12 -03- 2007

Sud BiH / Суд БиХ
Krivično odjeljenje i Apelaciono odjeljenje/
Кривично одјељење и Апелационо одјељење
Odjeljenje II
X-K06/190

SUD BOSNE I HERCEGOVINE СУД БОСНЕ И ХЕРЦЕГОВИНЕ

PR.6 VOD DOK. 779

Number: X-K-06/190
Sarajevo, 10 January 2007

IN THE NAME OF BOSNIA AND HERZEGOVINA!

The Court of Bosnia and Herzegovina, sitting in the Panel composed of Judge Mirza Jusufović, as the Presiding Judge, and Judge Dr Malcolm Simmons and Judge Žarko Radovanović, as members of the Panel, with the participation of Legal Officer Sanin Bogunić, as the record-taker, in the criminal case against the Accused, Mirsad Bektašević, Abdulkadir Cesur, Bajro Ikanović and Senad Hasanović, for the criminal offenses of Terrorism in violation of Article 201 (1) in conjunction with Paragraph (4) f), all in conjunction with Article 29 of the Criminal Code of Bosnia and Herzegovina (hereinafter: CC BiH), Illicit Possession of Weapons or Explosive Substances in violation of Article 371 (2) in conjunction with Paragraph (1) of the Criminal Code of the Federation of Bosnia and Herzegovina (hereinafter: CC FBiH), all in conjunction with Article 29 of CC BiH, and Obstructing an Official Person in Execution of Official Activity in violation of Article 358 (1) of CC FBiH, in conjunction with Article 26(1) of CC BiH, having decided upon the Indictment of the Prosecutor's Office of Bosnia and Herzegovina No. KT-392/05 of 6 April 2006, confirmed by this Court on 13 April 2006 and amended at the main trial on 4 January 2007, after the public and verbal main trial, in the presence of Ahmet Halebić, Prosecutor of the Prosecutor's Office of BiH, all the Accused and the Defense Counsel Idriz Kamenica, Šemso Temin and Kadrija Kolić, on 10 January 2007 reached and publicly announced the following

VERDICT

THE ACCUSED:

1. ***MIRSAD BEKTAŠEVIĆ***, son of Adem and mother Nafija née Hamidović, born on 30 July 1987 in Novi Pazar, Republic of Serbia, residing in Goeteborg – Sweden, 9.80B Kongahälla Str., laborer, unemployed, single, Swede by nationality, citizen of Sweden, holder of Swedish travel document number 23885902, PIN 870730-2595, **currently in custody at the "Sarajevo" Correctional Facility pursuant to the Decision on**

Extension of Custody of the Court of BiH No. X-K-06/190 of 10 January 2007.

2. ***ABDULKADIR CESUR***, son of Adnan and mother Semiha née Dursun, born on 27 November 1985 in Copenhagen – Denmark, residing in Denmark, at 37-3 th Byumuren Str., 2650 Hvidovre, laborer, unemployed, single, Turk by nationality, citizen of the Republic of Turkey, holder of Turkish travel document No. 1603/99, PIN 271185-1065, **currently in custody at the "Sarajevo" Correctional Facility pursuant to the Decision on Extension of Custody of the Court of BiH No. X-K-06/190 of 10 January 2007.**

3. ***BAJRO IKANOVIĆ***, son of Smajil and mother Ajkuna née Osmanović, born on 8 November 1976 in Hrnjčići, Municipality of Bratunac, residing in Hadžići, 65 Tinohovska Str., laborer, married, with two children, no previous conviction, served the Army of the Federation of Bosnia and Herzegovina in Tuzla in 1997, Bosniak by ethnicity, citizen of BiH, PIN 0811976181415, **currently in custody at the "Sarajevo" Correctional Facility pursuant to the Decision on Extension of Custody of the Court of BiH No. X-K-06/190 of 10 January 2007.**

4. ***SENAD HASANOVIĆ, a.k.a. "Senči"***, son of Halid and mother Selvera née Piknjač, born on 2 May 1986 in Sarajevo, Municipality of Centar, residing in Hadžići, 19 Donji Hadžići, student, single, no previous conviction, Bosniak by ethnicity, citizen of BiH, PIN 0205986170058.

HAVE BEEN FOUND GUILTY

Of the following:

I

The Accused Mirsad Bektašević, Abdulkadir Cesur and Bajro Ikanović, together

Because:

Mirsad Bektašević and Abdulkadir Cesur in concert with persons known em, inter alia, Abdul Basit from Denmark, arrived in Sarajevo; Mirsad ević on 27 September 2005 from Goeteborg – Sweden, and Abdulkadir

Cesur on 14 October 2005 from Copenhagen – Denmark, intending to commit a terrorist act in the territory of Bosnia and Herzegovina and other European countries by attacking an unspecified, however, a facility known to them, with the aim to force government bodies of Bosnia and Herzegovina and governments of other countries whose military forces, as well as representatives, through international organizations, are currently present in Bosnia and Herzegovina to pull their forces out of Iraq and Afghanistan. With this intention and purpose, following his arrival in Sarajevo, Bektašević contacted Bajro Ikanović and other persons known to him, and then Ikanović, in concert with Bektašević, for the purpose of making an improvised explosive device, acquired and handed over to Bektašević and Cesur an unspecified quantity of explosive, not less than 19,842 grams – of explosive mixture of nitro-glycerine (NG), trinitrotoluene (TNT), and ammonium nitrate (AN), which Bektašević in Cesur's presence partially cut, shaped and prepared for the so-called "suicide belt"; in the apartment at 71 Poligonska Str. they possessed the said explosive, three trotyl bullets, a blasting cap (EDK) and a pistol silencer, the acquisition and possession of which are prohibited to citizens. In addition to the aforementioned items, in the two apartments they occupied in Sarajevo, one at 71 Poligonska Str., the other at 422 Novopazarska Str., Bektašević and Cesur also had in their possession a black intertwined belt to which Bektašević fastened with sellotape three trotyl bullets, a 7.65-mm Broving pistol, with the accompanying clip with five bullets, one egg-shaped timer toy, which can be used for making a time fuse, two leather pistol holsters, a camouflage cap, two camouflage caps called "Pentagon" caps, two PRS handsets and a Sony 60 Hi 8 VHS cassette with a video footage displaying how to make an improvised explosive device and the following audio recording: "Allah-u-Ekber. Here, the brothers are preparing for attacks. They are showing us the stuff they are going to use for the attack. These brothers are ready to attack and, inshallah, they will attack Al-Qufar who are killing our brothers and Muslims in Iraq, Afghanistan, Shishan and many other countries. These weapons are going to be used against Europe, against those whose forces are in Iraq and in Afghanistan. These two brothers, they sold their lives to please Allah, to help their brothers and sisters. They are Muslims. Their hours are coming. They are ready to attack, so don't, don't think that we have forgotten you. We are here and we are planning and we have everything ready. This is a message for you". These items were found during the search of the aforementioned apartments on 19 and 20 October 2005. Such acquisition and possession of the aforementioned explosive ordnances, weapons and other items by the Accused Bektašević, Cesur and Ikanović, with the intention to use them for the perpetration of a terrorist act, are willful acts which, considering their nature and context, may cause serious damage to Bosnia and Her[redacted]

and its institutions, as well as the international institutions currently present in Bosnia and Herzegovina, the damage being particularly reflected in the procrastination of development and reconstruction of Bosnia and Herzegovina as a self-sustainable country and in the consequent prolongation of its specific position in the international order, which is why it continues to exist as an "international community country", that is, in aggravating and diminishing the results it has achieved with the assistance of the present international organizations in fulfilling the requirements set out for its accession to NATO and the European Union.

Therefore, they jointly committed a terrorist act by the acquisition and possession of explosives with the aim of forcing the government bodies of Bosnia and Herzegovina and governments of other countries whose military forces, as well as representatives, through international organizations, are currently present in Bosnia and Herzegovina, to do something, and have thus caused serious damage to Bosnia and Herzegovina and international organizations,

whereby they committed the criminal offense of Terrorism in violation of Article 201 (1) in conjunction with Paragraph (4) f), all in conjunction with Article 29 of CC BiH,

II

The Accused Senad Hasanović

Because:

After Amir Bajrić in early summer 2005 had asked him to bring him a small quantity of unidentified substance, which they assumed to have been an explosive, so that Bajrić could ascertain whether the explosive was usable, and Hasanović knew that the explosive was contained in a metal trunk in the forest called "Gaj" in the immediate vicinity of the settlement of Donji Hadžići, Municipality of Hadžići, he then went to the said location and took from the metal trunk an unspecified quantity of the explosive, packed like "salami", and several small, 28x200-mm packages shaped like cartridges and made of paraffin paper, which he then took to and handed over to Bajrić in his apartment in Hadžići, 38 Tinohovska Str. Subsequently, on an unspecified date [redacted]rly October 2005, after Bajrić asked him to bring him a larger unspecified [redacted]y of explosive, he went to the forest called "Gaj" and took from the said

metal trunk all of the explosive which was packed like "salami" and around 10 pieces of small 28x200-mm packages shaped like cartridges made of paraffin paper, which he then took to and handed over to Bajrić in his apartment, which Bajrić subsequently handed over to Ikanović. A subsequent chemical forensic evaluation established that the explosive packed like "salami" was an explosive mixture of nitro-glycerine (NG), trinitrotoluene (TNT) and ammonium nitrate (AN), as were the small packages shaped like cartridges made of paraffin paper, the acquisition and possession of which are prohibited to citizens pursuant to the provisions of Article 6 of the Law on Acquisition, Possession and Carrying of Weapons and Ammunition (*Official Gazette of Sarajevo Canton* 29/01 and 16/02).

Therefore, he unlawfully acquired and possessed the explosive substances whose acquisition and possession are prohibited to citizens pursuant to the provisions of Article 6 of the Law on Acquisition, Possession and Carrying of Weapons and Ammunition (*Official Gazette of Sarajevo Canton* 29/01 and 16/02),

whereby he committed the criminal offense of Illicit Possession of Weapons or Explosive Substances in violation of Article 371 (2) in conjunction with Paragraph (1) of CC FBiH, all in conjunction with Article 29 of CC BiH.

III

The Accused Mirsad Bektašević and Abdulkadir Cesur, together

Because:

On 19 October 2005, at around 1555 hrs, after Anes Čengić, Nermin Sijamhodžić and Dragan Papić, authorized official persons of the Counter-Terrorism Department of the Federation Ministry of the Interior (FMoI) Sarajevo, came and rang the bell at the entrance door of an apartment on the ground floor of a building located in Sarajevo, 71 Poligonska Str., in order to conduct a search following the Warrant of the Court of BiH, the Accused Mirsad Bektašević opened the entrance door, and after the authorized official persons identified themselves as police officers and showed the Search Warrant of the Court of BiH, Bektašević resisted their entering the apartment by standing at the entrance door, using his body in an attempt to prevent them from entering, then he started pushing Anes Čengić with both his hand[redacted] from the entrance door, saying something like: "Who are you to

house, you trash". When Čengić managed to enter the hall, he kept pushing him toward the entrance door until Čengić managed to overpower the Accused by using physical force. Upon entering a room, where also present was the Accused Abdulkadir Cesur, Nermin Sijamhodžić observed that Cesur, sitting on a three-seat sofa, was holding his left hand underneath his coat, and when Sijamhodžić managed to remove the coat he noticed that Cesur was holding in his hand a pistol with silencer and a bullet in the chamber, holding his left-hand index finger on the pistol trigger, after which Sijamhodžić managed to knock the pistol out of his hand and then overpower him.

Therefore, the Accused Mirsad Bektašević by force, and the Accused Abdulkadir Cesur by threat of direct use of force, tried to prevent official persons from executing the official activities that they undertook within their powers,

whereby they committed the criminal offense of attempted Obstructing an Official Person in Execution of Official Activity in violation of Article 358 (1) of CC FBiH, in conjunction with Article 26 (1) of CC BiH.

Therefore,

1. On the Accused Mirsad Bektašević,

pursuant to the quoted legal regulations and with application of Article 39, 42, 48 and 53 of CC BiH, for the criminal offense of Terrorism in violation of Article 201 (1) in conjunction with Paragraph (4) f), all in conjunction with Article 29 of CC BiH, the Court ***imposes the sentence of imprisonment for a term of 15 (fifteen) years***, and for the criminal offense of Obstructing an Official Person in Execution of Official Activity in violation of Article 358 (1) of CC FBiH, in conjunction with Article 26 (1) of CC BiH, the Court ***imposes the sentence of imprisonment for a term of 6 (six) months***.

Therefore, pursuant to the aforementioned legal regulations, the Court hereby

SENTENCES

the Accused Mirsad Bektašević to the compound sentence of imprisonment term of 15 (fifteen) years and 4 (four) months.

Pursuant to Article 56 of CC BiH, the time the Accused Mirsad Bektašević has spent in custody since 19 October 2005 shall be credited toward the pronounced sentence of imprisonment.

2. On the Accused Abdulkadir Cesur,

pursuant to the quoted legal regulations and with application of Article 39, 42, 48 and 53 of CC BiH, for the criminal offense of Terrorism in violation of Article 201 (1) in conjunction with Paragraph (4) f), all in conjunction with Article 29 of CC BiH, the Court ***imposes the sentence of imprisonment for a term of 13 (thirteen) years***, and for the criminal offense of Obstructing an Official Person in Execution of Official Activity in violation of Article 358 (1) of CC FBiH, in conjunction with Article 26 (1) of CC BiH, the Court ***imposes the sentence of imprisonment for a term of 6 (six) months***.

Therefore, pursuant to the aforementioned legal regulations, the Court hereby

SENTENCES

the Accused to the compound sentence of imprisonment for a term of 13 (thirteen) years and 4 (four) months.

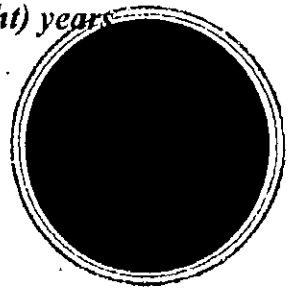
Pursuant to Article 56 of CC BiH, the time the Accused Abdulkadir Cesur has spent in custody since 19 October 2005 shall be credited toward the pronounced sentence of imprisonment.

3. The Accused Bajro Ikanović,

pursuant to the quoted legal regulations and with application of Article 39, 42 and 48 of CC BiH, for the criminal offense of Terrorism in violation of Article 201 (1) in conjunction with Paragraph (4) f), all in conjunction with Article 29 of CC BiH, the Court hereby

SENTENCES

the Accused to the sentence of imprisonment for a term of 8 (eight) years



Pursuant to Article 56 of CC BiH, the time the Accused Bajro Ikanović has spent in custody since 18 November 2005 shall be credited toward the pronounced sentence of imprisonment.

4. The Accused Senad Hasanović,

pursuant to the quoted legal regulations and with application of Article 39, 42 and 48 of CC BiH, for the criminal offense of Illicit Possession of Weapons or Explosive Substances in violation of Article 371 (2) in conjunction with Paragraph (1) of CC FBiH, all in conjunction with Article 29 of CC BiH, the Court hereby

SENTENCES

the Accused to the sentence of imprisonment for a term of 2 (two) years and 6 (six) months.

Pursuant to Article 56 of CC BiH, the time the Accused Senad Hasanović spent in custody from 24 November 2005 to 22 December 2005 shall be credited toward the pronounced sentence of imprisonment.

Pursuant to Article 186 (2) of the Criminal Procedure Code of Bosnia and Herzegovina (hereinafter: CPC BiH), the Accused are hereby obligated to reimburse the costs of the criminal proceedings, on which the Court will render a special decision after the relevant data have been obtained.

Reasoning

By the Indictment No. KT-392/05 of 6 April 2006, confirmed by this Court on 13 April 2006 and amended at the main trial on 4 January 2007, the Prosecutor's Office of BiH accused Mirsad Bektašević, Abdulkadir Cesur and Bajro Ikanović that by the acts described in Count 1 of the amended Indictment they jointly committed the criminal offense of Terrorism in violation of Article 201 (1), in conjunction with Paragraph (4) f), all in conjunction with Article 29 of CC BiH; Mirsad Bektašević and Abdulkadir [redacted] that by the acts described in Count 3 of the amended Indictment they

committed the criminal offense of Obstructing an Official Person in Execution of Official Activity in violation of Article 358 (1) of CC FBiH, in conjunction with Article 26 (1) of CC BiH; and Senad Hasanović, that by the acts described in Paragraph 2 of the amended Indictment he committed the criminal offense of Illicit Possession of Weapons or Explosive Substances, in violation of Article 371 (2) in conjunction with Paragraph (1) of CC FBiH, all in conjunction with Article 29 of CC BiH. After the presentation of evidence, having considered that the allegations of the Prosecution had been completely proved by the said evidence, the Prosecutor proposed in the closing argument that the Accused be pronounced guilty of the said criminal offenses and punished by the law.

At the guilty or not guilty plea hearing, all four Accused, in the presence of their Defense Counsel and the Prosecutor, pleaded not guilty to each Count of the Indictment. The Accused maintained the same position until the completion of the main trial as well as in the closing arguments, accepting completely the defense presented by their respective Defense Counsel.

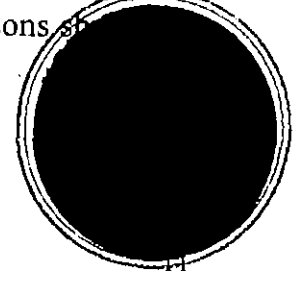
Throughout the whole proceedings and in the closing argument the Defense Counsel of the first Accused denied that the acts of the first Accused constituted a criminal offense. He did not deny that an amount in excess of 19 kilograms of a substance that resembled explosive, that had once been an explosive substance, had been found at the Accused Bektašević's, which substance was wrapped in the JNA wrapping bearing the Red Cross insignia and transported there on the eve of the war in 1992, but he pointed at the fact that according to him the expert witnesses also confirmed, which is that an explosive loses its properties in contact with air and moisture. Since the substance found in the apartment at 71 Poligonska Str. possessed certain explosive properties, he stressed that the Defense was willing to negotiate with the Prosecutor on the responsibility for illicit possession of weapons. He categorically denied that the Accused had come to Bosnia to commit a terrorist act and that he had such intention whatsoever, indicating that what had been found could not be considered as weapons in terms of Paragraph (4) of Article 201 of CC BiH, since a larger quantity of weapons is required for such characterization, that is, the manufacturing, acquisition and storing of such quantity, by which the Government of Bosnia and Herzegovina could be forced to do or not do something. With respect to the discovered video footage, the Defense stresses that it features individuals whose physical appearances are completely different from those of the Accused. The Defense particularly contests the lawfulness of the evidence obtained in the search, stressing that the searches were conducted in contravention of the pr[redacted]

of the Criminal Procedure Code of BiH, and it also contests the lawfulness of the evidence obtained in Sweden, Denmark and England, emphasizing that the Accused Bektašević was not allowed to be present during those operations -- search of the apartment and computer, and that he does not even know who carried it out or what was found in the computer, and, above all, the searches and the reviews were not conducted on the basis of a warrant of the Court of BiH. The Defense also denies that damage was caused to Bosnia and Herzegovina by the acts of the Accused, stressing that the Accused did not do anything to anyone and that the damage was inflicted by the incautious public information provided by the Ministry of the Interior and the Prosecutor. The first Accused and his Defense Counsel also deny that the first Accused prevented police members from conducting the search, stressing that the police actions were hasty and beyond the scope of official duty, and as such they cannot enjoy criminal law protection. According to the Defense, elements of illicit possession of weapons might be found in the acts of the first Accused, but the Accused cannot be found guilty of it given the factual substratum of the operative part of the Indictment. For the said reasons, it was proposed in the closing argument that the first Accused should be acquitted of responsibility on both Counts of the Indictment, but if the Court nevertheless found that there existed elements of some criminal offense, that it should take into account the young age of the first Accused, the circumstances he had found himself in because of the war and the loss of father, and the sentences pronounced by the Court of BiH in other cases involving large quantities of weapons.

