nos 2267, 2275 and 2283; Proposed Fact No. 2315 is repetitive of Proposed Facts Nos 2318 and 2154; Proposed Fact No. 2467 is repetitive of Proposed Fact No. 2436; Proposed Facts Nos 2483 and 2512 are repetitive of Proposed Fact No. 2513; Proposed Fact No. 2521 is repetitive of Proposed Fact No. 2519; Proposed Fact No. 2570 is repetitive of Proposed Fact No. 2578; Proposed Fact No. 2596 is repetitive of Proposed Fact No. 2602; Proposed Fact No. 2600 is repetitive of Proposed Facts Nos 2593 and 2602; Proposed Fact No. 2614 is repetitive of Proposed Fact No. 2628; Proposed Fact No. 2615 is repetitive of Proposed Facts Nos 2606-2613 and 2628; Proposed Fact 2692 is repetitive of Proposed Facts Nos 2693 and 2687; Proposed Fact No. 2707 is repetitive of Proposed Fact No. 2700; Proposed Fact No. 2708 is repetitive of Proposed Facts Nos 2701-2702; Proposed Facts Nos 2739-2740 are repetitive of Proposed Fact No. 2738; Proposed Fact No. 2798 is repetitive of Proposed Fact No. 2802; Proposed Fact No. 2811 is repetitive of Proposed Fact No. 2817; Proposed Fact No. 2851 is repetitive of Proposed Fact No. 2849; and Proposed Fact No. 2864 is repetitive of Proposed Fact No. 2855.

23. Proposed Fact Nos 1678, 1684, 1753, 2057,⁴³ 2400, 2495-2496, 2619, 2690, 2719, and 2732 are not distinct and clear or are vague and overly broad. They will therefore not be considered further.

24. The Chamber will merge Proposed Fact No. 1780 with Proposed Fact No. 1779, Proposed Fact No. 1794 with Proposed Fact No. 1793, Proposed Fact No. 2066 with Proposed Fact No. 2065, Proposed Fact No. 2224 with Proposed Fact No. 2238, Proposed Fact No. 2253 with Proposed Fact No. 2256, and Proposed Fact No. 2337 with Proposed Fact No. 2335. Consequently, Proposed Facts Nos 1780, 1794, 2066, 2224, 2253, and 2337 will not be considered further.

25. In conclusion, the Chamber finds that the following facts do not fulfil the first criterion for judicial notice and will, therefore, not be further considered: 1675, 1678, 1684, 1689-1691, 1702, 1715, 1717-1718, 1738-1744, 1746-1753, 1755, 1768, 1770-1772, 1780, 1783-1786, 1794, 1797-1804, 1812, 1826, 1829, 1831-1833, 1842-1843, 1865, 1870-1873, 1877-1880, 1884-1885, 1890, 1893-1901, 1906-1916, 1923, 1925-1926, 1928-1929, 1933-1935, 1939, 1941, 1944-1946, 1950-1953, 1960, 1965, 1968-1974, 1976-1985, 1987-2007, 2009-2011, 2013-2017, 2026-2035, 2038, 2046, 2057, 2059, 2061-2064, 2066-2089, 2091-2092, 2094-2095, 2097-2114, 2116, 2119-2120, 2123-2133, 2136-2137, 2139, 2141-2142, 2144-2152, 2155-2158, 2163-2205, 2207-2218, 2223-2226, 2228-2229, 2232, 2235, 2250-2251, 2253-2255, 2257-2259, 2261, 2264, 2272, 2274, 2276, 2279, 2282, 2284-2296, 2298, 2301, 2305-2316, 2320-2333, 2337-2342, 2344, 2346-2350, 2355-2361, 2363, 2369, 2384, 2387-2388, 2390, 2392-2395, 2398, 2400, 2403-2405, 2409-2425, 2429-2430, 2437-2443, 2445-2457, 2459-2465, 2467-2472, 2479-2481, 2483-2498, 2500-2503, 2505-2510, 2512, 2514, 2516, 2518, 2521, 2532-2534, 2536-2538, 2543-2545, 2547, 2550-2553, 2556-2560, 2563, 2565-2570, 2572-2575, 2579, 2581-2584, 2596-2600, 2603, 2605, 2614-2615, 2619-2622, 2636, 2640-2642, 2654-2658, 2672, 2675, 2677-2678, 2681-2686, 2688, 2690-2692, 2704, 2707-2708, 2713-2732, 2735-2737, 2739-2740, 2742-2744, 2746-2751, 2758, 2761-2768, 2772-2773, 2775-2781, 2784-2785, 2789-2800, 2805-2806, 2808-2816, 2818, 2822-2825, 2829, 2831-2832, 2836-2843, 2847, 2850-2851, 2853-2854, 2856-2857, 2859-2864, 2867, 2870, 2873, 2875-2876, 2879, and 2881-2882.

