

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

**Case No. IT-04-81-T**

**IN TRIAL CHAMBER I**

**Before: Judge Bakone Justice Moloto, Presiding  
Judge Pedro David  
Judge Michèle Picard**

**Registrar: Mr. John Hocking**

**Date Filed: 11 June 2010**

**THE PROSECUTOR**

**v.**

**MOMČILO PERIŠIĆ**

***PUBLIC***

---

**JOINT SUBMISSION OF AGREED FACTS PROPOSED  
BY THE DEFENCE, WITH ANNEX A**

---

**The Office of the Prosecutor:**

Mr. Mark Harmon  
Mr. Daniel Saxon

**Counsel for Momčilo Perišić:**

Mr. Novak Lukić  
Mr. Gregor Guy-Smith

1. The parties jointly request the Trial Chamber to take judicial notice of the agreed facts set out in Annex A, which contains a table listing the proposed fact and source.
2. The facts are predominantly based on trial and appeal judgements of the ICTY, with some minor alterations to provide context or clarification.

### **Relief Requested**

3. The parties respectfully request the Trial Chamber to take judicial notice of the facts set forth in Annex A, attached.

Respectfully submitted this 11 June 2010,



Office of the Prosecutor  
Mark Harmon



Counsel for Mr. Perišić  
Novak Lukić



Momčilo Perišić

Word count: 100

# ANNEX A

**Proposed Agreed Facts from the *Blagojević* Case**

No.	Fact	Source
1.	As President of the Republika Srpska (“RS”), Radovan Karadžić was the commander-in-chief of the Army of the Republika Srpska. In times of an imminent threat of war or state of war, the Armed Forces included both the VRS and the MUP.	Blagojević TJ, para. 33
2.	<p>Command and control within the VRS was based on the principle of “unity of command.”</p> <p>This principle results in the situation that the brigade commander has the exclusive right of commanding and issuing orders to all the subordinates in the brigade and that he is responsible for “everything that happens within his unit and in the area of defence of that particular unit.” Presence of superior officers in the brigade zone of responsibility does not negate the brigade commander’s responsibility for his subordinates.</p>	Blagojević TJ, para. 34
3.	The Main Staff was the supreme military command organ of the VRS. In July 1995, the Commander of the Main Staff was General Ratko Mladić. The Main Staff’s headquarters were in Han Pijesak and the forward command post (“IKM”) was in Bijeljina. As of 11 July 1995, the IKM of the Main Staff was co-located with that of the Drina Corps in the Bratunac Brigade command post. The Main Staff was composed of two staff branches and six departments.	Blagojević TJ, para. 35
4.	The Srebrenica enclave was never fully demilitarised and elements of the ABiH continued to conduct raids of neighbouring Bosnian Serb villages from within the enclave during the first half of 1995. The 8th Operational Group of the ABiH, later renamed the 28th Division of the ABiH, operated in the enclave.	Blagojević TJ, para. 115
5.	In July 1995, a functioning judicial system existed within the VRS to address criminal or disciplinary matters related to members of the VRS. The RS Law on the Army regulated the implementation of the duty of VRS senior or superior officers to ensure proper military conduct through disciplinary measures and court-martials. The SFRY Criminal Law, which was in force in the Republika Srpska in 1995, prohibited the commission of crimes against humanity and international law. This prohibition was directed at all RS citizens, including members of the VRS. Moreover, pursuant to an order of 13 May 1992 by President Radovan Karadžić, the VRS was required to comply with the obligations under international law during armed conflict.	Blagojević TJ, para. 420

**Proposed Agreed Facts from the *Hadžihasanović* Case**

<b>No.</b>	<b>Fact</b>	<b>Source</b>
6.	A state of war and mobilisation were declared in the RBiH on 20 June 1993. As of 23 June 1992, the RBiH TO was renamed the "RBiH Army" and the TO Main Staff became the Main Staff of the RBiH Armed Forces. In Central Bosnia, certain TO units at the district, and particularly municipal, level would be dissolved much later, but until they disbanded they would remain a support force following ABiH orders.	Hadžihasanović TJ, para. 314
7.	Following an amendment to the RBiH Constitution by presidential decree, the RBiH Presidency became the RBiH Armed Forces Supreme Command for the duration of the state of war. During that same period, the General Staff of the RBiH Armed Forces became the Supreme Command Main Staff.	Hadžihasanović TJ, para. 315
8.	The tasks of an army corps command covers the following areas: command/staff; political/legal; self-protection issues; security; personnel; logistics (support); and general affairs. Each area corresponded to a specific organ in the army corps structure: staff; political and legal affairs; security services; and development planning and finance. Self-protection was the responsibility of all organs of the Corps Command as part of their official duties.	Hadžihasanović TJ, para. 316
9.	The ABiH Supreme Command Main Staff consisted of the following organs: Operations and Training including the Operations Command Centre, Combat Arms Administration, Logistics Administration, Personnel Administration, Administration for Morale, Information and Propaganda, and Religious Affairs, Intelligence Administration, Security Administration, and Legal Administration.	Hadžihasanović TJ, para. 317
10.	In 1992, Sefer Halilović commanded the Supreme Command Main Staff, holding the position of Chief of the ABiH Main Staff. On 8 June 1993, Rasim Delić was appointed head of the Main Staff with the rank of Supreme Command Main Staff Commander; Sefer Halilović retained his title as Chief of the Main Staff. Stjepan Šiber and Jovan Divjak were appointed Supreme Command Main Staff deputy commanders.	Hadžihasanović TJ, para. 318
11.	By presidential decision of 18 August 1992, the territory of the Republic of Bosnia and Herzegovina was to be divided into five zones of military responsibility, each covered by an army corps answering to the ABiH Supreme Command Main Staff.	Hadžihasanović TJ, para. 319