It was also emphasized in the closing argument that the Indictment concerned had not been drafted in accordance with the Criminal Procedure Code of BiH, since it did not contain all the necessary elements referred to in Article 227 of the CPC, as it described certain events in general terms and drew general conclusions, that is, it did not accurately describe the act of commission, and it also lacked the description of the act of the criminal offense of Terrorism in violation of Article 201 (1) of CC BiH.

The Defense Counsel of the second Accused stressed in the opening argument and during the proceedings, as well as in the closing argument, that the second Accused had found himself in the wrong place at the wrong time and with the wrong people and that the actions of the second Accused did not involve the act of commission of the criminal offense he was charged with. He does not deny that the second Accused arrived in Sarajevo on 14 October 2005, that prior to his arriving in Sarajevo he had socialized with persons suspected of [redacted]riminal offense of Terrorism in Denmark and England and downloaded [redacted]e Internet and saved in his computer files with religious contents, but

he stresses that such files are available to everyone. The Defense of the second Accused considers everything else that the Prosecutor claims to be just a hypothesis that has not been proved by anything. He claims that the arrival of the second Accused in Sarajevo was motivated solely by the desire for socializing and friendships in Sarajevo, where he had heard Ramadan is beautiful, where the East and the West meet and where there are many cultural and historical monuments that he had wanted to see. He was busy solely with such activities in the period from the arrival in Sarajevo to the arrest; visiting mosques and historical monuments and socializing with Bektašević's friends. He categorically denies that the second Accused was present during the handover of the explosive and that he participated in the cutting, shaping and preparing the explosive for the so-called suicide belt, stressing that the first time he visited the apartment at 71 Poligonska Str. was on the day of the arrest and that he was there for around half an hour only, and that it was proved by the dactyloscopic forensic evaluation that the second Accused had not had the explosive in his hands for a single moment, that he had not touched it, or any of the objects found at Poligonska Street. He did not ask where the first Accused had got these things from, as he is taught not to inquire about other people's affairs and not to touch other people's belongings. He claims that the second Accused did not have anything to do with the discovered camera or the audio recording and the video footage and that he was not aware of their existence or the contents thereof whatsoever. With respect to Count 3 of the Indictment, the Defense of the second Accused stresses that the second Accused did not offer any resistance and that he did not know who the people storming the house were or what their intentions were. The Defense further denies that the second Accused held in his left hand a pistol with silencer and a bullet in the chamber hidden by the coat, stressing that the "lightning-quick" operation that the inspector talks about is impossible without firing a bullet if the bullet is in the chamber and the index finger on the trigger. He maintains that the second Accused cannot be punished for the attempted offense referred to in Count 3 because Article 26 of CC BiH stipulates that a perpetrator shall be punished for the attempted criminal offense when, for the criminal offense in question, the punishment of imprisonment for a term of three years or a more severe punishment may be imposed. He therefore proposes that the second Accused be acquitted of the charges, but if the Court nevertheless finds that the second Accused is responsible for some other criminal offense, he pleads that when meting out the punishment the Court considers as extenuating circumstances the young age of the second Accused, his impeccable past, cooperation during the trial, his acceptance to be heard as a witness, his admission that he knows and that he kept company with the persons sh



photographs who are under investigation abroad, and the fact that his conduct in custody was impeccable.

The Defense Counsel of the third Accused stated in her opening and closing arguments that the Accused were charged with the preparation of a terrorist act referred to in Article 201 (4) f) of CC BiH, which cannot exist independently since the law defines it as the preparatory activities of manufacturing, acquisition and making operational the weapons and explosives for the commission of a terrorist act. In addition to this, she also stresses that the preparation cannot be abstract, but that it must be stated specifically which terrorist act is in question, which specific act is being prepared, which facility in Bosnia and Herzegovina was supposed to be attacked, the exact time of the attack and the motives of the Accused for the attack, which has not been done in this particular case. Likewise, it has not been proved that there existed the direct intent, that is, that the perpetrator was aware of his act and wanted its commission. In the specific case, the explosive was 15 years old, it was completely useless and, as such, it represented an inappropriate means of commission of a criminal offense. According to the Defense, the third Accused had nothing to do with that explosive, did not have it in his possession and did not have any contact with it. Absolutely nothing was found on him during the search, his contact with the explosive has not been proven, he is not on the VHS cassette and his traces are not on the items that were the subject of the DNA and other analyses. The Defense completely contests the allegations of witness Amir Bajrić that he gave the explosive to the third Accused, pointing at the contradictions in the witness' statement, his inclination to commit criminal acts and tell lies, as well as his interest in testifying against the third Accused Ikanović. Considering the fact that Bajrić concluded the agreement on admission of guilt with the Prosecutor's Office and that his testimony was not confirmed by any other piece of objective evidence, the Defense is of the opinion that a convicting verdict cannot be based on the testimony of such witness, which is also the position of the Constitutional Court of Bosnia and Herzegovina. The Defense particularly stresses that the third Accused is a loyal citizen, a family man, a devoted believer who did not endanger anyone with his faith, did not threaten anyone and did not have any motive to carry out terrorist attacks and cause damage to Bosnia and Herzegovina either, and he had contacts with Bektašević by mobile phone just as a friend, which cannot be regarded as an offense. The Defense also points that the first Accused indicates in his statement the innocence of the third Accused. With all this in [redacted]ind, as well as the *in dubio pro reo* principle, that is, the presumption of [redacted]nce, the Defense proposes the acquittal of the third Accused.

The Defense of the fourth Accused emphasized in the opening argument that it was of the opinion that there was no evidence that the fourth Accused Senad Hasanović had committed the criminal offense of Illicit Possession of Weapons or Explosive Substances, as there was no evidence that Hasanović had had the explosive in possession and that he had had the intention to sell it. In addition, the substance concerned that the fourth Accused found in the forest accidentally had already lost its properties when Hasanović came in possession of it, so it can be regarded as an inappropriate attempt of committing a criminal offense.

In the course of the evidentiary procedure, the Defense of the fourth Accused proposed the acquittal of the fourth Accused in view of the coming into effect of the new Law on Amnesty. In its closing argument, the Defense of the fourth Accused reiterated the said positions, emphasizing the facts that the fourth Accused exercised maximum voluntariness in answers to the authorized official persons and the finding of a part of the explosive of the kind that he had previously handed over to Bajrić from the same box, that the authorities, which had been supposed to carry out a decontamination and mine clearance of the area, are responsible for his finding the explosive at the site, and that the fourth Accused did not acquire or distribute the explosive, but found it by chance, which is considerably different. In addition to it, according to the Defense, it was an explosive which had leaked out and which was unusable as such and for whose handover to Bajrić the fourth Accused never asked nor got any counter-service, not even the hunting rifle that Bajrić had personally promised to him. Having all this in mind, the Defense proposes either the dismissal of the charges due to the aforementioned Law on Amnesty and the voluntary surrender of the explosive by the fourth Accused, or his acquittal. Should the Court nevertheless find that the fourth Accused is responsible, the Defense proposes that the Court take into account the extenuating circumstances reflected in the character and conduct of the fourth Accused in the course of the proceedings, his youth, his expressed remorse and respect for the Court, the jurisprudence and the sentencing policy concerning the same offenses, and that the fourth Accused be punished with a minimal alleviated sentence.

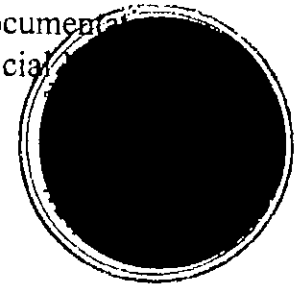
In the course of the evidentiary procedure, the following witnesses for the Prosecution were heard: Anes Čengić, Dragan Papić, Nermin Sijamhodžić, Nusret Čavčić, Nermina Jerković, Mersiha Alić, Admir Memović, Hamo Mahinić, Izeta Hamidović, Zafir Asotić, Ensar Aljović, Muhidin Osmanović and Amir Bajrić–Ćami, as well as the expert witnesses: Samil Hasanbegović, Samir Babić, Muamer Fazlagić, Amar Kolaković, Hurem Šahić,

Konjhodžić, Hilmija Mašović, Bruno Franjić, George Scaluba, Allen Hirson, Elmira Karahasanović and Prof. Nerzuk Ćurak, Ph.D.

In the course of the main trial, the Prosecutor presented to the Court the following material evidence:

- Letter of the FMoI Department for Counter-Sabotage and Technical Protection Sarajevo No. 12/8-04-5-5322 of 4 November 2005 with the Phone Record from mobile telephones used by the suspect Mirsad Bektašević, telephone number 38762103592 and "LEBARA MOBILE" SIM card, serial number 8945 0201 8141 0517 199;
- Letter of the FMoI Department for Counter-Sabotage and Technical Protection Sarajevo No. 12/8-04-5-5184 of 12 December 2005 with the Phone Record from mobile telephones used by the suspect Amir Bajrić (telephone number 38762104604 and Nokia 3210 mobile telephone, serial number 449149107737201 without SIM card) and the suspect Bajro Ikanović (mobile telephone of the subscription number 38761365985);
- Letter of the Crime Investigation Department of the State Investigation and Protection Agency No. 17-02/1-523/05 of 27 January 2006 with the analysis of mobile telephone calls between the suspects Mirsad Bektašević (subscription numbers 062103592 and 061369406) and Bajro Ikanović (subscription number 061365985);
- Letter of the FMoI No. 09-12/5-04-3-5184 of 7 November 2005 -- Finding and Opinion on forensic evaluation of objects found during the search of the ground-floor of the house at 71 Poligonska Str. (trace evidence No. 14), No. 12/8-108/05 of 2 November 2005;
- Letter of the FMoI No. 14/4-04-5-332 of 22 January 2006 with the Report on Forensic Evaluation made by Senior Inspector Hurem Šahić; DNA analysis of 27 March 2006 made by Rijad Konjhodžić, Sc.D., head of the Laboratory for Molecular Biology of the Clinical Center of the University in Sarajevo;
- Finding and Opinion of dactyloscopic, biological and chemical forensic evaluation by the FMoI Forensic Department Sarajevo No. 12/9-2-04-5-502 of 19 December 2005;
- Finding and Opinion of ballistic and mechanoscopic forensic evaluation by the FMoI Department for Mechanoscopic and Ballistic Forensic Evaluation Sarajevo No. 12/9-4-04-5-5289 of 15 November 2005;
- Video footage and audio recording on the Sony 60 Hi8 VHS cassette temporarily seized with the Receipt of the FMoI Sarajevo No. 12/5-366/05 of 19 October 2005; a Sony VHS cassette – Evidence Register – 14/06; [redacted]nslation of the audio recording on the Sony 60 Hi8 VHS cassette

temporarily seized pursuant to the Receipt of the FMoI Sarajevo No. 12/5-366/05 of 19 October 2005;
- Letter of the FMoI Police Administration Sarajevo No. 09-13/3-04-3-5184 of 5 April 2006 with enclosures (Forensic Report of FBI Laboratory Quantico Virginia No. 315N-KQU-C1511969-SR of 20 March 2006 and FBI Laboratory Report on Audio, Video and Photography Forensics, Lab. No. 051031006 AI RD of 22 November 2005); Order of the Prosecutor's Office of BiH for Conducting Forensic Evaluation No. KT-392/05 of 27 October 2005; Record of examination of the suspect Mirsad Bektašević on 8 February 2006 at the premises of the Prosecutor's Office of BiH with a CD (audio recording of the suspect examination); Official note by Prosecutor Ahmet Halebić of 8 February 2006; Order for phonetics forensic evaluation with mediation of Scotland Yard Inspector John Turner of 8 February 2006;
- Finding and Opinion of dactyloscopic, biological and chemical forensic evaluation by the Forensic Department No. 12/9-04-5-5289 of 8 December 2005;
- Expert Study by Prof. Nerzuk Ćurak, Ph.D., of 20 March 2006;
- Record of search of apartment, other premises and personal property No. 12/5-365 of 19 October 2005 with photo-documentation No. 12/9-4-13/05 of the FMoI Forensic Department Sarajevo; Receipt on temporary seizure of objects No. 12/5-366/05 of 19 October 2005 of the Counter-Terrorism Department; Report on Use of Force by the FMoI Crime Police Sector Sarajevo No. 12/5-379 of 20 October 2005; Official Note No. Kpp-147/05 of 20 October 2005; Warrant for search of apartment, other premises and personal property No. 12/5-sl/05 of 19 October 2005; Official Report of the FMoI Crime Police Sector Sarajevo No. 12/5-370 of 19 October 2005; Report on Use of Force by the FMoI Crime Police Sector Sarajevo No. 12/5-379 of 20 October 2005; Official Note of the FMoI Crime Police Sector Sarajevo about the informal interview with Abdulkadir Cesur No. 12/5-374 of 19 October 2005;
-- Record of search of apartment No. 12/5-sl-1/05 of 20 October 2005 with photo-documentation No. 12/9-4-14/05 of the FMoI Forensic Department Sarajevo; Receipt on temporary seizure of objects No. 12/5-sl/05 of 20 October 2005 of the Counter-Terrorism Department; Warrant for search of apartment, other premises and personal property No. 12/5-369/05 of 19 October 2005; Official Report of the FMoI Crime Police Sector Sarajevo No. 12/5-378 of 20 October 2005;
-- Record of search of apartment at 388 Orlovačka Str. No. 388/05 of 23 October 2005; Receipt on temporary seizure of objects No. 12/5-387/05 of 23 October 2005 of the Counter-Terrorism Department with photo-documentation No. 12/9-4-15/05 of the FMoI Forensic Department Sarajevo; Official



Preliminary Proceedings Judge No. Kpp-145/05 of 23 October 2005; Warrant for search of apartment, other premises and personal property No. 12/5-386/05 of 23 October 2005; Official Report of the FMoI Crime Police Sector Sarajevo No. 12/5-390 of 23 October 2005;

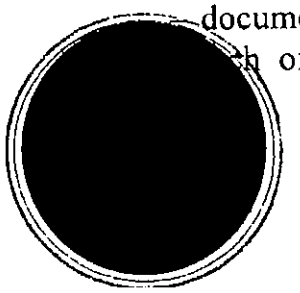
-- Report of the FMoI Forensic and Support Center Sarajevo No. 14/4-04-3-1666 of 6 April 2006; Photo-documentation No. O.R. 2431/05 of 2 December 2005; Letter of the FMoI Police Administration Sarajevo No. 09-12/5-04-3-5907 of 1 December 2005 with the Official Report of the FMoI Crime Police Sector Sarajevo No. 12/5-494 of 28 November 2005; Official Report of the FMoI Crime Police Sector Sarajevo No. 12/5-485 of 24 November 2005; Report on storing explosive substances No. 09-12/5-KU-59 of 24 October 2005; Official Note of the FMoI Crime Police Sector Sarajevo No. 12/5-383 of 21 October 2005, with excerpt from the Guestbook of "Banana City" Hotel in Sarajevo for the period from 26 September to 18 October 2005; Official Note of the FMoI Crime Police Sector Sarajevo No. 12/5-399 of 24 October 2005; Toll Ticketing No. 07.0.2-9.24-605/1-06 of 11 September 2006 and the Letter of BH Telecom, Confidential No. 07.0.2-9.24-667/1-05 of 28 October 2005 with a listing of the outgoing and incoming calls for telephone number 38762103592, for the period from 29 September to 19 September 2005;

-- Letter of the FMoI Police Administration Sarajevo No. 09-13/3-04-3-5184/05 of 24 January 2006 with the Analysis of Telephone Listings for BH Telecom mobile telephone numbers 062103592, 061365985, 061825699, 061369406, 062104604; Letter of BH Telecom Confidential No. 07.0.2-9.24-779/1-05 of 23 December 2005 – 50 last registered calls for numbers 061/365985 and 062/104604 of 23 December 2005; Official Note No. 12/5-375 of 20 October 2005; Official Note of the FMoI Crime Police Sector Sarajevo No. 12/5-413 of 28 October 2005; Official Note of the FMoI Crime Police Sector Sarajevo No. 12/5-414 of 28 October 2005; Official Note of the FMoI Crime Police Sector Sarajevo No. 12/5-473 of 18 November 2005; Official Note of the FMoI Crime Police Sector Sarajevo No. 12/5-389 of 23 October 2005; Official Note of the FMoI Crime Police Sector Sarajevo No. 12/5-398 of 24 October 2005;

-- Letter of the Ministry of Justice of the Kingdom of Denmark No. 2005-3401-0057 of 3 February 2006 regarding the chat between Maximus, Cesur, Elias Hsain and Abdul Basit;

-- Letter of the UK Home Office, Central Office, No. MLI05/371/3208 of 12 October 2006 – the evidence of the London Police and the Crown Prosecution Service;

-- The Letter of FMoI, Sarajevo, No. 09-12/5-04-3-5184 of 11 November 2005 documentation compiled pursuant to the Warrants of the Court of BiH for [redacted]h of STRIPI and HOLLYWOOD cafes; Official Note of Preliminary



Proceedings Judge of 11 November 2005; Warrant for search of apartment, other premises and personal property No. 12/5-422/05 of 11 November 2005; Record of search of apartment, other premises and personal property at 23 Dr. Mustafe Pintola Str. No: 12/5-425 of 11 November 2005; Report on temporary seizure of objects No. 12/5-426/05 of 11 November 2005 of the Counter-Terrorism Department; Official Report of the FMoI Crime Police Sector Sarajevo about the conducted search of HOLLYWOOD Internet cafe No. 12/5-427 of 11 November 2005; Court Order No. KPP-144-1/05 of 17 November 2005 ordering access to computer systems and computer analysis of data;

-- Certified translation of the Report on telephone data by the Crime Police of the Kingdom of Denmark; Letter of the Ministry of Justice of the Kingdom of Denmark No. 2005-3401-0057 of 14 December 2006; Report on telephone data by the Crime Police of the Kingdom of Denmark; Letter of the Ministry of Justice of the Kingdom of Denmark No. 2005-3401-0057 of 8 November 2006 – court decisions ordering eavesdropping on telephones; Letter of the Ministry of Justice of the Kingdom of Denmark No. 2005-3401-0057 of 8 November 2006 – related provisions of the Law on Court Proceedings of Denmark;

-- Letter of the Ministry of Justice of BiH No. 07-14-6978/05 of 24 March 2006 with documentation submitted to the Embassy of BiH in London by the Metropolitan Police and the UK Crown Prosecution Service; Documentation of the UK Home Office No. MLI05/371/3028 of 27 March 2006;

-- Documentation obtained from Sweden via the Embassy of Sweden in Sarajevo with 9 CDs of 27 March 2006 and a CD as an enclosure (video footage for certified court interpreter for the Arabic language); Report of the Crime Police of the Kingdom of Denmark No. 0700-70242-00001-05 of 29 November 2006 concerning the documents found in Mirsad Bektašević's computer during the search of his apartment in Sweden; Report of the Crime Police of the Kingdom of Denmark No. 0700-70242-00001-05 of 5 November 2006 concerning the documents found in Abdulkadir Cesur's computer during the search of his apartment in Denmark, and the hard disc of Bektašević's computer.

