

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

CASE NO. IT-04-74-T

IN THE TRIAL CHAMBER

**Before: Judge Jean-Claude Antonetti, Presiding
Judge Árpád Prandler
Judge Stefan Trechsel
Reserve Judge Antoine Kesia-Mbe Mindua**

Registrar: Mr. John Hocking

Date filed: 20 October 2010

THE PROSECUTOR

v.

**JADRANKO PRLIĆ
BRUNO STOJIĆ
SLOBODAN PRALJAK
MILIVOJ PETKOVIĆ
VALENTIN ĆORIĆ
BERISLAV PUŠIĆ**

PUBLIC WITH CONFIDENTIAL ANNEX II

**MILIVOJ PETKOVIC'S MOTION
TO ADMIT EVIDENCE IN REOPENING**

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MILIVOJ PETKOVIC'S MOTION
TO ADMIT EVIDENCE IN REOPENING

I. INTRODUCTION

1. On 6 October 2010 the Trial Chamber issued the *Decision of the Prosecution Motion to Re-Open its Case* (“Reopening Decision”) and directed the Defence teams wishing to file a request to re-open their cases in order to refute the entries from the Notebooks admitted into evidence by the Decision to do so within 15 days from the date the Decision was filed. The Trial Chamber recalled that such a request had to be limited to refuting the entries admitted by the Decision and could not in any manner constitute a general request to re-open their cases.¹
2. As a result of the Decision, the Petković Defence hereby files this motion to admit 20 documents: 19 excerpts from the Notebooks of Ratko Mladić (“Notebooks”) and an article entitled “Mladić’s diaries or a big deception?”, published in GLOBUS, a Croatian political weekly.

II. PROCEDURAL BACKGROUND

3. On 9 July 2010, the Prosecution filed the *Motion to Admit Evidence in Reopening* (“Prosecution Motion”) and requested the Chamber to grant it leave to re-open its case and authorise the admission into evidence of 18 exhibits – including 15 entries from the Notebooks and 3 documents which purportedly attest to the authenticity and reliability of the said Notebooks and which were in the

¹ Reopening Decision, para.64 and the Disposition.

possession of the Prosecution during the presentation of its case.² In addition, the Prosecution also sought to admit two statements under Rule 92 *bis* of the Rules which it contends also attest to the authenticity and reliability of the said Notebooks.³

4. The honourable Trial Chamber issued its Reopening Decision on 6 October 2010 whereby it partially granted the Prosecution's request to re-open its case and decided that eight exhibits should be admitted into evidence. Each of the Defence teams were thereby directed to file a request to re-open their cases, as already explained in the paragraph 1 of this Motion.

III. APPLICABLE LAW

5. Rule 89(C) provides for the admission of any relevant evidence which is deemed to have probative value. Evidence is deemed to have probative value when it tends to prove a fact in issue.
6. Guideline 9 of the Guidelines laid down by the Chamber for the presentation of Defence evidence provides for the admission of documentary evidence by way of written motion, when not tendered through a witness (Guideline 8). Guideline 9 provides, in relevant part, the necessary components of such a motion:
 - i. Number, title, and description of the exhibit,
 - ii. Source of the exhibit and a description of its indicia of reliability,
 - iii. References to the relevant paragraphs of the Indictment,
 - iv. References to the witnesses who have already appeared before the Chamber and to the exhibits admitted as evidence dealing with the same paragraphs of the Indictment,

² Prosecution Motion, para. 1.

³ *Ibid.*

- v. Reasons why the exhibit is not introduced through a witness,
- vi. Reasons why the party considers the document important for the determination of the case.⁴

7. Within the jurisprudence of this Tribunal, the case-law regarding a proposed re-opening of a party's case is both settled and clear. The *Čelebići* Appeals Chamber asserted the relevant criterion:

“The primary consideration in determining an application for reopening a case to allow for the admission of fresh evidence is the question of whether, with reasonable diligence, the evidence could have been identified and presented in the case in chief of the party making the application.”⁵

The Trial Chamber is then permitted to exercise its discretion as to whether to admit the evidence ‘by reference to the probative value of the evidence and the fairness to the accused of admitting it late in the proceedings’.⁶

8. The same Chamber asserted that any ‘fresh evidence’ sought to be adduced is classified as evidence which ‘was not in the possession of the party at the time’ and which could not have been obtained through ‘the exercise of all reasonable diligence’ by the moving party at the conclusion of its case.⁷ Moreover, the ‘fresh evidence’ adduced must be of an evidentially ‘probative’ nature.⁸ Furthermore, in light of the Court’s discretion contained in Rule 89(D) to exclude evidence in order to ensure a fair trial, the *Čelebići* Appeals Chamber stated the relevant factors to be considered: (i) the advanced stage of the Trial; (ii) the delay likely to be caused; and (iii) the probative value of the evidence.⁹

IV. CRITERIA FOR RE-OPENING

⁴ Decision Adopting Guidelines for the Presentation of Defence Evidence, 24 April 2008, para. 35.

⁵ *Čelebići* Appeals Judgment, para. 283.