**Proposed Agreed Facts from the Halilović Case**

<b>No.</b>	<b>Fact</b>	<b>Source</b>
12.	Under the leadership of Sefer Halilović , the supreme military commander, an attempt was made to transform the various units into a functioning organised army. The result was the Territorial Defence (“TO”), which was formally established on 8 April 1992 and which turned into the ABiH on 12 April 1992.	Halilović TJ, para. 101
13.	<p>Sefer Halilović served as the supreme ABiH commander until 8 June 1993 and his title was Chief of the Main Staff of the ABiH. On this date, the President of the Republic of Bosnia and Herzegovina, Alija Izetbegović, issued a decision “restructuring [...] the [...] supreme command headquarters of the armed forces” (“8 June 1993 decision”). This decision provides:</p> <p>The post of the Commander of the Main Staff of the Armed Forces of the Republic of Bosnia and Herzegovina shall be established.</p> <p>The post of the Chief of the Main Staff of the Armed Forces of the Republic of Bosnia and Herzegovina shall be retained.</p>	Halilović TJ, para. 103
14.	The decision further “appointed” Rasim Delić to the post of Commander of the Main Staff and “appointed” Sefer Halilović as Chief of the Main Staff. In addition, the decision established two Deputy Commander positions to which Stjepan Šiber and Jovan Divjak were appointed.	Halilović TJ, para. 103
15.	Approximately six weeks later, on 18 July 1993, President Alija Izetbegović issued a decision further restructuring the ABiH (“18 July decision”). According to this decision, during a state of war the Presidency of the Republic was the Supreme Command of the Armed Forces of the Republic. The decision provides that “The Republic of Bosnia and Herzegovina Army consists of the Main Staff and eight Corps.”	Halilović TJ, para. 104
16.	The composition of the Main Staff was defined in the following manner by the 18 July decision; the Commander of the Main Staff and his Office, three Deputy Commanders, the Command Operations Centre with a Headquarters Administration, and several specialised administrations. The decision also defined the chain of command in the highest echelons of the ABiH as follows; the Main Staff Deputy Commanders, the chiefs of the various Main Staff administrations and branches, and the ABiH corps commanders were all “directly subordinate ” to the Commander of the Main Staff, Rasim Delić . With particular regard to ABiH corps commanders, the decision stated that they were to “liaise with the Command Operations Centre and the Chief of the Main Staff on issues determined by the Main Staff Commander.”	Halilović TJ, para. 110
17.	Within the ABiH, the Military Security Service (“SVB”) was represented from the Main Staff level through the corps and brigade levels, down to the battalion level. The Main Staff Security Administration (“UB”) was at the top of the SVB.	Halilović TJ, para. 112
18.	The 1st Corps was established on 1 September 1992 and was then commanded by Mustafa Hajrulahović (nicknamed “Talijan”) with Vahid Karavelić as deputy commander.	Halilović TJ, para. 118
19.	The 1st Corps was headquartered in Sarajevo. Vahid Karavelić succeeded Mustafa Hajrulahović around mid-July 1993.	Halilović TJ, para. 118
20.	In 1993, the 3rd Corps was commanded by Enver Hadžihasanović. The corps was based in Zenica. As a result of Rasim Delić ’s decision of 9 June 1993, issued the day after he was appointed Main Staff Commander, the zone of	Halilović TJ, para. 142

	responsibility of the 3rd Corp comprised mainly areas in central and northern Bosnia and Herzegovina.	
21.	OG West, which was commanded by Selmo Cikotić, was directly subordinate to the 3rd Corps. OG West consisted of five municipal TO staffs and five brigades, including the 307th, 308th, and 317th Brigades. During the summer of 1993 and in September, OG West consisted of between 7,000 and 8,000 soldiers. The command post was located in Bugojno and in September 1993 OG West had a forward command post ("IKM") near Gornji Vakuf on Mt. Planica.	Halilović TJ, para. 143
22.	The 4th Corps was commanded by Arif Pašalić and was based in Mostar. Following Rasim Delić's 9 June 1993 decision, the zone of responsibility of the 4th Corps was adjusted to cover areas in central, southern and eastern Bosnia and Herzegovina.	Halilović TJ, para. 144
23.	In an order issued on 5 July 1993, Rasim Delić formed the OG Igman directly subordinated to the 1st Corps, in order to improve the operational strength of the ABiH units in the territory to the south and south-west of Sarajevo. On 30 July 1993, further units were subordinated to the OG Igman.	Halilović TJ, para. 170
24.	Vahid Karavelić, still concerned about the security of Sarajevo, on 4 September 1993 deployed several officers to the IKM at Mt. Igman, with the aim of improving command and control of that IKM. Following some territorial advances of the ABiH, on 6 September, Vahid Karavelić ordered the company of the 10th Brigade to return to Sarajevo. Eventually, the ABiH prevented the VRS from linking up from two directions, managing even to recapture some positions, but also losing much of the area to the southwest of Sarajevo.	Halilović TJ, para. 172