The following evidence of the Defense was presented in the course of the evidentiary procedure:

At the proposal of the Defense of the first Accused Mirsad Bektašević, the first Accused Mirsad Bektašević was heard, and at the joint proposal of the respective Defense Counsel for the first Accused and the fourth Accused, expert witnesses Prof. Dr. Abdulah Kučukalić and Mirza Jamaković were heard and their respective findings and opinions were examined.

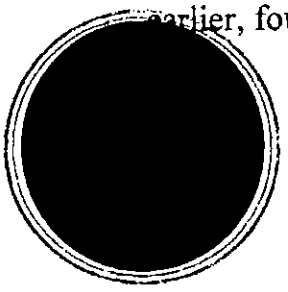
At the proposal of the Defense of the second Accused Abdulkadir Cesur, the second Accused was heard during the evidentiary procedure, and at the proposal of the third Accused, witness Amir Bajrić and the third Accused Bajro Ikanović were heard and the certificate of the Public Institution Health Center of Sarajevo Canton, Organizational Unit "Health Center Hadžići" No. 07-1-80-01/06 of 18 December 2006 was examined.

At the proposal of the Defense of the fourth Accused, witnesses Anes Čengić, Halid Hasanović and the fourth Accused Senad Hasanović were heard at the main trial.

After the evaluation of the respective presented evidence for the Prosecution and the Defense, individually and in correlation, the Court rendered the decision as quoted in the operative part of this Verdict for the following reasons:

With respect to Count 1 of the Indictment, the conviction of the Court that the Accused Mirsad Bektašević, Abdulkadir Cesur and Bajro Ikanović together committed the criminal offense referred to in Paragraph I of the operative part of this Verdict in the manner, at the place and at the time referred to in the operative part of this Verdict, follows from the presented evidence of the Prosecution, primarily the aforementioned material evidence of the Prosecution presented at the main trial as well as the statements of the following witnesses: Anes Čengić, Dragan Papić, Nermin Sijamhodžić, Nusret Čavčić, Nermina Jerković, Mersiha Alić, Admir Memović and Amir Bajrić, and the examined expert witnesses Samil Hasanbašić, Samir Babić, Muamer Fazlagić, Amar Kolaković, Hurem Šahić, Rijad Konjhodžić, Hilmija Mašović, Bruno Franjić, George Skaluba, Allen Hirson, Elmira Karahasanović, Prof. Nerzuk Ćurak, Ph.D., Prof. Dr. Abdulah Kučukalić and Mirza Jamaković, and partially also from the statements of witnesses Hamo Mahinić, Izeta Hamidović, Zafir Asotić, and the Accused Bektašević, Cesur and Ikanović, who were heard at the main trial as witnesses for the Defense.

To wit, it is an indisputable fact that the Accused Mirsad Bektašević arrived in Sarajevo from Goeteborg (Sweden) on 27 September 2005 and the Accused Abdulkadir Cesur from Copenhagen (Denmark) on 14 October 2005. It is also beyond dispute that each of them was aware of the arrival of the other one, and that they had previously coordinated their arrival, so the first Accused came earlier, found an apartment and on 14 October 2005 met the second Accused at



the bus station in Sarajevo and took him to the rented apartment at Novopazarska Street.

It follows beyond doubt from the statement of the second Accused that other persons, including Abdul Basit and others that are being tried in Denmark for the criminal offense of Terrorism, knew about the departure to Sarajevo. The second Accused himself confirmed that he knew these persons, that he had had contacts with them, that he had discussed going to Bosnia with them and that Abdul Basit had supported that idea of his telling him: "Go on, do it!" (he recognized the said persons at the photographs presented at the main trial). The second Accused also speaks about the support of the others to travel to Sarajevo and confirms that some of them were active in organizing his trip (thus Adnan Avdić gathered the information in the Embassy of Bosnia and Herzegovina and bought him the bus ticket with his money "as a gift"). However, the second Accused absolutely denies the Prosecutor's allegations on the reasons and grounds of that help and speaks about purely friendly reasons.

It is also beyond dispute that the time of the arrival and stay in Sarajevo of the first and the second Accused coincided with the Muslim holy month of Ramadan.

According to the assertions of the first and the second Accused, they came to Sarajevo solely for Ramadan and the desire to spend it in Sarajevo due to the special atmosphere and socializing (although, on several occasions the Defense of the first Accused also speaks about the arrival for military training), whereas, according to the allegations of the Prosecutor's Office, the arrival in Sarajevo was motivated by other, completely different goals – commission of a terrorist act with the goal of forcing the government bodies of Bosnia and Herzegovina and the other countries' governments to pull their troops out of Iraq and Afghanistan.

It follows from the statements of all three Accused that during their stay in Sarajevo they had contacts with the third Accused Bajro Ikanović. However, it is disputable whether these contacts were of a purely friendly nature and a result of the identical views on the religion, as they claim, or were also connected to the acquisition of explosive and commission of a terrorist act, as the Prosecutor claims.

With respect to the explosive and its possession, it is beyond dispute that both the first and the second Accused were found by the authorized officials of the FMoI in the apartment at 71 Poligonska Str. with a considera[redacted]

of unidentified substance that resembled an explosive and for which it was established after measuring that it weighed 19,842 grams. There was also a black intertwined belt there to which three trotyl bullets were fastened, as well as the other objects referred to in the operative part.

It is also disputable when and how they obtained that mixture, whether it really had the properties of explosive, with what aim all that was acquired and what its purpose was supposed to be, that is, what effects it produced. The respective allegations of the Prosecution and the Defense in that regard are diametrically opposed. In that respect, the allegations of the Defense on inappropriate means, that is, inappropriate attempt, had to be taken into account, as well as the objection as to the unlawfulness of the conducted searches and the unlawfully obtained evidence.

Members of the Police Administration of the FMoI, Anes Čengić, Dragan Papić, Nermin Sijamhodžić, Nusret Čavčić, Nermina Jerković, Mersiha Alić and Admir Memović, as well as the Accused Mirsad Bektašević and Abdulkadir Cesur, testified at the main trial about the search of the apartment at 71 Poligonska Str. on 19 October 2005, conducted by members of the Counter-Terrorism Department of the FMoI, about what had preceded it and what followed it and the evidence obtained in the search. The following material evidence was also reviewed: Official Note of the Preliminary Proceedings Judge of the Court of BiH No. Kpp-147/05 of 20 October 2005; written Warrant for search of apartment, other premises and personal property of FMoI No. 12/5-SL/05 of 19 October 2005; Record on search of the apartment at 71 Poligonska Str., Municipality of Ilidža, No. 12/5-365 of 19 October 2005 with the supporting photo-documentation; Receipt on temporary seizure of objects No. 12/5-366/05 of 19 October 2005; Official Report of FMoI No. 12/5-370 of 19 October 2005, and Report of FMoI on use of force No. 12/5-379 of 20 October 2005.

Having reviewed the Official Note of the Preliminary Proceedings Judge of the Court of BiH No. Kpp-147/05 of 20 October 2005, the Panel found that on the basis of two verbal requests of the head of the Counter-Terrorism Department of FMoI, the Preliminary Proceedings Judge of the Court of BiH on duty issued two verbal warrants for search of apartments and other personal property on 19 October 2005, one at 1530 hrs and the other at 2200 hrs. This concerns the searches of the apartments at 71 Poligonska Str. in Butmir near Sarajevo and 422 Novopazarska Str. in Sarajevo.

[redacted]suant to these verbal warrants, members of the FMoI drafted an FMoI [redacted] Warrant for search of apartment, other premises and personal property

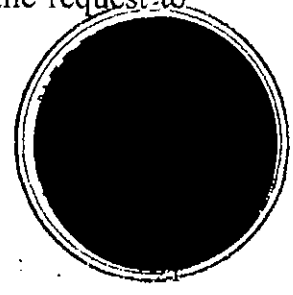
No. 12/5-SL-05 of 19 October 2005 and Warrant No. 12/5-369/05 of 19 October 2005, on the basis of which the searches at the said addresses were conducted (the Warrants enclosed in the case file).

In the opinion of the Panel, the said procedure of issuance of search warrants is in accordance with the provisions of the Criminal Procedure Code of BiH related to the submission of request and the issuance of search warrant.

To wit, under the provision set forth in Article 53 (2) of CPC BiH, a search warrant shall be issued by the Court at the request of the Prosecutor or at the request of authorized officials who have been approved by the Prosecutor. In the specific case, it follows beyond doubt from the statements of the witnesses who gave evidence–policemen, the official note of the Preliminary Proceedings Judge of the Court of BiH on duty, and the written search warrant drafted by the authorized official persons of FMoI on the basis of verbal approval that the warrant was issued on behalf of the Court of BiH by the Court's Preliminary Proceedings Judge on duty at the request of the authorized official persons that submitted the request following prior approval by the Prosecutor. The verbal form of the request submitted to the Judge is in accordance with Article 54 and 56 of the CPC while the drafting of the written warrant by the applicant -- authorized official persons of the FMoI is in accordance with Article 57 of the CPC.

For the said reasons, the Panel found the opposing allegations of the Defense of the first Accused, which the Defense Counsel of the other Accused joined in the course of the proceedings, to be unfounded.

Also, the Panel considers that it is not of decisive importance for evaluation of the validity of the issued warrant whether the Preliminary Proceedings Judge noted down the entire content of the conversation when the verbal request was made and subsequently forwarded it for transcription, and so on (which the Defense of the first Accused insists on). What matters is that the authorized Judge issued the search warrant, that the warrant had been preceded by the verbal request of the authorized official persons and that the subsequent procedure was in accordance with the law, that is, that a written search warrant was drafted in which the name of the Preliminary Proceedings Judge who issued the warrant was clearly stated (Judge Zorica Gogala) and in which even the exact time of the issuance of the verbal warrant by the Judge was stated as was the approval of the Prosecutor for directly communicating the request to the Judge.



With regard to the procedure of the execution of the search warrant, the allegations of the defence are true in suggesting that, prior to the commencement of search an authorised official must give notice of his authority and of the purpose of his arrival and show the warrant to the person whose property is to be searched or who himself is to be searched, and only if the authorised official is not thereafter admitted may he resort to the use of force. In this particular case and based on the statements of the authorised officials: Inspectors of the F MoI Anti-Terrorism Unit, Anes Čengić, Dragan Papić and Nermin Sijamhodžić, the Panel established that they introduced themselves to first-accused Mirsad Bektašević as members of the Federation MUP after he opened the entrance door, that Anes Čengić attempted to serve a written notice on him but he refused to receive it, thus unmistakably indicating that he would not allow any search whatsoever and he used abusive language against them, and that it was then, and not earlier, when witness Čengić commenced with overcoming Bektašević's resistance, and the Police entered the apartment afterwards.

The Court gave full credence to the stated witnesses: Anes Čengić, Dragan Papić, Nermin Sijamhodžić, Nusret Čavčić, Nermina Jerković and Mersiha Alić, with respect to this particular event and these particular facts, as well as to others on which they testified. This is due to the fact that these were the testimonies given under oath by persons who are unrelated and not interested in the outcome of these proceedings, the long-experienced police officers who had no motive to make false allegations and arbitrarily charge the accused persons whom they had never seen before. In addition, these witnesses' statements are also fully consistent with the physical documents, unlike the statements of those accused who contest the statements of the said witnesses and who are more than interested in presenting the things in such a manner so as to evade responsibility.

Having examined the official report of the F MoI Police Headquarters – Crime Investigation Police Section No. 12/5-370 of 19 October 2005 and the Search Record No. 12/5-365 of 19 October 2005, the Panel established that the search of the apartment at the address of 71 Poligonska Street had been conducted in the presence of witnesses Dževdet(a) Ibišević and Emsad Podgorica, and that afterwards both witnesses signed the record with no objections (the Search Record also contains the signature of accused Bektašević in his capacity as the apartment occupant).

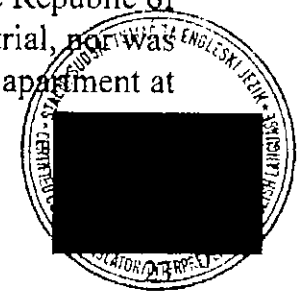
In addition, it should be kept in mind that, pursuant to Article 64 of the Criminal Procedure Code of BiH, an authorised official may enter a dwelling

or other premises even without a warrant and without a witness if this is required to apprehend a perpetrator of a criminal offence, or for the sake of the safety of a person or property.

Based on the statements of witnesses Anes Čengić, Nermin Sijamhodžić and Dragan Papić, Search Record No. 12/5-365 of 19 October 2005 and the accompanying photo-documentation, a receipt confirming the temporary seizure of objects No. 12/5-366/05 of 19 October 2005, and the official report of the FMoI No. 12/5-370 of 19 October 2005, the Court established that, on that occasion, in the apartment at the address of 71 Poligonska Street, the objects as stated in the Indictment and many others were found and seized: a black leather bag, ID issued by the Federal Republic of Yugoslavia in the name of Mirsad Bektašević, two ULTRA - cards for mobile telephone, a "Sony 60 Hi 8" video tape, a substance resembling brown-red explosive (on the floor and in the kitchen elements), a black bag containing a belt with explosive fastened, also called "suicide belt" and an electronic blasting cap, a "Browning" 7.65 mm pistol with silencer, M-70 model with the accompanying clip with five bullets, mobile telephone brand "Nokia", dark-grey in colour, type 6260, and a "Sony-Ericsson", black-grey in colour, a grey coat with banknotes of various currencies, a belt for documents containing a Swedish passport in the name of Mirsad Bektašević, a grey winter jacket with a Turkish passport No. 1603/99 to the name of Cesur Abdulkadir, a child-toy box with a timer, an egg-shaped child's toy with a timer, a student matriculation card in the name of Damir Turkić, a transparent foil and various photographs and banknotes.
Upon the seizure, in compliance with the regulations, the authorised official, Inspector Anes Čengić, issued a proper receipt confirming the seizure of the objects to the first-accused, who took it over and signed it.

Also, the Panel completely accepted as valid all stated physical evidence based on which it established the said facts, given that the official documents to which none of the participants made any objection at the time of their production were in question, and also given that the credibility of all those documents was confirmed by the witnesses – authorised officials who had produced or used them.

After Bektašević and Cesur had been arrested, the Police obtained information that the house at the address of 71 Poligonska Street was owned by Jusuf Hamidović, uncle of accused Bektašević, who lived in Sjenica, the Republic of Serbia. That fact was not challenged by anyone during the Court trial, nor was the fact that first-accused Bektašević was in possession of another apartment at



the address of 422 Novopazarska Street, Municipality of Novi Grad – Sarajevo, for which he paid rent. Therefore, these two facts were also accepted as indisputably established.

The apartment at the address of 422 Novopazarska Street was searched on 20 October 2005. The following F MoI police officers, who conducted the search, testified on the circumstances of the search and on the facts that were important to the Panel so as to evaluate the legality of evidence obtained during search: Nermin Sijamhodžić, Nermina Jerković, Mersiha Alić, Nusret Čavčić, Admir Memović, and the owner of the house at the address of 422 Novopazarska Street, Hamo Mahinić. With regard to the circumstances of the search, the Court also examined the following physical evidence: Record on search of the apartment, other premises and movables No. 12/5-sl-1/05 of 20 October 2005 with the accompanying photo-documentation, F MoI search warrant No. 12/5-369/05 of 19 October 2005, receipt confirming temporary seizure of objects No. 12/5-SL/05 of 20 October 2005, and the F MoI Official Report No. 12/5-378 of 20 October 2005.

Based on both the statements of the aforesaid witnesses-police officers, which the Panel accepted for the already stated reasons, and the said documents of the F MoI which were also accepted for the same reasons, the Panel found that this search was also conducted pursuant to a search warrant which was orally issued by the Preliminary Proceedings Judge of the Court of BiH (Zorica Gogala), and that the issuance of the warrant was preceded by an oral request of the authorised official of the F MoI, based on previous approval by Prosecutor Ahmet Halebić. The Preliminary Proceedings Judge made an Official Note about the orally issued warrant No. KPP-147/05 of 20 October 2005, indicating that the oral request was made by telephone, by a member of the F MoI, Ivo Šako, and, after being made in writing, the search warrant was read by the authorised officials to the Judge, by telephone. Given the aforesaid and the legal regulations already cited, the Court evaluated as unacceptable the allegations of the defence suggesting that there had been no properly made search warrant and that therefore, the evidence obtained during search was unlawful.

Having examined the Search Record No. 12/5-SL-1/05 of 20 October 2005, which was made by the F MoI authorised officials: Nermin Sijamhodžić, Nermina Jerković, Nusret Čavčić, Mersiha Alić and Admir Memović who gave their testimonies directly at the main trial and confirmed the facts stated in the Record, and based on the issued receipt confirming temporary seizure of objects No. 12/5-SL-05 of 20 October 2005, the Panel established that the

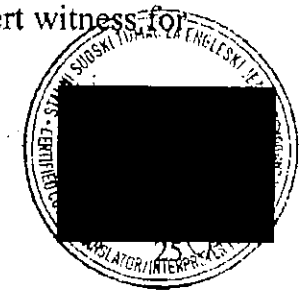
owner of the building and witnesses Nazif Kovač and Raza Čehić from Sarajevo, at 424 Novopazarska Street, were present during the search, and that the following objects were found and temporarily seized during the search: a pistol holster made of leather, brown in colour, a blue sport bag with the inscription "KARRIMOR", and a round black coil strapped with blue silicone, a black sport jacket, a black case with a small book of "Qur'an" written in Arabic, a black-white bag, a black bag, a pistol holster made of leather, silicon with the inscription "Djuphov" 60, silicon coiled around a green stick, a 7.65 mm pistol clip without bullets, a white scarf, two pieces of "RRS" handsets, black binoculars, a blue camouflage cap called "Pentagon" cap, a black camouflage cap called "Pentagon" cap, a black adhesive tape, a brown knife, various cables, two pairs of black gloves, a compass, bus tickets, bills.

The Panel also found that the search of the house at the address of 388 Orlovačka Street, Municipality of Novi Grad, Sarajevo, owned by Zafir Asotić and Izeta Hamidović, uncle and aunt of accused Mirsad Bektašević, was conducted in a lawful and appropriate manner, while the allegations to the contrary which were made by the defence for the first-accused were found to be ungrounded.

This stems from the fact that this search too was conducted upon an oral warrant of the Preliminary Proceedings Judge of the Court of BiH No.:KPP-145/05 of 23 October 2005 in the presence of the tenant(s) and the witness(es). On that occasion, the following was also made: Search Record No. 388/05 of 23 October 2005, receipt confirming temporary seizure of objects No.:12/5-387/05 of 23 October 2005, and the F MoI official report No.: 12/5-390 of 23 October 2005. During the search, several objects were found and seized in the house, of which a grey-black 8 mm video-camera brand "CANON" UC 4000 was of particular importance and, according to witness Izeta Hamidović and the first-accused himself, it was held by the first-accused for a certain period of time.

All the aforesaid objects which were found and temporarily seized during all three searches, were subjected to the relevant analyses and expert evaluations, and those who provided the written analyses, findings and expertise, were also directly heard at the main trial.

With regard to the quality or chemical composition of the substance found at the address of 71 Poligonska Street, a chemical analysis was carried out by Hilmija Mašović, a graduate chemical engineer and certified expert witness for explosive devices.