⁶ *Ibid.*

⁷ *Ibid.*, para. 282; *Popović et al.*, Decision on Prosecution Motion to Reopen its case, 9 May 2008 (Trial Chamber), paras 24-25.

⁸ *Popović et al.*, Trial Chamber Decision, paras. 24-25.

⁹ *Čelebići* Appeals Judgment, para. 280.

(a) Authenticity and reliability

9. The Trial Chamber concluded in its Reopening Decision that the Mladić Notebooks are authentic¹⁰ and reliable¹¹ and accordingly admitted into evidence certain excerpts from the Notebooks. This is the basis for the Petković Defence to request the admission of certain excerpts of Mladić Notebooks into evidence.

10. However, the Petković Defence hereby challenges the authenticity and reliability of the Mladić Notebooks through the submission of a document requested to be admitted into evidence. The said document is an article entitled: “Mladić’s diary or a big deception?”, published in the Zagreb political weekly GLOBUS.¹²

(b) Relevance and probative value

11. The Prosecution requested the admission into evidence certain excerpts of the Mladić Notebooks in order to prove, *inter alia*:¹³

- (i) “territorial ambitions of the BH Croats” (P 11376);
- (ii) “two-track policy of the BH Croats” (P 11376);
- (iii) “Serb-Croat ongoing cooperation against BiH” (P 11376, P 11377, P11380, P 11386, P 11389);
- (iv) “the desire of the HVO leadership to divide BiH, including the desire to create a Greater Croatia” (P 11380);
- (v) “desire of the HVO leadership to force the Muslim population from areas claimed to be Croat” (P 11380);

¹⁰ Reopening Decision, para. 51.

¹¹ Ibid, paras. 61, 63.

¹² 4D 02529.

The Petković Defence will also request leave to appeal against the Decision in relation to, *inter alia*, the Trial Chamber’s conclusion that the Mladić Notebooks are authentic and reliable.

¹³ Explanation in the Annex I.

- (vi) *mens rea* of the Accused to “commit crimes in furtherance of their goal to establish Herceg-Bosna” (P 11376).
12. The Prosecution further explained that the Mladić Notebooks are “highly relevant to the allegations of joint criminal enterprise and the lengths to which the Accused would go to achieve the objectives of the JCE”. According to the Prosecution, these documents showed that the Accused “intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”.¹⁴
13. The Trial Chamber determined that the excerpts admitted into evidence are essential to the case, namely that the admitted documents go directly to the alleged participation of the certain accused in the JCE.¹⁵
14. The Petković Defence respectfully requests by this motion admission into evidence the excerpts of the Mladić Notebooks which refute the Prosecution thesis and documents admitted into evidence as supportive to the Prosecution thesis:
- (i) On 6 May 1992 Dr.Radovan Karadžić said that nothing can be agreed with the Croats. That day Karadžić had met with Mate Boban in Graz. The document directly refutes the Prosecution thesis about the Croat “two-track policy” and the “collaboration” of BH Serbs and BH Croats against the BH Muslims.¹⁶
- (ii) Already in January 1993, three months prior the large scale armed conflict between the BH Army and the HVO, the leadership of the BH Croats accepted the Vance-Owen Peace Plan, according to which Bosnia and Herzegovina was supposed to be organized into 10 cantons. Such organization of the state would terminate the existence of Herceg-Bosna. Accordingly, these documents refute the Prosecution thesis about the BH Croats territorial ambitions, their two-track

¹⁴ Prosecution Motion, para.22.

¹⁵ Reopening Decision, para.59.

¹⁶ 4D 02501.

policy and/or the intent of the accused to commit crimes in order to establish a Croat-Dominated Herceg-Bosna.¹⁷

(iii) The Muslim side wanted to worsen the situation and provoked incidents in order to get the UN mandate expanded while afterwards the BH Army launched an offensive against the HVO in order to broaden the territory under the control of Muslim authorities. Accordingly, documents refute the Prosecution thesis that BH Croat leadership started the war against the Muslims and intended to commit war crimes in order to establish a Croat-dominated Herceg-Bosna.¹⁸

(iv) The BH Army planned and launched offensive operations against the HVO, and in April 1993 tried to make an agreement with the BH Serbs not to attack each other. Accordingly, these documents refute the Prosecution thesis that the BH Croats started the war against the Muslims in order to forcibly transfer the Muslim population and commit other crimes and thus establish a Croat dominated Herceg-Bosna.¹⁹

(v) The BH Army and the Army of the BH Serbs cooperated against the BH Croats, including Serb shelling of the HVO positions. Accordingly, these documents directly refute the Prosecution thesis about the Croat-Serb ongoing cooperation against Muslims.²⁰

(vi) The BH Serb leadership thought that BH Croats and BH Muslims were allies, coalescing, and that Franjo Tuđman and Alija Izetbegović cooperated on the basis of the Agreement on the Friendship and Cooperation of 21 July 1992. Accordingly, documents directly refute the Prosecution thesis about the “collaboration” of BH Croats and BH Serbs.²¹

¹⁷ 4D 02509, 4D 02512.

