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War and armed conflict — Geneva Conventions — Interpretation — Common Article 3 — Whether reflecting customary international law—Whether violations of common Article 3 involving individual criminal responsibility

PROSECUTOR *v.* BLAŠKIĆ (JUDGMENT)¹

(Case IT-95-14-T)

International Criminal Tribunal for the Former Yugoslavia, Trial Chamber

(Jorda, *Presiding Judge*; Rodrigues and Shahabuddeen, *Judges*)

3 March 2000

SUMMARY:² *The facts*:—The accused, General Tihomir Blaškić, was charged under Articles 2, 3 and 5 of the Statute of the International Criminal Tribunal for the Former Yugoslavia (“the Statute”)³ with grave breaches of the Geneva

¹ The Prosecutor was represented by Mr Mark Harmon, Mr Andrew Cayley and Mr Gregory Kehoe. The defendant was represented by Mr Anto Nobilo and Mr Russell Hayman. For earlier phases of these proceedings, see 108 *ILR* 68 and 110 *ILR* 607.

² Prepared by Dr Danesh Sarooshi, Reader in International Law at University College, London.

³ The text of those provisions is as follows:

Article 2: Grave Breaches of the Geneva Conventions of 1949

The International Tribunal shall have the power to prosecute persons committing or ordering to be committed grave breaches of the Geneva Conventions of 12 August 1949, namely the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- (a) wilful killing;
- (b) torture or inhuman treatment, including biological experiments;
- (c) wilfully causing great suffering or serious injury to body or health;
- (d) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- (e) compelling a prisoner of war or a civilian to serve in the forces of a hostile power;
- (f) wilfully depriving a prisoner of war or a civilian of the rights of fair and regular trial;
- (g) unlawful deportation or transfer or unlawful confinement of a civilian;
- (h) taking civilians as hostages.

Article 3: Violations of the Laws or Customs of War

The International Tribunal shall have the power to prosecute persons violating the laws or customs of war. Such violations shall include, but not be limited to:

- (a) employment of poisonous weapons or other weapons calculated to cause unnecessary suffering;
- (b) wanton destruction of cities, towns or villages, or devastation not justified by military necessity;
- (c) attack, or bombardment, by whatever means, of undefended towns, villages, dwellings or buildings;
- (d) seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science;
- (e) plunder of public or private property.

Conventions, 1949, war crimes and crimes against humanity allegedly committed during military attacks by Bosnian Croat armed forces (“the HVO”) against Bosnian Muslims in the Lašva Valley region of Central Bosnia from May 1992 to January 1994. At the relevant time, the accused had been a Colonel in the HVO and Commander of the Central Bosnia Operative Zone (“CBOZ”). He was promoted in August 1994 to the rank of General and was at the same time appointed Commander of the HVO with his headquarters in Mostar. Subsequently, in November 1995, he was appointed by the Croatian Government to the rank of General in the armed forces of the Republic of Croatia (“HV”).

The crimes charged in the indictment were grouped into six distinct categories:

(1) persecution of the Muslim civilian population on political, racial or religious grounds that was alleged to be a crime against humanity (count 1);

(2) unlawful attacks on civilians and civilian objects (counts 3 and 4) and destruction that was not justified by military necessity (count 2), contrary to the laws or customs of war;

(3) wilful killing and causing serious physical and mental injury to civilians amounting to grave breaches of the Geneva Conventions (counts 5 and 8), violations of the laws or customs of war (counts 6 and 9) and crimes against humanity (counts 7 and 10);

(4) destruction and plunder of property during the attacks on civilians and their property constituting a grave breach of the Geneva Conventions (count 11) and violations of the laws or customs of war (counts 12 and 13);

(5) destruction of institutions dedicated to religion or education contrary to the laws or customs of war (count 14); and

(6) inhumane treatment of detained civilians, the taking of civilians as hostages, and the use of civilians as human shields, amounting to grave breaches of the Geneva Conventions (counts 15, 17 and 19) and violations of the laws or customs of war (counts 16, 18 and 20). General Blaškić was alleged to be individually criminally responsible for these crimes pursuant to Article 7(1) and (3) of the Statute.⁴

Article 5: Crimes against Humanity

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation;
- (e) imprisonment;
- (f) torture;
- (g) rape;
- (h) persecutions on political, racial and religious grounds;
- (i) other inhumane acts.