According to the finding and the opinion of this expert witness, an unidentified red-brown substance which was found and a trace on the knife blade constitute an explosive mixture of nitroglycerine (NG), trinitrotoluene (TNT) and ammonium nitrate (AN), while a yellow-brown substance taken out from the trotyl bullets – Trace Evidence No. 4-III, is the explosive trinitrotoluene (TNT). The expert witness reached such results by applying the thin-layer hematography method and other adequate chemical methods, the reliability of which was also confirmed by Mirza Jamaković, expert witness for the defence. According to expert witness Mašović, any of the stated three substances is explosive in itself and, of the three substances that make a compound, two are not water or moisture soluble, while ammonium nitrate is soluble. This is obviously a plastic explosive given that it can be shaped according to one's wish. The compound has not been analysed in terms of quantity and therefore the explosive component has not been determined. However, expert witness Mašović categorically claims that that was an explosive in a working/usable condition, and that the composition of the substance is valid in terms of quality, while the composition in terms of quantity is only relevant to the explosive power. According to the expert witness, it depends on the purpose, and therefore the quantity of every component in the compound depends on the purpose for which the explosive is intended.

The expert witness holds that the TNT is one of the most brisant explosives, which is often employed as a military explosive. Nitroglycerine is brisant too, while the chemical reaction of ammonium nitrate happens at a slower rate.

Mirza Jamaković, graduate chemical engineer and defence expert witness for both the first accused and the fourth accused, basically reached the same conclusion with regard to the composition of 19,842-gram explosive substance found during the search at the address of 71 Poligonska Street, in a form of "salami", "patty" and smaller cartridges, which were then stored in the F MoI warchouse (where, a year later – in November 2006, they were examined by the expert witness for the defence). This expert witness also resolutely claims that at issue here was the already stated chemical composition of the substance packed in cylindrical cartridges, 60 mm diameter and 500 mm length, in nylon cylindrical bags (Trace Evidence No. 3 and 11-2, page 2 of this expert witness's findings), cartridges made of paraffin wax paper, 28 mm diameter and 200 mm length (Trace Evidence No. 11), and explosive in plastic foodstuffs bags (Trace Evidence No. 12), and he also claims that the explosive is usable. Expert witness Jamaković adhered to such very clear allegation during the main trial.

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Unlike the stated explosive, the procurement and possession of which being the matter of the Indictment, this expert witness established no working condition of the explosive "Vitezit" which was packed in the 28 x 200 mm paraffin paper cartridges, found at the location of Donji Hadžići – Gaj during the fieldwork based on the Hasanović's statement, given that it leaked from the cartridges having absorbed a considerable amount of moisture.

To wit, according to what expert witness Jamaković stated in the main trial, explosive is defective if it has absorbed moisture but it still may explode with reduced power, i.e. reduced lethal power. According to expert witness Jamaković, explosive "detonates even when soaked, but it cannot detonate if leaked". As for the shelf-life of the economic explosive and the afterwards characteristics of the explosive, the expert witness points out that it is a legal obligation of the explosive holder to destroy it after the expiry of its shelf-life, but if this is not done the explosive may still be used, particularly if packed in nylon bags (the quantity being the matter of the Indictment was exactly packed in the nylon foil).

According to expert witness Jamaković, the examined explosive in the form of "salamis" and "patties" was, at the time of analysis, in a condition suggesting that it could have been activated and caused damage – demolished something etc., and the expert witness believes that it could have also been used one year before, i.e. at the time of search of the apartment at the address of Poligonska Street. To wit, according to Jamaković, if explosive is taken out of the nylon in which it is wrapped when manufactured and then shaped into "flattened minced meat", "patties" and similar, the lethal power of the explosive will be preserved.

With regard to 100 gram trotyl bullets (Trace Evidence No. 4), expert witness Jamaković also claims that a type of military explosive, which is highly resistant to weather conditions, is in question here, and the expert witness thinks that it therefore cannot suffer from any physical-chemical changes. This is what the expert witness also confirmed at the main trial and added that that was a solid explosive which is not destroyable even after many years.

Given that the findings and opinions of the certified expert witnesses who have longtime experience in the field in which they carried out the expert evaluation and whose expertise has not been questioned with regard to anything in particular, the Court accepted the findings and the opinions of the stated expert witnesses – Mašović and Jamaković as objective and competent. In doing so, the Panel also took into consideration the fact that their respective findings and

opinions were basically quite identical in what the Court was interested in and with regard to the matter of the charges. Both expert witnesses agree about the quality and characteristics of the explosive compound packed like salamis and cartridges and found during the search of the apartment at the address of 71 Poligonska Street, and of the trotyl bullets fastened to the black intertwined belt which was also found in the apartment. The expert witnesses' positions differ with regard to the explosive which, at a much later point in time, accused Hasanović showed to the Police in the woods Gaj in Donji Hadžići, the possession of which none of the accused persons was charged with. Expert witness Mašović had found that that explosive was usable, while one year later, expert witness Jamaković found that it was unusable as it had leaked from the cartridges due to being in contact with moisture. Given the aforesaid period of time passed and the inadequate storage (upon the seizure, the explosive found at the Poligonska Street was stored in the metal cases), the difference is quite normal but it is irrelevant in this legal matter given that the explosive that was subsequently found in the woods called Gaj, was not possessed by the accused persons nor was it the matter of the charges.

Given the very resolute statements made by both expert witnesses suggesting that the explosive from the 71 Poligonska Street, which was the matter of the charges, was in working order, i.e. usable and that, as such, it had lethal and destructive power, which particularly refers to the trotyl bullets fastened to the belt, the proposal of the Defence Counsel for the first accused to perform the test firing of a sample of the detected substance and establish its quality and destructive power, was refused as redundant and unnecessary. Such proof would be redundant even if the opinion of expert witness Mašović and the time passed were fully disregarded, and if the opinion of the expert witness for the defence – Jamaković were the only one to be taken into consideration, given that, upon the Court inquiry, he himself stated that the explosive referred to on Page 2 of his findings ("salamis", "patties" and cartridges – Trace Evidence No. 3, 11, 11-2 and 12) was usable and had destructive power even a year later, and this particularly refers to 100-gram trotyl bullets which have extensive destructive power themselves and are absolutely resistant to any weather or other changes.

For the same reasons (both expert witnesses made their resolute statements on the quality and characteristics of the explosive in the salamis, patties and cartridges marked as Trace Evidence No. 3, 11, 11-2 and 12), the proposal of the defence for the fourth accused that information should be sought from the company "Vitezit" from Vitez on the date on which the last explosive was manufactured by that company, was found to be redundant.

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It should be added in that respect that the origin of the explosive is irrelevant from the aspect of the existence of the criminal offence as referred to in Article 201, paragraph 1 in conjunction with paragraph 4, sub-paragraph f, and the content of the Indictment. It is not of importance for the existence of a criminal offence of terrorism as to whether the stated 19 kilos of explosive and trotyl bullets found at 71 Poligonska Street originate from the war, from the former JNA or whether, just before they were found, they had been stolen from a stone-pit in the Hadžići area or from some other quite different region and then put into an abandoned case with the JNA inscription, or whether in some other way they happened to be in the trunk of the former JNA at the time when accused Hasanović, while going mushrooming, found that explosive. It is essential though as to whether the substance having characteristics of an explosive is in question here, and whether the accused persons obtained and held it in their possession with the aim as foreseen for the existence of that criminal offence.

The subject of expert evaluation also included the PVC foils; - a foil in which the substance found at the 71 Poligonska Street was wrapped in a form of salamis and flattened minced meat – patties, and for which both expert witnesses (for both the defence and the prosecution) established that it was explosive, and – a foil roll found in the same apartment. According to certified expert witness Bruno Franjić, graduate mechanical engineer and Head of Ballistic and Mechanoscopic Analysis Unit, the foil of the same general characteristics – same thickness and width, is in question here, and based on that the expert witness believes that the PVC foil in which the explosive was wrapped might come from that particular PVC roll which was found in the same apartment during the search.

The same expert witness also analysed the pistol with silencer, pistol bullets and a knife which were found. With regard to the pistol, the expert witness claimed that it was a 7,65 mm calibre pistol and that some more work was done on it by fixing a silencer on it. According to the expert witness and technically speaking, the pistol is in firing condition, although it was a 1992 model. The expert witness believes that the fact that the pistol was not cleaned did not affect its functionality and that it could be fired. The year of manufacture of this pistol has not been established but expert witness Franjić does not find it important. It is important though that the pistol was in the firing condition.

In his capacity as expert witness at the main trial, Hurem Šahić, Head of Pyrotechnics Unit of F MoI CSP[1], made a statement on the possible purpose of the quantity of explosive found, a blasting cap, timer-child's toy, three trotyl bullets which were, at the time when found at the address of 71 Poligonska Street, fastened with a black insulating tape to a so-called "suicidal belt", i.e. on their suitability for creating an explosive device.

In his written findings and opinion as well as in his statement made in the main trial, expert witness Šahić resolutely stated that it was possible to make a suicide belt of the said substances and that only a source of electricity was missing. This is so for the following reasons: the substance wrapped in a PVC foil (salamis) and the paraffin paper (cartridges) marked as Trace Evidence No. 3, 11, 11-2 and 12, economic explosive – *vitezit*, being the explosive compound of nitroglycerine, trinitrotoluene (TNT) and ammonium nitrate (as previously established by the expert witnesses); Trace Evidence No. 4, trotyl bullet i.e. trinitrotoluene (TNT) explosive; Trace Evidence No.14 – mechanical indicator of the expiry of the time set (timer) which rings upon the expiry of the time set, and Trace Evidence No. 4-2 – electrical blasting cap – EDK intended for ignition – activation of all types of brisant explosive charges. According to the expert witness, the arrangement and the type of furniture in the apartment (71 Poligonska Street), tools and other equipment and the position of evidence i.e. traces as described at the time of the search, logically suggest that the activities concerning the preparation and the development of an improvised explosive device took place in the home environment wherein semi-professional tools were used.

The improvised explosive device "suicide belt" from the same apartment, marked as Trace Evidence No. 4, consists of three parts: body – comprising a black intertwined belt with Velcro strap across its one side while the other side was smooth; explosive charges composed of three cylindrical 100-gram trotyl bullets spaced out equally so as to ensure the transmission of detonation and fastened to the smooth surface of the said belt with a black insulating tape; and – EDK (electronic blasting cap) as a part of the electrical fuse of this improvised explosive device which was only missing a source of electricity to activate the EDK. According to the expert witness, the principle of activation of such an improvised explosive device is such that "the operator keeps a trigger in his hand", and the explosive device is completed when EDK is put into one of the wrapped trotyl bullets – in a manufactured opening, whereby the PVC coating is taken off its loose ends. An insulated conduction is tied to a battery pole while another is kept in hand and, at a certain point in time, it is

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connected to another battery pole thus creating a simple current circuit which activates EDK and the latter then ignites and activates the explosive. The expert witness believes that the lethal power of the improvised explosive device "suicide belt" is "rather considerable" given the TNT detonation velocity, its blasting temperature and the fact that the economic explosive based on ammonium nitrate was prepared for making an improvised explosive device to be placed on the Velcro strap. According to the expert witness, the suicide belt as described serves as a holder and as an activator of the explosive placed in the suicide belt. Expert witness Šahić is of the opinion that all aforesaid explosive could have been used as an explosive charge of this type of the explosive device, in which case the lethal power would have been far greater. To wit, according to the expert witness, the improvised explosive device – suicide belt, as a terrorist bombing kit, was only intended for killing humans. A suicide bomber puts an improvised suicidal device, made in such a manner, around his body and, at a certain point in time and in a certain place, he himself activates it by the "trigger in his hand". According to the findings and the opinion of the expert witness, should the operator intend to use an explosive device constructed in such a manner and as an explosive device to be planted in a certain place, it could be activated by a time electric fuse for which construction a timer found during the search might also be used.

During the main trial, the expert witness adhered to the given opinion and added that the stated type of explosive is not used for training due to being very dangerous; that the belt like the one found cannot be used by hunters given that the hunter-belts have vertically set bullet holders wherein bullets are not tied to them as was the case with that particular belt where they were tied with a black insulating tape; that even if the three trotyl bullets alone were activated their lethal power would be considerable and particularly if they were activated in the middle of a marketplace and at similar places: the consequences would be lethal and with injuries as the blasting waves cause that all organs burst into pieces; they could blast a building wall and similar, and the quantity of almost twenty kilos of explosives would have a huge destructive power in particular.

To wit, the expert witness holds that the explosive was properly stored and the manner in which it was wrapped suggests that it could have been used for suicide belts. According to the expert witness, all of this could have been done by a person trained in explosives, one who has knowledge about the transmission of the explosive wave from one bullet to another and so on.

The Defence Counsel for the accused persons objected to the findings and the opinion of this expert witness and pointed out that he was not a certified expert witness and that he was an economist by profession. Nevertheless, the Panel accepted the findings and the opinion of this expert witness as well, given that the expert evaluation may also be assigned to someone who is not on the list of the certified expert witnesses, as well as to a certain competent institution. In principle, compared to the individual expert witnesses, institutions make a preferable option given their human, technical and other resources for carrying out a better expert evaluation.

In this particular case, it stems from the request of the Prosecutor's Office of BiH – order for expert evaluation, that the expert evaluation of the substance found was assigned to the F MoI Forensic and Support Centre which is, in terms of technology, personnel and otherwise, best equipped and most competent in BiH. In addition, the fact that a person who, on behalf of the Centre, signed and directly presented the findings and the opinion at the Court, finished the Faculty of Economics, does not provide any reason for non-acceptance of the finding and the opinion. This is particularly so as the findings and the opinion were thrown into serious doubt in no way whatsoever, and given that this is a person who has already been dealing with the police duties for 27 years now and who finished a specialist training in CSP[2] in 1987 and underwent several specialist trainings in America, Spain and Hungary over the last 4-5 years and who, given his expertise in this field, has been appointed Head of the Department, and who is, on top of that, unrelated and not interested in the outcome of the proceedings.

The Panel holds that all the aforesaid indicates that the said person is extremely qualified and competent in the field in relation to which he gave his opinion, regardless of his formal educational background – the Faculty of Economics he finished. Anyway, an expert witness's formal educational background is not the only standard to be met for a quality expert evaluation. Expert witness's expertise and years-long experience in the field in which an expert opinion is required is the element which is even more important than formal education or a title.

Besides, as the expert witness emphasised himself, there is no special school or faculty in this region to provide training only in the CSP activities, while the expert witness has received any training possible in this field (specialist training in CSP in the former SFRY in 1987, and a number of courses and specialist trainings held by the competent institutions abroad). Consequently,

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this objection of the defence is also found to be unfounded and therefore unacceptable.

As for the mechanical timer that was also found during the search at the address of 71 Poligonska Street, it was evaluated by expert witness – pyrotechnician Amar Kolaković. In his written findings and opinion and in his statement made at the main trial, the expert witness confirmed that the Trace Evidence 14 referred to a mechanical "timer" which is mostly used as a kitchen aid, for which he established that it had previously been disassembled. According to the expert witness, that cannot be seen from outside, however, a part which does not belong there and which should have been in the upper half of it was found in the inside left half of the timing mechanism. According to the expert witness, this refers to a part that could not get through to the lower part unless it was mistakenly left there after disassembly. The purpose of that metal part with a hexagonal hole is to keep the mechanism together and prevent the cogwheels slippage. Damage on the screws also indicate that the mechanism was disassembled. To wit, according to the expert witness, the timing mechanism was in working order and such mechanisms are also used as timers or so-called delay-timer switches in the improvised explosive devices. The mechanism found could have functioned as an electrical switch with time delay fuse, i.e. the fuse would take place after the expiry of the time set. According to the expert witness, the mechanism – timer is relatively easy to turn into an electric time delay switch in which an electric circuit would become closed after the expiry of the time set. The expert witness thinks that no specialist training is needed for the mechanism to be worked on and to be used as an electrical switch. That can also be learnt by watching instructional films.

The Court fully accepted the findings and the opinion of this expert witness as being objective and qualified given that they were given by a person who is competent, unrelated and non-interested, and given that the provided findings and the opinion had not been questioned by any other evidence.

Biological expert evaluation of the trace evidence found was carried out by Elmira Karahasanović, certified expert witness in this field. Based on this expert witness's findings and opinion, which the Court accepted as objective and accurate, it was established that the hairs found in an olive-drab cap, a so-called "Pentagon" cap, i.e. 8 hairs (the cap was found and temporarily seized during the search at the address of 422 Novopazarska Street, which apartment was undoubtedly occupied by Mirsad Bektašević), belonged to a single person except for one hair which might have belonged to some other person.

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The microbiological expert evaluation performed through the method of isolation and comparison of DNA profile, which was carried out by expert witness Rijad Konjhodžić (whose findings and opinion the Court also accepted as objective and competent and against which no party raised any objection whatsoever), indicated that the biological evidence taken from the camouflage cap, a blue cap with eye slits, a black cap and a white scarf called "Arafat" scarf – the objects seized during the search at the address of 422 Novopazarska Street, came from one and the same person and that they belonged to accused Mirsad Bektašević.

Based on the findings and the opinion of expert witness Samil Hasanbašić, who performed dactiloscopy, it was determined that the fingerprints found on the seized objects, i.e. on a metal case with cover, seized during the search at the address of 71 Poligonska Street, and on the "Oglasnik A-Ž[3]" which was seized during the search at the address of 422 Novopazarska Street, undoubtedly matched the fingerprints of accused Mirsad Bektašević. The Panel accepted the findings and the opinion of this expert witness as objective and qualified given that they were provided by a competent, unrelated and non-interested person, also bearing in mind that they were not contested by any other concrete evidence.

The objections of the defence for the first-accused which were then followed by those of the second and the third-accused who challenged the objectivity of both expert witnesses and the witnesses who were heard and who were members of the F MoI, based on the fact that the F MoI is a part of the State system and a long arm of the Prosecutor's Office, were not accepted by the Court because the place and the position of these institutions in the legal system does not automatically imply that those persons were biased in favour of the prosecution and against those accused. On the contrary, the duty of all those institutions and individuals in them is to establish the truth and prosecute the perpetrators of the criminal offences based on the truthful, not rigged facts, as the accused persons perceive the facts they have been charged with. On the contrary, all those institutions, including all MUPs and all Prosecutor's Offices, are obliged under the Constitution and laws of this country to establish the truth and protect the rights of all citizens, including those charged with criminal offences, and therefore, partiality cannot be raised as an issue just because their statements charge the accused persons, and particularly not with regard to the "planned games and rigged" facts aimed at convicting those accused by making false allegations and arbitrarily charging them for crimes

they did not commit. Anyway, prior to giving their testimonies, all witnesses and expert witnesses were cautioned by the Court of their obligation to tell the truth and of the consequences of giving false testimonies, and they all took a relevant oath.

Based on the aforesaid evidence, the Panel found beyond any reasonable doubt that the accused persons possessed explosives in the minimum quantity of 19,842 grams, a black intertwined belt with three trotyl bullets fastened to it, and other objects as stated in the operative part, which were found during the search of the apartment at the address of 71 Poligonska Street – Municipality of Ilidža, owned by the uncle of first-accused Mirsad Bektašević, and of the apartment at the address of 422 Novopazarska Street which was rented by accused Bektašević, which the second and the third-accused undoubtedly used. As the expert evaluation undoubtedly proved that the stated explosives were in good order and usable, the averments of the defence for the accused suggesting that the found explosive was unusable, is therefore unacceptable.

With regard to the acquisition – procurement of the explosive, that is to Bektašević and Cesur's having possession of the explosive, this Panel holds that it stems from the presented evidence that third accused Bajro Ikanović was the one who obtained and handed the explosive over to them, as stated in the Indictment.

This clearly and primarily follows from the statement made by Amir Bajrić, and not only from it, as claimed by the Defence Counsel for Ikanović, but also from other evidence and numerous facts which this Panel took into consideration and which refer to the intensity and to their time spent socialising, the contacts between accused Ikanović and Bektašević, and to the behaviour of accused Ikanović after the first and the second accused were arrested.