26. In addition, the Chamber also identified a number of Proposed Facts that do not satisfy the required criterion and of which the Chamber cannot take judicial notice in their present form.⁴⁴ For example, Proposed Facts Nos 1927, 2318, and 2482 lack time or place references. Proposed Facts

⁴³ Only a certain portion of Proposed Fact No. 2057 is vague, but as the remainder of the fact is repetitive of Proposed Fact No. 2053, it will not be considered further.

Nos 1732, 1734, 2242, 2391, 2434, 2623-2624, 2638 and 2680 contain, in addition to the relevant Trial Chamber's findings, portions referring to discussion of evidence presented before the relevant Trial Chambers. Proposed Facts Nos 1703, 1790, 1867, 1942, 2060, 2096, 2407, 2595, 2625, and 2689 contain, in addition to factual findings, essentially subjective qualifications by the original Trial Chambers. Further, Proposed Fact No. 2354 is partially repetitive of Proposed Fact No. 2362. Certain Proposed Facts contain cross-references to other parts of the judgements they originate from.⁴⁵ Instead of rejecting those Proposed Facts in their entirety, the Chamber will reformulate or redact them, in accordance with the requirements of this criterion (see Annex). Furthermore, certain Proposed Facts contain incorrect references to the judgements they originate from.⁴⁶

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

27. The Prosecution submits that all the Proposed Facts are relevant to the current case.⁴⁷ The Defence challenges a large number of Proposed Facts on this basis.⁴⁸ The Chamber recalls its Discussion in the First Decision in relation to the present criterion, and refers to its consideration of the Defence's objections therein.⁴⁹ Having assessed the Proposed Facts one by one, the Chamber considers that all Proposed Facts are relevant to the matters at issue in the current proceedings.

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

28. The Prosecution submits that the Proposed Facts fulfil the present criterion.⁵⁰ The Defence submits that certain Proposed Facts do not satisfy this criterion.⁵¹ The Chamber recalls and refers to its Discussion in the First Decision related to terms having both a legal and a factual meaning.⁵²

29. The Chamber finds that Proposed Facts Nos 1814-1819, 1867,⁵³ 2008, 2012, 2019, 2022, 2040-2044, 2055, 2058, 2060,⁵⁴ 2118, 2138, 2140, 2236, 2408, 2435, 2526-2527, 2643-2644, 2710,

⁴⁴ Proposed Facts Nos 1692, 1699, 1701, 1792, 1822, 1857, 1927, 1962-1963, 2096, 2256, 2269, 2318, 2334, 2336, 2343, 2397, 2482, 2499, 2511, 2561, 2606, 2613, 2617, 2624, 2628, 2647-2648, 2664, 2701, 2709, 2733, 2782, 2801, 2807, 2817, 2826, 2830, and 2852.

⁴⁵ Proposed Facts Nos 1736, 1918, 1927, 1936, 2090, 2219, 2230-2231, 2234, 2297, 2300, 2304, 2317, 2428, 2431, 2476, 2519, 2548, 2576, 2585, 2587, 2601-2602, 2618, 2625, 2627, 2629, 2637, 2639, 2647-2648, 2650, 2659, 2679, 2697, 2700, 2705-2706, 2734, 2845, 2865, 2877, and 2880.

⁴⁶ Proposed Fact No. 1813 originates from para. 738 of the *Galić* Trial Judgement, and Proposed Fact No. 2302 originates from para. 265 of the *Dragomir Milošević* Trial Judgement.

⁴⁷ Motion, paras 6-7, 13-14.

⁴⁸ Response, paras 16-17 (code B1, C1, C12).

⁴⁹ First Decision, paras 34-35.

⁵⁰ Motion, para. 6.

⁵¹ Response, para. 17 (code C10).

⁵² First Decision, para. 37.

2712, and 2821 contain findings or characterizations of an essentially legal nature. The Chamber will therefore not take judicial notice of these Proposed Facts.

30. The Chamber further finds that portions of Proposed Facts Nos 1853, 2037, 2050, 2090, 2222, 2238, 2256, 2266, 2268, 2283, 2304, 2318, 2362, 2397, 2528, 2623, 2628, 2645,⁵⁵ 2653, 2660, 2662-2663, 2689, 2693, 2709, 2711, 2738, 2801, and 2826 contain findings or characterizations of an essentially legal nature. Instead of rejecting these Proposed Facts in their entirety, the Chamber will reformulate them in such a way that they contain only factual findings (see Annex).