¹⁸ 4D 02509, 4D 02510

¹⁹ 4D 02509, 4D 02510, 4D 02517

²⁰ 4D 02517, 4D 02519, 4D 02520, 4D 02521, 4D 02524, 4D 02525

²¹ 4D 02505, 4D 02512, 4D 02514, 4D 02515, 4D 02516.

- (vii) The BH Serbs made concerted efforts to intensify conflict between Croats and Muslims. Accordingly, the documents refute the Prosecution thesis about the “collaboration” of the BH Serbs and the BH Croats.²²
- (viii) The HVO and the VRS fought throughout the period relevant to the Indictment. Accordingly, the documents refute the Prosecution thesis about the “collaboration” of the BH Serbs and the BH Croats.²³
- (ix) Milivoj Petković supported all peace efforts and argued that the problems in the country had to be solved by negotiations between the three sides – BH Muslims, BH Serbs and BH Croats. “There’s been enough of war”, said Petković already in November 1992. Accordingly, documents directly refute the Prosecution thesis that Milivoj Petković intended to commit war crimes in order to establish a Croat-dominated Herceg-Bosna.²⁴
15. Documents requested to be admitted into evidence refute the Prosecution thesis and exhibits which have been evaluated by the honorable Trial Chamber as being essential to the case. Accordingly, the Defence thesis and documents, which evidentially refute the Prosecution thesis through the abovementioned, are also essential to the case.
16. The Prosecution claimed that the probative value of the Mladić materials is high,²⁵ with the Trial Chamber concluding that the documents admitted into evidence have sufficient probative value.²⁶ The Trial Chamber’s conclusion is, *mutatis mutandis*, valid for the excerpts from the Mladić Notebooks tendered by the Petković Defence in this motion.

²² 4D 02517, 4D 02524.

²³ 4D 02504, 4D 02507, 4D 02508

²⁴ 4D 02510, 4D 02518.

²⁵ Prosecution's Motion, para.26.

²⁶ Reopening Decision, para 61, 62.

V. RELIEF SOUGHT

17. The Petković Defence respectfully requests the Trial Chamber to admit into evidence the exhibits contained in Annex I of this Motion.

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Respectfully submitted by,



Vesna Alaburić
Lead counsel for Milivoj Petković

ANNEXES
to the Petković Defence 20 October 2010 Motion

- I. Pursuant to the Trial Chamber Guidelines, the motion for the admission of documentary evidence by way of written motion must contain the following information:
- (i) Number, title and description of the exhibit,
 - (ii) Source of the exhibit and a description of its indicia of reliability,
 - (iii) References to the relevant paragraphs of the Indictment,
 - (iv) References to the witnesses who have already appeared before the Chamber and to the exhibits as evidence dealing with the same paragraphs of the Indictment,
 - (v) Reasons why the exhibit is not introduced through a witness,
 - (vi) Reasons why the party considers the document important for the determination of the case.

- II. Annex I contains - information under items (i), (iii), (vi)
Annex II contains - information under items (iv)

III. Source and indicia of reliability

- (i) Excerpts from Mladić Notebooks

The source of the exhibits for the Defence is the Prosecution. Mladić Notebooks have been seized by the Serbian MUP authorities in Belgrade in February 2010 and then provided to the OTP by the Serbian authorities.

Trial Chamber has already concluded that the Mladić Notebooks have sufficient indicia of the authenticity and reliability, and accordingly admitted into evidence excerpts of the Notebooks.¹

- (ii) Article published in weekly GLOBUS

The article was published in the political weekly GLOBUS on 4 June 2010. The article is in the public domain.

IV. Reasons why the exhibits were not presented through a witness

Mladić Notebooks were disclosed to the Defence after the close of the Defence case and therefore could not be presented through a witness. Additionally, this motion is caused by the admission of parts of Mladić's Notebooks into evidence upon the request of the Prosecution to admit evidence in reopening, which had been submitted after the close of the Defence case.

¹ Trial Chamber's Decision on the Prosecution Motion to Re-open its Case, of 6 October 2010, paragraph 51.

ANNEX I

Exhibit no.	Date	Description	Para.	Relevance
4D 02501	6 May 1992	Mladić Notebook Entry 6/5/1992 Talks with Karadžić, Krajišnik, Adžić and a group of generals from BH * Notebook 39	15-17 23 27	<p>1. Radovan Karadžić stated inter alia: «<i>With the Croats we cannot agree on anything.</i>» (p. 258)</p> <p>2. The Prosecution case is that on 6 May 1992 Radovan Karadžić and Mate Boban «held secret meeting at Graz ... to confirm agreement on the Croat's and Serbs' territorial claims on Bosnia in Hercegovina».¹</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-Dominated Herceg-Bosna.”²</p> <p>4. This document proves that the BH Serbs and the BH Croats did not “collaborate” as asserted by the Prosecution and, accordingly, refutes that “the accused knowingly collaborated with Mladić and the Bosnian Serb leadership /.../” and that the accused “intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”..</p>
4D 02504	14 May 1992	Mladić Notebook Entry 14/5/1992 Meeting * Notebook 39	15-17 23 27	<p>1. General Strugar said: “/.../Try approaching the government adviser to provide assistance in both positions and material measures. If we do not do this, the front will break, and if it breaks in Mostar and in Dalmatia, they will break through to the Drina. The front must be defined near Neum, Dubrovnik ..., because people from Trebinje and Ljubinje won’t go there, they won’t go to Croatia. Politics must direct the army on what is to be done over there. /.../” (p.321)</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict”.³</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in</p>

¹ The Prosecution Pre-Trial Brief, para.27.3.; exh. P 00187.