First, the third accused himself claimed that he liked Bektašević from the moment they met, as he realised that the former "had good ideas". According to the statements of both Bektašević and Ikanović, their time spent socialising has became very intensive from the very beginning; Ikanović took Bektašević and Cesur to his home in Hadžići very soon, not for Ramadan meal only but for staying overnight as well. In addition, the next day, he visited them in their apartment at the address of 422 Novopazarska Street, which indicates exceptional closeness.

Telephone contacts between Bektašević and Ikanović were very frequent. It follows from the analysis of their mobile incoming, outgoing and missed calls that, in the period from 2 October to 16 October 2005, they had 18 contacts, all of them made by Bektašević, and not one by Ikanović. On 6 October 2005, they even talked on five occasions. Ikanović called Bektašević only once, in the morning after Bektašević had been arrested, at 7:59 hrs., which was registered as a missed call (Bektašević's mobile telephone was already seized). They both attempted to hide a telephone contact made in June 2005, which implies that even at that time they already knew each other.

In addition, it should be taken into consideration that, during the search of Ikanović's house, a rucksack of the brand ("Karrimor") identical to the one seized in the 422 Novopazarska Street, was found in the attic and the name of Mohammed Daut and an address in Great Britain were written on it, which was established through the statements of the police officers who conducted the search and produced the documents.

The Panel holds it quite illogical as to why Ikanović was so sure that the police would come and arrest him, which also follows from his statement, if he truly had nothing to do with what he read in the newspapers about what they had prepared and done, if all of that was unknown to him and if his association with arrested Bektašević and Cesur was on friendly terms only.

On the other hand, in his testimony at the main trial, witness Amir Bajrić clearly and precisely stated that he was the one who, at the request of Ikanović, obtained explosive from accused Hasanović and handed it over to Ikanović in order to pay off a debt to him for a damaged car and previous loans.

The manner in which he obtained and handed it over was described by the witness in a very concrete and convincing manner, given his educational background and his life-style. The witness himself admits his bad orientation in time, which is understandable given his disorderly life-style (from day to day) and his psychological crisis about which Ikanović talked when describing the circumstances under which they met. To put it simply, the time-related facts are not particularly relevant to Bajrić and he therefore does not remember them properly, he confuses them, and similar. Still, the witness is very resolute in stating that he talked with accused Bajro Ikanović (whom he met in May 2005 and with whom he had socialised intensively since that time) about the procurement of explosive some 10-20 days before the month of Ramadan in 2005, that Ikanović initiated that conversation by asking him if he could obtain explosive for him, and that he also asked for primers and other weapons

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(pistol, riffle and others). The witness resolutely stated that he promised to attempt to obtain that (he recalled the conversation with Hasanović and his friend in the pastry shop) and that he obtained explosive from the fourth accused Senad Hasanović and handed it over to Ikanović, initially smaller, test-quantities ("salamis" wrapped in nylon and two smaller objects wrapped in paper) and then different quantities of salamis and cartridges; 7-8 "salamis" and 10-11 smaller explosive objects which Bajrić recognised on the showed photographs of objects seized at the 71 Poligonska Street.

It undoubtedly stems from the statement of accused Hasanović as well as from the statement of witness Ensar Aljević (to whom the Court gave credence in that part) who drove Hasanović to the Bajrić's house on that occasion, that Hasanović did deliver the explosives to Bajrić.

Witness Bajrić also confirms that, approximately one month before the arrest, accused Bajro Ikanović said to him that he knew that he (Ikanović) would also be arrested, as some "brothers had fallen down" and that the Police would certainly come to him (Bajrić) as well, and he advised him to keep silent about everything and to "clean his house". Such claim of witness Bajrić is fully consistent with what Ikanović himself thought about the arrival of the Police and what he said in his testimony at the main trial, and it is consistent with the claim of the police officers who searched Ikanović's house and who stated that, on the occasion of the search, they found a very tidy apartment and that Ikanović told them that he had already been waiting for them. If he had waited for the Police, it is quite logical that he had talked about that with Bajrić and uttered the stated words. Otherwise, if he had not borne in mind everything which done before, it would not have been logical for him to talk about everything and to warn Bajrić.

It also undoubtedly follows from the statement of witness Bajrić that Ikanović took the explosives obtained through Bajrić to Sarajevo. To wit, witness Bajrić states very convincingly that he was travelling with Ikanović by the Sarajevo-Hadžići train, that he accidentally touched Ikanović's rucksack when getting out, that he realised how heavy it was and asked him if that was "*the* explosive", and that Ikanović only laughed. According to Bajrić, that happened a few days after he had handed over to Ikanović the stated larger quantity of explosives.

Witness Bajrić also confirms that Ikanović previously told him that two brothers were to come over from abroad and that he would introduce him to them; however, he did not do that.

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Witness Bajrić also describes that, when they were on Mt. Igman at the Crvene stijene location and while an SFOR convoy was passing by, Ikanović looked at them and said: "Jihad should be carried out here"
With regard to the circumstances under which the explosives were obtained, Senad Hasanović, Ensar Aljević and Muhidin Osmanović testified at the main trial and provided a detailed description of how Bajrić asked Hasanović for explosives and how the latter brought it over to Bajrić. With this regard, the witnesses' statements are fully consistent with what witness Bajrić said about the finding of the explosives and their being forwarded to Amir Bajrić. The Court also deemed this fact to be one more sign of objectivity and accuracy of Amir Bajrić's statement, which the Court accepted as objective and accurate with regard to decisive facts, and held that the inconsistencies in other facts stated by witness Bajrić were irrelevant and that they resulted from his life-style and his personality.

In addition to the aforesaid and in the course of deciding on the matter, the Panel certainly took into consideration the objections of the defence with regard to validity of the statement made by witness Amir Bajrić and his credibility, and it found them ungrounded nevertheless.

To wit, the allegations of the third accused and his Defence Counsel are true in stating that Bajrić was sentenced for several criminal offences and that, within the same case, he was also previously charged with illicit keeping of explosives and that he then entered into an agreement on the admission of guilt with the Prosecutor's Office. It is also true that his statement contains certain contradictions; however, the Panel finds that these do not refer to the substantial facts. With regard to what is of substantial and decisive importance to this Court, given the subject-matter of the Indictment, witness Amir Bajrić was consistent from his first hearing at the Prosecutor's Office throughout the end of his testimony before this Court. Consequently, witness Amir Bajrić kept being persistent in claiming that Bajro Ikanović asked him for the explosives and that he, through Senad Hasanović, obtained and handed them over to him in person. He adhered to such a statement even after being threatened by both Ikanović and persons close to him.

This Panel finds that Bajrić indeed is a person who has been repeatedly sentenced, but mainly for fighting. At the same time, he is also a person who is not afraid of anybody and anything, much less of telling the truth. The Panel finds that the witness has no proper and logical reason to make a false statement against accused Ikanović. Such Panel's conclusion is grounded on

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the fact that Ikanović is his neighbour, that he spent time with him intensively, Ikanović found him a job and helped him when he had psychological crisis and, as for the debt mentioned by Ikanović, the witness thinks that there is no such debt and even if it exists, he does not pay attention to such things at all. It is therefore quite illogical that Bajrić would have concealed that he had given the explosives to Bektašević if that had happened indeed, and that he would have made a false allegation against Ikanović . On the contrary, it is far more logical that Bajrić had more reason to attempt to help Ikanović and hide his role instead of trying to spite him and impute to him what he did not commit. If he is to be afraid of someone, then there is more reason for Bajrić to be afraid of Bajro Ikanović who is physically much stronger than Mirsad Bektašević and who has friends and relatives in the same area, from whom he has already received threats.

Given the aforesaid, the Court dismissed the proposal of the defence for the third-accused to conduct expert evaluation of the tattoo on the left side of witness Amir Bajrić's chest, in order to check the truthfulness of his statement concerning the durability of the tattoo. The Court found the presentation of that evidence irrelevant and unnecessary, holding that it could not contest the Court's conviction about the objectivity of the witness's statement with regard to the decisive facts.

In contesting the credibility of witness Amir Bajrić, the defence for the third accused provided the Court with a certificate of the PI[4] "Sarajevo Canton Health Centre", OU[5] "Health Centre Hadžići" No. 07-1-80-01/06 of 18 December 2006 as evidence, in order to prove that it was not registered that Amir Bajrić sought medical help from a doctor-stomatologist on 5 December 2006 and 6 December 2006. The Court accepts the stated certificate as objective evidence suggesting that Bajrić's appearing was not recorded; however, it should be kept in mind that he did not claim that he first had submitted his medical-care card based on which patients are recorded, and that he then waited to be called by a doctor, so that his arrival would have been registered in the record-book or in the card, but he came to the Health Centre instead and, on the second floor of the said institution, he informally addressed a red-haired woman whom he knew was a doctor-stomatologist, and asked if, given the inflammation, it was possible for anything to be done at that particular moment and, after receiving a negative answer, he left immediately. Such witness's behaviour is not illogical and, in no way whatsoever can it cast doubt on the assessment of the witness's statement with regard to the decisive

[4] Public Institution
[5] Organisational Unit

facts, most of which being confirmed through other witnesses' statements or are in keeping with them, as it has already been stated in the previous part of the reasoning.

The allegation of accused Bektašević, suggesting that it was witness Bajrić, and not Ikanović, who gave him the explosives has no grounds in the presented evidence, and therefore the Court did not accept it. In addition to being in contradiction with the statement of witness Bajrić whom the Court gave credence, the allegation is also contradictory to what accused Bektašević said when interviewed by the Prosecutor's Office on 7 November 2005, which statement was presented to him during the cross-examination (on that occasion, he said that a person contacted him before his arrival in Sarajevo and said that he should take a parcel containing a pistol with silencer and the explosives, left under a wood bench in a children's park). The accused did not provide a convincing and logical explanation for the stated difference or contradiction. He excused himself by stating that he was under the psychological pressure and that he was concerned about his family, although he made the said statement in the presence of his Defence Counsel. Besides, it should be borne in mind that the first accused stated that Amir Bajrić gave him the explosives only after he heard that Bajrić had entered into agreement on the admission of guilt with the Prosecutor's Office.

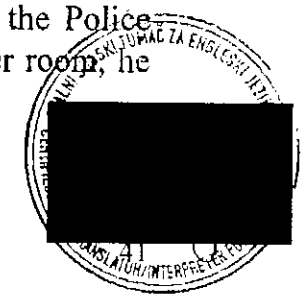
There is a range of other illogicalities and contradictions in the statement of the first accused and, as a consequence, his allegation could not be accepted. Thus, Bektašević claimed at the trial that he knew Amir Bajrić since he was 16 or 17, and that Bajrić used to provide him with weapons previously, and that he, through Amir Bajrić, met Bajro Ikanović in a restaurant in Sarajevo during the month of Ramadan and that they knew each other for a very short period of time; however he contacted Ikanović back in June of the same year, which was established based on the telephone listing. Both Bektašević and Ikanović were silent on that fact. Also, Bektašević does not give a logical and convincing response as to why he had 18 outgoing calls registered in the critical period of time, which were made to the telephone used by Bajro Ikanović and that, on the morning after they had been arrested, at 7:59 hrs., only one missed call was registered coming from the telephone of Bajro Ikanović to the telephone of Mirsad Bektašević while, at the same time, he did not talk to Bajrić by telephone at all, although he allegedly knew him for such a long time. Based upon the evidence, Bektašević did not have Bajrić's telephone number. Bektašević also did not provide a convincing explanation concerning his never having introduced Cesur to Bajrić whom he had allegedly known for

such a long period of time, while he took him to Ikanović, even to his home in Hadžići, although he claimed that he had known him for a very short time.

All of this implies that, unlike Bajrić, Bektašević cannot be given credence in this part also, nor can his allegation be accepted wherein he states that he received the explosives from Bajrić, although he did not ask for them, and that he did not have the time to return them because of the quick arrival of the Police.

Given the aforesaid, the Panel finds it undoubtedly established that the third accused obtained and handed-over to the first accused and the second accused an unspecified quantity of explosive, no less than 19,842 grams – of explosive mixture of nitroglycerine (NG), trinitrotoluene (TNT) and ammonium nitrate (AN). In addition to the explosives with which they were found in the apartment at 71 Poligonska Street, it is undoubtedly established that the first-accused and the second-accused also possessed other objects as stated in the operative part, including a so-called "suicide belt" with three trotyl bullets fastened to it, a blasting cap (EDK) and a pistol with silencer, the provision and keeping of which is generally prohibited to citizens. The explosives were undoubtedly cut and shaped and partially prepared for a suicide belt. In addition to the fact that the explosives were found in a condition that suggested the aforesaid, and that all of that has already been stated in the search-related documents that were mentioned and confirmed through the statements of witnesses – policemen and expert witnesses, Bektašević himself admits the act of cutting and shaping. Besides, the remnants of the explosive compound were found on the knife that was also found at the scene. Therefore, the Panel also finds these facts in the Indictment to be undoubtedly established.

As for the mere possession of the explosives, it is evident. If Bektašević and Cesur had not possessed the explosives and other objects as stated, they could not have been found with them, nor could have these objects been seized at that time. Therefore, their possession is a fact and it is not of particular importance as to how long they had been in possession of the said explosives nor is it particularly important what they were doing at the time when the Police arrived or how any of them substantively manifested their possession . This is so as, even if the allegations of the first and the second accused are correct in stating that Cesur did not touch the explosives, it is still indisputable that he was there, on the same premises, that he agreed – if not directly than tacitly, about the concrete situation and the actions which only Bektašević performed as alleged. Cesur did not leave the room and inform the Police about the explosives but he stayed there instead and, from the other room, he



calmly watched Bektašević cutting and shaping the explosives, and he held a pistol with a bullet chambered and pointed at the Police when they appeared, although he could have previously left the apartment and even forced Bektašević to stop doing what he (Cesur) was watching directly.

If everything had happened in the way as claimed by them and if Cesur had had nothing to do with Bektašević's actions, i.e. if he had happened to be at a wrong time at the wrong place and with wrong people, and if he had basically been a very peaceful man who does not like weapons at all – as presented by his Defence Counsel, he would not have certainly been found with a pistol in his hand pointed at the police officers and with his finger on the trigger. In such a situation, he would have welcomed the policemen as his rescuers given that he had not been brave enough to resist Bektašević himself and if he truly had not supported him and disapproved of his actions.

The Panel also finds that if Cesur had not been aware of everything that was happening and fully aware of all the circumstances, i.e. if he had truly seen for the first time in his life something resembling explosives of which he did not know anything from before, Cesur certainly could not have stayed calm and failed to react at all, if not because of the unlawful activities he witnessed, then because of his own security at that particular moment. To wit, it is logical that, even in the first contact with something which anyhow resembles the explosives, any reasonable person who does not know anything about explosives and who does not know what is permitted to do with them and what is not, would become upset and make all efforts to run away from the site, which Cesur did not even attempt to do.

Given the aforesaid, the Panel concludes that Cesur too was in possession of the stated explosives, the suicide belt and other objects as stated in the Indictment, with which he also was found in the apartment at the address of 71 Poligonska Street.

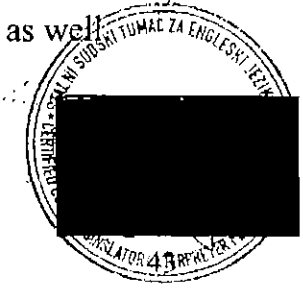
Given the subject-matter of the Indictment and the offence the first three accused persons have been charged with, in addition to the acquisition and possession of explosives, weapons and other objects held by the accused persons, it is of critical importance for the assessment of its existence as to whether these were intentional acts, those which, given their nature or context, may seriously damage the state or an international organisation, and whether everything was conducted with any aim as defined by Article 201(1) of CC BiH (seriously intimidating a population or unduly compelling the Bosnia and Herzegovina authorities, government of another state or international

organisation to perform or abstain from performing any act, or with the aim of seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of Bosnia and Herzegovina, of another state or international organisation).

Given the nature of the criminal offence the accused persons have been charged with, wherein those accused deny the existence of the intent and have not made their statements before any third party, which is quite normal when these and similar acts are in question, the existence of intent for the commission of a terrorist act was established by the Court based on other, undoubtedly established facts about what the accused persons were doing and had done until the time of arrest, what they possessed and where, what the found objects were intended for and what could have been their purpose, and based on the conduct of those accused before and afterwards, and on what the Court established thereof.

First, all objects found during the search and presented as evidence at the main trial, the condition and position in which they were found, which has already been elaborated upon, and the purpose of which expert witnesses gave evidence - expert witness Hurem Šahić in particular, clearly point at the intentions aimed at the commission of a terrorist act. The Panel can find no other logical reason for which these objects (previously detailed and described in the reasoning of this verdict) were found in those apartments, given their characteristics. The Panel finds that neither the Defence Counsels for the accused persons nor the accused themselves provided any other convincing and logical explanation or evidence to contest the conclusion of the Court about the said intent.

With regard to the explosives, the Defence Counsel for the first accused presented the thesis according to which they should have been used for military training and instruction. Such thesis is absolutely illogical and unacceptable. It is primarily far more logical that Bektašević, being a young and unemployed man, is interested in training for a concrete, well-paid job to live on and, if he is so much interested in weapons and feels such a huge love for them, as presented by his Defence Counsel, and if he so passionately wants to receive military training, the first accused could have achieved that in a legal manner as well – by joining the army or police service, a shooting club and similar. Second, the expert evaluation confirmed that the explosive they were found with, was not the one for training or any instruction as it is very dangerous not only for the environment but for the one handling it as well.



Also, it has undoubtedly been determined through the expert witness examination that the belt made cannot be used as a hunting-belt, given that the trotyl cartridges were fastened on it horizontally, while cartridges on the hunting-belts are placed vertically.

The first-accused admitted that he had fastened three TNT bullets – cartridges on the black intertwined belt by a black insulating tape, and it should be noted that it was not an ordinary belt but the one with a Velcro strap on one side intended for holding the remaining explosives.

It was also established by the expert evaluation that an egg timer had been disassembled. The defence states that the purchase of the egg-shaped timer was only intended for boiling eggs. However, the timer was found in the apartment in which the accused persons neither had their meals nor cooked anything. The accused persons resided in another apartment (at the Poligonska Street) where there were no eggs or traces of any cooking, nor were there conditions for that (even accused Cesur stated that his apartment looked as if vacant, with some items).

It was established by the expert evaluation that the suicide belt was ready for activation. A source of electricity was the only thing missing, and nothing more than usual standard batteries were needed to meet that requirement.

The intentions of the accused persons i.e. the purpose of their arrival in Sarajevo and procurement of the explosives and other devices which were found with them are clearly shown on the VHS tape which was found in Bektašević's back pocket during the search of the apartment at 71 Poligonska Street.

The Court could not accept Bektašević's allegation that the tape was not with him at the time of arrest, given that it is contrary to both the statements of the witnesses-policemen who conducted the search and to whom the Court gave its credence, and to the F MoI official documents on the search conducted, which the Court also accepted as accurate and credible.

Such allegation of Bektašević is inconsistent even with what he himself talked about the tape when interviewed by the Prosecutor's Office (at that time he claimed that he had received the tape together with a bag containing explosives). At the main trial he justified that inconsistency by reporting the alleged threats he received from the Prosecutor's Office, although he gave his statement in the presence of his Defence Counsel and although he was

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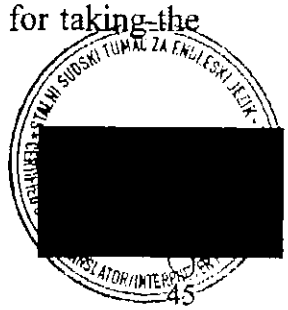
instructed of his rights and signed the Record with no objections. The Court could not accept such explanation as being logical and truthful.