⁴ The text of the relevant part of Article 7 is as follows:

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime referred to in articles 2 to 5 of the present Statute, shall be individually responsible for the crime.

...

3. The fact that any of the acts referred to in articles 2 to 5 of the present Statute was committed by a subordinate does not relieve his superior of criminal responsibility if he knew or had reason to

The accused claimed that he did not order the commission of the crimes perpetrated against the civilian population, and that those attacks and the crimes which took place, both during and after those attacks, were committed by soldiers not under his control.

Held (unanimously):—(1) The accused was guilty on count 1 of having ordered a crime against humanity, namely persecutions against the Muslim civilians of the Lašva Valley region of Central Bosnia, for the following acts carried out by HVO soldiers under the accused's control: attacks on towns and villages; murder and serious bodily injury; the destruction and plunder of property and, in particular, of institutions dedicated to religion or education; inhuman or cruel treatment of civilians and, in particular, their being taken hostage and used as human shields; and the forcible transfer of civilians (pp. 243-4).

(2) The accused was guilty on counts 2-20 of having ordered these same acts, within the context of an international armed conflict, and thereby having committed violations of the laws or customs of war (counts 3, 4, 6, 9, 12-14, 16, 18 and 20), grave breaches of the Geneva Conventions (counts 5, 8, 11, 15, 17 and 19) and crimes against humanity (counts 7 and 10) (pp. 244-5).

(3) The accused had failed to take the necessary and reasonable measures which would have allowed these crimes to be prevented or the perpetrators thereof to be punished, and as such was also individually criminally responsible under Article 7(3) of the Statute (p. 245).

(4) The accused was not guilty on counts 3 and 4 in relation to the shelling of the town of Zenica (p. 245).

(5) The accused was sentenced to forty-five years in prison (p. 245).

The Substantive Law

(1) In relation to all the charges brought, it was necessary to show that an armed conflict existed at all relevant times in the territory of Bosnia and Herzegovina, that the acts of the accused were committed during that armed conflict and, in addition, that there was the required nexus between the crimes imputed to the accused and the armed conflict (paras. 63-72).

(2) In the case of charges under Article 2 of the Statute (grave breaches of the Geneva Conventions), there were the additional requirements that the conflict be of an international character and that the grave breaches be perpetrated against persons or property possessing 'protected' status under the Geneva Conventions, 1949.

(a) The conflict in Central Bosnia in 1992-4 could properly be characterized as being international in nature, due to the direct and indirect intervention in Bosnia-Herzegovina of the armed forces of the Republic of Croatia (paras. 75-123).⁵

(b) Article 4 of the Fourth Geneva Convention defined protected persons as "those who, at a given moment and in any manner whatsoever, find themselves,

[⁴ *cont.*]

know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

⁵ This part of the decision relies in part on the decision of the Appeals Chamber in *Prosecutor v. Tadić* (Case IT-94-1) of 15 July 1999. That decision, together with subsequent decisions in the *Tadić* proceedings, will be reported in a future volume of the *International Law Reports*.

in case of a conflict or occupation, in the hands of a party to the conflict or Occupying Power of which they are not nationals". The nationality of persons in an inter-ethnic conflict, such as in Bosnia, was not a decisive factor for the application of this provision. In such a conflict, a person's ethnic background might be regarded as a decisive factor in determining to which nation he owed his allegiance and might thus serve to establish the status of a victim as a protected person (paras. 125-7). The policy of the Croatian and Bosnian Governments, which placed more emphasis on the ethnic background of Bosnian Croats and Bosnian Muslims rather than on their common nationality, meant that the Bosnian Muslim victims in the hands of the HVO were to be considered as protected persons within the meaning of the Geneva Conventions (paras. 128-33).

(c) The property of Bosnian Muslim civilians was protected because it was in the hands of an occupying power as required by Article 53 of the Fourth Geneva Convention (para. 148). The overall control exercised by Croatia over the HVO meant that, at the time of its destruction, the property of the Bosnian Muslims was under the control of Croatia and was in occupied territory (paras. 149-50).

(d) The requisite *mens rea* for a violation of Article 2 of the Statute included both guilty intent and recklessness which could be likened to serious criminal negligence (para. 152).⁶

(3) Article 3 of the Statute provided for the jurisdiction of the Tribunal to decide on alleged violations of the laws or customs of war. Attacks upon persons not directly involved in the hostilities were prohibited by Common Article 3 of the Geneva Conventions, the provisions of which reflected customary international law at the relevant time. The rules contained in Common Article 3 thus comprised law which could be used by the Trial Chamber in deciding whether the accused had committed the offences alleged under Article 3 of the Statute (paras. 166 and 170). In addition, customary international law imposed criminal responsibility for serious violations of Common Article 3 (para. 176).⁷

(4) In order for offences to be characterized as a crime against humanity they had to be part of a widespread or systematic attack against a civilian population (paras. 198 and 201-2).