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

31. The Prosecution submits that the Proposed Facts fulfil this criterion.⁵⁶ The Defence challenges a number of Proposed Facts under this criterion, and also submits that if the original Judgement contains no source reference in a footnote, the finding of that Trial Chamber could be based on an agreed fact.⁵⁷ The Chamber recalls and refers to its Discussion in the First Decision related to Proposed Facts based on an agreement between the parties.⁵⁸

32. In accordance with the above, the Chamber considers that Proposed Fact No. 1789 is taken from a sentence in paragraph 609 of the *Galić* Trial Judgement, which begins with the phrase “there is no dispute between the parties” and is footnoted to the Prosecution Pre-Trial Brief and Defence Pre-Trial and Final Trial Briefs. The Chamber considers that this is a strong textual indication that the Proposed Fact is based on an agreement between the parties in the original proceedings, and the Chamber will not consider the Proposed Fact further.

33. Furthermore, Proposed Facts Nos 1711-1712, 1773, and 1823 are based on an agreement between the parties and, therefore, will not be considered further. Additionally, Proposed Fact No. 1779 is partially based on “Stipulations”.⁵⁹ This portion will not be further considered (see Annex). With regard to Proposed Fact No. 2432, it is clear from the context in which the fact is placed in the original judgement that the word “undisputed” does not refer to agreed facts.

⁵³ Only a certain portion of Proposed Fact No. 1867 contains findings of an essentially legal nature, but as the remainder of the Proposed Fact contains essentially subjective qualifications, it will not be considered further.

⁵⁴ Only a certain portion of Proposed Fact No. 2060 contains findings of an essentially legal nature, but as the remainder of the Proposed Fact contains essentially subjective qualifications, it will not be considered further.

⁵⁵ Proposed Fact No. 2645 goes with the sniping incident of 25 June 1993 (see Annex, section IV.B.1b)), and not with the sniping incident of 24 July 1993 (see Annex, section IV.B.1d)), as submitted by the Prosecution.

⁵⁶ Motion, para. 6.

⁵⁷ Response, paras 17 (code C4, C7, C9), 19.

⁵⁸ First Decision, para. 40.

⁵⁹ *Galić* Trial Judgement, fn. 366.

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

34. The Prosecution submits that the Proposed Facts satisfy this condition.⁶⁰ The Defence does not challenge any Proposed Facts on this criterion. The Chamber finds that all Proposed Facts satisfy this criterion.

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

35. The Prosecution submits that all of the Proposed Facts satisfy this criterion.⁶¹ The Defence challenges a number of Proposed Facts under this criterion.⁶² The Chamber recalls and refers to its Discussion in the First Decision in relation to this criterion.⁶³ The Chamber concludes that Proposed Fact No. 1754 does not fulfil this criterion, and it will not be considered any further.

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

36. The Prosecution submits that the Proposed Facts do not differ in a substantial way from the facts actually adjudicated in the original judgements.⁶⁴ The Defence challenges a number of the Proposed Facts under this criterion.⁶⁵ The Chamber recalls and refers to its Discussion in the First Decision related to misleading or inconsistent Proposed Facts.⁶⁶ In accordance with the above, the Chamber finds that Proposed Fact No. 1858 is misleading and will therefore not be judicially noticed.

37. The Chamber notes that a number of Proposed Facts are not consistent with the text of the original judgments, in that they contain time-references, which do not flow directly from the text of the original judgments.⁶⁷ Having examined these Proposed Facts in the context of the judgments they originate from, the Chamber will accept the time-reference proposed by the Prosecution.

⁶⁰ Motion, para. 19.

⁶¹ Motion, paras 8-9.

⁶² Response, para. 16 (code C5).

⁶³ First Decision, para. 45.

⁶⁴ Motion, paras 6-7.

⁶⁵ Response, para. 16 (code C5).

⁶⁶ First Decision, paras 47-48.

⁶⁷ These are Proposed Facts Nos 1725, 1735, 1806, 1825, 1835, 1854, 1938, 1940, 1954-1957, 1961, and 1967.

38. Lastly, Proposed Facts Nos 1883, 1943, 1964, 2266, 2343, 2436, 2458, 2546, 2759, 2771, 2855, and 2868, which do not accurately reflect the text of the original judgements will be reformulated in accordance with the present criterion (see Annex).