**Proposed Agreed Facts from the *Krajišnik* Case**

<b>No.</b>	<b>Fact</b>	<b>Source</b>
25.	In 1990 and 1991 the SDS was funded by voluntary contributions and enjoyed the support of the overwhelming majority of Bosnian Serbs.	Krajišnik TJ, para. 26
26.	Its main organs included the party Assembly, formally the supreme body; the SDS Main Board, the highest party organ at times when the Assembly was not in session; the SDS Executive Board, the executive arm of the Main Board; the president of the party, who was also the president of the Main Board; and several advisory bodies, such as the SDS Political and Economic Councils and the Commission for Personnel and Organization.	Krajišnik TJ, para. 26
27.	The party was a hierarchical structure, organized into municipal assemblies and boards resembling the republican organs.	Krajišnik TJ, para. 26
28.	Following the November 1990 elections, the Party of Democratic Action (“SDA”), SDS, and HDZ (“Croatian Democratic Union”) reached an agreement among themselves on a formula for the distribution of power.	Krajišnik TJ, para. 29
29.	After the quotas were distributed, the three parties shared control over appointments made at every level of administration.	Krajišnik TJ, para. 31
30.	The municipal assembly was by law the highest organ of municipal authority.	Krajišnik TJ, para. 32
31.	By October 1991, the three-party coalition was crumbling. The SDS protested that a declaration of sovereignty of Bosnia-Herzegovina by the Bosnia-Herzegovina Assembly would be unconstitutional as it would infringe on the rights of one nationality recognized by the Bosnia-Herzegovina constitution, namely the Serbs, and it had not been vetted by the Council for Ethnic Equality.	Krajišnik TJ, para. 63
32.	On 15 October 1991 the SDS Political Council met to assess the situation. During this and other meetings, the idea emerged that the SDS should form its own institutions, which would function in parallel to those of Bosnia-Herzegovina.	Krajišnik TJ, para. 65
33.	Around 20 December 1991, SDS members Nikola Koljević and Biljana Plavšić voiced their opposition to the Bosnia-Herzegovina Presidency’s decision to apply to the Badinter Commission – established by the European Community to issue advisory opinions on legal matters relating to the Yugoslav crisis – for recognition as an independent state.	Krajišnik TJ, para. 100
34.	On 21 December 1991 the Bosnian-Serb Assembly adopted a statement pointing out that the decisions of the Bosnia-Herzegovina Presidency in favour of independence were taken unconstitutionally and contrary to the equality of the three ethnicities.	Krajišnik TJ, para. 101
35.	Following a meeting of the Bosnian-Serb Ministerial Council on 11 January 1992, Bosnian-Serb authorities moved ahead with the organization of a separate Serb MUP.	Krajišnik TJ, para. 106
36.	On 17 January 1992, at a session of the Ministerial Council, a draft programme of work for the Council was presented. It called for the adoption of the Constitution and for the organization of the territory in such a way so as to “enlarge the territory of the regions and encompass a larger number of inhabitants wherever possible in order to consolidate the regions both ethnically and economically.” At that same session it was decided that the Commission on the Constitution and the Ministerial Council, would be tasked with preparation, by 15 February 1992, of draft legislation to enable the Bosnian-Serb Republic to start functioning.	Krajišnik TJ, para. 107
37.	On 15 February 1992 the Bosnian-Serb Assembly discussed a draft	Krajišnik

	Constitution, according to which the Bosnian-Serb Republic would become part of federal Yugoslavia. The Assembly also discussed the adoption of a Law on the Implementation of the Constitution.	TJ, para. 113
38.	On a parallel track, by 23 February 1992, representatives of the SDS and of the other two national groups had agreed on a statement of principles for a new constitutional arrangement for Bosnia-Herzegovina. According to this statement, the territory of Bosnia-Herzegovina would keep its external borders.	Krajišnik TJ, para. 114
39.	Bosnia-Herzegovina would become an independent state made up of three constituent units which would group municipalities according to the nationality principle based on the last three censuses (1971, 1981, and 1991).	Krajišnik TJ, para. 114
40.	On 28 February 1992, at a meeting of the SDS Deputies' Club, Krajišnik reiterated the objective of dividing Bosnia-Herzegovina and mentioned that the European Community had also started to think along the same lines.	Krajišnik TJ, para. 117
41.	After the republican referendum of 29 February and 1 March 1992, and due to the fact that the Yugoslav leadership had by then clearly expressed its position to SDS leaders that a Bosnian-Serb entity would not be allowed to be part of the new Yugoslavia in the near future, negotiations persisted, but mainly turned on the nature of what an independent Bosnia-Herzegovina would be like (unitary or federal) and what the division of power among the entities would be.	Krajišnik TJ, para. 123
42.	On 11 March 1992 the Bosnian-Serb Assembly decided to continue international negotiations on a confederative arrangement for the three national groups, albeit on its own terms.	Krajišnik TJ, para. 124
43.	On 24 March 1992 the Bosnian-Serb Assembly elected Branko Đerić as Prime Minister and he was sworn in on the same day.	Krajišnik TJ, para. 126
44.	The Bosnian-Serb Assembly proceeded to instruct the new Government to prepare, by 27 March, "an operational plan for assuming power, that is, for establishing power in the Serbian Republic of Bosnia and Herzegovina, and in particular in the field of internal affairs, national defence and money transactions ... in all municipalities where we already have Serbian authorities, and in those municipalities where we have only recently established Serbian municipalities."	Krajišnik TJ, para. 126
45.	On 24 March 1992 the Bosnian-Serb Assembly also issued a decision verifying the proclamation of various Serb municipalities.	Krajišnik TJ, para. 127
46.	On 7 April 1992, the Bosnian-Serb Assembly, chaired by Milovan Milanović, declared the independence of the Bosnian-Serb Republic (on 12 August 1992, the name of the republic was changed to "Republika Srpska"). Plavšić and Koljević resigned from their positions in the Presidency of Bosnia-Herzegovina.	Krajišnik TJ, para. 128
47.	The Constitution of the Bosnian-Serb Republic, adopted by the Bosnian-Serb Assembly on 28 February 1992, vested the Bosnian-Serb Assembly with constitutional and legislative authority.	Krajišnik TJ, para. 129
48.	The Constitution stipulated that the Assembly was to consist of 120 deputies reflecting as closely as possible the national composition of the Bosnian-Serb Republic.	Krajišnik TJ, para. 129
49.	Chaired by a President (Speaker) and two vice-presidents, the Bosnian-Serb Assembly could adopt laws and determine the budget and territorial organization of the Republic.	Krajišnik TJ, para. 129
50.	It could also call referendums, elections for deputies, and elections for the	Krajišnik