(a) The requirement that attacks be systematic referred to four elements: first, the existence of a political objective, a plan pursuant to which the attack is perpetrated, or an ideology to destroy, persecute or weaken a community; secondly, the perpetration of a criminal act on a very large scale against a group of civilians, or the repeated and continuous commission of inhuman acts linked to one another; thirdly, the preparation and use of significant public or private resources; and, finally, the implication of high-level political and/or military authorities in the definition and establishment of the methodical plan (paras. 203-4). The requirement that attacks be widespread referred to the scale of the acts perpetrated and to the number of victims. A crime might be widespread if there was a cumulative effect of a series of inhumane acts or if

⁶ The elements of the offences of wilful killing (count 5), inhuman treatment (counts 15 and 19), wilfully causing great suffering or serious injury to body or health (count 8), extensive destruction of property (count 11) and the taking of civilians as hostages (count 17) are set out in paras. 153-8.

⁷ The elements of the alleged violations of Article 3 of the Statute—unlawful attacks against civilians (count 3) and civilian property (count 4), murder (count 6), violence to life and person (count 9), devastation of property (count 12), plunder of public or private property (count 13), destruction or wilful damage to institutions dedicated to religion or education (count 14), cruel treatment (counts 16 and 20) and the taking of hostages (count 18)—are set out in paras. 179-87.

there was a single inhumane act of extraordinary magnitude (para. 206). The requirements of “widespread” and “systematic” were alternative, not cumulative, and it was not necessary, for an act to be characterized as a crime against humanity, that both requirements be satisfied (para. 207). In the present case, however, the attacks were both widespread and systematic (paras. 385-401, 467-8, 502-6, 537-47, 573-5, 624-6, 654-61).

(b) The term “civilian population” in Article 5 of the Statute should not be interpreted narrowly, and could include persons who bore arms but who were not carrying out military operations at the relevant time (para. 213), as well as former combatants who were no longer taking part in hostilities when the crimes were taking place (para. 214). The presence of soldiers within an intentionally targeted civilian population did not alter the civilian nature of that population (para. 214). *In casu*, the persons who were victims were characterized as being civilians (paras. 402-10, 413-17, 507-12, 544, 548-50, 576-9, 627-34, 660-1).⁸

(c) For the acts of a perpetrator to constitute a crime against humanity it was necessary that the perpetrator knowingly participated in a widespread or systematic attack against a civilian population (paras. 245-59).

(5) The accused was charged under Article 7(1) of the Statute with having planned, instigated, ordered or otherwise aided and abetted in the planning, preparation or execution of the alleged crimes.

(a) The “planning” referred to in Article 7(1) implied that one or more persons contemplated designing the commission of the crime at both the preparatory and execution phases. Circumstantial evidence might provide sufficient proof of the existence of such a plan (para. 279).

(b) “Instigating” an offence involved prompting another to commit that offence. Although the term was to be given a broad interpretation, so as to include both acts and omissions, it was necessary that a causal relationship be established between the instigation and the physical perpetration of the crime (para. 280).

(c) “Ordering” the commission of a crime required that there existed a superior-subordinate relationship between the person giving the order and the person who executed the order. The order did not, however, need to be given by the superior directly to the person or persons who committed the *actus reus* of the offence. It was the state of mind of the commander, not that of the subordinate executing the order, which was important (para. 282).

(d) “Aiding and abetting” the commission of a crime consisted of giving practical assistance, encouragement or moral support which had a substantial effect on the perpetration of the crime (para. 283). The *mens rea* required was that the aider and abettor intended to provide assistance or, as a minimum, accepted that such assistance would be a possible and foreseeable consequence of his conduct (para. 286).