V. DISPOSITION

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

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

1) 1673-1674, 1679-1683, 1685-1688, 1693-1698, 1700, 1704-1710, 1713-1714, 1716, 1719-1731, 1733, 1735, 1737, 1745, 1756-1767, 1769, 1774-1778, 1781-1782, 1787-1788, 1791, 1795-1796, 1805-1811, 1813, 1820-1821, 1824-1825, 1827-1828, 1830, 1834-1841, 1844-1852, 1854-1856, 1859-1864, 1866, 1868-1869, 1874-1876, 1881-1882, 1886-1889, 1891-1892, 1902-1905, 1917, 1919-1922, 1924, 1930-1932, 1937-1938, 1940, 1948-1949, 1954-1957, 1959, 1961, 1966-1967, 1975, 1986, 2018, 2020-2021, 2023-2025, 2036, 2039, 2045, 2047-2049, 2051-2054, 2056, 2093, 2115, 2117, 2121-2122, 2134-2135, 2143, 2153-2154, 2159-2162, 2206, 2220-2221, 2233, 2237, 2239-2241, 2243-2249, 2252, 2260, 2262-2263, 2265, 2267, 2270-2271, 2273, 2275, 2277-2278, 2280-2281, 2299, 2302-2303, 2319, 2345, 2351-2353, 2364-2368, 2370-2383, 2385-2386, 2389, 2396, 2399, 2401-2402, 2406, 2426-2427, 2432-2433, 2444, 2466, 2473-2475, 2477-2478, 2504, 2513, 2515, 2517, 2520, 2522-2525, 2529-2531, 2535, 2539-2542, 2554-2555, 2562, 2564, 2571, 2577-2578, 2580, 2586, 2588-2594, 2604, 2607-2612, 2616, 2626, 2630-2635, 2646, 2649, 2651-2652, 2661, 2665-2671, 2673-2674, 2676, 2687, 2694-2696, 2698-2699, 2702-2703, 2741, 2745, 2752-2757, 2760, 2769-2770, 2774, 2783, 2786-2788, 2802-2804, 2819-2820, 2827-2828, 2833-2835, 2844, 2846, 2848-2849, 2858, 2866, 2869, 2871-2872, 2874, and 2878 pursuant to Rule 94 (B);

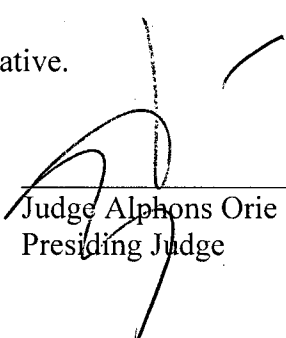
2) 1692, 1699, 1701, 1703, 1732, 1734, 1736, 1779, 1790, 1792-1793, 1822, 1853, 1857, 1883, 1918, 1927, 1936, 1942-1943, 1962-1964, 2037, 2050, 2065, 2090, 2096, 2219, 2222, 2227, 2230-2231, 2234, 2238, 2242, 2256, 2266, 2268-2269, 2283, 2297, 2300, 2304, 2317-2318, 2334-2336, 2343, 2354, 2362, 2391, 2397, 2407, 2428, 2431, 2434, 2436, 2458, 2476, 2482, 2499, 2511, 2519, 2528, 2546, 2548-2549, 2561, 2576, 2585, 2587, 2595, 2601-2602, 2606, 2613, 2617-2618, 2623-2625, 2627-2629, 2637-2639, 2645, 2647-2648, 2650, 2653, 2659-2660, 2662-2664, 2679-2680, 2689, 2693, 2697, 2700-2701, 2705-2706, 2709, 2711, 2733-2734, 2738, 2759, 2771, 2782, 2801, 2807, 2817, 2826, 2830, 2845, 2852, 2855, 2865, 2868, 2877, and 2880 pursuant to Rule 94 (B) and subject to the changes indicated in the present decision (see also Annex);

3) 1676-1677, 1947, and 1958 pursuant to Rule 94 (A);

DEFERS its decisions on the Rebuttal Evidence Procedure; and

DISMISSES the remainder of the Motion.

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



Judge Alphons Orie
Presiding Judge

Dated this Thirteenth of April 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

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

Table of the Adjudicated Facts Modified by the Chamber

The Proposed Fact Number	The Modified Adjudicated Fact
I. BACKGROUND FACTS	
1692	Following the referendum on independence in February 1992, the European Community declared its intent to recognize Bosnia and Herzegovina as an independent state.
1699	The barricades were removed the night of 2 March 1992, but some were re-erected on 3 March 1992.
1701	When the BiH police entered the Holiday Inn Hotel, they arrested six gunmen, but Karadžić, his entourage, and other gunmen had already left the hotel.
1703	On 6 April 1992, gunfire erupted in Sarajevo, with each side accusing the other of having started the hostilities.
A. United Nations Role in Sarajevo	
1732	The UNMOs' tasks were to observe, investigate and report on the general situation, including the military and humanitarian situation, in the areas where they were deployed.
1734	In the Sarajevo sector there were around 60 observers as of February 1993, spread out over a total of 14 observation posts (11 LIMAs and 3 PAPAs).
1736	UNPROFOR OPs and many of the UNMO OPs were situated on the confrontation lines between the two warring factions.
II. MILITARY STRUCTURES AND WEAPONRY	
A. Military Structures	
1779	The SRK was formed of ten to thirteen brigades, ranging from a few dozen troops to several thousands, divided into battalions and companies, with each battalion ranging in size from 56 to over 700 troops.
1. 1992-1994 (Command under General Stanislav Galić)	
1790	General Galić was a professional military officer.
1792	General Galić was present on the battlefield of Sarajevo throughout the period from 10 September 1992 to 10 August 1994, in close proximity to the confrontation lines.