	President of the Republic.	TJ, para. 129
51.	Proposals for legislation could be launched by the deputies, by the Government, or by the President of the Republic.	Krajišnik TJ, para. 130
52.	Thereafter, a draft would be prepared by the relevant Ministry, adopted by the Government, and then forwarded to the Assembly.	Krajišnik TJ, para. 130
53.	Regardless of who initiated the legislation, the body officially proposing it would always be the Government.	Krajišnik TJ, para. 130
54.	The Bosnian-Serb Assembly was to exercise control over the matters within the competence of the Bosnian-Serb Government.	Krajišnik TJ, para. 131
55.	It elected the Prime Minister and voted to appoint the Government Ministers.	Krajišnik TJ, para. 131
56.	In addition, the Bosnian-Serb Assembly debated matters related to the work of the Supreme Court, the Public Prosecutor, and the constitutionality of the laws of the Republic upon advice given to it by the Constitutional Court.	Krajišnik TJ, para. 131
57.	The Bosnian-Serb Assembly was also tasked with cooperating with the assemblies of other republics, autonomous provinces, and municipalities, through information exchange and visits by Assembly deputies.	Krajišnik TJ, para. 132
58.	The President of the Bosnian-Serb Assembly controlled the procedure of the legislative body.	Krajišnik TJ, para. 133
59.	The president, had the power to propose the agenda of Assembly sessions and to convene the Assembly at his initiative, or upon demand of the Bosnian-Serb Government or one-third of the deputies of the Assembly.	Krajišnik TJ, para. 133
60.	The Assembly President was to sign laws following their adoption. The procedure also allowed for a shortened draft adoption of laws.	Krajišnik TJ, para. 134
61.	In a state of war or imminent threat of war, the Assembly President could propose that laws be adopted without debate.	Krajišnik TJ, para. 134
62.	On 27 March 1992, the Bosnian-Serb Assembly established the National Security Council (SNB).	Krajišnik TJ, para. 137
63.	The SNB was to be an advisory organ to the Assembly, on political, legal, constitutional, and other issues relevant to the security of Serbs in Bosnia-Herzegovina, and it was to be responsible to the Assembly.	Krajišnik TJ, para. 137
64.	The decisions of the SNB were sometimes published in the Bosnian-Serb Republic's Official Gazette.	Krajišnik TJ, para. 137
65.	Following the establishment of the Army of the Bosnian-Serb Republic ("VRS") on 12 May 1992, Generals Ratko Mladić, Milan Gvero, and Momir Talić, as well as Colonel Zdravko Tolimir, would also often attend Assembly sessions. They, together with other military officials, would address the Bosnian-Serb Assembly on the strategic situation and proposed plans of action.	Krajišnik TJ, para. 138
66.	The Assembly's composition and operating methods thus ensured that the decision-making process was heavily influenced by SDS policy.	Krajišnik TJ, para.

		140
67.	The Bosnian-Serb Constitution vested the Bosnian-Serb Government with executive authority, under the formal control of the Assembly.	Krajišnik TJ, para. 141
68.	Headed by the Prime Minister, two deputy Prime Ministers, and thirteen Ministers, the Government functioned through the work of its Ministries and permanent working bodies.	Krajišnik TJ, para. 141
69.	The Bosnian-Serb government was to report to the Assembly on its progress in policy implementation and law enforcement.	Krajišnik TJ, para. 141
70.	The Ministerial Council, established on 21 December 1991, became the Bosnian-Serb Government following the Assembly's passage of the Government Act on 28 February 1992.	Krajišnik TJ, para. 143
71.	Aleksandar Buha, Minister of Foreign Affairs, was in charge of contacts with international representatives, including those from the United States and OSCE.	Krajišnik TJ, para. 145
72.	The Ministry of Information, under Velibor Ostojić, dealt with general public information, and would distribute and report on the statements from Government sessions, press briefings, and news conferences.	Krajišnik TJ, para. 145
73.	The Government sat for the first time as an independent executive body, distinct from the SNB, at its 13th session on 23 May 1992.	Krajišnik TJ, para. 146
74.	In the first days of April 1992, following international recognition of Bosnia-Herzegovina as an independent state and the beginning of the conflict, the Bosnian- Serb leadership relocated to Pale, about 20 kilometers from Sarajevo.	Krajišnik TJ, para. 147
75.	In the course of 1992, the Bosnian-Serb Government held around 90 sessions. Nedeljko Lakić, secretary of the Government from 27 April 1992 onwards, would see Prime Minister Derić about twice a week and would liaise with him and other Ministers to organize the sessions.	Krajišnik TJ, para. 150
76.	Legislative proposals were forwarded to the Assembly, while decisions within the competence of the Government were published in the Official Gazette.	Krajišnik TJ, para. 150
77.	As far as its input on the municipal level is concerned, the Government exercised a certain amount of control over, and cooperated with, municipal authorities and crisis staffs.	Krajišnik TJ, para. 151
78.	By early May 1992, the Government had at its disposal in Pale a Republican Information Centre which connected with regional communication centres in the Bosnian-Serb territory.	Krajišnik TJ, para. 153
79.	The Bosnian-Serb Constitution vested the Constitutional Court and lower courts of the Bosnian-Serb Republic with judicial authority.	Krajišnik TJ, para. 154
80.	The judicial system of the Bosnian-Serb Republic, with the Constitutional Court at the top of the hierarchy, was to be autonomous and independent and was entrusted with protection of human rights and freedoms.	Krajišnik TJ, para. 154
81.	Members of the judiciary, including judges and public prosecutors, were to be elected by the Bosnian-Serb Assembly.	Krajišnik TJ, para. 154
82.	The Assembly discussed and voted on appointment and dismissal of judges and prosecutors at its 19th and 22nd sessions on 12 August 1992 and 23-24 November 1992, respectively.	Krajišnik TJ, para. 154
83.	The lower courts were to ensure that all coercive actions on behalf of the state authorities were conducted in accordance with the rule of law.	Krajišnik TJ, para.

