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ANALYSIS OF MOSLEM COLUMN LOSSES DUE TO MINEFIELDS AND COMBAT ACTIVITY

I. The issue

One of the fundamental issues in the controversy surrounding the Srebrenica operation in July of 1995 is the number of Moslem casualties during the critical period, which is usually defined as the week after Serbian forces took over Srebrenica on July 11, 1995. A subsidiary issue is whether these casualties were precipitated by one or more legally distinct causes. Were they caused in substantial part by combat activity, by wanton execution in contravention of the laws and customs of war, or by the intent to commit genocide? Whatever the ultimate number of those casualties may be, can all of them be attributed to execution, which in this case the prosecution of the International Criminal Tribunal for the Former Yugoslavia has chosen to classify as a genocidal act? Or are some, or even a significant portion, of Moslem casualties due to other causes and, therefore, in the legal sense should be classified differently?

It is not the purpose of this analysis to try to establish how many inhabitants of the former Srebrenica enclave perished as a result of execution, nor is it to take a position, whatever that number may be, on whether it meets the legal standard for genocide or not.

The purpose of this presentation is to determine the following, based on available Moslem, Serb, and UN and other competent sources:

[a] whether there was combat activity involving significant segments of the enclave population which could have been the cause of substantial casualties on the Moslem side?;[1]

[b] whether there were minefields laid along the path of the Moslem column’s breakthrough from Srebrenica to Tuzla which could also have caused substantial casualties?;

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[1] In the opinion of prosecution military expert Richard Butler, “I would think that from my knowledge of the situation, that that number [casualties from legitimate military engagements referred to — SK] would be high for any particular combat engagements,” Popović et al., Transcript, January 23, 2008, p. 20250, lines 23–25.

[c] whether according to credible non-Serb and non-Moslem sources the column might have suffered significant legitimate casualties during its retreat which cannot be subsumed under the rubric of genocidal or any other executions?; and

[d] based on available data, can a reliable estimate be made of the likely total of these legitimate Moslem casualties?

II. The legal status of the Moslem column

Setting aside the complex legal questions surrounding the executions of captured prisoners, and the proper classification of such executions under international law, whether it should be considered genocide or placed in some other category, we focus on the 28th Division column. Starting around midnight on July 11, 1995, that column attempted to perform a breakthrough maneuver from the Srebrenica enclave to the Moslem controlled zone in Tuzla.

It is a settled principle of international law that a mixed military/civilian group or column is a legitimate target.

Analysis of the following statements subsequently given by members of that column confirms the column's mixed military/civilian nature:[2]

Mehanović Hašmir, EDS location of witness statement: 00371774
Hasanović Sead, EDS location of witness statement: 03021141
Avdić Enver, EDS location of witness statement: 00371746
Salihović Selvid, EDS location of witness statement: 00371738
Orić Meho, EDS location of witness statement: 01008156
Muminović Sejdalija, EDS location of witness statement: 00371757
Alić Hasan, EDS location of witness statement: 00371752
Salčinović Sadik, EDS location of witness statement: 02112340
Husić Ramiz, EDS location of witness statement: 00813498

Additional support for the proposition that the column was mixed, military/civilian, is provided by prosecution military expert Richard Butler. In par. 3.21 of his *Report* dated November 1, 2002, ERN number 03072366, Butler states the view that "depending on the source, 10,000 to 15,000 persons formed a mixed [military and civilian] column…" which sought escape following the Srebrenica-Tuzla route.[3]

It may therefore safely be concluded that the column retreating through the woods from Srebrenica to Tuzla was mixed, military and civilian, and that therefore must be considered a legitimate target.

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[2] Number references are to EDS [Electronic Disclosure System], ICTY document data base.

[3] Butler admitted specifically the mixed nature of the column and its character as a legitimate target in his testimony in Popović, Transcript, p. 20244, lines 19–25 and 20245, line 1.

III. Legitimate combat engagements involving the column

The proposition that there were combat engagements in the course of which a significant number of Srebrenica Moslems perished receives support also from the prosecutor's chief investigator, Jean-Rene Ruez.

In an interview published in the Montenegrin newspaper *Monitor*[4], Ruez states the following:

> "A significant number [of Moslems] were killed in combat. The Zvornik brigade of the VRS Drina Corps had organized ambushes and that is when it had the most casualties during the entire war. Many were killed while trying to make it through minefields. An unknown number probably committed suicide in fear that they would be tortured before being put to death. It cannot be excluded that some had shot those who may have wanted to surrender."

Ruez then adds significantly the following thought:

> "We shall rely on the number of the people who were executed directly, who were prisoners. They were prisoners, end of story."

It is debatable whether Ruez and the prosecution ultimately stuck to this plan. The reason they may not have is that consistent reliance on that approach from their point of view probably would not have yielded a satisfactory number of dead bodies.

Further on in the same interview, Ruez makes two very significant statements:

[1] "As for those who perished in the woods, we are compelled to figure that they were killed in battle."[5]

[2] "For the main part, we believe the witness' accounts…"[6]

If these two statements by Ruez are accepted, that [1] those who perished in the woods were killed in battle, and that [2] the column was mixed, then certain conclusions follow. The main one is that the column's losses must be set apart and must not be conflated with those who were, in Ruez's own terms, "executed directly, who were prisoners." Casualties associated with the column's retreat must therefore be deducted from the total of those who were massacred or murdered in a genocidal frenzy.

It is also useful to know that Ruez, and by implication the prosecution, place credence in the accounts of witnesses because we shall have quite a few of them to offer to shed light on the nature and extent of these combat-related casualties.

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[4] *Monitor*, April 19, 2001; ERN number 06038344

[5] Ibid.

[6] Ibid.

IV. Locations of combat engagements with the column

Ruez's admission, undoubtedly supported by brigade records and statements of witnesses that were at his disposal, that the Zvornik brigade suffered its greatest number of casualties throughout the war in that four day period while engaging the retreating Moslem Srebrenica column in combat is also highly significant.

To focus on the most obvious conclusions:

First, the column proceeding from the "demilitarized zone" must have been respectably armed in order to inflict such casualties on the Serbian forces trying to engage it.

Second, for the Serbian side to have suffered such significant casualties, the fighting must have been rather fierce. If so, logically that must also have resulted in at least proportionate casualties on the Moslem side.