1793	General Galić actively monitored the situation in Sarajevo, in particular from the Lukavica Command post.
2. 1994-1995 (Command under General Dragomir Milošević)	
1822	From on or about 6 July 1993, Dragomir Milošević served as Chief of Staff and Deputy Commander in the SRK under its commander Gen. Stanislav Galić.
1853	SRK Commander Dragomir Milošević regularly visited SRK-units at the confrontation lines in order to get an impression of the situation in the field.
1857	The monthly reports of the military prosecutor's office for Sarajevo did not contain any information about criminal proceedings against SRK members on war crimes.
C. Weapons Used in Shelling and Sniping	
1883	The SRK requested and received "100/105 kilogram", 150 kilogram and 250 kilogram air bombs in 1994 and 1995. In 1994 and 1995 the SRK possessed modified air bombs and air bomb launchers. The VRS attached rockets to air bombs to enable their launch from the ground.
D. Control over Shelling and Sniping Activity	
2. Control over Shelling Activity	
1918	The SRK used modified air bombs, and air bomb launchers and the SRK Commander, Dragomir Milošević, was directly involved in the deployment of these weapons.
E. Confrontation Lines and Areas of Control	
1927	In the period from August 1994 to November 1995, the ABiH controlled several hills and elevations close to the central parts of Sarajevo, such as Debelo Brdo, Čolina Kapa, Mojmiro Hill, Žuč Hill and Hum Hill. However, most of these hills, or elevations, in particular those on the confrontation lines in the south and in the south-east, were overlooked by territory controlled by the SRK.
1. Central Parts of Sarajevo: Grbavica, Marin Dvor, Hrasno	
1936	The area of Vrace, to the southwest of Grbavica, was under the control of the SRK between September 1992 and August 1994.
2. South-East: Širokača, Jewish Cemetery, Debelo Brdo, Zlatište, Čolina Kapa, Mount Trebević	
1942	SRK soldiers had access to the vicinity of the road to Pale, which was not within

	ABiH territory, and the general area of the Baba Stijena ridge.
1943	In December 1992, the SRK operated from the general area of Baba Stijena.
1962	The portion of Neđarići east of Ante Babića Street and south of Đure Jakišića Street (later renamed), where there are higher buildings, was controlled by the ABiH, together with Alipašino Polje between September 1992 and August 1994.
1963	Close to the “Institute for the Blind”, ABiH and SRK forces were only a few meters apart.
1964	Fighting in the Alipašino Polje area was intense from the first months of the conflict, and soldiers from both sides constantly fired from and against the area.
III. CAMPAIGN AGAINST CIVILIANS IN SARAJEVO	
A. Shelling and Sniping Campaign from September 1992 through November 1995	
1. The Campaign between September 1992 and August 1994	
2037	Civilians in ABiH-held areas of Sarajevo were attacked from SRK-controlled territory between September 1992 and August 1994, and as a result and at a minimum, hundreds of civilians were killed and thousands of others were injured.
2050	Between September 1992 and August 1994, civilians tilled at night, fetched water or collected wood at night or when the visibility was reduced or developed alternative routes to traverse the city to avoid sniping fire seen from SRK-controlled territory.
2. The Campaign between August 1994 and November 1995	
2065	From August 1994 to November 1995, sniper fire and shelling against civilians within the confrontation lines primarily came from SRK-held territory. As a result of the sniping and shelling, civilians were seriously injured or killed. The shots and shells, originating from SRK-held territory, were fired by members of the SRK.
B. Frequent Shelling and Sniping targets	
a) Koševo Hospital	
2090	The Koševo Hospital and the State Hospital were targeted by the SRK.
2096	Between September 1992 and August 1994, attacks on Koševo hospital caused the death and injuries of civilians present there, damaged its infrastructure, and reduced the medical facility's ability to treat patients.

IV. SPECIFIC SNIPING AND SHELLING INCIDENTS

A. Scheduled Sniping and Shelling Incidents

1. Sniping Incidents in Sarajevo (Schedule F)

a) Sniping Incident, 13 December 1992 – Schedule F1

- | | |
|------|---|
| 2219 | The entrance to the Pitas' house is completely walled in by neighbouring houses and structures such as fences offer only a narrow line of sight in the direction of Baba Stijena. |
| 2222 | On 13 December 1992, Anisa Pita, three-and-a-half year old, was targeted and injured by a shot from an area that SRK soldiers had access to. |