		155
84.	The Constitution set forth the principle of a fair trial in criminal proceedings.	Krajišnik TJ, para. 155
85.	On 8 May 1992, the Government established a Central Commission for the Exchange of Prisoners of War and Arrested Persons.	Krajišnik TJ, para. 156
86.	The Commission's official role was to coordinate exchanges and provide information on captured persons.	Krajišnik TJ, para. 157
87.	In accordance with the Bosnian-Serb Constitution, the President of the Republic would represent the Bosnian-Serb Republic.	Krajišnik TJ, para. 158
88.	The President was to conduct affairs of state in compliance with the Constitution.	Krajišnik TJ, para. 159
89.	The President was the commander-in-chief of the Army, with authority to define the Army's organization, establish the system of Army command, prepare the Army for war, and issue basic regulations related to combat.	Krajišnik TJ, para. 159
90.	By early April 1992, the SNB developed into an executive organ issuing instructions to, and receiving reports from, municipal crisis staffs and TOs.	Krajišnik TJ, para. 162
91.	The SNB would meet in joint sessions with the Bosnian-Serb Government for the purpose of taking decisions on military, political, and administrative matters.	Krajišnik TJ, para. 162
92.	On 12 May 1992, the Bosnian-Serb Assembly passed a constitutional law instituting a three-member Presidency until a President of the Bosnian-Serb Republic could be elected by the people.	Krajišnik TJ, para. 164
93.	Also on 12 May, the Presidency held its first session, and Karadžić was elected President of the Presidency, thus becoming the President of the Bosnian-Serb Republic.	Krajišnik TJ, para. 165
94.	The President was bestowed with the authority to appoint, promote, and discharge military officers, military judges, and military prosecutors.	Krajišnik TJ, para. 165
95.	Other important functions relevant to the armed forces were to be carried out by the Ministry of Defence, the Ministry of Interior, and by the Bosnian-Serb Assembly. The Government had the authority to propose a defence plan and carry out defence preparations. The Ministry of Defence was to be in charge of mobilization efforts. The MUP would deploy the police force in case of conflict. The Assembly was responsible for adopting a defence development plan, determining sources of defence finance, and enabling the acquisition of material supplies.	Krajišnik TJ, para. 189
96.	In accordance with the Bosnian-Serb Republic's Defence Act, defence equipment, funds, and other property previously belonging to Bosnia-Herzegovina were to be transferred to the Bosnian-Serb Republic.	Krajišnik TJ, para. 190
97.	At a session of the Bosnian-Serb Assembly on 12 May 1992, a decision was passed formally establishing the VRS, renaming TO units to VRS units, and appointing Ratko Mladić as commander of the VRS Main Staff.	Krajišnik TJ, para. 194
98.	On 21 May 1992, the Bosnian-Serb Presidency called for general mobilization of able-bodied citizens of the Bosnian-Serb Republic.	Krajišnik TJ, para. 196
99.	In addition, in the months that followed, and despite some delay, many Serb	Krajišnik

	TO units were renamed "light brigades" of the VRS.	TJ, para. 196
100.	In November 1992 the Drina Corps was created on territory previously under the authority of the East Bosnia Corps and the Sarajevo-Romanija Corps.	Krajišnik TJ, para. 197
101.	The VRS had control over several weapons-production plants in Bosnia-Herzegovina. They manufactured air-jet engines, radar and telecommunications systems, artillery and non-guided rocket munitions, armoured vehicles, optical electronics, and engines for military vehicles. The Pretis artillery and rocket-manufacturing plant in Vogošća municipality was the only plant to manufacture artillery ammunition.	Krajišnik TJ, para. 199
102.	The communication systems of the VRS were more than adequate on the most important matters such as enemy activity, the situation in the field, logistical issues, and staffing issues.	Krajišnik TJ, para. 200
103.	The supreme military commander of the VRS was the President of the Republic, Radovan Karadžić. Directly below him was Mladić, who was the Commander of the VRS Main Staff.	Krajišnik TJ, para. 205
104.	The Presidency had the authority to initiate investigations on alleged crimes related to combat activities, order cease-fires, and halt military operations if political or diplomatic needs so dictated.	Krajišnik TJ, para. 205
105.	Orders were passed from the political leadership to military officers.	Krajišnik TJ, para. 206
106.	On 28 July 1992, Mladić issued an order regarding the disarmament of paramilitary formations.	Krajišnik TJ, para. 216
107.	The order noted that paramilitaries engaged in looting were operating in all territories under the VRS. It ordered all paramilitary formations with "honourable" intentions to place themselves under the command of the VRS.	Krajišnik TJ, para. 216
108.	No individual or group responsible for crimes was to be incorporated into the army, and any member of a paramilitary unit who refused to submit to the unified command of the VRS was to be disarmed and arrested.	Krajišnik TJ, para. 216
109.	The Bosnian-Serb Law on Internal Affairs was enacted by the Bosnian-Serb Assembly on 28 February 1992, on the same day that the Assembly adopted the Constitution.	Krajišnik TJ, para. 225
110.	The Bosnian-Serb MUP was to handle security affairs on behalf of the Government.	Krajišnik TJ, para. 227
111.	The Bosnian-Serb MUP was one of the first institutions of the nascent Republic to start functioning effectively. At its session of 11 March 1992, the Bosnian-Serb Assembly unanimously called for the implementation of the new Law on Internal Affairs by the Ministerial Council.	Krajišnik TJ, para. 235
112.	On 24 March 1992, Mićo Stanišić was appointed Minister of Internal Affairs by the Bosnian-Serb Assembly.	Krajišnik TJ, para. 235
113.	On 16 April 1992, the Minister of Defence, Bogdan Subotić, declared that a state of imminent threat of war existed in the Bosnian-Serb Republic, and ordered full mobilization. Subotić's order allowed the authorities to take "all necessary measures appropriate to the situation."	Krajišnik TJ, para. 243
114.	The Bosnian-Serb Constitution provided for the territorial division of the Bosnian-Serb Republic into local units of self-management, such as cities and municipalities. Organization and operation of municipal authorities was to be	Krajišnik TJ, para. 256

	determined and regulated by municipal statutes.	
115.	Each assembly had an executive committee and a network of municipal administrative organs charged with the implementation of the assembly decisions.	Krajišnik TJ, para. 256
116.	The Bosnian-Serb Constitution also bestowed on the municipalities the right and obligation to manage and organize territorial defence.	Krajišnik TJ, para. 256
117.	Although the Bosnian-Serb Constitution did not specify the mechanisms of municipal decision-making in times of conflict or envision the existence of crisis staffs, the 1974 Constitution of Bosnia-Herzegovina and the 1984 Law on All-People's Defence suggested that certain mechanisms could come into being if regular municipal authorities were unable to function properly.	Krajišnik TJ, para. 257
118.	Thus, the 1974 Constitution provided for collective municipal presidencies.	Krajišnik TJ, para. 257
119.	A collective presidency was to be formed in time of war or imminent threat of war to replace a municipal assembly, and was to remain in existence until the assembly was able to reconvene.	Krajišnik TJ, para. 257
120.	According to the Bosnian-Serb Constitution, it was "the right and the obligation of regions and municipalities to set up and organize the national defence in their territories and to manage the territorial defence".	Krajišnik TJ, para. 285
121.	With the establishment of the VRS, the central role envisioned for the crisis staffs when it came to defence became less pertinent, as the aim was then to place all armed forces under the unified command of the Main Staff of the VRS.	Krajišnik TJ, para. 287