² Prosecution Motion to Admit Evidence in Reopening, 8 July 2010, para. 22.

³ The Prosecution Pre-Trial Brief, para.27.1.

				<p>reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-Dominated Herceg-Bosna.”</p> <p>4. This document proves that the BH Serbs and the BH Croats did not “collaborate” as asserted by the Prosecution and, accordingly, refutes that “the accused knowingly collaborated with Mladić and the Bosnian Serb leadership /.../” and that the accused “intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”..</p>
4D 02505	14 June 1992	Mladić Notebook Entry 14/6/1992 Reporting of the GŠ of the SR BH organ * Notebook 40	15-17 23 27	<p>1. Colonel Salapura reported: “In the BH area the HM /Croatian and Muslim/ forces number around 100,000 armed men. /.../There is information that tomorrow, 15 June, we can expect a strong offensive towards Mostar and Nevesinje. Offensive operations are possible from Bugojno and Livno towards Kupres.” (p. 162-3)</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict” and that BH Croats and BH Serbs “collaborated” against BH Muslims.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-Dominated Herceg-Bosna.”</p> <p>4. This document proves that the BH Serbs and the BH Croats did not “collaborate” as asserted by the Prosecution. Furthermore, the document proves that Muslim and Croats were allies against Serbs and that Serbs treated Croatian and Muslim forces as the coalition, as the HM forces. Accordingly, the document refutes that “the accused knowingly collaborated with Mladić and the Bosnian Serb leadership /.../” and that the accused “intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”.</p>
4D 02507	11	Mladić	15-17	1.(i) Herzegovina Corps : “The situation on the

	Nov. 1992	Notebook Entry 11/11/1992 Commanders' evening reports and reporting by the organs of the GŠ of the VRS * Notebook 46	23 27	<p>front near Mostar is very complex. They are attacking from all directions." (p. 160).</p> <p>(ii) Colonel Balać: "On the Herzegovina front, the consumption of artillery ammunition has increased because of an Ustasha offensive."(p. 163).</p> <p>(iii) General Milovanović: "The Croats and the Muslims are consolidating their coalition." (p.163).</p> <p>2. The Prosecution case is that "there was far more Croat-Serb co-operation than actual conflict" and that BH Croats and BH Serbs "collaborated" against BH Muslims.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: "The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish 'Greater Serbia' shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-Dominated Herceg-Bosna."</p> <p>4. This document proves that the BH Serbs and the BH Croats did not "collaborate" as asserted by the Prosecution. Furthermore, the document proves that Muslim and Croats were allies against Serbs and that Serbs treated Croatian and Muslim forces as the coalition. Accordingly, the document refutes that "the accused knowingly collaborated with Mladić and the Bosnian Serb leadership /.../" and that the accused "intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna".</p>
4D 02508	17 Nov. 1992	Mladić Notebook Entry 17/11/1992 Briefing of the GŠ of the VRS * Notebook 46	15-17 23 27	<p>1. (i) Intelligence organ: "The enemy is carrying out a general mobilization in Travnik, Čapljina, Mostar and Jablanica. The Ustashes are preparing an operation in the Neretva valley, Žepa, Srebrenica and Cazinska Krajina." (p.187)</p> <p>(ii) Chief of Operations: "There most probably will be a new offensive by the Muslim and Croats." (p.188)</p> <p>2. The Prosecution case is that "there was far more Croat-Serb co-operation than actual conflict" and that BH Croats and BH Serbs "collaborated" against BH Muslims.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: "The</p>

				<p>fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish 'Greater Serbia' shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-Dominated Herceg-Bosna.”</p> <p>4. This document proves that the BH Serbs and the BH Croats did not “collaborate” as asserted by the Prosecution. Furthermore, the document proves that Muslim and Croats were allies against Serbs and that Serbs treated Croatian and Muslim forces as the coalition. Accordingly, the document refutes that “the accused knowingly collaborated with Mladić and the Bosnian Serb leadership /.../” and that the accused “intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”.</p>
4D 02509	27 Nov. 1992	Mladić Notebook Entry 27/11/1992 Negotiations with General Morillon * Notebook 46	15-17 23 27	<p>1. (i) General Morillon: “One part of AI /Alija Izetbegović’s/ men want to have the situation worsen so as to have the UN mandate expanded and to ameliorate their situation.” (p. 209). (ii) “It seems to me that the HVO accomplished all its aims and that they are ready for negotiations.” (p 210).</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict” and that BH Croat leadership launched the war against Muslims in order to obtain “criminal goals”.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish 'Greater Serbia' shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-Dominated Herceg-Bosna.”</p> <p>4. This document proves that at the end of 1992 the Muslim side wanted to provoke incidents and conflict and generally worsen the situation so as to get the UN mandate expanded and to ameliorate their situation. The document proves that the Croat side did not want conflict with the Muslims. Accordingly, the document proves that the BH Serbs and the BH Croats did not “collaborate” as asserted by the Prosecution. The document thus refutes that “the accused knowingly collaborated with Mladić and the Bosnian Serb leadership /.../” and that the accused</p>