(6) The principle of command responsibility contained in Article 7(3) of the Statute formed part of customary international law (para. 290). The three preconditions which had to be fulfilled for the accused to be convicted under Article 7(3) were:

(a) that there existed a superior-subordinate relationship between the accused as commander and the perpetrator of the crime (para. 294). This

⁸ The elements of the crimes against humanity with which the accused was charged—murder, persecutions and other inhumane acts—are defined in paras. 216-43.

relationship was not limited to individuals who were formally designated commander and possessed *de jure* command, but included a person who possessed *de facto* command authority (effective control) over the perpetrators of the crime (paras. 300-1);

(b) that the commander had actual knowledge or “reason to know” that the crime was about to be, or had been, committed (paras. 294 and 304-32);

(c) that the commander failed to take the necessary and reasonable measures to prevent the crime or, after the commission of the crime, to punish the perpetrator (para. 294). It was a commander’s degree of effective control, his material ability, that would determine whether the measures he took in a particular case, either to prevent the crime or punish the perpetrator, were reasonable (para. 335). The obligation to prevent or punish did not provide an accused with two alternative options: where an accused knew or had reason to know subordinates were about to commit crimes and failed to prevent their commission, he could not simply punish the subordinates afterwards and hope thereby to escape criminal responsibility (para. 336).

Sentencing

The offences of which the accused was convicted were of the utmost gravity. The considerable responsibility given to the accused at the relatively young age of thirty-two years was to some degree a mitigating circumstance (para. 778). However, the scope of the crime and the accused’s position of command were aggravating circumstances (paras. 783-92). The accused’s command position must systematically increase the sentence of the accused or at least lead the Trial Chamber to give less weight to the mitigating circumstance (para. 789). Accordingly, a sentence of forty-five years’ imprisonment was appropriate.

The following is the text of the judgment of the Trial Chamber:

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ANNEX

Abbreviations

ABiH	Muslim Army of Bosnia-Herzegovina
BH	Republic of Bosnia-Herzegovina
BRITBAT	UNPROFOR British Battalion
ICRC	International Committee of the Red Cross
ECMM	European Commission Monitoring Mission
UNPROFOR	United Nations Protection Force
HDZ	Croatian Democratic Community
HOS	Croatian Defence Forces
HV	Army of the Republic of Croatia
HVO	Croatian Defence Council
HZHB	Croatian Community of Herceg-Bosna
JNA	Yugoslav People's Army
UN	United Nations
FRY	Federal Republic of Yugoslavia (Serbia and Montenegro)

SDA	Party of Democratic Action
SDS	Serbian Democratic Party
SIS	HVO Security and Information Service
TO	Bosnian Territorial Defence
VJ	Army of the FRY
VRS	Army of Republika Srpska
CBOZ	Central Bosnia Operative Zone

Players

Miro Andrić	HV Colonel, he was later the “number two at the joint command of the BH armed forces” before returning to the HV in Croatia
Mate Boban	President of the HZHB and Commander-in-Chief of the HZHB military forces
Janko Bobetko	HV General, southern front commander
Mario Čerkez	Commander of the HVO Vitez Brigade
Filip Filipović	HVO Colonel in Travnik
Darko Gelić	Liaison officer for General Blaškić to the UNPROFOR
Enver Hadžihasanović	ABiH 3rd Army Corps Commander
Dario Kordić	Vice-President of the HZHB
Ignac Koštroman	Secretary-General of the HZHB and the HDZ in BH
Paško Ljubičić	Military Police Fourth Battalion Commander
Džemo Merdan	ABiH Chief-of-Staff
Slobodan Milošević	President of the FRY
Milivoj Petković	HV General, HVO headquarters Chief-of-Staff
Slobodan Praljak	HV General, former Croatian deputy national defence minister in Zagreb, he was replaced by Petković as HVO Chief-of-Staff on 27 July 1993
Ivica Rajjić	HVO operative zone 3 Commander (in Kiseljak)
Ante Roso	HV General in charge of the Livno region, he replaced Praljak as HVO Chief-of-Staff in October 1993
Bruno Šojić	Head of the HZHB Defence Department
Gojko Šušak	Croatian Minister of Defence
Franjo Tudjman	President of the Republic of Croatia
Anto Valenta	President of the HDZ in Vitez, deputy president of the HDZ for the HZHB, vice president of the HVO (April 1993)