**Proposed Agreed Facts from the *Martić* Case**

No.	Fact	Source
122.	From 4 January 1991 until August 1995, Milan Martić held various positions within the Serbian Autonomous Region of Krajina ("SAO Krajina") and the Republic of Serbian Krajina ("RSK) governments, including Chief of the Police in Knin, Secretary for Internal Affairs of the SAO Krajina, Minister of Defence of the SAO Krajina, Deputy Commander of the TO of the SAO Krajina, Minister of the Interior of the SAO Krajina and of the RSK, and President of the RSK.)	Martić TJ, para. 2
123.	In April and May 1990, multi-party elections were held in the Socialist Republic of Croatia. The Croatian Democratic Union ("HDZ") won 41.5% of the votes and two-thirds of the seats in the Parliament. On 30 May 1990, the HDZ candidate Franjo Tudman was elected President of the Presidency of the Socialist Republic of Croatia. As a result of the elections, the Serbian Democratic Party ("SDS") gained power in the municipalities of Benkovac, Donji Lapac, Gratac, Glina, Korenica, Knin, Obrovac, and Vojnic.	Martić TJ, para. 127
124.	On 25 July 1990, a Serbian Assembly was established in Srb, north of Knin, as the political representation of the Serbian people in Croatia. The Serbian Assembly declared sovereignty and autonomy of the Serb people in Croatia. On 31 July 1990, Milan Babić became president of the Serbian National Council ("SNC"), the executive body of the Serbian Assembly. On 16 August 1990, the SNC called for a referendum on the autonomy of Serbs in Croatia to be held between 19 August and 2 September 1990.  The referendum was held between 19 August and 2 September 1990: 97.7% voted in favour of autonomy.	Martić TJ, para. 128
125.	On 21 December 1990, the SAO Krajina was proclaimed by the municipalities of the regions of Northern Dalmatia and Lika, in south-western Croatia. Article 1 of the Statute of the SAO Krajina defined the SAO Krajina as "a form of territorial autonomy within the Republic of Croatia" on which the Constitution of the Republic of Croatia, state laws and the Statute of the SAO Krajina were applied.	Martić TJ, para. 129
126.	On 22 December 1990, the Parliament of Croatia adopted a new constitution, wherein Croatia was defined as "the national state of the Croatian nation and a state of members of other nations and minorities who are citizens: Serbs [...] who are guaranteed equality with citizens of Croatian nationality [...]". The Serb population in the Krajina region considered that by the adoption of the new constitution, they had been deprived of the right to be a constituent nation in Croatia, which would include the right of self-determination.	Martić TJ, para. 130
127.	On 4 January 1991, the Executive Council of the SAO Krajina established the Regional Secretariat for Internal Affairs ("SUP") in Knin. On the same date, Milan Martić was appointed the Secretary for Internal Affairs of the SAO Krajina. On 5 January 1991, the Executive Council informed the MUP of Croatia that the establishment of the SUP revoked the authority of the MUP of Croatia in the SAO Krajina territory.	Martić TJ, para. 131
128.	On 1 April 1991, Milan Babić as President of the Executive Council of the SAO Krajina ordered mobilisation of the TO and volunteer units of the SAO Krajina. However, the evidence shows that between January and August 1991 the municipal TO staffs and units only existed on paper. In the same order, Milan Babić requested the MUP of Serbia to provide technical and personnel support to the SUP of the SAO Krajina. Also on 1 April 1991, the Executive	Martić TJ, para. 133

	<p>Council of the SAO Krajina passed a decision joining the SAO Krajina to Serbia, wherein it was stipulated that the constitution and laws of Serbia, as well as the constitutional-legal system of the SFRY, were to apply in the SAO Krajina. It was also decided that a referendum was to be held on the question: "[a]re you in favour of the annexation of the SAO Krajina to the Republic of Serbia on the 30<sup>th</sup> of April?" The President of Serbia, Slobodan Milošević, publicly opposed the referendum on joining the SAO Krajina with Serbia, stating that the ballot would have to read instead "in favour of remaining in Yugoslavia"; moreover, he asked that the decision on the annexation of the SAO Krajina to Serbia, be withdrawn.</p>	
129.	<p>On 12 May 1991, after the intervention of Slobodan Milošević, the referendum was held on the following question: "[a]re you in favour of the SAO Krajina joining the Republic of Serbia and staying in Yugoslavia with Serbia, Montenegro and others who wish to preserve Yugoslavia?" with 99.8% voting in favour. On 16 May 1991, the Assembly of the SAO Krajina approved the outcome of the referendum and stated that "the territory of the SAO Krajina is a constitutive part of the unified state territory of the Republic of Serbia. Both Milan Babić and Milan Martić publicly expressed views that SAO Krajina belonged with Serbia. On 19 May 1991, a referendum was held in Croatia, except in predominantly Serb areas, concerning independence of Croatia from Yugoslavia. 94.1% of those voting came out in favour of independence.</p>	Martić TJ, para. 134
130.	<p>On 29 May 1991, the SAO Krajina government was established with Milan Babić as President. Milan Babić appointed Milan Martić as Minister of Defence. On the same day, the Assembly of the SAO Krajina established "special purpose police units" named <i>Milicija Krajine</i>, in addition to the previously established Public Security Service police and State Security Service police. The <i>Milicija Krajine</i> was established within the MUP, but was put under the authority of the Ministry of Defence. The <i>Milicija Krajine</i> units wore patches on the sleeves of their uniforms reading in Cyrillic "<i>Milicija Krajine</i>". On 27 June 1991, Milan Martić was appointed Minister of Interior. According to Milan Babić, on this day Milan Martić withdrew from his position as Minister of Defence.</p>	Martić TJ, para. 135
131.	<p>On 25 June 1991, Croatia and Slovenia declared independence from Yugoslavia. However, on 8 July 1991, an international agreement was reached that Croatia and Slovenia would suspend implementation of their independence until 8 October 1991.</p>	Martić TJ, para. 136
132.	<p>On 1 August 1991, the SAO Krajina government decided to apply the Law on Defence of Serbia in the SAO Krajina. Accordingly, the <i>Milicija Krajine</i> units together with the TO made up the armed forces of the SAO Krajina. The evidence shows that the TO used JNA solid-colour uniforms with patches reading "SAO Krajina" in Cyrillic, on the sleeve. Milan Babić, as President, was the Commander of the TO of the SAO Krajina. On 8 August 1991, Milan Martić was appointed Deputy Commander of the TO of the SAO Krajina, in which position he remained until 30 September 1991. He continued to hold the position of Minister of the Interior while he was Deputy Commander of the TO.</p>	Martić TJ, para. 137
133.	<p>There were several ongoing clashes between Croatian armed forces and formations and the forces of the SAO Krajina from the spring of 1991, including in Kijevo, Drnis, Hrvatska Dubica, Saborsko, and Skabmja. During the second half of 1991, there were numerous cease-fire agreements and agreements on the withdrawal of the JNA from Croatia. On 23 November, the Vance Plan was signed by the President of Croatia Franjo Tudman, the</p>	Martić TJ, para. 138