				“intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”.
4D 02510	29 Nov. 1992	Mladić Notebook Entry 29/11/1992 Negotiations with Milivoj Petković, organized by General Morillon * Notebook 46	15-17 23 27	<p>1. (i) General Morillon: I would like to ask both of you to tell us what it is you want us to help you with to end the hostilities regarding the agreement of 10 November 1992. After this it will be useful to have a meeting of the four (MLADIĆ, BOBETKO, PETKOVIĆ, HAILOVIĆ) but this proposal is not accepted by Alija Izetbegović.” (p.214)</p> <p>(ii) Brigadier Petković: “As for myself I will do everything to see to it that the ceasefire agreement is respected. /.../ I am prepared to accept a full ceasefire which will be controlled by the UN if they can do so. There’s been enough of war. It will be difficult for us und them. /.../ I do not want to leave out the Muslim side. They have the right to have a say. A meeting between two is senseless.” (p.214, 215 217).</p> <p>(iii) Morillon: “I agree with you Brigadier PETKOVIĆ, just that some problems be resolved among you up to the talks with the three of four parties:” (p.217).</p> <p>(iv) Morillon: “Some forces of the BH Army are trying to create conflicts and are violating the ceasefire agreement.” (p.219).</p> <p>(v) Petković: “Regarding a solution for the problem in BH we don’t have to keep referring to TUDMAN and Croatia. I propose that the three /sides/ meet here as soon as possible.” (p.220).</p> <p>2. The Prosecution case is that the accused Petković “collaborated” with BH Serbs against Muslims in order to achieve criminal goals and that Petković participated in the JCE – establishing Croat-dominated entity/state by criminal means.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. The document proves: (i) that bilateral meetings of Serbs and Croats were initiated and organized by the UNPROFOR (and other international institutions); (ii) that Milivoj Petković sincerely wanted the complete cease fire and the end of war; ((iii) that Milivoj Petković wanted that negotiations continued</p>

				on tripartite level; (iv) that Milivoj Petković's firm position was that BH Muslim, Serbs and Croats should find a solution for the problems in Bosnia and Herzegovina. Accordingly, the document proves that Milivoj Petković (as well as other accused) did not "collaborate" with the BH Serbs against Muslims and that he did not "intend crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna".
4D 02511	25 Dec. 1992	Mladić Notebook Entry 25/12/1992 Meeting with General Morillon * Notebook 46	15-17 23 27	<p>1. Karadžić: "AI /Alija Izetbegović/ told me that he was prepared to release the c/s (civilian population), except for men between the ages of 18 and 60." (p.374)</p> <p>2. The Prosecution case is that "there was far more Croat-Serb co-operation than actual conflict" and that Serbs and Muslims did not cooperate against Croats.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: "The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish 'Greater Serbia' shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna."</p> <p>4. The document proves that Radovan Karadžić talked to Alija Izetbegović and discussed about that conversation with General Morillon. Accordingly, Serbs "collaborated" with Muslims as well as with Croats and this fact directly refutes the Prosecution thesis that meetings of the Accused with BH Serbs show "the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-Dominated Herceg-Bosna". The document also refutes the exhibits admitted in the re-opening as relevant for the mentioned reason.</p>
4D 02512	2 Jan. 1992	Mladić Notebook Entry 2/1/1993 Plenary Session and the meeting of the military group in Geneva * Notebook 30	15-17 23 27	<p>1.(i) Mate Boban: "The principles presented by Mr VANCE are the principles that the Croats in BH have been continuously proposing to the other peoples. We accept this way of working, goals, methods." (p.4)</p> <p>(ii) General Nambiar: "A cessation of hostilities was agreed at the political level this morning." (p.7)</p> <p>(iii) General Mladić: "...7) Prevent the arming of HM (Croatian-Muslim) coalition. 8) Abrogation of the T-I (TUĐMAN-IZETBEGOVIĆ/ agreement." (p. 8-9)</p> <p>2. The Prosecution case is that "there was far more Croat-Serb co-operation than actual conflict" and that</p>