The next question must therefore be: at what points did those combat engagements take place? That question is put in vain to the prosecution military expert Richard Butler, as evidenced by his response in the trial of *Popović et al*. on January 23, 2008:[7]

> *Q. With respect to your analysis, did you analyse at any time how many military combat engagements were there with respect to the column of Bosnian Muslims that were leaving Srebrenica and Potocari from Susnjari and the VRS?*
>
> A. *No, sir. I never engaged in a process to do a step-by-step accounting of each particular engagement of the column.*

We are fortunately in a position to help Mr. Butler.[8] We have reviewed 33 Moslem witness statements [whose accounts, according to Mr. Ruez above, are to be believed]. They are Srebrenica column members who had made it to Tuzla or other points of safety, and according to them combat engagements with the Serbian side took place during their withdrawal at the following locations:

Konjević Polje	Kaldrmica
Sandići	Udrč-Baljkovica road
Jadar area	Snagovo
Buljin	Jaglić
Forest near Buljin	Crni Vrh
Baljkovica	Cerska
Lipanj	Šiljkovic village
Sućeska	Pervani village
Kravica	Velja Glava

[7] Popović et al., Transcript, January 23, 2008, at p. 20243

[8] Popović et al., Transcript, January 23, 2008, p. 20244, lines 7–18.

V. Combat activity along the path of retreat

According to statements given by column survivors to various authorities upon reaching the Moslem controlled zone, there was constant combat along the column's path from the Srebrenica enclave practically all the way to Tuzla.

It should be noted that based on our research of EDS materials, we were able to locate only 33 statements bearing on this issue. It is reasonable to assume that there must be hundreds more in various archives. Debriefing is standard operating procedure under these circumstances. Several thousand members of the column had made it to Moslem controlled territory and it is safe to assume that very many, if not most, of them—but certainly more than 33 — were interviewed by various authorities and gave them statements on what they had observed.

In addition, we have reason to believe that at least 7 similar statements, describing observations along the retreat route, are in the files of Human Rights Watch.[9] A request has been sent to Human Rights Watch to provide these statements, but they have not responded.

But even the relatively scant data base of 33 witnesses offers a dramatic picture of fierce combat and severe human casualties all along the column's withdrawal route.

ENGAGEMENT SITES AND ESTIMATED CASUALTIES

Kamenica

Ademović Ševal: 200–250
Alić Hasan: 7 dead, 7 gravely wounded
Dedic Sulejman: great number of dead and wounded
Hasanović Sead: "many" bodies observed, at least 100 near the brook
Jusufović Azmir: 300 killed, 100 wounded
Kovačević Sadik: about 200 casualties
Memišević Nurif: 2000–3000 dead
Muminović Behudin: 6 corpses
Muratović Kadrija: "thousands" of dead
Osmanović Ramo: several hundred killed and 300–400 wounded
Ramić Sado: about 1000 casualties
Salkić Abdulah: several hundred casualties

Konjevic Polje

Ademović Bekit: "many bodies"

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[9] [1] Ekrem Salihović, Tuzla, July 24, 1996
[2] Mensur Memić, Tuzla, July 24, 1996
[3] Ramiz Masić, Tuzla, July 3, 1996
[4] Senad Grabovica, Tuzla, July 24, 1996
[5] Muhamed Matkić, Gornja Tuzla, July 19, 1996
[6] Dr. Ilijaz Pilav, Vogošća, July 24, 1996
[7] Ramiz Bećirović, Živinice, July 1996

Alić Melvid: many dead and wounded along road to Baljkovica
Smajlović Muhamed: estimated 500–1000 killed

Lipanj

Hasanović Sead: "many dead bodies"

Sandici

Muminović Behudin: saw mass burial of about 500 bodies
Smajlović Muhamed: estimated 200 dead
Zukanović Bego: saw 5 die; later "several" killed

Jadar area

Jusufović Azmir: some killed, no estimate

Buljin

Avdić Enver: 1000 casualties
Kovačević Sadik: 30 casualties
Mehanović Hasmir: about 100 killed
Memišević Nurif: many skeletons and parts of bodies
Osmanović Nazif: 100 dead and many wounded
Ramić Sado: 50 casualties
Smajlović Muhamed: 30 killed, 45 injured

Forest near Buljin

Mehanović Hasmir: 20 dead males

Susnjar area

Mustafić Husejn: "hundreds of casualties"

Baljkovica

Dedić Sulejman: corpses and unpleasant odor
Hakić Nermin: saw men getting killed, no estimate
Mehanović Hasmir: 5 dead soldiers and civilians
Mustafić Husejn: 5 dead
Salkić Abdulah: on route from Kamenica, several hundred corpses
Smajlović Muhamed: many black and swollen corpses

Suceska

Alic Melvid: pounded by artillery, no casualty estimate

Kravica

Ademović Ševal: "many dead and wounded"
Husić Ramiz: 12 suicides
Kadrić Midhat: "great number of killed"
Memišević Nurif: "many people" killed and maimed in artillery shelling

Mustafić Husejn: “many dead and dismembered corpses”
Orić Fadil: “several hundred” casualties

Kaldrmica

Halilović Suljo: 1000 dead and several hundred wounded

Udrc-Baljkovica road

Salihović Selvid: “several hundred corpses”

Crni Vrh

Hakić Nermin: observed men getting killed all long route from Srebrenica

Snagovo

Ademović Ševal: dead bodies and many wounded
Dedić Sulejman: great number of dead giving off unpleasant odor
Jusupović Šefik: 18 killed
Osmanović Nazif: “many dead and wounded”

Jaglic

Halilović Osman: heard of many dead and wounded
Muratović Kadrija: 3 dead and many wounded

Siljkovic village

Halilović Osman: heard there were 30 dead, 42 wounded

Pervani village

Memišević Nurif: 6 dead

Velja Glava

Ramić Sado: 20 dead

Lolici Road

Memisević Nurif: 200 dead

Cerska

Avdić Enver: about 100

Unidentified location[s]

Alić Hasan: about 1000 casualties 8 km from Kamenica
Efendić Mensur: Observed dozens of corpses all along the route
Halilović Osman: Observed 30–40 corpses and 20 suicides
Husić Ramiz: 44 bodies, 10 wounded
Jusupović Šefik: “hundreds of dead Muslims” in the woods
Kovačević Sadik: about 300
Kadrić Midhat: about 500 killed

Muratović Kadrija: dead and dismembered bodies in the woods
Orić Meho: 70 dead
Salčinović Sadik: 6 dead
Vejzović Gadafi: "hundreds of dead bodies" in the woods
Muminović Sejdalija: 5 dead at one point and "considerable number" of casualties and wounded at another

A summary assessment of these casualties will be made at the end. Obviously, these observations and estimates have to be treated with great caution and they should not be invested with a degree of precision which they cannot possibly claim. But they project a powerful impression of frequent clashes and enormous human losses generated by those clashes. Those loses must be accorded a distinct legal character and they must have their separate place in the casualty ledger.