	President of Serbia Slobodan Milošević and the SFRY Federal Secretary for Defence General Veljko Kadijević. The Vance Plan made provision for the deployment of a United Nations Protection Force ("UNPROFOR) in the Krajina, Western Slavonia and Eastern Slavonia, for demilitarisation, and eventual return of refugees and displaced persons. Importantly, the Vance Plan stated that "the role of the United Nations troops would be to ensure that the areas remained demilitarised and that all persons residing in them were protected from fear of armed attack."	
134.	On 30 November 1991, the SAO Krajina adopted its own Law on Defence, whereby the Law on Defence of Serbia ceased to apply in the SAO Krajina. According to the new law, the TO was "part of the unified armed forces of the SFRY" and the President of the SAO Krajina led "the armed forces in times of peace and in times of war".	Martić TJ, para. 139
135.	On 19 December 1991, the RSK was proclaimed by the Assembly of the SAO Krajina with Milan Babić as its President, and the RSK Constitution was passed. The TO constituted the armed forces of the RSK. On 16 February 1992, the government fell as Milan Babić was removed from the office of President of the RSK by the RSK Assembly due to his opposition to Slobodan Milošević in respect of the Vance Plan. Milan Martić, who had previously opposed the Vance Plan, now publicly supported the adoption of the Vance Plan. After Milan Babić was removed from office, the Vance plan was adopted by the Assembly of the RSK.	Martić TJ, para. 149
136.	On 21 February 1992, the UN Security Council adopted Resolution 743 implementing the Vance Plan and establishing UNPROFOR in certain areas of Croatia designated as "United Nations Protected Areas" ("UNPAS"). The UNPAs were areas where Serbs constituted the majority or a substantial minority of the population and where inter-communal tensions had previously led to armed conflict. The Vance Plan defined three UNPAs, which covered four sectors: UNPA Krajina, covering Sector South (Lika and Dalmatia) and Sector North (Banija and Kordun), UNPA Western Slavonia, covering Sector West, and UNPA Eastern Slavonia, covering Sector East. The UNPAs were to be demilitarised, with all armed forces to be either withdrawn or disbanded. However, the plan foresaw maintaining the local police who could carry weapons and wear uniforms."	Martić TJ, para. 150
137.	On 26 February 1992, the SAO Western Slavonia and the SAO Eastern Slavonia, Baranja and Western Srem joined the RSK. In the new RSK government, Zdravko Zečević became Prime Minister, Goran Hadžić was elected President, and Milan Martić was re-elected Minister of the Interior. In April 1992, UNPROFOR troops started arriving in the UNPAS." In addition, UNPROFOR was also mandated to patrol the so-called "pink zones" outside the UNPAs, which were areas under JNA control, in many instances with a significant Serb presence.	Martić TJ, para. 151
138.	The RSK was not demilitarised in its entirety in accordance with the Vance Plan. On 28 April 1992, Special Police ("PJM") Brigades and a PJM Administration were established within the RSK Ministry of Defence by the SSNO of Serbia. General Borislav Đukić, a JNA officer, was appointed Chief of the PJM Administration. The PJM Brigades were connected both to the Ministry of Defence and to the MUP of the RSK. The members of PJM units wore blue uniforms and used the side arms and the equipment of the TO. TO vehicles were repainted in blue and used by the PJM. On 18 May 1992, the SVK was established. In peacetime, the SVK was to consist of TO units, however in the event of imminent threat of war and during wartime the PJM	Martić TJ, para. 152

	units would join the SVK.	
139.	On 20 April 1993, the RSK Supreme Defence Council was established, which was composed of the President of the RSK, the Prime Minister, the Minister of Defence, the Minister of the Interior, and the Commander of the SVK. The President of the RSK "led the SVK in times of peace and war, in accordance with the RSK Constitution and decisions adopted by the Supreme Defence Council, and ŠpresidedĆ over the Supreme Defence Council. The Supreme Defence Council was mandated to "adopt decisions on the readiness, mobilisation and deployment of the SVK and on other matters in accordance with the Constitution and the law."	Martić TJ, para. 155
140.	On 25 January 1994, Milan Martić was elected President of the RSK, defeating Milan Babić. On 21 April 1994, a new government was formed under Milan Martić, <i>inter alia</i> , with Borislav Mikelić as Prime Minister and Milan Babić as Foreign Minister. The new government's aim was to achieve "sovereignty of the RSK and the right of the Serb people to self-determination and unification with other parts of the Serb people."	Martić TJ, para. 156
141.	On 2 August 1995, Milan Babić, as Prime Minister of the RSK, accepted the Z-4 Plan "in substance. On 4 August 1995, the Croatian Army and police forces launched a military operation, called Operation Storm, on the RSK and the UNPAs, which eventually resulted in them taking control of the territory of the RSK.	Martić TJ, para. 158
142.	In respect of the cooperation between the RSK and the RS, both phases of the <i>Koridor 92</i> operation included units of the RSK police, PJM and TO, and the operation was led by the VRS and RS police. Milan Martić visited the Posavina Corridor on several occasions during the first phase of the operation in June and July 1992. During the second phase of Operation Corridor, two RSK PJM brigades participated. Milan Martić and Borislav Dukic commanded a "strong" RSK police detachment during this phase of operation <i>Koridor 92</i> . Following operation <i>Koridor 92</i> , Milan Martić's popularity in the RSK increased significantly.	Martić TJ, para. 160