b) Sniping Incident, 11 July 1993 – Schedule F3

- | | |
|------|--|
| 2227 | Munira Zametica died later that afternoon. |
| 2230 | There were SRK firing positions on the tower of the Orthodox Church and nearby high-rise buildings. |
| 2231 | There was a line of sight between the tower of the Orthodox Church and the spot where the victim was shot. |
| 2234 | ABiH soldiers passed by after the shelling event and only then opened return fire in the direction of the Orthodox Church. |
| 2238 | On 11 July 1993, Munira Zametica was filling her bucket with water when she was shot from SRK-held territory. |

c) Sniping Incident, 3 September 1993 - Schedule F4

- | | |
|------|---|
| 2242 | They crossed the street holding hands behind a line of containers installed to provide protection against SRK snipers. |
| 2256 | Nafa and Elma Tarić, Nafa's eight year-old daughter, were targeted and injured by a shot fired from an SRK-controlled position in the area of Ozrenka Street on Hrasno Hill, on 3 September 1993. |

d) Sniping Incident, 2 November 1993 - Schedule F5

- | | |
|------|--|
| 2266 | Ramiza Kundo was targeted from an SRK-controlled area. |
|------|--|

e) Sniping Incident, 26 June 1994 - Schedule F9	
2268	Sanela Muratović was wearing a t-shirt, trousers, and sneakers, while Omerović was wearing shorts.
2269	As the two young women were about to cross the street towards Omerović's apartment block, some ABiH uniformed soldiers warned them that "sniper fire had started and to hurry up." They started running.
2283	Sanela Muratović was targeted from SRK-controlled territory.
f) Sniping Incident, 8 October 1994 - Schedule F11	
2297	There were two other sniping incidents that took place in the same area and within minutes of each other.
2300	Shortly after the second tram was targeted, four children between 12 and 14 years of age, running in the same area, near the Faculty of Philosophy and the Executive Council, were shot and wounded.
2304	The tram was shot at the S-curve on Zmaja od Bosne with machinegun fire and Alma Ćutuna was hit and seriously injured in her right upper leg.
g) Sniping Incident, 18 November 1994 - Schedule F12	
2317	Dženana Sokolović was shot in the right side of her body and the bullet went through her abdomen and exited on the left side, continuing through Nermin Divović's head.
2318	The shot that killed Nermin Divović and wounded Deanna Sokolović on 1 November 1994, originated from the Metalka Building, a known SRK sniper position.
h) Sniping Incident, 23 November 1994 – Schedule F13	
2334	On 23 November 1994, the tram was hit at the intersection in front of the Holiday Inn, or shortly thereafter in front of the Marshal Tito Barracks between the two museums.
2335	The origin of fire was either the high-rise buildings on Lenjinova Street or the Metalka Building, both held by the SRK. The shots were fired by a member of the SRK.
2336	Sabina Šabanić and Afeza Karačić, who were on the tram, sustained serious injuries.
i) Sniping Incident, 3 March 1995 - Schedule F15	
2343	On 3 May 1995, the tram was hit in the area of the Holiday Inn, close to the National Museum, just before the S-curve in the tram tracks.

j) Sniping Incident, 6 March 1995 - Schedule F16	
2354	On 6 March 1995, Tarik Žunić, aged 14 years, was wearing jeans and a green jacket.
2362	Tarik Žunić was shot and seriously wounded by a machine gun from SRK-held positions at Špicasta Stijena when he was walking on Sedrenik Street and appeared from behind a sheet of canvas.
2. Shelling Incidents (Schedule G)	
a) Shelling Incident, 1 June 1993 - Schedule G4	
2391	The origin of fire was SRK-held territory.
2397	Only two shells were fired, they fell in quick succession and landed at almost the same spot on the parking lot; the second shell did not land any closer to the nuclear shelter.
2407	The parking lot was shelled after the tournament began.
b) Shelling Incident, 22 January 1994 - Schedule G6	
2428	No activity of a military nature was underway in the neighbourhood, nor were any soldiers to be seen, and groups of children had gone out onto the streets to play.
2431	The shells came in from either the west or north of west.
2434	Shelling ceased after just three volleys were fired, all of which landed wide of Kulin Ban (two at a distance of at least 150 metres). Kulin Ban was not the intended target of this attack.
c) Shelling Incident, 4 February 1994 - Schedule G7	
2436	On 4 February 1994 around 11.30 a.m. three mortar shells struck a residential neighbourhood in Dobrinja killing at least eight civilians including a child and injuring at least 18 people including two children.
2458	A medical record from Dobrinja General Hospital states that a woman known as Witness R in the <i>Prosecutor v. Galić</i> (Case No. IT-98-29) was "injured by shell explosion" in the leg.
2476	With respect to two shells, the origin of fire was SRK-held territory.
d) Shelling Incident, 5 February 1994 - Schedule G8	
2482	Edin Suljić, on behalf of a local investigative team set up to investigate the incident at Markale open-air market on 5 February 1994, and Afzaal Niaz, on behalf of the