Ivica Zeko Deputy commander of the CBOZ
responsible for intelligence activities

Units

Brigades

a) *HVO Regular Brigades*

Ban Jelačić	Located in Kiseljak and commanded by Mijo Božić and, later, Ivica Rajić
Bobovac	Located in Vareš and commanded by Emil Harah
Frankopan	Located in Guča Gora, Travnik and commanded by Ilija Nakić
Jure Francetić	Located in Zenica (until 14 May 1993 at the latest) and commanded by Živko Totić
Kotromanić	Located in Kakanj and commanded by Neven Marić
Kralj Tvrtko	Located in Sarajevo and commanded by Slavko Zelić
Nikola Šubić Zrinski	Located in Busovača and commanded by Duško Grubešić
Stjepan Tomašević	Located in Novi Travnik and commanded by Željko Sabljčić
Viteška	Located in Vitez and commanded by Mario Čerkez
III XP	Located in Žepče and commanded by Ivo Lozančić
Zenica 2nd Brigade	Located in Zenica (until 14 May 1993 at the latest) and commanded by Vinko Barešić)

b) *ABiH Chief-of-Staff*

3rd Corps	Located in Zenica and commanded by General Hadžihasanović, the 3rd Corps commanded the ABiH brigades in central Bosnia
7th Muslim Brigade	Brigade forming part of the 3rd Corps command structure, particularly well equipped and comprised in part of foreign soldiers (Mujahedin)
325th Mountain Brigade	3rd Corps Brigade in Vitez

Military Police

- Fourth Battalion Located in Travnik. Commanded initially by Zvonko Vuković who was replaced on 18 January 1993 by Paško Ljubičić. Paško Ljubičić was removed from his position on 23 July 1993 and replaced by Marinko Palavra. In July 1993, the Fourth Battalion was renamed the Seventh Battalion
- Seventh Battalion See the Fourth Battalion

Special Units

- Bruno Bušić Located in Travnik and commanded by the “director of the Defence Department”. The unit left the CBOZ before the April 1993 conflict
- Džokeri Anti-terrorist units formed within the Military Police (Fourth Battalion). Located in the bungalows in Nadioci (still called “Swiss chalet”). The immediate commander was Vlado Šantić whose headquarters were in the Hotel Vitez. Anto Furundžija was appointed commander, subordinate to Vlado Šantić
- Ludwig Pavlović Located at the Dubravica school (with the Vitezovi)
- Maturice Formed from the Ban Jelačić brigade. Located in Kiseljak
- Tvrtko II Located in Nova Bila
- Vitezovi Located at the Dubravica school. Its members were former HOS members. Commanded by Colonel Darko Kraljević and his deputy Niko Križanac
- Žuti HVO Frankopan Brigade unit. Located at the Guča Gora school in Travnik and commanded by Žarko Andrić (nicknamed “Žuti”)

Others

- Domobrani So-called Home Guard units positioned in each village pursuant to a decision of the Mostar Ministry of Defence dated 8 February 1993
- SIS Commanded in the CBOZ by Ante Slišković, office at the Hotel Vitez
- HOS Commanded in Bosnia by Jadranko Jandrić who was replaced by Mladen Holman before being incorporated into the HVO prior to 16 April 1993

I. INTRODUCTION

A. *The Tribunal*

1. The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (hereinafter “the Tribunal”) was established by the Security Council¹ pursuant to Chapter VII of the Charter of the United Nations.

B. *The Indictment*

2. General Tihomir Blaškić² was initially indicted along with five other accused in a single indictment, *The Prosecutor v. Dario Kordić et al.*, confirmed on 10 November 1995.³ The indictment charged the accused alone with 13 counts. An Order of Judge McDonald dated 22 November 1996 authorized a new indictment to be filed, *The Prosecutor v. Tihomir Blaškić*, which incorporated seven new counts.

3. Further to the amendment, the Defence filed four preliminary motions all relating to the amended indictment. The first requested that portions of the indictment alleging “failure to punish” liability be struck out on the ground that it did not constitute an offence falling under the jurisdiction of the Tribunal.⁴ The Trial Chamber rejected the request of the Defence since it deemed that, in most cases, such a failure also constituted a failure to prevent other crimes from being committed.⁵

4. The Defence submitted a second preliminary motion so as to receive a more detailed explanation of the criteria for the intent required for the charges alleging command responsibility.⁶ The Trial Chamber did not grant the Motion on the ground that it related to the subject-matter of the prosecution and was premature at that stage of the proceedings.⁷

¹ Resolution 827 (1993) adopted by the Security Council on 25 May 1993.

² At the time, the accused was a colonel. He was promoted to General of the army of the Republic of Croatia after the period covered by the indictment. In addition, the first name “Tihofil” was sometimes used in referring to him. To take this situation into account but also to ensure the presentation is consistent, the accused shall be called “General Blaškić”, “Colonel Blaškić”, “Tihomir Blaškić” or simply “the accused”.