**Proposed Agreed Facts from the *Dragomir Milošević* Case**

<b>No.</b>	<b>Fact</b>	<b>Source</b>
143.	In April 1991, SDS delegates in the municipal assembly of Pale, which was the Sarajevo municipality with the highest percentage of Bosnian Serb inhabitants and SDS municipal assembly delegates, announced their intention to secede from “the city of Sarajevo.”	Milošević TJ, para. 14
144.	On 27 April 1992, the SFRY was re-organised so that it consisted of only the republics of Serbia and Montenegro, along with Kosovo and Vojvodina, and a new constitution was adopted. On the same day, the BiH Presidency ordered the JNA to withdraw from BiH, and when it failed to do so, special police of the BiH Ministry of Interior (“MUP”) and other units loyal to the BiH Government surrounded some of the JNA facilities in Sarajevo. The JNA soldiers and the army command were deprived of food and electricity, and some clashes ensued, resulting in casualties.	Milošević TJ, para. 23
145.	The JNA troops and their equipment were hostages in the negotiations that followed to ensure their withdrawal from BiH.	Milošević TJ, para. 23
146.	When the JNA were withdrawing from BiH, incidents took place in which JNA soldiers were killed, including the pullout of the command of the “2nd Army” under the auspices of UNPROFOR, during which “a marching column and a convoy of vehicles was cut in two and over 100 men were killed on Dobrovoljačka Street” on 2 May 1992.	Milošević TJ, para. 24
147.	President Alija Izetbegović was Supreme Commander of the ABiH. Gen. Delić was the Commander of the General Staff of the ABiH. The ABiH had eight corps. A report by the Chief of Administration of the ABiH on manning levels stated that the ABiH had a total number of 227,256 troops on 1 August 1994.	Milošević TJ, para. 71
148.	From at least August 1994 to November 1995, the ABiH also had mortars mounted on vehicles.	Milošević TJ, para. 81
149.	From at least August 1994 to November 1995, the ABiH held the eastern part of the city of Sarajevo, including very densely-populated parts of Sarajevo, such as the area of Stari Grad and Centar, part of Grbavica, and the southwestern part of Sarajevo, Hrasnica, Sokolović Kolonija, and Butmir, and the hills in the north of Sarajevo.	Milošević TJ, para. 113
150.	From at least August 1994 to November 1995, most of Grbavica was controlled by the SRK, but was surrounded on three sides by the ABiH: Hrasno, part of Hrasno Hill in the West, the northern bank of the Miljacka River and Debelo Brdo in the East were held by the ABiH. In the Grbavica area, the Miljacka River constituted the northern confrontation line, with the ABiH north of the river and the SRK south of the river.	Milošević TJ, para. 114
151.	The hills Debelo Brdo and Čolina Kapa were at the foot of Mount Trebević. Čolina Kapa was one of the hills or ridges belonging to Mount Trebević. Zlatište Hill was to the west of Čolina Kapa and overlooked Debelo Brdo.	Milošević TJ, para. 117
152.	From at least August 1994 to November 1995, , Debelo Brdo, from where Grbavica and the Jewish Cemetery were visible, was held by the ABiH. Čolina Kapa was held by the ABiH. Both Debelo Brdo and Čolina Kapa overlooked Sarajevo. Debelo Brdo dominated Marindvor, Grbavica and the Jewish Cemetery and provided a clear view of, for example, Zmaja od Bosne. The SRK held Mount Trebević and Vidikovac, at the peak of Mount Trebević. The SRK held the area south of Debelo Brdo and the Zlatište Hill, overlooking the	Milošević TJ, para. 118

	city. The stretch of land between Zlatište and Debelo Brdo was “a buffer zone, a no man’s land”.	
153.	From at least August 1994 to November 1995, the settlement of Dobrinja was split between the warring factions.	Milošević TJ, para. 119
154.	From at least August 1994 to November 1995, there were two confrontation lines, one running through Dobrinja V and the airport settlement towards Sarajevo Airport, and another one in the eastern part between Dobrinja IV and Oslobodenja.	Milošević TJ, para. 119
155.	From at least August 1994 to November 1995, Nedarići, north of the airport, was controlled by the SRK, but it was bordered by ABiH-held territory from three sides: Alipašino Polje, Mojmiilo and Stup. Stup Hill to the north-west of Nedarići, was held by the ABiH, and so were Butmir and Kotorac, located south of the runway of the airport.	Milošević TJ, para. 121
156.	From at least August 1994 to November 1995, the largest part of Mojmiilo Hill was held by the ABiH. The eastern side of Mojmiilo Hill and the area from there up to Vraca were under the control of the SRK. The SRK was on the slopes facing Nedarići in the west. Bosnian Serb forces held lines at the top of the hills and, at the southern foot of Mojmiilo Hill, they occupied one of the barracks in Lukavica.	Milošević TJ, para. 122
157.	From at least August 1994 to November 1995, the ABiH held Briješko Brdo, a little elevation of 100 metres, east of the tracks close to the neighbourhood of Sokolje, which itself was a Bosnian Serb neighbourhood. Further north, Sokolje Hill was also controlled by the ABiH.	Milošević TJ, para. 127
158.	Hum Hill was held by the ABiH until the end of the war.	Milošević TJ, para. 130
159.	From at least August 1994 to November 1995, Sedrenik was a settlement in the north-east of Sarajevo, and was held by the ABiH. The confrontation line in the Sedrenik area ran across the hills. Špicasta Stijena, or Sharpstone, was a ridge located about 300 to 500 metres north-east of Grdonj.	Milošević TJ, para. 131
160.	From at least August 1994 to November 1995, civilians lived very close to the confrontation lines.	Milošević TJ, para. 147
161.	On 19 June 1995, Dragomir Milošević informed all SRK officers and unit members that the law on military courts and the law on the military prosecutor’s office during a state of war applied.	Milošević TJ, para. 861