VI. The presence of minefields in the column's path

In our primary information source about the column and the losses it faced, the 33 statements given by survivors, we find references to the presence of minefields and to the casualties those mines inflicted. The following Moslem witnesses specifically mention minefields:

Hasanović Sead: expressed fear of landmines;
Jusufović Azmir: passage to Moslem side had to be demined
Efendić Mensur
Memićević Nurif
Husić Ramiz: crossed a minefield with a large group

In fact, the column's retreat route was so strewn with minefields, that according to prosecution military expert Richard Butler the retrieval of the remains of those who were killed by the mines in the remoter areas was hampered "because of the ordinance and mine threat."[10]

In addition to the statements of the column survivors, there is also an apparent log entry of a staff member of the 28th division which makes a reference to the presence of mines. It states:

"The column set off from Jaglic and Vejz went through a minefield at Buljina, clearly marking it with cloths and items of clothing. Vejz led the column and we all went to Udrc. The division staff, president of the municipality Osman SULJIC and Ejub GALIC, and I were at the back."[11]

Serb sources also extensively refer to the presence of minefields. The following is an overview:

[1] In a direct echo to the Moslem report above, a July 13, 1995, report to the command of Drina Corps states:

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[10] Popović et al., Transcript, p. 20252, lines 17–20 and 24–25 and 20253, line 1.

[11] ERN number 0308–3682.

"On 12 July of this year, at 1945 hours, a radio network of elements of the 28th Muslim Division was activated; during the morning, at around 0500 hours, these elements came across our minefield in the sector of /?Ravni Buljim/ at the juncture between the Milic and Bratunac Brigades."[12]

[2] In the same vein, the presence of minefields is marked on the Bratunac Brigade minefield map which was presented as a prosecution exhibit in the Blagojevic case.[13]

[3] While the Bratunac Brigade minefield map deals with the location of mines the Moslem column had to cross during the first phase of its trek, there is also evidence that the danger from mines was unabated as it reached the zone of responsibility of the Zvornik Brigade, further to the north.[14] The fact that there were minefields in the Zvornik Brigade zone that the column had to face was confirmed by Brano Djuric, a member of the Zvornik Brigade engineering battalion. He also claims to have made sketches of the minefields' locations.[15] According to Djuric, there were even Serb casualties as a result of the broad distribution of these mines.

[4] The fact that Zvornik Brigade possessed a supply of mines is documented.[16]

[5] A log kept by military police commander Ljubisa Borovcanin shows that the enclave's approaches were mined and that a path had to be cleared to allow access to Serb motorized forces:
"Between 0500 and 0630 hours, the pioneers of the Bratunac Brigade, led by Captain GAVRIC, cleared a passage through a mine-field or groups of mines towards Budak or immediately around the Zuti Most--Potocari road. Members of the 1st Company of the Zvornik Special Police Unit, led by a pioneer from the Bratunac Brigade, set off through the cleared passages towards Potocari to create the conditions for the introduction of hardware. As personnel were being introduced, a sapper stepped on a PROM /anti-personnel bouncing fragmentation mine/–1. He was taken to the Bratunac Health Centre, where he died. In a way, this incident slowed down the advance."[17]

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[12] ERN number 0308–3838.

[13] Blagojevic and Jokic, OPT exhibit 617.

[14] It is important to document the presence of mines in the Zvornik Brigade area because under cross-examination prosecution military expert Richard Butler stuck to the view that "we were able to conclude, particularly with respect to Zvornik, that the individuals that were coming out of these particular mass graves and the associated secondaries…were not meeting the characteristics of combat casualties, in fact they were meeting the characteristics of victims from crime scenes," Popović et al., Transcript, p. 20250, lines 6–10.

[15] Blagojevic and Jokic, 15 July 2004, Transcript, p. 11,963–11,979.

[16] ERN number 0084–6748.

[17] ERN number 0308–2252.

Again, it is noted that the mines were so numerous that they even caused a Serbian casualty.

[6] Bratunac Brigade security and intelligence officer Momir Nikolic reports that he was informed of the Moslem column's movement "through minefields across combat lines in the direction of Konjevic Polje."[18] It should be noted that Nikolic is a prosecution witness and that the "Statement of facts" where this assertion is made was written by him most likely in cooperation with the Office of the Prosecutor.

[7] There is also a Zvornik Brigade report dated July 8, 1995, on "minefield maintenance…in progress," which logically implies the existence of minefields in the brigade's zone of responsibility.[19]

[8] The fact that the Srebrenica enclave was surrounded by minefields is confirmed by Radenko Ubiparipović in the course of U.S. Immigration Court removal proceedings, where he stated that: "There were mines surrounding the entire safe area. Both sides laid mines."[20]

[9] The abundance of mines and minefields is confirmed also by prosecution witness DP–105 at the Blagojević trial. He said that there were "many minefields,"[21] that some of the minefields in the area had been laid during earlier battles,[22] and that minefields were present in the Konjević Polje area,[23] which may be significant because of the mass crossing of the Konjević Polje road and the enormous casualties which it produced.

Again, this Serb witness notes that even Serb forces, which had laid the mines, had to move slowly in their deployment to engage the Moslem column because "the terrain we had to cross was very inaccessible, and there were the minefields."[24] He also said, astonishingly, that "this area contained minefields that we did not know the location of, and that is what put a restriction on our movement along certain roads, like village roads and things like that."[25]

[10] Col. Nedeljko Trkulja, in his ICTY interview, stated that after the decision was made to create a corridor for the passage of the Moslem column on July 16, 1995, a path had to be cleared for it through the minefields.[26]

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[18] ERN number R042–7397.

[19] ERN number 0081–1224.

[20] U.S. Immigration Court removal proceedings, In matter of Radenko Ubiparipovic, File A 75 067 541, p. 132.

[21] Blagojevic and Jokic, 3 June 2004, Transcript, p. 10,265

[22] Ibid., p. 10,264.

[23] Ibid., p. 10,222.