				<p>BH Croat leadership wanted to establish Herceg-Bosna by using criminal means.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. The document proves that:</p> <p>(i) On 2 January 1993, prior to any armed conflict with the BH Army on the larger scale, Croats accepted the Vance-Owen Peace Plan of organizing Bosnia and Herzegovina in 10 provinces, which meant the declining of Herceg-Bosna. Accordingly, the document refutes the Prosecution thesis that the accused themselves “intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”, as well as documents admitted into evidence in support to this thesis.</p> <p>(ii) Muslims and Croats were allies and the Serb side perceived them as the coalition. Accordingly, the document directly refutes the Prosecution thesis that “the fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”.</p> <p>(iii) Cooperation of the HVO, HV and the BH Army was based on the Tuđman-Izetbegović Agreement⁴ and the Serb side perceived Tuđman and Izetbegović as allies, who conducted joint military actions against HB Serbs. Accordingly, the document directly refutes the Prosecution thesis that “the fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”.</p>
4D 02514	10 Jan. 1993	Mladić Notebook Entry 10/1/1993	15-17 23 27	1. (i) Radovan Karadžić: “A halt to hostilities is seriously harmed by: a) presence of Croatia’s OS /Armed Forces/, b) the Agreement between TUĐMAN and AI /Alija IZETBEGOVIĆ/... ” (p.48)

⁴ Exh. P 00339, IZETBEGOVIĆ-TUĐMAN Agreement on Friendship and Cooperation, 21 July 1992.

		Plenary Session in Geneva * Notebook 30		<p>(ii) Franjo Tuđman: “To the statement by Mr K. that the withdrawal of the army of the RH /Republic of Croatia/ is necessary, there is no Army except in the border areas.” (p.49)</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict”.</p> <p>3. The Prosecution requested the admission certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. Cooperation of the HVO, HV and the BH Army was based on the Tuđman-Izetbegović Agreement on Friendship and Cooperation of 21 July 1992 and the Serb side perceived Tuđman and Izetbegović as allies, who conducted joint military actions against HB Serbs. Accordingly, the document directly refutes the Prosecution thesis that “the fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”.</p>
4D 02515	14 Jan. 1993	Mladić Notebook Entry 14/1/1993 Discussions with President Milošević * Notebook 30	15-17 23 27	<p>1. “2.* As for the crimes committed by the Croat-Muslim forces against Serbs, we are to send /the information/ to MILOŠEVIĆ’s office.*” (p.67)</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict”.</p> <p>3. The Prosecution requested the admission certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. This document proves that the BH Serbs and the BH Croats did not “collaborate” as asserted by the Prosecution. Furthermore, the document proves that Muslim and Croats were allies against Serbs and that</p>

				<p>Serbs treated Croatian and Muslim forces as the coalition. Accordingly, the document refutes that “the accused knowingly collaborated with Mladić and the Bosnian Serb leadership /.../” and that the accused “intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”.</p>
4D 02516	17 April 1993	<p>Mladić Notebook Entry 17/4/1993 Negotiations with the Muslim delegation about Srebrenica * Notebook 36</p>	15-17 23 27	<p>1. “To rescind the TUDMAN-AI /Alija Izetbegović/ military alliance.” (p.30)</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict”.</p> <p>3. The Prosecution requested the admission certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. The BH Serb side perceived Tudman and Izetbegović as allies, who conducted joint military actions against Serbs. Accordingly, the document directly refutes the Prosecution thesis that “the fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna”.</p>
4D 02517	3 May 1993	<p>Mladić Notebook Entry 3/5/1993 Report by the Commander of the 30th Division * Notebook 36</p>	15-17 23 27	<p>1. (i) Commander, Coloner Jovo Blažanović: “News since my last visit: they went to war between themselves, between themselves the forces of coalition. /.../” (p.79)</p> <p>(ii) Jovo Blažanović: “5 days ago, at the initiative of the Muslim side, a meeting was held in Turbe, at which Muslim representatives asked for the front towards us to be calmed down, so that they would clash with the Croats.” (p.80)</p> <p>(iii) Mladić’s questions: “1. Do the forces of the coalition have the capacity to carry out a//artillery/ operations after their internal clash and what would their aims and task be. 2) What do you suggest for intensifying conflict within the coalition? /.../” (p.81)</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict” and that</p>

				<p>BH Croats initiated the war against Muslims in order to establish Croat-dominated entity/state by criminal means.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. The document proves that:</p> <p>(i) in May 1993 Serbs still perceived the HVO and the BH Army as a coalition;</p> <p>(ii) already in April 1993⁵ BH Army decided to clash with the HVO and requested the cooperation of the RS Army in a way that the Serb-Muslim front be calmed down;</p> <p>(iii) the Serb side wanted to intensify conflict between the BH Army and the HVO.</p> <p>The document further proves “collaboration” of the BH Army and the RS Army and accordingly directly refutes the Prosecution thesis about the “collaboration” of the BH Croats and BH Serbs in order to establish “Croat dominated Herceg-Bosna”. The document also refutes the Prosecution thesis that the Accused “intended crimes to be committed” against Muslims for it proves that the conflict between the HVO and the BH Army in April 1993 was planned and initiated by the BH Army, not the HVO.</p>
4D 02518	15 May 1993	Mladić Notebook Entry 15/5/1993 Meeting with Milivoj Petković; General Morillon present	15-17 23 27	<p>1. Petković: “After MLADIĆ-HALILOVIĆ agreement was signed, I wondered why we, too, shouldn’t participate in it. As there are 2x2 agreements, it would be better if there were 3x2 agreements. Our side is ready to sign the agreement in the areas there HVO forces are /.../.” (p.103)</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict” and that Milivoj Petković “collaborated” with BH Serbs</p>