With regard to that, it should be added that the search at the Poligonska Street, as already reasoned, was conducted in full compliance with the relevant provisions of the Criminal Procedure Code of BiH, about which the Police Inspectors who had conducted it also testified, and therefore Bektašević's allegation that the VHS tape concerned was not there and that everything was rigged by the Police, absolutely does not apply.

Based on the expert evaluation of the video-camera performed by expert witness George Skaluba, which was found and seized during the search of the house of the aunt and uncle of accused Bektašević (it is indisputable that the camera is their property), the Court has established that the stated tape is authentic and that it was recorded on that particular camera which was held by Mirsad Bektašević for a certain period of time, in the period from his arrival in Sarajevo up until before he was arrested (he indisputably returned it earlier).

To wit, by applying adequate scientific methods and by using both professional and WEIFER-monitors, expert witness George Skaluba established the existence of one negative – bad pixel in the footage on the tape seized from Mirsad Bektašević, and also in the indisputable footage on the new tape, thus establishing that the tape was indeed recorded by that camera with the stated defect in manufacture. According to the expert witness, the possibility of repeating the error, that is, the possibility that the disputable tape was recorded by another camera is rather meager. Theoretically, the chance would be 1:290000.

The first accused admits himself that he took the said camera from his aunt and the same also undoubtedly stems from the statements of witnesses Izeta Hamidović and Zafir Asotić, aunt and uncle of the first accused. Based on these statements which the Court has accepted as truthful and accurate with regard to the essential facts on taking and holding the camera by Bektašević, the Court has established that, when taking the camera, the first-accused said to his aunt that he only wanted to record a wedding, while, regardless of how much she insisted, he did not show her the wedding nevertheless, and he said to her that her husband would show it to her when he was back (undoubtedly, there was no wedding on the tape). The accused does not provide any logical explanation as to why he mentioned a wedding to be the reason for taking the camera, while there was no wedding on the tape at all.



Expert evaluation of the voice heard on the tape was also conducted during the proceedings, and the Panel convinced itself that it existed by listening to it and by watching it directly during the main trial.

According to the findings and the opinion of expert witness-phonetician, Allen Hirson, who was tasked with this expert evaluation, it was established through the comparison of the voice on the presented footage with the undisputable sample of voice of Mirsad Bektašević that, on the scale of probability of the voice authenticity, it was "more than fairly likely" that the voice on the footage and the indisputable voice of Mirsad Bektašević belong to the same person, which is, under this scientific method, considered to be a very high level of probability and is treated in practice as the established fact.

With this regard, the Court also considered the objection of the Defence Counsel for accused Bektašević stating that the indisputable sample of Mirsad Bektašević's voice, which was used for analysis and expert evaluation, was taken from him in an unlawful manner. However, the objection proved to be ungrounded as the voice sample was taken from the CD recording of the interview of Bektašević before the Prosecutor's Office of BiH on 8 February 2006, for which recording the Court established to be carried out in accordance with the provisions of the CPC of BiH. To wit, the first-accused was at that time properly informed that the interview would be recorded, his consent to that was made for the record and his Defence Counsel was also present at the interview. Therefore, it cannot be deemed that Bektašević's human rights were threatened by such recording and taking the voice sample.

The Court fully accepted the findings and the opinions of both stated expert witnesses, and found them to be objective and accurate given that they were provided by persons competent in that field, who applied the most modern methods and devices and who, in addition, are not interested in the outcome of the proceedings, while their findings and opinions have not been contested by any other evidence whatsoever.

The allegation of accused Bektašević suggesting that he took over the camera to repair it could not be accepted by the Court given that, in addition to the already provided reasons (acceptance of statements given by his aunt and uncle who were heard as witnesses), it was established that he had no expertise in the field of audio-video mechanics (which undoubtedly stems from his own statement), and the analysis of the camera carried out by a competent expert witness proved that it was fully in working order, in which the Court convinced itself by listening to and by watching its tape reproduction.

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Also, the Panel holds that the accurate time of taking over the camera and of the tape content recording (wherein the statements of those examined slightly differ) is not particularly important. The Panel finds it essential that Bektašević took that particular camera, that the shown tape is original and recorded by that camera, that his voice is on the tape and that that tape was exactly the one found in his pocket when he was arrested.

It also stems from the content of the tape that the intent under Count 1 from the Indictment did exist. To wit, its first part shows a person in a military camouflage uniform and with a camouflage cap assembling the timing mechanism, and then two persons in camouflage uniforms and caps on their heads are shown with an automatic rifle and a whole arsenal of other weapons (mortar, automatic rifle called Kalashnikov, several bombs, TNT bullets, a knife....), and then a voice of a man is heard saying: "Allahu Ekber. Here, the brothers are preparing for attacks. They are showing us stuff they are going to use for the attack. These brothers are ready to attack and inshallah, they will attack Al-Qufar who are killing our brothers and Muslims in Iraq, Afghanistan, Shishan and many other countries. These weapons are going to be used against Europe, against those whose forces are in Iraq and in Afghanistan. These two brothers, they sold their lives to please Allah, to help their brothers and sisters. They are Muslims. Their hours are coming. They are ready to attack, so do not, do not think that we have forgotten you. We are here and we are planning and we have everything ready. This is a message for you".
These are the words that, according to the evidence of the expert witness were "more than fairly likely" uttered by the first accused Bektašević .

It was further recorded on the tape that two persons in camouflage uniforms and camouflage caps on their heads were planting an explosive device on a tree, by the gurgling river, and one of them was carrying an automatic rifle with a green strap, which reappeared in the second part of the tape.

Although the persons on the tape resembled some of the accused, the Prosecutor's Office could not provide the Court with any evidence with regard to the identity of the persons on the tape, except for the stated evidence concerning the voice of the person saying the stated text in English, which language Bektašević can also speak and use.

This all should certainly be correlated and also assessed with regard to the facts admitted by Bektašević himself: before he came to Bosnia, he personally ordered, took over and partially read two books with very indicative titles:

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"CIA Instructions for Making Explosives" and "The Manual for Citizens Taking the Law in Their Own Hands". Therefore, it is quite a logical question now as to why accused Bektašević needed the books with such titles and content if he did not have any terrorist intentions. Bektašević responded that he was interested in everything, which is possible indeed, but all the aforesaid and many other facts indicate that he was especially interested in what was recorded on the tape with his voice and many objects that were also found with him.

Many other facts also lead to the stated conclusion of the Panel.

So this time, Bektašević came to Sarajevo alone, while previously he had always done that with his mother and brother. That arrival took place only a couple of months after his previous stay with his mother and brother (in June 2005), while earlier, he used to come on a yearly basis or biannually. By that time, Bektašević always stayed with his relatives while now he went to a hotel and he then rented an apartment although his relatives are still in Sarajevo, numerous relatives who are affectionate and attentive, while, on the other hand, he is unemployed and on welfare (he could not have saved much from his previous employment he talked about), but he rented an apartment nevertheless. While doing so, he falsely introduced himself as being a student (he admitted that himself) by the name of Jusuf (which he now denies although he admitted that in the Prosecutor's Office, which was also confirmed by witness Hamo Mahinić whom the Court had no reason to distrust). In doing so, the first accused rented not just one but several premises, and requested that nobody disturb him. He even failed to tell his aunt where his apartment was located although the two of them were very close. He said to his aunt that the reason for his arrival was his being interested in opening a shop, while he does not mention the shop in his statement at all. Bektašević does not provide any logical explanation for any of this.
Shortly afterwards, Bektašević also took one more apartment (from his uncle at 71 Poligonska Street) and he occupied both of them in parallel, taking Cesur to both apartments.

Based on the statements of the police witnesses, which have already been elaborated, the Court established that the accused Bektašević and Cesur attempted to hide the location of the apartment (at 422 Novopazarska Street) in which they used to sleep before they were arrested. The Court finds that Cesur's excuse suggesting that the location of the apartment was insufficiently known to him could be accepted given that it was his first stay in Sarajevo - a town unknown to him, and an apartment in which he stayed for no more than 5

days before he was arrested.. However, Bektašević's alleged ignorance cannot be deemed to be justifiable and logical when it comes to providing the Police with misleading information. He certainly knew the location, given that he had been in Sarajevo on several occasions by that time and he was the one who rented the apartment shortly after arriving in Sarajevo and after staying overnight in the hotel "Banana City", which means that, by the time when he was arrested, he had stayed in the apartment for almost 15 days. He is the one who brought accused Cesur into the apartment and who took him all over Sarajevo. Therefore, he was familiar with the location of that apartment but he still did not want to tell the Police where it was (the following day, when the apartment was found through different channels, the policemen realised that they had been passing by that house by car, with the accused).
This all indicates that Bektašević had a special reason to hide the location of the apartment, that is to put them off track. If this fact is connected with the objects found in that apartment ("Pentagon" caps, binoculars, silicon, a pistol holster, a knife and even two radio sets), it is clear that the reason for his attempting to conceal that is related to his attempt to prevent the purpose of his arrival in Sarajevo and of what he was doing and what he planned to do, from being discovered.

The Panel finds that a whole range of facts presented by Cesur in his statement also suggest that the commission of a terrorist act in a manner and under the circumstances as stated in the Indictment was the purpose of the arrival in Sarajevo. Thus, although he knew Bektašević for a very short period of time (via the Internet and he only met him directly in Copenhagen when he was invited to come to Sarajevo), he immediately accepted both the invitation of a man whom he met for the first time on that occasion, and to travel to a country which was unknown to him, but an interesting one, and he set off and travelled alone for which a common man should be especially courageous or highly motivated. Accused Cesur confirms that, prior to his making that decision, he had consulted with his friends, including Abdul Basit and other persons against whom the criminal proceedings have been conducted in Denmark, who helped him reach BiH by buying him a ticket and by other actions. He recognised them on the photographs and confirmed that he was associated with them. According to him, what brings them together is the same view of religion, by which his relationship with Bektašević is also motivated.
Both of them confirm their regular contacts through the Internet but they fail to even approximately state the time when they met. Furthermore, Cesur states that he came to Sarajevo as he was interested in the life of Muslims in Bosnia and as he wished to spend the month of Ramadan in Sarajevo, and he states that he wanted to buy souvenirs. However, as he himself said, he came to

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Sarajevo with no more than EUR 200, although he had money on his own bank account. For a person who wants to spend at least 10-15 days in a foreign country with someone who logically does not have much money either, and who wants to buy souvenirs on top of that, as Cesur claims himself, it is logical that he would bring much more money with himself and have money especially intended for souvenirs. However, via the Internet forum, he asked for money for souvenirs from his friends although he did not buy any souvenir by that time and although he had his own bank account and money on it, as well as his parents and relatives whom he could have addressed. In addition, he could have asked Bektašević to borrow money from his relatives if he himself had not had enough money to lend. This all indicates that there were different intentions and agreements both between the two of them and with those with whom Cesur had consultations and whom he addressed asking for money, that is, the money he was asking for was intended for quite a different purpose.
Shortly after his arrival in Sarajevo, via the Internet, Bektašević also sent his new mobile telephone number to these same persons – the Internet forum participants, and asked them to pass it on to others (he himself admits that he sent the number).

Cesur also confirms their joint purchase of an egg-shaped object by which the time is measured (they allegedly needed it for boiling eggs), which was found in the apartment at the address of 71 Poligonska Street where the first accused and the second accused did not have their meals at all and, according to the police officers who searched it, the apartment was completely clean and looked as if nobody had lived there for a longer period of time. Cesur had the same impression.

A range of evidence obtained through international legal aid from Denmark, Sweden and Great Britain and collected by these countries' authorities in accordance with legal procedures foreseen in these countries, also suggested the same conclusion about the intent which this Panel reached based on the aforesaid.

In the course of the main trial and in its closing argument, the defence for the first accused, second accused and the third accused objected against the unlawfulness of all these pieces of evidence which were obtained through international legal aid, and it grounded its objection on the position suggesting that the evidence was not obtained in compliance with the Criminal Procedure Code of BiH and that, under that Code, it was only the Court, not the

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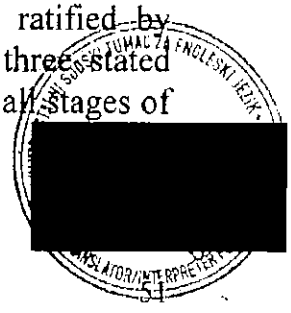
Prosecutor's Office of BiH, that could have requested the presentation of evidence from the competent authorities of the stated countries.
The Court also took this position of the defence into consideration and examined the entire documentation concerning the correspondence between the competent authorities of Denmark, Sweden and Great Britain and the Prosecutor's Office of BiH, and the documents provided by the competent authorities of these countries and the regulations based on which those actions had been taken. Based on that, the Panel reached a conclusion that the evidence obtained in such a manner was obtained through a regular procedure, thus it is lawful, and the Panel consequently allowed its presentation at the main trial.

To wit, Chapter XXX of the Criminal Procedure Code of BiH regulates the manner in which international legal aid shall be provided in criminal matters, where the method for communication of a request for legal aid is foreseen by Article 408 of the Code. Pursuant to this Article, both the Court and the Prosecutor may communicate a request for legal aid to foreign authorities and consequently, the allegation of the defence suggesting that it was only the Court which, in this particular case, could have requested the presentation of evidence concerned, does not apply.
Also, the Court found the position of the defence ungrounded when suggesting that the said evidence cannot be used in this criminal case as it was not obtained in a manner foreseen for these actions by the provisions of the Criminal Procedure Code of BiH, given that it was undoubtedly established upon the examination of the entire correspondence that all evidence had been obtained in accordance with the laws and other regulations of those countries and delivered via diplomatic channels, as foreseen by the Criminal Procedure Code of BiH.
To wit, it is foreseen by the provisions of Article 407 of the Criminal Procedure Code of Bosnia and Herzegovina that international aid in criminal matters shall be rendered under the provisions of this Code, unless otherwise prescribed by the legislation of Bosnia and Herzegovina or an international agreement.

This Panel particularly considered and took into account the provisions set forth in the 1959 European Convention on Mutual Legal Aid in Criminal Matters, the 1977 European Convention on the Suppression of Terrorism and the 1997 International Convention for the Suppression of Terrorist Bombings, being the relevant international documents on this matter and ratified by Bosnia and Herzegovina. According to the provisions of all three stated regulations, the greatest possible mutual aid should be rendered at all stages of



the criminal proceedings, including assistance in providing evidence available to them and required for the proceedings. Given the nature of the act, such mutual aid between the countries is also necessary and this is particularly so where the international participants are involved, which was also the case in this criminal matter.

With regard to the application of law, the stated regulations foresee the application of the national legislation of the requested country. To wit, it is set out by Article 3(1) of the 1959 Convention on Mutual Legal Assistance in Criminal Matters that the requested Party, in the manners as foreseen by its legislation, shall execute any letters rogatory relating to a criminal matter for the purpose of conducting investigative actions or procuring evidence, records or documents. The same provisions are contained in Article 8(1) of the 1977 European Convention on Suppression of Terrorism and in Article 10(2) of the 1997 Convention for Suppression of Terrorist Bombings.

With regard to the lawfulness of actions taken by the authorities of the Kingdom of Denmark and the evidence obtained through international legal aid, the Ministry of Justice of the Kingdom of Denmark, with its act No. 2005-3401-0057, doc. CHA40972 of 8 November 2006, confirmed that all actions taken in that country in the case being connected with the case in Bosnia and Herzegovina (these being the actions of tapping the telephones of the suspects in Denmark until 19 October 2005 and search conducted at Elijas bin Husein's) were performed in accordance with the Court Decisions and were consistent with the provisions of applicable legal regulations of that country.

As for the evidence obtained by the Great Britain authorities, it was obtained through the current investigation conducted in that country and attached to the letter of the Crown Prosecutor Colin Gibbs, CG/CTD of 11 October 2006, and delivered via diplomatic channels and through the Special Crimes Unit of the United Kingdom Ministry of the Interior on 12 October 2006.

With regard to the evidence provided from Sweden through international legal aid and obtained in the course of search of the apartment and computer of Mirsad Bektašević, it was established that the search of the apartment at the address of Kongahallagatan 40B, 44238, Kunglav, was conducted on 27 October 2005 and that the search warrant was issued by Tomas Lindstrand, Chief Prosecutor of the Public Prosecutor's Office in Stockholm, International Department, at the proposal for international legal aid forwarded by the Prosecutor of BiH, and it was conducted by the members of the Swedish security service, which is in compliance with their law.

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The aforesaid made the Court reach a conclusion beyond any doubt that the evidence provided by the competent authorities of Denmark, Sweden and Great Britain was obtained in accordance with the respective national legislations of the stated countries and, at the request of the Prosecutor's Office of Bosnia and Herzegovina for international legal aid, it was forwarded to the Prosecutor via diplomatic channels.

The defence had the opportunity to consider all physical evidence obtained and delivered in such a manner and presented as evidence of the Prosecutor's Office at the main trial, it also had the opportunity to contest that evidence in the course of the main trial by presenting counter-evidence. However, the defence for the accused persons only contested its formal aspect, that is, the legality of the manner in which it was obtained, while, on the other hand, the first-accused and the second-accused, when examined as witnesses, confirmed a range of the facts stemming from the evidence obtained through international legal aid. The Court was therefore in a situation to establish these facts even without the evidence contested by the defence, based on the statements of the accused persons to whom it gave its credence in this part, and it reached a conclusion that, with regard to other facts, the accused persons made different allegations in their attempt to evade or diminish their own responsibility. According to the Panel, such attempts were evident and they manifested themselves in their changed statements compared to what they stated at the Prosecutor's Office with regard to some elements and even at the main trial, which particularly refers to the first-accused who, in addition to attempting to evade his own responsibility, also tried to mitigate the situation and responsibility of Cesur and Ikanović (by claiming that Cesur did not know or do anything, and that it was Bajrić, not Ikanović, who brought explosives over to him).

Thus, based on the statement of Bektašević, the Court established that, by using an e-mail address: simonsays@gawb.com, he obtained books whose titles and content support the Prosecutor's allegation about Bektašević and Cesur's reason for coming to Sarajevo and about their plans. The books concerned are: "CIA Instructions for Making Explosives" and "The Manual for Citizens Taking the Law in Their Own Hands". The same information was reached during the search of his computer in Sweden. Bektašević also claimed that, via the same address, he had also ordered the black "Pentagon" caps and some other camping stuff and that he repeatedly used the same e-mail address in the Internet-correspondence registered in the said country.

The Internet chat of 15 October 2005 is particularly indicative and it was detected in one of the seized computers in the Internet Club "Hollywood" in Ilidža (the search was approved by the Court of BiH Preliminary Proceedings Judge) where, according to Bektašević and Cesur, they used a computer as well. The content of what Bektašević and Cesur wrote there is identical to the one found in the seized computer of Elijas ibn Husein, being a person charged with terrorist activities in Denmark. This indisputably indicates the existence of connection and communication between Bektašević, who used English language at the time, and Cesur who used Danish (they both used the Internet address simonsays@gawb.com and the same keyboard) on one end, and Elijas ibn Husein and Abdul Basita on the other.
The examination of the computer of the Internet Club "Hollywood", which was ordered by this Court, proved that, during this chat, Bektašević used the nickname „Maksimus" for which he himself said in the statement that he had used before and claimed that it should be written differently – Meksimus.
The appointment of a new *amer* (emir-leader) was the subject of that chat, and besides, Maksimus asked Elijas bin Husein to send him money as they "have everything and they only need to transfer that all".