[24] Ibid., 1 June 2004, p. 10,075

[25] Ibid., 1 June 2004, p, 10,082

[26] ICTY Interview with Nedeljko Trkulja, 28 September 2005, p. 10.

[11] Zoran Jovanović, also affirms in relation to the enclave perimeter, that "In front of the defense line, there were minefields. And it would take a lot of time to clear the minefields, to remove the mines, to enable them to go through. We had to remove the mines in at least one section of that field to let the troops past."[27] The reference is to Serb troops advancing toward Srebrenica, but obviously the same principle also operates in reverse.

Further on, he refers to the presence of "minefields everywhere, both in front of our defense lines and in front of the enemy's defense line…nobody dared to do a proper search of the terrain."[28]

To summarize, it would appear indisputable that minefields were located in the path of the retreating column. There is evidence from a variety of sources that the column came into contact with minefields and that some of its casualties were inflicted by mines. There is also evidence that mines were so abundantly and widely dispersed that even Serb forces, which had laid them, were obliged to exercise extreme caution, and indeed had suffered casualties from what probably were their own mines.

VII. Reports of casualties suffered by the retreating Moslem column

After presenting evidence that the Moslem column retreating from Srebrenica was engaged in combat, that it had to cross numerous minefields, and that it admittedly had suffered considerable casualties, it becomes appropriate to review the opinions of some contemporary and expert observers concerning the extent of those casualties.

1. The most contemporary authoritative source available on this subject is the report written by a UN official in Tuzla, Edward Joseph, on July 17, 1995, and directed to Michel Moussalli at the UNPROFOR office in Tuzla. Joseph refers in his report to the arrival of "Srebrenica men" in Tuzla and comments that "5 to 6 thousand crossed into BiH 2 Corps controlled- territory in the southern Sapna area last night (16 July)." He then continues: "Up to three thousand were killed on the way, mostly by mines and BSA engagements. Unknown others were captured. Some committed suicide. Unknown others went to Zepa."[29]
2. In the evidence he gave in the Popović trial, prosecution military expert Richard Butler claimed that he had not made an analysis of BH military casualties.[30] He denied specifically having studied the question of casualties that may have been suffered by the column as a result

[27] Blagojevic and Jokic, 25 May 2004, p. 9868.

[28] Ibid., p. 9869.

[29] ERN number R043–3424.

[30] Popović et al., Transcript p. 20248, lines 24–25, p. 20249, lines 1–2.

of landmines.[31] He also denied having made any accounting of the military engagements which could have given rise to casualties on the Moslem side.[32] Under cross examination, he did concede the mixed character of the column and its status as a legitimate target.[33] Butler conceded also based on his "knowledge of the situation, that the number [of casualties] would be high for any particular combat engagement."[34] Pressed to offer his own reasonable estimate of column losses, given those combat engagements, Butler responded that "I am not aware of any specific number, but that particular number of 1000 to 2000 sounds reasonable, given the context of the combat that I am aware of."[35] He confined this casualty estimate to the period of 12 to 18 July, 1995.[36]

3. Additional estimates are to be found in the "UNMO HQ Daily Sitrep," dated July 18, 1995.[37] It was prepared by a certain Captain Hassan. It is apparently a BH wide situation report, summarizing reports from UNPROFOR observers located in different areas of the country. On p. 19, under the heading of "Other significant/relevant information," reports from the Srebrenica area are summarized. It is stated that on 10–11 July between 12,000 and 15,000 men had left the enclave, of whom about 3,000 were armed. It is estimated that 3,000 "are believed to have been killed by minefields, snipers, and ambush conflict with BSA." A specific BSA ambush in Konjević Polje is referred to. A comment is added that these figures are likely to be exaggerated in relation to those leaving and who were armed and that the numbers should be divided by ten. No explanation is given for this recommendation to drastically reduce the figures which apparently were gleaned from interviews with column survivors, and there is no particular reason to follow it in this case.

Just as in the case of reports by direct participants in the march from Srebrenica to Tuzla, great caution should be exercised in relation to the numbers offered by foreign observers and experts. But even their estimates of the column's casualties range from 1000 to 3000. Even if the lower or a median figure were accepted, that would still constitute a sizeable portion of the human losses suffered by the Moslem side during the relevant period. That figure would necessarily have to be deducted from the Srebrenica total of those claimed to have been executed contrary to the laws and practice of war.

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[31] Ibid., p. 20248, lines 1–5.

[32] Ibid., p. 20243, lines 17–22.

[33] Ibid., p. 20244, lines 22–25 and 20245, line 1.

[34] Ibid., p. 20250, lines 23–25.

[35] Ibid., p. 20251, lines 6–8.

[36] Ibid., p. 20251, lines 12–14.

[37] ERN number R003–8723.

APPENDIX:

JULY 95 SREBRENICA MOSLEM WITNESS STATEMENTS (0046–4515[39])

[Reports of legitimate Moslem column losses]

Jasarevic, Fehim #92

12/7/95: Kamenica, evening; Serbs opened fire, estimates about 5000 were killed

Jusufovic, Azim #93

13/7/95: Kamenica, saw about 300 killed in Serb shelling

Muhic, Azem # 97

12/7/95: about 3500 dead as a result of Serb shelling in Kamenica area

Mustafic, Idriz #100

12/7/95: at 0900 hrs Serbs attack at Buljim, saw 60–80 bodies
13/7/95: after 10,000 strong column arrived in Konjevic Polje [counted before and after crossing road] column crossed river [name unknown] in which "many drowned" because crossing was at night

Ridzic, Ramo #101

11/7/95: First column of 1000, many of whom were armed, ambushed in Buljim-Nova Casaba area and as a result of Serb attack about 700 were killed

Salihovic, Jusuf #102

Around 13/7/95: near Baljkovica saw about 100 bodies, another 50 in a brook

Salihovic, Safedin #103

11 or 12/7/95: while column was crossing Konjevic Polje road at least 500–600 were killed

Sinanovic, Sabrija #106

No date: at Baljkovica, about 100 were killed and 100 wounded in shelling

Stocevic, Mirza #109

11 or 12/7/95: At Buljin, Moslem column attacked, witness was at head of the column and did not see how many but was told by others "victims were in the hundreds"

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[38] The ERN number refers to the document reference code used in ICTY's EDS [Electronic Disclosure System] data base.