	UN, visited the hospitals and the morgue where the victims of the blast were taken.
2499	A man known as Witness AF in the <i>Prosecutor v. Galić</i> (IT-98-29) was in the garden of his mother's house on 5 February 1994, when he heard the sound of a heavy weapon like a mortar being fired from behind an SRK position, Špicasta Stijena, at Mrkovići.
2511	A representative of the SRK, Colonel Cvetković, confirmed to Commandant John Hamill, member of the UN investigative team, that there were a number of 120-mm mortars in Mrkovići along the estimated line of fire to the north-northeast of Markale.
2519	The shell which exploded in Markale market travelled a distance considerably greater than 2,600 metres from the north-east direction, placing the position from which the shell was fired well within SRK-controlled territory.
2528	That market drew large numbers of people.
f) Shelling Incident, 26 May 1995 - Schedule G13	
2546	A modified air bomb hit Safeta Hadžića Street on 26 May 1995.
2548	The ABiH did not have or use modified air bombs; only the SRK possessed and used them.
2549	Not all of the multiple shells fired at Safeta Hadžića Street on 26 May 1995 exploded.
g) Shelling Incident, 16 June 1995 - Schedule G15	
2561	The projectile that exploded on Trg Međunarodnog Prijateljstva 10, on 16 June 1995, was a modified air bomb. Its explosion injured seven people.
h) Shelling Incident, 28 August 1995 - Schedule G18	
2576	The launch of the mortar was not recorded because the radar was set to detect the trajectory of a mortar shell fired at a distance of 950 metres or less and, consequently, the trajectory of any round fired from a distance of between 1,500 and 3,000 metres would have passed under the radar beam.
B. Unscheduled Incidents Supporting Conclusion on the Existence of a Pattern of Conduct, i.e. Campaign	
1. Examples of Sniping and Shelling between September 1992 and August 1994	
b) Sniping Incident, 25 June 1993	
2585	On 25 June 1993, an individual known as Witness G in <i>Prosecutor v. Stanislav Galić</i> (IT-98-29-T) was picking lettuce in the vegetable plot of his farm in Kobilja Glava

	when, around 13:20 hours, he heard sounds of shooting from Orašev Brijeg.
2587	An individual known as Witness K in <i>Prosecutor v. Stanislav Galić</i> (IT-98-29-T), who was visiting Witness G that day, saw him lying on the ground, on his back, at a distance of 50 to 100 meters from his house.
2595	Witness G was dressed in no more than a pair of shorts.
2601	There was a line of sight between the area around "Tica's House" and the spot where Witness G was wounded.
2602	The bullets fired at Witness G came from the direction of Orašev Brijeg, in the area of "Tica's House".
c) Sniping Incident, 27 June 1993, in Centar	
2606	On the morning of 27 June 1993, at around noon, Milada Halili and her husband Sabri Halili were walking with Almasa Konjhodžić, Milada's mother, to the PTT building.
2613	Almasa Konjhodžić was taken to hospital where she died from the wound.
2617	Almasa Konjhodžić was wearing civilian clothes.
2618	There were no soldiers or other military targets in the vicinity of the incident.
2623	No military activity was underway at the time of the incident in the vicinity of Marshal Tito Barracks.
2624	There was an unobstructed line of sight from Grbavica to the intersection where Almasa Konjhodžić was shot.
2625	Containers had been placed at the intersection to give protection from gunfire coming from Grbavica as the intersection had been targeted before.
2627	Grbavica was under SRK control at the time of the incident.
2628	On 27 June 1993, Almasa Konjhodžić was targeted and killed by a shot fired from SRK-controlled territory in Grbavica.
d) Sniping Incident, 24 July 1993, in Sedrenik	
2629	Mejra Jusović, who lived at 133B Sedrenik Street in Sedrenik, went with a neighbour to Pasino Brdo, a wooded area to the immediate northeast, to collect firewood around 3:00 hours on 24 July 1993.
2637	There was an unobstructed line of sight from the place where she was injured to Špicasta Stijena.
2638	Civilians in ABiH-controlled territory in the vicinity of Špicasta Stijena regularly experienced shooting.