Accused Bektašević also confirmed in his statement that he used several mobile telephones and grouped his relatives and friends respectively so as to use one telephone for his family and another for his friends.
He confirms that he had two mobile telephones during his stay in Sarajevo and, soon after arriving, he obtained a new number, of which he informed his friends. The number in question is: 062-103-592 from which he contacted Abdul Basit no later than three days after arriving in Sarajevo, and informed him about his new number and that he should give it to the brothers so that they also have it. On that occasion, Bektašević informed Abdul Basit that he needed more money as he had found "some real good stuff". The content of the conversation stems from the evidence obtained through international legal aid from Denmark, by means of tapping approved by a decision of that country's relevant Court and performed in compliance with the Danish regulations, which was confirmed by the already stated act of the Kingdom of Denmark Ministry of Justice.
For the stated reasons, the Court could not accept Bektašević's allegation suggesting that he did not know the person with whom he had active Internet and telephone contacts.

In his statement at the main trial, accused Bektašević also confirmed the fact that he made a so-called Islamic Will, which was found in the course of printing out data from the computer seized during the search of his apartment

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in Sweden. He confirmed that he did it on a standard form he downloaded from the Internet and that, by that testament, he allocated his property, stated where he should be buried, which funeral service should be applied and similar. Therefore, the Court established those facts (existence of the Islamic Will, its form and the framework content) based on his statement. It stems from the very testament that personal information on Bektašević was entered with detailed instructions, including those related to the preparation of the body for burial, instructions for the will execution, and that he, as a testator, leaves by will almost 500 000 Kronas to his mother and brother mainly, but a considerable amount is also left to some organisations, including 10 000 Kronas to a branch of Al-Qaeda.

The stated very huge amount of money which Bektašević entered into his will is in total contradiction to what was established during the main trial with regard to his financial situation (that he was unemployed, that his mother is unfit for work and that they live on social welfare in Sweden), which makes this Panel conclude that Bektašević seriously and with good reason counted on that money in case of death. In respect of that, it should be borne in mind that Bektašević does not mention any insurance policy or a similar source of money, while it is generally known that after the suicide bombers' death their families are financially secured by like-minded persons. If this all is correlated with the content of the film presented to the Court and found in his computer (which shows the preparation for the suicidal act, extolling of suicides and the burial) and with the content of the VHS tape found with Bektašević, which contained what he said there (which has already been elaborated on in this reasoning), including the facts that Bektašević and Cesur were found in the apartment at 71 Poligonska Street with at least 19,842 grams of lethal explosives, three trotyl bullets, 100 grams each, which were fastened to the belt, and all other objects previously mentioned, that constitutes one more evidence or fact which indisputably suggests that the first-accused came to Sarajevo with a clear intent to commit a terrorist act.

The Panel holds that the same intent was shared by the second-accused and the third-accused for the already stated reasons.

By the above-mentioned evidence and in the above-mentioned manner, the Panel, therefore, established beyond any reasonable doubt that the acts of acquiring and possession of explosive by the first, second and third accused were wilful, while the expert study by Professor Nerzuk Ćurak, PhD, and the opinion he presented at the main trial served to establish whether those acts were such that, bearing in mind their nature and the context, they might cause serious damage to the country or an international organization.

In the expert study submitted, whose content he confirmed in his opinion given at the main trial, Professor Nerzuk Ćurak clearly and unambiguously pointed out that Bosnia and Herzegovina, bearing in mind its system of government, was a country of the International Community, and that it was in this respect that the act as charged had an effect on BiH as well as on representatives of the International Community, rendering more difficult the implementation of the commitment of BiH to join international integrations and accede to the EU.

Professor Ćurak also presented his opinion that, due to the reasons stated above, damage had been inflicted on Bosnia and Herzegovina and the International Community, and that any attack on Bosnia and Herzegovina was at the same time an attack on the International Community, particularly emphasising the „delayed damage" that had been incurred in the case at issue. That is the damage that was inflicted, that lasts and will last in the future. Therefore, a lasting damage has been caused, reflected in the delay of progress and the integration of Bosnia and Herzegovina.

The Panel has placed its full trust in this expert and accepted the opinion he presented, given that it is an opinion of an expert and competent person, unrelated by kinship to the accused, and uninterested in the outcome of the proceedings, whose opinion was not brought into question by any other specific piece of evidence. He is a university professor holding a Ph.D. degree in political science, a specialist in the field of geopolitics and international security, and one of the leading experts in this field in BiH and beyond, who gave a clear and unambiguous testimony at the main trial.

Based on the aforementioned expert study and opinion of the expert witness, the Court has established that the above described intentions of the first, second and third accused are such that, considering their nature and the context, they not only could have, but they did cause damage to the state of Bosnia and Herzegovina and the International Community and its organisations. Hence, those are acts that constitute a terrorist act under the provisions of paragraph 4, item (f) of Article 201 of the Criminal Code of Bosnia and Herzegovina.

That the terrorist attack in question was committed in order to force the authorities of Bosnia and Herzegovina and governments of other countries whose military forces and their representatives are present in Bosnia and Herzegovina through international organisations to do something, that is, to withdraw their troops from Iraq and Afghanistan, arises beyond doubt particularly from the content of the recording on a VHS video tape that was

found in Bektašević's possession. On the recording, whose content is stated in the operative provision of this Verdict, Bektašević says loud and clear: "These brothers are ready to attack and, inshallah, they will attack Al-Qufar who are killing our brothers and Muslims in Iraq, Afghanistan, Shishan and many other countries. These weapons are going to be used against Europe, against those whose forces are in Iraq and in Afghanistan".

The words that the accused Ikanović uttered on the Igman Mountain before witness Bajrić while an SFOR column was passing by: "jihad should be carried out here" point to such a purpose of the terrorist act, along with the content of the footage retrieved from Bektašević's computer, which was presented to the Court, and other material retrieved during the search of Bektašević's and Cesur's computers, which they had downloaded from the Internet, where the conduct of the western countries in Iraq and Afghanistan is lambasted; where fighting those countries and those who assist them is mentioned; where suicide attempts, such as those retrieved from the computers of the first and second accused are encouraged and glorified. It is true that such clips and footage are numerous on many Internet web-sites and that they are accessible to everyone, but the fact that such files are dominant in their computers shows that they are particularly interested in that, that they watch and contemplate that, and on the other hand, everything they did in Sarajevo indicates that they, too, were intending to commit the same or a similar act.

In view of all of the above, the Panel has established that in the case at issue, the acts committed by the accused Mirsad Bektašević, Abdulkadir Cesur and Bajro Ikanović contain all essential elements of the criminal offence of Terrorism in violation of Article 201, paragraph 1, in conjunction with paragraph 4, item (f), as read with Article 29 of the BiH CC.

Namely, the act of perpetration of this criminal offence is reflected in the undertaking of a terrorist act aimed at serious intimidation of population or forcing BiH Government authorities, governments of other countries or international organisations to do or not to do something, or aimed at serious destabilisation and destruction of fundamental political, constitutional, economic or social structures of BiH, other countries or international organisations.

The aforementioned act and purpose are, therefore, two fundamental components, two essential elements of this criminal offence. Paragraph 4 of the same Article - items (a) through (i), which are interpretative in their nature, specifies what is considered to be a terrorist act. Among the numerous acts

defined as terrorist acts are the acts of acquisition and possession of explosives, if they are wilful acts which, considering their nature and context, may cause serious damage to the country or an international organisation.

The act was, therefore, perpetrated, and it exists as independent merely by the fact that the acquisition and possession of explosives occurred, and that the other conditions mentioned were fulfilled pertaining to the intention of the perpetrator, his objectives and possible effects.

In view of its nature and content, the acquisition and possession of explosives constitutes preparatory acts or acts of aiding some other form of a terrorist act, provided for under other items of paragraph 4, Article 201 of the BiH CC. With those other forms of a terrorist act (items a, b, c,...), the act of acquisition and possession of explosives constitutes the first stage - preparation, followed by the second stage - specific attack applying the explosive against a person's life, a specific public, infrastructure and other facility, i.e. the execution of a terrorist act under some other item of the same paragraph. However, if an attack is not carried out, then the acquisition and possession constitute an independent act, i.e. a terrorist act under the provision of item (f), if it may cause damage to a state or an international organisation and if it has been undertaken with one of the alternative objectives stated under paragraph 1 of Article 201 of the BiH CC.
Hence, the opposite arguments of the defence for the third accused could not have been accepted.

In the case at issue, having conducted the proceedings in utmost compliance with all the constitutional and statutory rights of each of the accused, allowing them the opportunity to respond in detail to all allegations and evidence presented by the opposing party, the Panel established that the accused had acquired and possessed explosive, that those had been wilful acts, that their nature and context had been such that they might cause serious damage to the state or international organisation, and that that had already occurred, as well as that the fact that the said terrorist act had been undertaken for the purpose of forcing the Bosnia and Herzegovina government authorities and governments of other countries whose military troops as well as their representatives are currently present in Bosnia and Herzegovina through international organisations, to do something, that is, to withdraw their forces from Iraq and Afghanistan, which caused serious damage to Bosnia and Herzegovina and international organisations. Thereby, all the essential elements of the criminal offence have been met in violation of Article 201, paragraph 1, in conjunction

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with paragraph 4, item (f) of the BiH CC, that the accused Mirsad Bektašević, Abdulkadir Cesur and Bajro Ikanović have been charged with.

In the view of the Court, the accused Mirsad Bektašević, Abdulkadir Cesur and Bajro Ikanović undertook the described acts of perpetration of the aforementioned criminal offence with direct intent reflected in their being aware of their actions and the consequences thereof, which is clear and unambiguous from their acts and actions, namely that their acts constituted a terrorist act, and that they wanted to perpetrate it with the above elaborated intentions and purposes.

The accused committed the aforementioned acts while mentally competent, that is, having the capacity to understand the relevance of their act and to manage their actions. Mental capacity of any of them was not called into question by any concrete thing.

With regard to that, it has to be noted that in the course of the main trial, following a defence motion, the first accused Mirsad Bektašević was a subject of expert psychological evaluation, from the aspect of maturity, age and his family situation so as to establish his general state of mind upon his arrival to Sarajevo and the developments that evolved in the autumn of 2005. The expert evaluation was conducted by a team of specialist doctors, while a detailed finding and opinion was elaborated by Professor Abdulah Kučukalić, M.D., at the main trial.

Based on the information contained in the medical history, psychological functions, personality psycho-tests, and from the aspect of individuality, the finding has established that Mirsad Bektašević is a person of average intelligence and that no psychopathological symptoms have been registered that might affect his actions.

At the main trial, this expert witness clearly and unambiguously confirmed the opinion of the team that all of the tests conducted indicate that *tempore criminis* Bektašević was mentally competent and that he was able to understand the relevance of the act committed.

The Court placed its full trust in the testimony of the expert witness and the finding and opinion of the team, as it is an opinion of expert and competent persons led by a long-time expert Professor Abdulah Kučukalić, Head of the Neuropsychiatric Clinic in Sarajevo.

Bektašević, Cesur and Ikanović committed the aforementioned criminal offence as co-perpetrators in the manner and at the time described in the operative provision of this Verdict.

To wit, pursuant to the provision of Article 29 of the BiH CC, co-perpetration exists if several persons who, by participating in the perpetration of a criminal offence or by taking some other act by which a decisive contribution has been made to its perpetration, have jointly perpetrated a criminal offence. Co-perpetration is, therefore, a wilful and voluntary joint perpetration of a criminal offence. Thus for the co-perpetration to exist a joint decision to act is required, as well as objective contribution to the perpetration of the offence, which, if not reflected in the participation in the act of perpetration of the offence, requires the undertaking of such an act that has a decisive relevance in the process of the perpetration of the criminal offence, without which the offence could not have been perpetrated in the manner in which it was perpetrated. For the co-perpetration to exist, an agreement in respect to the act of perpetration is not necessary to pre-exist, as it may also be reached directly, when the perpetration starts, or even tacitly. In the view of the Court, in the case in question, the first, second and the third accused displayed beyond any doubt unity and awareness of joint action intended to realise the essence of the criminal offence, which was already elaborated in the reasoning of the Verdict.

As to the objection of the defence counsel for the first accused that the indictment in question, and even the one amended in the course of the main trial which did not affect the objective or the subjective identity of the previous indictment, has not been composed in compliance with the Criminal Procedure Code of BiH, as it does not contain all the mandatory elements under the provisions of Article 227 of this Code (it fails to describe the act of perpetration, and it lacks the description of the very criminal act of terrorism), it cannot be accepted on account of the following:

Article 227, paragraph 1, item (c) sets out as a mandatory element of an indictment the description of the act pointing out the legal elements that make it a criminal offence. The view of this Panel is that the criminal offence that the accused is charged with has been defined precisely enough by stating the time and place of the perpetration, the object targeted and the means with which the criminal offence was committed, therefore, throughout the main trial and in reaching the decision the Panel had no difficulties whatsoever in relation to those circumstances. Further specification of the object targeted for the attack (object in the narrow meaning, such as a building, an individual or a group of people ....), and the when and where was not necessary, taking into

account that the accused were charged with the criminal offence in violation of item (f), paragraph 4, Article 201 of the BiH CC, and not one of the items within the same paragraph where that is necessary (items a, b, c, etc.). Such an object, therefore, did not need to be specified and precisely defined beforehand. It could have been defined subsequently. On the other hand, the object of protection in the case of the crimes the accused are charged with is a state (BiH or a foreign country) and its institutions or international organisations, their interests, purposes and functions.

In respect to the amended indictment, in the factual description of the Verdict in terms of Count 1, the Court made some adjustments and corrections, which are a result of the established state of facts, but are by no means such that they would put the accused in a more difficult position than the one they were in under the indictment itself, nor did they change the qualification of the offence they were charged with.

The first adjustment is related to a part of Count 1 of the Indictment, which mentions Bektašević's suggestion addressed to Ikanović related to supplying explosive, as it was not established during the main trial that it was Bektašević himself who had given that suggestion. It is evident, though, that there was an agreement between the two about the acquisition and hand-over of explosive.

The following adjustment pertains to the fact of the cutting and shaping of the explosive by the accused persons in the house at the address of *Poligonska 71*. Namely, in the Indictment at issue Bektašević and Cesur are charged with cutting, shaping and preparing the found explosive together at the said address for a so-called "suicide belt". However, the evidence presented surrounding those circumstances could not corroborate the position of the Prosecutor's Office that the accused Cesur, too, undertook those specific acts (of the cutting and shaping of the explosive), and in addition to that, Bektašević stated that he had done that by himself, which Cesur confirmed. In accordance with that, the Court established that "In the presence of Cesur, Bektašević partially cut, shaped and prepared the explosive for the suicide belt" (Cesur himself also confirmed that he had watched the cutting and shaping).

Identical adjustment – correction was done in relation to the fastening of three trotyl bullets to a black intertwined belt, given that the evidence presented lead the Court to believe that the fastening was done by Bektašević himself, not both of them, as it was alleged in the Indictment.

Bearing in mind that it was proven beyond doubt in the course of these proceedings that the described acts of perpetration of the criminal act of terrorism in violation of Article 201, paragraph 1, in conjunction with paragraph 4, item (f), as read with Article 29 of the BiH CC were undertaken by the accused Mirsad Bektašević, Abdulkadir Cesur and Ikanović Bajro, with direct intent, and that they were able to understand the relevance of their act and manage their actions – therefore, they were mentally competent, the Court found the accused guilty of perpetrating the criminal act of terrorism in violation of Article 201, paragraph 1, in conjunction with paragraph 4, item (f), as read with Article 29 of the BiH CC in the manner, at the time and in the circumstances stated in the operative provision of this Verdict.

Under Section II of the Verdict

In reference to Count 2 of the Indictment, the belief of the Court that the accused Senad Hasanović committed the criminal offence of Illicit Possession of Weapons or Explosive Substances in violation of Article 371, paragraph 2, in conjunction with paragraph 1 of the FBiH CC, as read with Article 29 of the BiH CC in the manner specified in the operative provision of this Indictment arises from the testimonies of witnesses: Amir Bajrić, Ensar Aljović, Muhidin Osmanović, Anes Čengić, Admir Memović, Halid Hasanović, and the accused Senad Hasanović, examined as a defence witness, as well as expert witness Hilmija Mašović, Mirza Jamaković, Hurem Šahić, and Professor Abdulah Kučukalić, and from the documentary evidence of the Prosecution presented at the main trial as follows: Letter of FMoI number 14/4 – 04 – 5 – 332 dated 22 January 2006 – Report on Expert Evaluation drafted by Senior Inspector – Hurem Šahić, Finding and opinion of the dactyloscopic, biological, and chemical expert evaluation by the Forensic Department of the FMoI of Sarajevo number 12/9 – 2 – 04 – 5 – 502 dated 19 December 2005, Finding and opinion of the Dactyloscopic, Chemical and Biological Expert Evaluation, Forensic Department number 12/9 – 04 – 5 – 5289 dated 8 December 2005, Letter of the FMoI Police Administration of Sarajevo number 09-12/5-04-3-5907 dated 1 December 2005, with the official report of the Crime Police Sector of the FMoI of Sarajevo number 12/5-494 dated 28 November 2005 and the Report on the Storage of Explosive Substances number 09 – 12/5 – KU – 59 dated 24 October 2005.

Namely, it is beyond any dispute that the accused Senad Hasanović found a certain quantity of explosive in the woods called "Gaj", and that at the request of Amir Bajrić he brought first a sample and then the remaining quantity of

explosive. This ensues from the statement of Amir Bajrić, which was confirmed by Hasanović himself, and Muhidin Osmanović, who was with Hasanović at the moment when the explosive was found in the "Gaj" woods and at the pastry shop called „Harisa" in Hadžići, when Bajrić heard Senad and Muhidin talking about explosive and asked them to bring it to him.
In this part, the statements of all three witnesses are consistent.
Subsequently, Bajrić asked Hasanović to bring him some more explosive, and he promised him in return that he would provide him with a rifle (the promise which he never fulfilled). Hasanović satisfied that request and brought a further, larger quantity to Bajrić. This time, he did that with the help of Ensar Aljović, whom he had asked to take him by car to his house to fetch something; he took a fairly large quantity of „salami" and cartridges, and put it in a cardboard box in the trunk of Aljović's car, and he transported the explosive to Bajrić's house. All of that was confirmed by Hasanović himself, while the circumstances surrounding the transport of the explosive and its handover to Bajrić arise beyond doubt from the testimony of witness Aljović, in which the Court has placed its trust in that part.

Bajrić further handed over the explosive he had received from Hasanović to Ikanović, which was established by this Court and already reasoned in the part of this Verdict related to Count 1 and the criminal act committed by the accused Ikanović.

After the explosive had been found on 19 October 2005 during the search of the residence at the address Poligonska 71 (Bajrić identified it on the photographs originating from the search and confirmed that it was the explosive Hasanović had brought to him), the measuring conducted by the professionals at the FMoI established, which was recorded in the report, that it was a quantity not less than 19,842 g. That fact was not challenged by the defence for Hasanović.

That it was an explosive mixture consisting of three explosives: nitro-glycerine (NG), trinitrotoluol (TNT), and ammonium nitrate (AN), packed like salami, as well as in smaller-size packing as wax paper cartridges, which still had the properties of explosive and as such was usable, arises beyond doubt from the finding and opinion of expert witnesses Hilmija Mašović and Mirza Jamaković, which the Court entirely accepted on the grounds stated above.