Suljic, Mevludin #110

12/7/95: Konjevic Polje road ambush–400–500 killed

Orlovic, Sahin #129

12/7/95: Siljkovici—Kamenica Serb attack: "many dead"
13/7/95: Saw "hundreds dead and wounded" near Siljkovac river

Basic, Adem #67

12/7/95: near Kamenica, in a Serb ambush "hundreds were killed" and still more wounded; about 2 hrs later, as a result of Serb shelling approximately 100 were killed; later in Kamenica area came across about 1500 dead

Basic, Husejn #68

13/7/95: ambushed by Serbs, about 1000 killed that day

Cosic, Muharem #72

13/7/95: ambushed at Jadar, 500–600 killed
14/7/95: in ambush at Baljkovica, 150 killed

Dautovic, Osmo #74

No dates: at Buljim, "hundreds" killed in ambush

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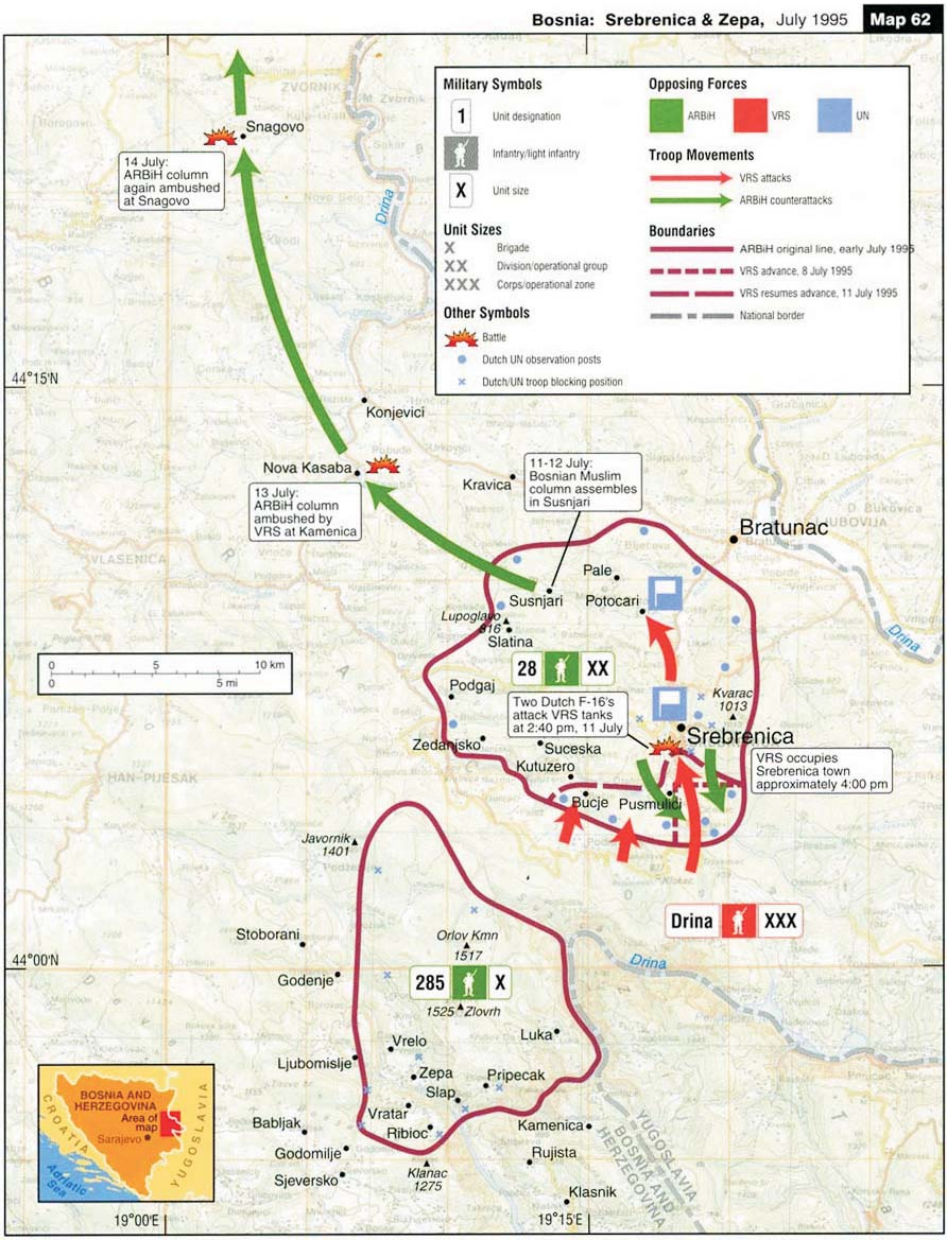
On July 12, 1995, a day after Serbian forces took over Srebrenica, a mixed military/civilian column estimated at about 12,000 to 15,000 left on foot the territory of the enclave in an attempted breakout through mountainous terrain to reach Moslem-controlled territory in Tuzla, about 60 km. to the northeast. Along the way, the column had several military engagements with Serbian forces and it suffered severe casualties. Based on statements by column survivors who were able to reach Tuzla, the extent of the losses inflicted on the column—due mainly to minefields, fighting between different factions within the column, and ambushes set by Serbian forces—is reconstructed. Statements about column losses by international observers in the area who had insight into the local situation are also presented. It is concluded that while no exact figures are possible, column losses were substantial and were in the thousands. Under international law, combat losses suffered by a mixed military/civilian column are legitimate, yet these casualties are implicitly conflated with estimates of Srebrenica execution victims. Due weight must be given to this major source of casualties on the Moslem side, which cannot be qualified as constituting either a massacre or genocide.



Map showing the main directions of VRS attack on Srebrenica enclave and 28th Division mixed military/civilian column withdrawal toward Tuzla in July of 1995.

Превод

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АНАЛИЗА ГУБИТАКА МУСЛИМАНСКЕ КОЛОНЕ 28. ДИВИЦИЈЕ НА МИНСКИМ ПОЉИМА И У БОРБЕНИМ ДЕЈСТВИМА

I. Основна питања

Једно од основних питања које се овде третира односи се на губитке муслиманске колоне која се из сребреничке енклаве, преко планинског терена, повлачила према Тузли током критичног периода, између 12. и 16. јула 1995 године. Узгредно питање односи се на то постоји ли један или више посебних узрока, у правном смислу те речи, за такве губитке. Могу ли се сви ти губици подвести под појам погубљења, како се то жели приказати у настојању да се корист од сребреничког масакра пропагандно максимизира. Или је бар један део тих губитака био проузрокован другим чиниоцима, који носе различит правни карактер, па се самим тим у укупном сагледавању људске трагедије у Сребреници тај део мора другачије и третирати?