2639	The shot which injured Mejra Jusović originated from SRK-controlled territory in the area of Špicasta Stijena.
2645	On 25 June 1993 Witness G was shot from SRK-controlled territory.
e) Sniping Incident, 5 August 1993, in Kobilja Glava	
2647	There was neither water nor electricity in houses in Kobilja Glava during the conflict, and the fetching of water was usually done at the nearby river at dawn or dusk, to avoid being detected and shot.
2648	On 5 August 1993, the girls had not heard any shooting.
2650	Šahić saw the flash from a machine gun shooting at them.
2653	On the morning of the incident, the weather was fine, the friends were dressed in t-shirts and denims.
2659	The first bullets were shot at Šahić and her friends, striking the ground around their feet while they were walking along Stara Cesta Street.
2660	The shooting continued while they ran for shelter to the orchard.
2662	On 5 August 1993, Vildana Kapur was targeted from SRK-controlled territory.
f) Sniping Incident, 2 November 1993, in Hrasno	
2663	On 2 November, 1993, Ramiz Velić was targeted from SRK-controlled territory in Vrace.
2664	On 2 November 1993, at approximately 9:30 a.m., Ramiz Velić, an employee of the Public Utilities Company in Sarajevo, was collecting rubbish with a front-end loader on Braće Ribara Street, in a settlement known as Trg Heroja (Heroes' Square) in Hrasno.
2679	The location of the incident was clearly visible from the SRK positions in Vrace.
2680	The bullets fired at the loader, one of which hit the victim, originated from the area of Vrace.
g) Sniping Incident, 9 November 1993, in Brijesko Brdo	
2689	Osmanović was wearing a skirt, a t-shirt and a sweater.
2693	Fatima Osmanović was targeted from the SRK-controlled area.
h) Sniping Incident, 11 January 1994 in Hrasno	
2697	On 11 January 1994, Mukanović arrived home from work around 7p.m. It was already dark outside.

2700	Two bullets struck the apartment.
2701	One bullet passed through the wooden frame of the left side of the window, looking outward, and wounded his wife in the right shoulder blade, cutting through her aorta and lodging in her body.
2705	There was an unobstructed line of sight between Hrasno Brdo and Mukanović's apartment.
2706	Hatema Mukanović was killed by a shot fired from territory on Hrasno Brdo under SRK control.
2709	The shots fired into Mukanović's apartment were aimed at the window of the apartment.
2711	There were no soldiers inside or in the proximity of the building and no combat activity was underway at the time.
i) Sniping Incident, 13 June 1994, between Dobrinja and Alipašino Polje	
2733	On 13 June 1994, the bullet struck Salčin's palm on the road from Alipašino Polje and Dobrinja and lifted her arm up in front of her.
2734	The shot was fired from within SRK-controlled territory, by SRK personnel, to the west of the confrontation line.
2738	Fatima Salčin and Đemal Maljanović were targeted from SRK-controlled territory.
2. Examples of Sniping and Shelling between August 1994 and November 1995	
b) Shelling Incident, 8 November 1994, in Centar	
2759	On the afternoon of 8 November 1994, three shells exploded on Livanjska Street.
2771	The second and third shells were fired from SRK-held territory in the north-east.
c) Shelling and Sniping Incident, 21 November 1994, in Centar	
2782	On 21 November 1994, a tram in Grbavica was hit by a M80 hand-held rocket.
d) Sniping Incident, 22 November 1994, in Sedrenik	
2801	On 22 November 1994, Sanela Dedović was shot and seriously wounded in the ankle by a fragment of a bullet fired from a sniper weapon.
e) Sniping Incident, 10 December 1994, in Sedrenik	
2807	On 10 December 1994, Derviša Selmanović went out into a friend's garden to get

	firewood.
2817	Derviša Selmanović was shot with a machinegun and seriously wounded in her right leg when she was in the backyard of a house in Sedrenik. The shots came from the SRK-controlled ridge Špicasta Stijena.
g) Shelling Incident, 16 June 1995, in Centar	
2826	On 14 May 1995, Jasmina Tabaković was killed by a shot while she was in her bedroom in Dobrinja.
2830	At least three civilians were injured, two of whom seriously, as a result of the explosion of the modified air bomb, on 16 June 1995, on Čobanija Street.
h) Shelling Incident, 28 June 1995, TV Building	
2845	The modified air bomb that hit the TV Building on 28 June 1995 was fired from the area around Ilidža, which was SRK-held territory.
i) Shelling Incident, 28 June 1995, at Novi Grad	
2852	Three people died and seven people were injured in the explosion on 28 June 1995, all of them civilians living in the residential apartment building at Geteova Street, number 5.
j) Shelling Incident, 1 July 1995, in Hrasnica	
2855	Two modified air bombs fell on the evening of 1 July 1995, one on Bunički Potok Street and the other on Alekse Šantića Street.
2865	The ABiH did not have or use modified air bombs; only the SRK possessed and used them.
k) Shelling Incident, 23 July 1995, in Sokolovići	
2868	On 23 July 1995, a modified air bomb exploded on Bjelašnička Street in Sokolovci.
l) Shelling Incident, 22 August 1995, in Novo Sarajevo	
2877	As a result of the explosion, one person, a civilian, was killed and another person was slightly injured.
2880	A large part of the outer wall on the west side of the building was blasted away.