³ Confirmation of the indictment, Case no IT-95-14-I, 10 November 1995. Originally, the document included six accused including *Dario Kordić*, *Tihomir Blaškić*, *Mario Čerkez* and *Zlatko Aleksovski*. Following severances, the reference “IT-95-14” concerns *Tihomir Blaškić* only.

⁴ Motion to strike portions of amended indictment alleging “failure to punish” liability, Case no IT-95-14-PT, 4 December 1996.

⁵ Decision on the Defence Motion to strike portions of the amended indictment alleging “failure to punish” liability, Case no IT-95-14-PT, 4 April 1997.

⁶ Motion *in limine* regarding *mens rea* required for charges alleging command responsibility and for bill of particulars re command responsibility portions of indictment, Case no IT-95-14-PT, 4 December 1996.

⁷ Decision rejecting the Defence motion *in limine* regarding *mens rea* required for charges alleging command responsibility and for bill of particulars re command responsibility portions of indictment, Case no IT-95-14-PT, 4 April 1997.

5. In a third preliminary motion, the Defence also requested the Trial Chamber to reject those counts under Article 2 of the Tribunal's Statute based on a failure to plead adequately the existence of an international armed conflict.⁸ The Motion was rejected because the Trial Chamber considered that the Prosecutor did not have to present proof at this stage of the proceedings that such a conflict did occur and that the formal validity of the indictment was in no manner undermined thereby.⁹

6. This Judgment responds to the indictment *The Prosecutor v. Tihomir Blaškić* as amended for the second time on 25 April 1997 further to the Decision of the Trial Chamber on the fourth and last preliminary motion tendered by the Defence for the dismissal of the indictment based upon defects in the form thereof.¹⁰ The Trial Chamber had granted the Defence Motion in part and ordered the Prosecutor to add details relating to the times and places of the facts characterized, the role of the accused and the type of responsibility alleged, pursuant to the criteria set down by Article 18(4) of the Statute and Sub-rule 47(B) of the Rules of Procedure and Evidence (hereinafter "the Rules"). Following a fresh Defence motion, the Trial Chamber deemed that some of the amendments to the indictment did not comply with its previous Decision.¹¹ The Prosecutor ultimately withdrew count 2 of the indictment.¹²

1. *The general context and form of responsibility incurred*

7. The indictment of 25 April 1997 (hereinafter "the indictment") contains twenty counts including six grave breaches of the Geneva Conventions (counts 5, 8, 11, 15, 17 and 19), eleven violations of the laws or customs of war (counts 2, 3, 4, 6, 9, 12, 13, 14, 16, 18 and 20)¹³

⁸ Motion to dismiss counts 4, 7, 10, 14, 16 and 18 based on failure to adequately plead existence of international armed conflict, Case no IT-95-14-PT, 16 December 1996.

⁹ Decision to reject a motion of the Defence to dismiss counts 4, 7, 10, 14, 16 and 18 based on failure to adequately plead existence of international armed conflict, Case no IT-95-14-PT, 4 April 1997.

¹⁰ Decision on the Defence motion to dismiss the indictment based upon defects in the form thereof (vagueness/lack of adequate notice of charges), Case no IT-95-14-PT, 4 April 1997.

¹¹ Decision on the Defence request for enforcement of an Order of the Trial Chamber, Case no IT-95-14-PT, 23 May 1997.

¹² Summary of the Prosecutor's Final Brief, 22 July 1999 (filed on 30 July 1999) (hereinafter "Prosecutor's Brief"), paragraph (hereinafter "para.:" 8.2, p. 59.

¹³ For counts 6, 9, 16, 18 and 20, the Prosecutor specifies Article 3 common to the Geneva Conventions of 12 August 1949 (hereinafter "the Geneva Conventions") for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (hereinafter "the First Convention"), for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at sea (hereinafter "the Second Convention"), Relative to the Treatment of Prisoners of War (hereinafter "the Third Convention") and relative to the Protection of Civilian Persons in Time of War (hereinafter "the Fourth Convention"); in addition, for counts 3 and 4, the Prosecutor refers to Articles 51(2) and 52(1) respectively of Protocol I of 8 June 1977 Additional to the Geneva Conventions of 1949 Relating to the Protection of Victims in International Armed Conflicts (hereinafter "Protocol I").