Наш циљ овде није да установимо колико је бивших становника сребреничке енклаве било погубљено или да заузмемо став о томе да ли начин како су заробљеници били усмрћени задовољава дефиницију геноцида или не.

Користећи расположиве муслиманске, српске, УН и друге компетентне изворе, настојаћемо да утврдимо следеће:

(а) да ли је било довољно значајних борбених дејстава у којима су учествовали Сребреничани који су се повлачили из енклаве, а која су могла проузроковати знатне људске губитке на муслиманској страни;[1]

(б) поред ове врсте губитака, да ли је колона успут наилазила на минска поља, која су такође могла бити узрок многобројних губитака;

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[1] По мишљењу Ричарда Батлера, војног вештака Хашког тужилаштва, „На темељу мога познавања ситуације, рекао бих да би те цифре [односи се на губитке настале у оквиру легитимних војних операција — С. К.] морале бити високе за било какву врсту борбених дејстава.” Popović et al., Transcript, 23. јануар 2008, с. 20250, редови 23–25.

(в) према веродостојним несрпским и немуслиманским изворима, да ли је колона могла претрпети знатне легитимне губитке који се не би могли сврстати у геноцидне или друге врсте егзекуције? и

(г) на основу расположивих података, колико би ти легитимни муслимански губици могли износити.

II. Правни статус муслиманске колоне

Остављамо сасвим по страни сложена правна и чињеничка питања која су везана за погубљене ратне заробљенике и усредсредићемо се искључиво на колону која је 11. јула 1995. године касно навече пошла у пробој из енклаве према Тузли.

Полазимо од тезе да је опште прихваћено правило међународног права да мешана војно/цивилна колона представља дозвољени циљ.

Анализа изјава које су накнадно дали преживели припадници колоне, доказује мешану војно-цивилну природу те колоне:

Хасмир Механовић, изјава 00371774;[2]
Сеад Хасановић, изјава 03021141;
Енвер Авдић, изјава 00371746;
Селвид Салиховић, изјава 00371738;
Мехо Орић, изјава 01008156;
Сејдалија Муминовић, изјава 00371757;
Хасан Алић, изјава 00371757;
Садик Салчиновић, изјава 02112340;
Рамиз Хусић, изјава 00813498.

Додатну подршку тези да је колона била мешана пружа и војни вештак Тужилаштва МКТБЈ, Ричард Батлер (Richard Butler). У пар. 3.21 свог стручног налаза од 1. новембра 2002. Батлер каже да је „10.000 до 15.000 људи формирало мешану (војно-цивилну) колону“ која се упутила према Тузли.[3]

На основу свега тога, могуће је извући закључак да је колона, која се повлачила из Сребренице према Тузли, била мешана, да се састојала из војних лица и цивила, и да је самим тим по међународном праву она представљала легитимну мету.

III. Легитимна борбена дејства у којима је колона учествовала

Тезу да су се одвијала борбена дејства током којих је знатан број сребреничких Муслимана погинуо, потврђује главни истражитељ Хашког тужилаштва Жан-Рене Руиз (Jean-Rene Ruiz).

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[2] Овде и даље број се односи на ознаку под којом је документат заведен у бази података Тужилаштва трибунала у Хагу.

[3] Батлер је у свом сведочењу у предмету Поповић децидно признао мешани војно-цивилни састав колоне и њен статус као легитимни војни циљ: Transcript, с. 20244 редови 19–25 и с. 20245, ред 1.

У интервјуу који је објављен у црногорском листу *Монитор*,[4] Руез каже следеће:

> „Значајан број (Муслимана) били су убијени у борбама. Зворничка бригада је организовала заседе и тада је имала највећи број губитака током целог рата. Многи су погинули док су пролазили кроз минска поља. Непознати број вероватно су извршили самоубиство…не искључујем да су неки пуцали у оне који су желели да се предају.“

Руез затим артикулише следећи план за даљи рад Тужилаштва:

> „Ми ћемо радити на основу броја лица који су били непосредно погубљени, који су били заробљеници. Они су били заробљеници, и то је крај приче.“

Могло би се спорити о томе да ли су се Руез и Тужилаштво доследно држали најављене намере да се у свом раду ослањају искључиво на број непосредно погубљених заробљеника. Могуће је да им таква, строго принципијелна, методологија не би дала неопходни број лешева. Како год, мало даље, у истом интервјуу, Руез признаје:

(1) „Што се тиче оних, који су изгинули у шуми, ми морамо сматрати да су они били убијени у борби.“ Та констатација је потпуно фер.[5]
(2) „Највећим делом, ми исказима сведока верујемо…“ То је лепо чути, зато што се ово истраживање управо на исказима сведока и темељи.[6]

Ако усвојимо Руезову тезу да су сви они који су „изгинули у шуми“ били убијени у борбама, и ако прихватимо Батлерову тезу да је колона била мешана, из тога следи један значајан закључак. Ти губици морају се третирати у правном смислу другачије од оних који су (по Руезовим речима) били „непосредно погубљени, који су били заробљеници“. То значи да се губици током повлачења колоне морају одузети од броја оних за које се нагађа да су били побијени у масакру или у изливу геноцидног беса.

Корисно је знати да се Руез и Тужилаштво МКТБЈ, у чије име он говори, слажу да су изјаве сведока у целини веродостојне. Ми ћемо се зато ослонити на велики број таквих изјава да бисмо осветлили праву природу људских губитака о којима је овде реч.

IV. Места борбених судара са колоном

Руезово признање да је Зворничка бригада у том четвородневном периоду борби са муслиманском колоном претрпела више губитака него икад до тада у рату, само по себи много говори.

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[4] *Monitor*, 19 април, 2001.

[5] Ibid.

[6] Ibid.

У најмању руку, потврђује следеће закључке.

Прво, колона која се кретала из „демилитаризоване зоне“ према Тузли мора да је била врло солидно наоружана ако је могла нанети такве губитке српским снагама, које су је пресретале.

Друго, да би српске снаге могле претрпети тако значајне губитке, борбе су морале бити врло огорчене и у њима су, то је логично претпоставити, сразмерне губитке морали претрпети и на муслиманској страни.