⁵ The HVO authorities addressed to the Serb side for some help in June 1993 because the Croat population in some areas in Central Bosnia, neighboring the Serb territory, would not survive without the assistance of the Serb authorities, for example in Travnik (testimony of the witness Filip Filipović). The exhibit P 11386 (meeting Mladić-Petković on 8 July 1993), admitted into evidence in the reopening, also proves that the BH Croats did not meet with the BH Serbs in order to obtain some weapons and ammunition prior to June 1993, when the BH Army expelled Croats from many towns and villages in Central Bosnia and only some Croat enclaves survived or still fought to survive.

		* Notebook 36		<p>against BH Muslims.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. The document proves that BH Muslims and BH Serbs signed the agreement⁶ and that the Croat side had not been invited to participate in the cease-fire negotiations. Accordingly, the document directly refutes the Prosecution thesis about the “collaboration” of the BH Croats and the BH Serbs against Muslims and the documents admitted into evidence in reopening as supportive to this thesis.</p>
4D 02519	17 Aug. 1993	Mladić Notebook Entry 17/8/1993 Meeting of the inner circle of the VRS * Notebook 36	15-17 23 27	<p>1. Colonel Salapura: “Fighting between the M-H /Muslims and Croats/ is intense, especially around Mostar. The Muslims are carrying out preparations for an attack on Vareš.” (p. 270-271).</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict”, that BH Croats had territorial aspirations and accordingly started the war against Muslims.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. The document proves that the BH Army prepared and launched military actions against the BH Croats and accordingly refutes the Prosecution thesis about the “intent” of the Accused to “establish a Croat-dominated Herceg-Bosna” by launching military actions and committing crimes against Muslims “in furtherance of their goal”.</p>
4D 02520	22 Sep.	Mladić Notebook	15-17 23	1. Karadžić: “On K.Rošci – our men are shelling the Croats and helping the Muslims with howitzers

⁶ Exh. 4D 01344, cease-fire agreement signed by Sefer Halilović and Ratko Mladić on 8 May 1993.

	1993	Radovan Karadžić * Notebook 36	27	<p>fired at Đubran, where HVO artillery is situated.” (p.337)</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict” and that BH Serbs and BH Muslims did not cooperate against BH Croats.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. The document proves the military cooperation of the BH Serbs and the BH Serbs against the BH Croats and the assistance of the BH Serb Army to the Muslim offensive in the Mostar region⁷ by shelling the HVO positions. Accordingly, the document directly refutes the Prosecution thesis about the “collaboration” of the BH Serbs and BH Croats against the BH Muslims, as well as the documents admitted into evidence in support to this thesis.</p>
4D 02521	5 Oct. 1993	Mladić Notebook Entry 5/10/1993 Meeting of the inner circle of the VRS * Notebook 36	15-17 23 27	<p>1. Chief of Staff: “6) The Commanders of the Muslim units in Central Bosnia are trying to get in touch with the commanders of the lower-level units in order to ensure that there are no attacks while they are dealing with the forces of the HVO.” (p. 374)</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict” and that BH Serbs and BH Muslims did not cooperate against BH Croats.</p> <p>3. The Prosecution requested the admission of certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. The document proves the military cooperation</p>

⁷ Đubrani is in the Mostar region.

				between the BH Serbs and the BH Muslims against BH Croats and the intention of the BH Army to continue with the offensive actions against the HVO and at the same time get the agreement with the Serbs about non-attacking. The documents, accordingly, directly refutes the Prosecution thesis about the “collaboration” of the BH Serbs and the BH Croats against Muslims, as well as the documents admitted into evidence in support to this thesis.
4D 02524	27 Nov. 1993	Mladić Notebook Entry 27/11/1993 Briefing Organs of the GŠ VRS * Notebook 44	15-17 23 27	<p>1.(i) Colonel Tolimir: “The Muslims are trying to resolve Kiseljak and Vareš with Croats. They believe that they can reach the sea by springtime, if the front with the Serbs is quiet.” (p.47)</p> <p>(ii) Colonel Sokanović: “It is good to ensure continued fighting between the Croats and Muslims and between Muslims and other Muslims.” (p. 48)</p> <p>2. The Prosecution case is that “there was far more Croat-Serb co-operation than actual conflict”.</p> <p>3. The Prosecution requested the admission certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. The document proves the military cooperation between the BH Serbs and the BH Muslims against BH Croats and the intention of the BH Army to continue with the offensive actions against the HVO and in the same time get the agreement with the Serbs about non-attacking. The documents, accordingly, directly refutes the Prosecution thesis about the “collaboration” of the BH Serbs and the BH Croats against Muslims, as well as the documents admitted into evidence in support to this thesis.</p>
4D 02525	13 Dec. 1993	Mladić Notebook Entry 13/12/1993 Meeting in Belgrade (Milošević, Karadžić et al.) * Notebook 44	15-17 23 27	<p>1. (i) Karadžić: “What are our strategic objectives: /.../ 4. To take control of part of the Neretva valley /.../” (p.53)</p> <p>(ii) Milošević: “Conclusions: /.../ 6. Let the Muslims trample the Croats near Vitez, Busovača, Gornji Vakuf and Kiseljak and Kreševo. /.../” (p. 57)</p> <p>2. The Prosecution case is that “there was far more</p>