Следеће питање, према томе, требало би да гласи: где су се одвијали ти борбени контакти? То питање узалуд је било постављено војном вештаку Тужилаштва МКТБЈ, Ричарду Батлеру, када је он 23. јануара 2008. сведочио на суђењу Поповићу и осталима:[7]

Питање: Везано за вашу анализу, да ли сте икада проанализирали колико је могло бити борбених конатката између колоне босанских Муслимана, која се кретала из Сребренице, Поточара и Шушњара и ВРС?

Одговор: Не, господине. Никада се нисам бавио разматрањем појединачних контаката са колоном.

Ми смо се, срећом, тим питањем бавили и у могућности смо да помогнемо г. Батлеру.[8] На основу прегледа 33 изјаве припадника колоне који су се успешно повукли из Сребренице према Тузли, утврђује се да су се током повлачења догодили борбени контакти између колоне и српских снага најмање на следећим местима:

Каменица	Кравица
Коњевић Поље	Калдрмица
Сандићи	Удрч—Бољковица (цеста)
Околина Јадра	Снагово
Буљин	Јаглић
Шума око Буљина	Црни врх
Бољковица	Церска
Липањ	Шиљковићи (село)
Суђеска	Первани (село)
Вељa глава	

V. Борбена дејства дуж путање повлачења

Према изјавама учесника у повлачењу, борби је било целим путем од Сребренице па све до зоне под муслиманском контролом близу Тузле. На основу проучавања изјава преживелих, успели смо да издвојимо 33 изјаве које се односе директно на ово питање. Међутим, могло би се претпоставити да таквих у разним архивама има много више зато што су информативни разговори ове врсте након догађаја стандардна пракса у свим контраобавештајним поступцима.

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[7] Popović et al., Transcript, 23 јануар, 2008, на с. 20243.

[8] Popović et al., Transcript, 23 јануар, 2008, с. 20244, редови 7–18.

Верујемо да организација Human Rights Watch поседује бар седам сличних изјава, али они се до сада нису одазвали нашим захтевима да нам их доставе.[9]

Али чак и овако сужена база података од 33 изјаве пружа врло драматичну слику огорчених борби и тешких људских губитака целом путањом повлачења муслиманске колоне.

Каменица

Шевал Адемовић: 200–250
Хасан Алић: седам мртвих, седам озбиљно рањених
Сулејман Дедић: велики број мртвих и рањених
Сеад Хасановић: „пуно“ виђених лешева, најмање 100 поред потока
Азмир Јусуфовић: 300 убијено, 100 рањено
Садик Ковачевић: око 200 убијених
Нуриф Мемишевић: 2.000–3.000 мртвих
Бехудин Муминовић: шест лешева
Кадрија Муратовић: „хиљаде“ мртвих
Рамо Османовић: неколико стотина убијених и 300–400 рањених
Садо Рамић: око 1.000 мртвих
Абдулах Салкић: неколико стотина мртвих

Коњевић Поље

Бекит Адемовић: „много тела“
Мелвид Алић: много мртвих и рањених дуж пута за Бањковицу
Мухамед Смајловић: процењује 500–1.000 мртвих

Липањ

Сеад Хасановић: „много лешева“

Сандићи

Бехудин Муминовић: видео масовно укапање око 500 лешева
Мухамед Смајловић: процењује 200 мртвих
Бего Зукановић: видео пет побијенихг; касније „неколико“ како су погинули

Област Јадра

Азмир Јусуфовић: многи погинули, нема процене

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[9] [1] Екрем Салиховић, Тузла, 24. јули, 1996.
[2] Менсур Мемић, Тузла, 24. јули, 1996.
[3] Рамиз Масић, Тузла, 3. јули, 1996.
[4] Сенад Грабовица, Тузла, 24. јули, 1996.
[5] Мухамед Маткић, Горња Тузла, 19. јul 1996.
[6] др Илијаз Пилав, Вогошћа, 24. јул 1996.
[7] Рамиз Бећировић, Живинице, јул 1996.

Буљин

Енвер Авдић: 1.000 погинулих
Садик Ковачевић: 30 погинулих
Хасмир Механовић: око 100 погинулих
Нуриф Мемишевић: видео много костура и делова тела
Назиф Османовић: 100 погинулих и много рањених
Садо Рамић: 50 погинулих
Мухамед Смајловић: 30 погинулих, 45 повређено

Шума близу Буљина

Хасмир Механовић: 20 погинулих мушкараца

Шушњар околина

Хусејн Мустафић: „стотине погинулих“

Бањковица

Сулејман Дедић: лешеви и непријатан смрад
Нермин Хакић: видео људе како гину, нема процене
Хасмир Механовић: пет мртвих војника и цивила
Хусејн Мустафић: пет мртвих
Абдулах Салкић: на путу од Каменице, неколико стотина лешева
Мухамед Смајловић: много црних и распаднутих лешева

Суђеска

Мелвид Алић: тучени артиљеријом, нема процене губитака

Кравица

Шевал Адемовић: „много мртвих и рањених“
Рамиз Хусић: 12 самоубистава
Мидхат Кадрић: „велики број погинулих“
Нуриф Мемишевић: „много људи“ погинуло и осакаћено у артиљеријском нападу
Хусејн Мустафић: „много погинулих и раскомаданих лешева“
Фадил Орић: „неколико стотина“ погинулих

Калдрмица

Суљо Халиловић: 1.000 погинулих и неколико стотина рањених

Цеста Удрч–Бањковица

Селвид Салиховић: „неколико стотина лешева“

Црни Врх

Нермин Хакић: видео како људи гину целим путем од Сребренице

Снагово

Шевал Адемовић: видео тела изгинулих и много рањених
Сулејман Дедић: велики број погинулих и непријатан мирис од лешева
Шефик Јусуповић: 18 погинулих
Назиф Османовић: „многи погинули и рањени“

Јаглић

Осман Халиловић: чуо да су многи изгинули и били рањени
Кадрија Муратовић: три мртвих и много рањено

Село Шиљковићи

Осман Халиловић: чуо да је било 30 мртвих, 42 рањено

Село Первани

Нуриф Мемишевић: шест мртвих

Већа Глава

Садо Рамић: 20 мртвих

Лолићи цеста

Нуриф Мемишевић: 200 мртвих

Церска

Енвер Авдић: око 100 мртвих

Неидентификована места

Хасан Алић: око 1.000 изгинулих на осам км. од Каменице
Менсур Ефендић: видео на десетине лешева дуж целог пута
Осман Халиловић: видео 30–40 лешева и 20 самоубистава
Рамиз Хусић: 44 лешева, 10 рањено
Шефик Јусуповић: „стотине погинулих Муслимана“ у шуми
Садик Ковачевић: око 300 погинулих
Мидхат Кадрић: око 500 погинулих
Сејдалија Муминовић: пет погинулих на једној тачки, „велики број“ изгинулих и рањених на другој
Кадрија Муратовић: лешеви и раскомадана тела у шуми
Мехо Орић: 70 изгинулих
Садик Салчиновић: шест мртвих
Гадафи Вејзовић: „стотине лешева“ у шуми
Процена ових губитака биће учињена на крају.

VI. Постојање минских поља дуж путање кретања колоне

У 33 изјаве којима располажемо, говори се и о минским пољима са којима се колона сусретала, и то у изјавама:

Сеада Хасановића
Азмира Јусуфовића
Менсура Ефендића
Нурифа Мемишевића
Рамиза Хусића.

Заправо, путања кретања колоне била је засејана минама, у тој мери да вештак Тужилаштва Батлер каже да је сакупљање људских остатака у оквиру асанације терена било отежано због опасности од мина.[10]

Поред изјава преживелих из колоне, и један документ 28. дивизије потврђује постојање минских поља у пределу Буљина.[11]

Ако прегледамо српске изворе,[12] наћи ћемо на низ потврда о постојању мина и минских поља дуж пута којим се кретала колона.[13–18]

Да закључимо, из изнесеног произилази да је минских поља било готово целим путем којим се колона повлачила. Из више извора да се закључити да је колона наилазила на мине и да су и оне, поред војних напада, проузроковале губитке. Та сада утврђена чињеница мора се повезати и са проценом судско-медицинских протокола жртава које су сачинили вештаци Тужилаштва МКТБЈ приликом откопавања масовних гробница после 1995 г.[19] Велики број тих протокола указује на присуство металних фрагмената и пројектила који су у складу са хипотезом да су узрок смрти биле мине и грана-

[10] Popović et al., Transcript, с. 20252, редови 17–20 и 24–25 и 20253, ред 1.

[11] Документ Хашког трибунала број 0308–3838.

[12] Blagojević and Jokić, OPT exhibit (доказни предмет Тужилаштва) 617.

[13] Веома је битно да се присуство мина у зони одговорности Зворничке бригаде поуздано документује зато што је војни вештак Тужилаштва, Ричард Батлер, под унакрсним испитивањем упорно тврдио: „…we were able to conclude, particularly with respect to Zvornik, that the individuals that were comming out of these particular mass graves and the associated secondaries…were not meeting the characteristics of combat casualities, in fact they were meeting the characteristics of victims from crime scenes", Popović et al., Transcript, p. 20250, lines 6–10. У преводу: „…били смо у могућности да закључимо у односу на Зворник да појединци у тим масовним гробницама и у секундарним гробницама…нису носили обележја пострадалих у борбеним дејствима, него да су заправо они изгледали као жртве злочина." Тај ноншалантан „закључак" вештака Батлера потпуно је споран и анализа коју је стручњак Историјског пројекта Сребреница, др Љубиша Симић, извршио над посмртним извештајима Хашког тужилаштва показује да је тај закључак неодржив. Види: http://www.srebrenica-project.com/sr/index.php?option=com_content&view=category&layout=blog&id=19&Itemid=17

[14] Blagojević and Jokić, 15. јул 2004, Transcript, с. 11,963–11,979.

[15] U.S. Immigration Court removal proceedings, In matter of Radenko Ubiparipović, File A 75 067 541, с. 132.

[16] Blagojević and Jokić, 3 June 2004, Transcript, с. 10,265, 10,264, 10,222, 10,075, 10,082.

[17] ICTY разговор са Недељком Тркуљом, 28. септембар 2005, с. 10. Да би могле да пропусте муслиманску колону, српске снаге су морале да им прокрче пут кроз сопствена минска поља.

[18] Blagojević and Jokić, 25. мај 2004, с. 9868, 9869. Када су кретале у напад на Сребреницу, и српске снаге су морале да прокрче пут кроз минско поље које су сами поставили.

[19] http://www.srebrenica-project.com/sr/index.php?option=com_content&view=category&layout=blog&id=19&Itemid=17.

те, али самим тим искључују хипотезу да је та жртва могла бити стрељана. Разлог је логичан: људи се не стрељају топовима и минобацачима. Поред тога, као што се могло видети, постоје докази да су мине биле толико многобројне и широко распрострањене да су чак и српске снаге, које су их поставиле, морале да се понашају крајње обазриво, па су чак и трпеле губитке, највероватније од властитих мина.

VII. Страни извештаји о губицима које је муслиманска колона претрпела у повлачењу

Располажемо и проценама муслиманских губитака који потичу од посматрача и стручњака који нису ни Срби ни Муслимани.

(1) По процени званичника УН из Тузле, Едварда Џозефа (Edward Joseph) под датумом од 17. јула 1995. године, „до три хиљаде је погинуло успут, највећим делом у борбеним дејствима против ВРС и од мина.“[20]

(2) Током сведочења на суђењу Поповићу и осталима, вештак Тужилаштва Ричард Батлер признао је под унакрсним испитивањем да је „разборито претпоставити“ да је у борбама страдало између 1.000 и 2.000 муслимана.[21] Батлер је период када су муслимани претрпели те губитке одредио од 12. до 18. јула, 1995.[22]

(3) Додатне процене се налазе у дневном „Извештају о стању“ УНМО (с. 19), под датумом од 18. јула 1995.[23] Тамо стоји да је 10–11. јула 1995. у пробој пошло 12.000 до 15.000 људи, од којих је око 3.000 било наоружано. Процењује се да је 3.000 пострадало од минских поља, снајпера и заседа које је постављала ВРС.

Као и у случају изјава које су дали учесници у повлачењу од Сребренице до Тузле, и ове цифре и процене морају се третирати врло обазриво. Процене странаца крећу се између 1.000 и 3.000 губитака. Чак ако бисмо прихватили доњу, или неку средњу цифру, то би и даље представљало знатан део од укупних људских губитака за које муслиманска страна тврди да их је претрпела. Та цифра се не сме мешати са жртвама масакра или геноцида, и она се мора одузети од броја за који се тврди да су били стрељани противно законима и правилима рата.

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[20] Документат хашког трибунала број R043–3424.

[21] Popović et al., Transcript, с. 20251, редови 6–8.

[22] Ibid., с. 20251, редови 12–14.

[23] Документат хашког трибунала број R003–8723.