				<p>Croat-Serb co-operation than actual conflict”.</p> <p>3. The Prosecution requested the admission certain excerpts of the Mladić Notebooks into evidence in reopening for the following reason, <i>inter alia</i>: “The fact that the accused knowingly collaborated with Mladić and the Bosnian Serb leadership who were responsible for widespread crimes in their effort to establish ‘Greater Serbia’ shows the accused themselves intended crimes to be committed in furtherance of their goal of establishing a Croat-dominated Herceg-Bosna.”</p> <p>4. The document proves that BH Serbs wanted to take control of part of the Neretva valley and that they decided not to help Croats in the enclaves in Central Bosnia. Accordingly, the document refutes the Prosecution thesis about the “collaboration” of the BH Serbs and the BH Croats against Muslims, and the documents admitted into evidence in support of this thesis.</p>
4D 02529	4 June 2010	GLOBUS, political weekly Zagreb, article “Mladić’s diaries or a big deception?”	15-17 23 27	<p>1. (i) “What appears awkward, however, is the fact that it is obvious that the Mladić’s notes have been purposefully written to be read, what speaks perhaps to some extent in favour of recently ever louder raised suspicion of authenticity of the documents. A spontaneous manuscript. ‘The notes have been written down to enable the third parties to use them and that is really awkward. Our handwriting is never exactly the same, depending to the large extent on the mood in which we write. This manuscript, let us suppose it is Mladić’s, is not spontaneous. Actually, this manuscript looks more like a commanded letter. The manuscript is telling: I am the person you need.’ - this is how the expert witness for graphology at the Cantonal Court of Zagreb, Marijan Krajna, describes the supposedly Mladić’s handwriting. Krajna has 30 years of experience in analyzing handwriting and documents and has so far been an expert witness in about 3000 Court proceedings.”</p> <p>(ii) “This statement of the expert witness from Zagreb expresses an increased doubtfulness in how the Hague Tribunal quickly accepted the diaries as evidence at the beginning of May 2010.”</p> <p>(iii) “It is particularly surprising that the Prosecutor’s Office stated that the authenticity of the Mladić’s handwriting was confirmed by the general Manojlo Milanović, who was a close associate of Mladić. ‘To recognize handwriting and to analyze it as an expert witness are two completely different things’ - comments our expert witness shortly, adding that Milanović’s confirmation may not be considered evidence by any means. /.../ “I</p>

			<p>had never checked the authenticity of the Mladić's handwriting, but I was certain that it was authentic, even when I checked it for the first time for the Blic in 2009, when the Blic reporters gave me 5-6 pages of these notes and asked me to evaluate their character.' - says Krstić, who analyzed the same pages as Marijan Krajna now."</p> <p>(iv) "The journalist Almasa Hadžić writes in Dnevni avaz that 'by the Hague officially published information on meaning and value of the war-time diaries of Ratko Mladić could easily turn out to be the hugest disgrace ever coming from this house of justice.'/.../ Hadžić further writes that it is impossible not to recognize that some parts of the diaries were written in different handwriting. Therefore, Dnevni avaz concludes that 'the Hague Tribunal swallowed the hook of the Serbian intelligence machinery', which delivered the diaries hoping for a positive report on the Hague cooperation with Serbia."</p> <p>(v) "There are three reasons for which I suspect their authenticity, the first of them being the timing of their having been published, which is really strange. The diaries were found in the apartment of Mladić's wife, so they had either been planted in there or they had been lying there in her apartment for 15 years and in the latter case, it is absolutely unclear why they had not been seized before. Secondly, the authenticity of the dairies has not been confirmed and I do not understand how it is possible that the diaries of a war criminal can be given such trust. Thirdly, there is nothing in the diaries what may be considered relevant, f.e. some data about Srebrenica." - as of Sonja Biserko. She adds that it is noteworthy that the Mladić's family initiated the procedure of proclaiming Mladić a dead person at the same time when the dairies were seized."</p> <p>2. The document refutes the Prosecution thesis that the Mladić Notebooks are authentic, reliable and probative.</p> <p>3. In the <i>Karadžić</i> case, the Prosecution and the Accused did not have any objection in relation to the authenticity, reliability and probative value of the Mladić Notebooks. Therefore, the Trial Chamber's decision in the <i>Karadžić</i> case to admit into evidence Mladić's Notebooks cannot be regarded as the proof or even indicia of authenticity, reliability and probative value of Mladić materials.</p>
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