More than one month later (24 November 2005), after he had been brought to the FMoI, Hasanović told the authorised official persons about the existence of another quantity of explosive in the area of the "Gaj" woods in Donji Hadžići,

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and he took the police to the location showing them where it was. That was how a green trunk-box containing JNA marking was located based on the information provided by Hasanović, which contained an original cardboard box with packed „Vitezit" explosive, with 12,020 grams of substance resembling „Vitezit" explosive. It was noted in the official report drafted by the FMoI number 12/5-494 dated 28 November 2005, and photographic documentation was made; those substances were stored in the FMoI warehouse in Rakovica (according to the FMoI Report number 12/8-322/05 dated 24 October 2005).

Under that order of the Prosecutor's Office, certified court expert - chemistry engineer Hilmija Mašović carried out chemical expert evaluation of that NN substance as well, found at the location of "Gaj" – Donji Hadžići, and he established in his finding and opinion, which he confirmed at the main trial, that the disputable NN substance contained explosive: nitro-glycerine (NG), ammonium nitrate (AN) and trinitrotoluol (TNT), noting that nitro-glycerine and TNT do not dissolve in water at all, and that only ammonium nitrate dissolves, and that the entire mixture would not be affected if only ammonium nitrate were dissolved.

On the other hand, expert witness Mirza Jamaković, hired by the Court at the proposal of the defence for the first accused and the fourth accused, established a year later that the explosive could not be used, as it had completely leaked out of the appropriate cartridges, however, this witness also did not rule out the possibility that this explosive had leaked out in the period between the previous expert evaluation by expert witness Hilmija Mašović and his expert evaluation (the period of one year), bearing in mind that the substance is highly sensitive.

However, as already explained, the substance in question in the quantity of 12,020 grams, which was found at the location of "Gaj", Donji Hadžići based on the information provided by Hasanović on 24 November 2005, although mentioned in the Indictment, was not a subject of charges against anybody, and nobody was charged with its acquisition or possession, not even the fourth accused Hasanović. It is therefore completely irrelevant whether the explosive was functional and usable at the moment when it was found, whether it was properly stored or anything else pertaining to the explosive.

With reference to those first 19,842 grams that are the subject of the Indictment, which Hasanović himself confessed to having taken and handed over to Bajrić, which Bajrić then passed on to Ikanović, and the latter to the

first and the second accused in whose possession they were found at Poligonska 71, both expert witnesses, for the prosecution and the defence, were quite decisive in their assertions that the explosive was usable, which was accepted by the Court.

In view of the above, this Panel finds that there is no room for granting the accused Hasanović an amnesty, as suggested by the defence, under the provisions of the Law on Amnesty for Illicit Possession of Mines, Explosives and Weapons in the Federation of Bosnia and Herzegovina. For that quantity, with which only Hasanović was charged, the defence thesis of voluntary handover cannot be accepted, as Hasanović had handed over that explosive to Bajrić much earlier, and the latter passed it on to Ikanović. Hasanović had been silent about the handover, up until he was brought in for an interview (more than a month after the handover to Bajrić).

With reference to the quantity of 12,020 grams of explosive substance, about which the accused undoubtedly informed the police right after he had been brought in for an interview and he showed to the police the location where it was in the "Gaj" woods, there might be room for a dismissal of the proceedings under the provisions of the aforementioned law had that quantity been a subject of the charges.

During the search, following a motion of the defence, Senad Hasanović was subjected to a psychological expert evaluation, from the point of view of his maturity, age, and his family situation. The expert evaluation was done by a team of specialist medical doctors, and a detailed finding and opinion about the evaluation was presented by Professor Abdulah Kučukalić at the main trial. Expert witness Kučukalić noted that, although Hasanović was a young adult with no criminal record, and he was not experienced in handling explosive, he was still able to understand the relevance of finding the explosive and he was able to assess the consequences of its acquisition and possession.

The defence for the fourth accused did not make any objections to this finding, therefore, in view of that and of the proficiency and experience of the persons who had produced it, the Court had no reason not to accept it.

An essential element of the criminal offence of illicit possession of weapons and explosive substances in violation of Article 371, paragraph 2, in conjunction with paragraph 1 of the FBiH CC, with which the fourth accused was charged, is constituted by a particular property of the object in question, so that it can be committed only in respect to, in this case, explosive substance,

[redacted]

the manufacturing, supplying, sales, carrying and possession of which is entirely prohibited or is limited. Given that this is a blanket operative provision of the criminal offence, it is supplemented by appropriate provision of the Law on Acquisition, Possession and Carrying of Ammunition (Official Gazette of the Sarajevo Canton no. 29/01 and 16/02), defining what is implied under the term weapons and explosive substance, and setting out the terms of its acquisition by the citizens.

Namely, under the provisions of this Law, fragmentation and gas weapons are all types of bombs and other devices containing fragmentation substance, and although citizens may acquire certain types of weapons under certain conditions, Article 7 of the same Law regulates that citizens are prohibited from any acquisition, possession, and carrying, or sales of the fragmentation and gas weapons whatsoever. It is beyond any doubt that the explosive that Hasanović had found and handed over to Bajrić was fragmentation weapons under the provisions of this Law.

Hence, after all of the pieces of evidence have been presented, the Court established beyond doubt that in early summer of 2005 at the "Gaj" woods, the accused Hasanović found a certain quantity of explosive in a trunk-box, resembling salami in its packing and several pieces of smaller-size cartridge-like packing made of wax paper 28 x 200 mm in dimension, and that at the suggestion of Amir Bajrić he brought him first a smaller quantity of the said substance that he handed over to Bajrić at his apartment in Hadžići, at the address Tinohovska number 38, and then in early October 2005, after Bajrić had asked him to bring him some more explosive, he went to the Gaj woods again and took all of the explosive out of that metal trunk, which was packed like salami, and around 10 pieces of smaller-size cartridge-like packing made of wax paper 28 x 200 mm in dimension (thus, all the salami and the said number of patrons), which he then took and handed over to Bajrić in his apartment. That was an explosive mixture composed of the above mentioned three components, (NG, TNT and AN), whose acquisition and possession is entirely prohibited to citizens pursuant to Article 6 of the Law on Acquisition, Possession and Carrying of Weapons and Ammunition (Official Gazette of the Sarajevo Canton, number 29/01 and 16/02).

By the above actions, the accused Senad Hasanović committed the criminal offence of illicit possession of weapons and explosive substances, namely the serious form of the offence in violation of paragraph 2, Article 371, in conjunction with paragraph 1 of the FBiH CC, which exists when a fairly large quantity of explosive is in question.

The issue of what is considered to be a fairly large quantity of explosive is a factual issue that the Court evaluates in each specific case; in this case the Court has had no doubts that the given quantity of 19,842 grams may be considered to be a fairly large quantity.

It is the view of this Panel that the accused Senad Hasanović was aware that his actions constituted the illicit acquisition and possession of explosive substances, which the citizens are entirely prohibited from acquiring and possessing under the provisions of Article 6 of the Law on Acquisition, Possession, and Carrying of Weapons and Ammunition; although being aware of that, he nevertheless acquired and possessed the substances (the law uses these terms, however, bearing in mind the spirit and the meaning of that law, it does not imply the acquisition and possession in a narrow, civil-law meaning of those words, but they are used there in a broader sense to include finding and taking), and instead of reporting it to the competent authorities, he handed them over to Amir Bajrić as follows: first in the summer of 2005, a smaller quantity, and in early October 2005 another, fairly large quantity, not less than 19,842 grams in total, whereby he acted with intent when committing the criminal offence. While doing so, the accused Hasanović was able to understand the relevance of his act and to manage his actions.

The motion of the defence for the fourth accused to hear Ferid Borovina, Chairman of the "Bjelašnica" Hunting Association, Hadžići, and Ejub Šehić, Senior Officer in the Civilian Defence Headquarters of the Hadžići Municipality, employed as a Coordinator for unexploded deadly mines and explosives in relation to the circumstances surrounding mines and explosives in the territory of the Hadžići Municipality, was refused by the Court on the grounds that the situation is common knowledge and that the Prosecutor did not dispute that there were many unexploded mines and explosives left behind in that area, therefore, the Court accepted that fact as undisputable. Hence the testimony of those witnesses was evaluated as superfluous and unnecessary. It would only lead to an unnecessary prolongation of these criminal proceedings.

The Court also refused the motion of the defence for the fourth accused to obtain the information from the "VITEZIT" Company from Vitez, about the time when the last explosive was produced in that company. This was because both expert witnesses for mines and explosives presented at the main trial clear and specific views that the quantity of the explosive in question was functional and could have been put to use at the time when it was analysed by the expert witness Mašović, and according to the defence expert witness Jankov[redacted]ović, it could have been used as explosive at the time of his expert eval[redacted]

year later. Therefore, any response by "VITEZIT" Company from Vitez to the aforementioned issue cannot cast serious doubt on the belief of the Court regarding the above-mentioned quality of the quantity that was the subject of the Indictment. In addition to that, the origin of the explosive was not the subject of the charges in any way, and the explosive which was found could have got to the place where the fourth accused took it from various sources.

With regard to this Count of the Indictment, the Court also made a correction to the description of facts in relation to the focus of the act committed by Hasanović, adapting it to the newly-arisen situation, i.e. the fact that a guilty plea agreement was concluded and accepted between Bajrić, who was included in the Indictment, and the Prosecutor's Office. The part concerning the quantity of the explosive that remained in the trunk was omitted from the description of facts in Item 2, which were not a subject of charges against anyone, as the remaining part indicates.

In view of the above, the accused Hasanović was found guilty of the criminal offence of illicit possession of weapons and explosives in violation of paragraph, 2, Article 371, in conjunction with paragraph 1 of the FBiH CC.

Under Section III of the Verdict

The belief of the Court that the accused Mirsad Bektašević and Abdulkadir Cesur together committed an attempted criminal offence stated in Section III of the operative provision of the Verdict in the manner, at the place and time specified in more detail in the operative provision arises primarily from the testimonies of witnesses Anes Čengić, Dragan Papić and Nermin Sijamhodžić, as well as material evidence presented by the Prosecutor at the main trial, as follows: The Finding and Opinion of the Ballistic and Mechanoscopic Expert Evaluation conducted by the FMoI Department for Mechanoscopic and Ballistic Expert Evaluation Sarajevo no. 12/9-4-04-5-5289 dated 15 November 2005; Record of search of apartment, other premises and movable objects number 12/5-365 dated 19 October 2005 with photographic documentation number 12/9-4-13/05 of the FMoI Forensic Department of Sarajevo; Certificate of Temporary Seizure of Objects number 12/5-366/05 dated 19 October 2005 of the Department for Counter-Terrorism; Official Note number Kpp – 147/05 dated 20 October 2005 of the preliminary proceedings judge of the Court of BiH; and the Report on the Use of Force by the FMoI Crime [illegible]ce Sector of Sarajevo number 12/5-379 dated 20 October 2005.

Namely, as reasoned above, the fact is undisputable that on 19 October 2005, Mirsad Bektašević and Abdulkadir Cesur were present on the ground floor of the house at Poligonska number 71, Ilidža Municipality, at the moment when the authorised official persons - Inspectors of the FBiH MoI Police Administration Anes Čengić, Dragan Papić and Nermin Sijamhodžić arrived at that address to execute the order for search of apartment, other premises and movable objects at that address, which they received from the preliminary proceedings judge of the Court of BiH. It was an oral order of the duty judge, based on which the authorised officials composed the order in writing.

The defence for the first and second accused challenged the validity of the order for search throughout the proceedings, however, the Court evaluated, as reasoned above, that the order was obtained and executed in accordance with the applicable provisions of the Criminal Procedure Code of Bosnia and Herzegovina, the specific grounds for which were provided in the part of the Verdict pertaining to Count 1.

The Inspectors, members of the FMoI Department for Counter Terrorism, Anes Čengić, Dragan Papić and Nermin Sijamhodžić testified at the main trial about the search at the address Poligonska number 71 in great detail.

All three of the inspectors testified that they had arrived at the address at Poligonska 71, Ilidža Municipality, in the capacity of official persons of the FBiH MoI Police Department on 19 October 2005, based on the intelligence about the arrival of Mirsad Bektašević in Sarajevo and about the likelihood that he was in possession of a fairly large quantity of explosive. After they had been given the order by the preliminary proceedings judge of the Court of BiH to search the apartment, they came to the door on the ground floor, that was opened by Bektašević Mirsad..

All three witnesses were consistent and explicit in asserting that they introduced themselves by saying "the Federation MoI" and that witness Čengić said that they had an order to search the apartment. Čengić held in his hands the written order that was composed based on the oral order of the preliminary proceedings judge of the Court of BiH, and he attempted to serve it on Bektašević. According to the witness testimony, when he heard those words, Bektašević objected and said that there was no way they could get inside, calling them "trash". Then he blocked the entrance with his body and started pushing Čengić in the chest with his hands, and the two began to shove at the doorstep without exchanging any direct blows.

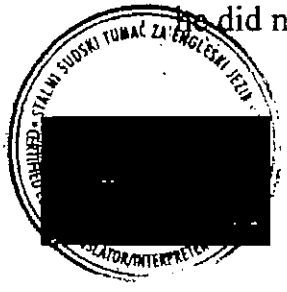
During the altercation Čengić managed to push Bektašević inside the house, and overpower his resistance, and then the other two inspectors, Dragan Papić and Nermin Sijamhodžić, entered the house (right after Čengić and Bektašević). Then witness Sijamhodžić saw an unknown person in the room to the right from the entrance door, sitting on a couch holding a coat over his left hand. When he came near him and moved the coat, he noticed that the person who at that time was unknown to him was holding a pistol in his left hand with his index finger on the pistol trigger.

All the three inspectors were consistent in their testimonies that Sijamhodžić shouted then: „Čenga, pistol", to warn his colleague who was trying to overpower Bektašević in another room. Seeing the weapon in his hand, witness Sijamhodžić reacted by knocking the pistol from his hand, knocking him to the ground and handcuffing him, assisted by witness Dragan Papić, who was a few steps behind Sijamhodžić when they entered the room. It was established subsequently that the unidentified person, about whom there had been no previous intelligence, was the second accused Cesur.

The Court placed its full trust in the testimonies of all three witnesses as they were entirely consistent in terms of the overall sequence of events on that critical occasion. That is primarily related to the detail regarding the arrival of those police officers at the stated address, introducing themselves to the person who showed up at the door, objections expressed by that person and his pushing away of Anes Čengić when they informed him about the reasons for their arrival, then further struggle between Bektašević and Čengić, and the shout "pistol", as a regular police reaction of Sijamhodžić to the fact that he noticed the weapon and signalling to the other colleagues.

Furthermore, those are experienced police inspectors, well-trained for the execution of such tasks, including the noticing of all details, and who, additionally, have no reason to charge the accused without any grounds.

The accused Mirsad Bektašević and Abdulkadir Cesur also testified about the circumstances surrounding that search and the deprivation of liberty, however, Bektašević asserted that there was no physical resistance during the search, while Cesur said that when the police came in, the pistol which he had seen with Bektašević on earlier occasions and which he thought was Bektašević's was lying on the couch he was sitting on in the room, but that at that moment he did not know that the pistol was underneath Bektašević's coat.



The Court could not place its trust to the testimonies of the accused given in relation to those circumstances, as they are contradictory to the testimonies of the three police inspectors who have long-term police experience, and who, additionally, have no motive not to tell the truth, as opposed to the accused who have a strong motive to do so - to avoid or minimise their responsibility.

In reference to the pistol which was seized, which was in the hand of Cesur Abdulkadir at the moment when the police officers came in, the expert evaluation by expert witness Bruno Franjić established that it was a 7.65 mm calibre "Browning" pistol, which was in a working order and ready for use, loaded with live ammunition, with a bullet in the chamber at the moment when the pistol was seized. The finding and the opinion of the expert witness was accepted by the Court in full on the grounds stated above.

As to the ownership of the pistol, Bektašević himself confirmed that it was his own pistol, which also arises from Cesur's statement.

However, the Court could not place its trust to Cesur's statement that the pistol was on the couch at the moment when the police officers came in and not in his hand. If that had been the case, witness Sijamhodžić would certainly have not had a reason to shout „Čenga, pistol" and react in the way he did, kicking the pistol from his hand, which was confirmed beyond any doubt by the other inspectors too.

The action by Bektašević of blocking the passage with his body and pushing away inspector Čengić was evaluated by the Panel beyond doubt as the use of force by Bektašević, and the action by Cesur of holding the pistol in his hand, with his left index finger on the trigger and a bullet in the chamber, which was indisputably ready for use, together with all other given circumstances of the incident in question, as a threat posed to use force against official persons while carrying out their official actions under the law.

Considering that the accused by applying the above described force did not succeed in preventing the authorised official persons employed with the FMoI as official persons in carrying out the action they had intended to, this particular instance is not one of a completed act of obstruction of an official in executing his official duty in violation of Article 358, paragraph 1, of the FBiH CC, but an attempted obstruction. Namely, after overpowering the resistance and deprivation of liberty of Bektašević and Cesur, the police officials nevertheless managed to execute their official duties that they had intended to do (the search), i.e. which was the purpose of their arrival.

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Based on the above evidence, the Panel concluded beyond any doubt that Bektašević and Cesur undertook the aforementioned actions that constitute the elements of the criminal offence of obstruction of an official person in executing their official duty in violation of Article 358 of FBiH CC in an attempt, with direct intent, as they were aware of their act and they wanted to carry it out. In addition to that, at the time of the perpetration, both of them were able to understand the relevance of their act and manage their actions.

In view of the above, as well as of the fact that, given the punishment prescribed for this criminal offence of obstructing an official person in executing his official duties in violation of Article 358, paragraph 1 of the FBiH CC, the attempted obstruction itself is punishable under the provisions of Article 26 of the Criminal Code of BiH, both of the accused have been found guilty of that criminal offence.

The contention of counsel for the second accused that there was no possibility for punishment for an attempted obstruction is not grounded in statutory provisions, as it is precisely a criminal offence for which imprisonment for a term of three years may be pronounced, which meets this requirement as well under Article 26 of the Criminal Code of BiH (on fulfilment of the second requirement - that the perpetration of the criminal offence had been started with intent was already mentioned). The fact that it was an offence for which no serious punishment may be pronounced is completely irrelevant, given that the prescribed three years is sufficient to sanction the attempt.

The Court has found the accused Mirsad Bektašević guilty of committing the crimes stated under Counts 1 and 3. The Court, therefore, imposes a sentence of imprisonment on him for the criminal offence under Count 1 - Terrorism in violation of Article 201, paragraph 1 in conjunction with paragraph 4, item (f), as read with Article 29 of the BiH CC for a term of 15 (fifteen) years; for the criminal offence under Count 3 - Obstruction of an Official Person in Executing his Official Duties in violation of Article 358, paragraph 1 of the FBiH CC, in conjunction with Article 26, paragraph 1 the Court pronounces a sentence of imprisonment on him for a term of 6 months; applying Article 53 of the BiH CC, the Court convicts him to a single sentence of imprisonment for a term of 15 (fifteen) years and 4 (four) months.

In relation to the accused Abdulkadir Cesur, who has also been found guilty of committing the crimes under Counts 1 and 3, the Court imposes a sentence of imprisonment on him for the criminal offence under Count 1 - Terrorism in

violation of Article 201, paragraph 1 in conjunction with paragraph 4 item (f), all in conjunction with Article 29 of the BiH CC for a term of 13 (thirteen years); for the criminal offence under Count 2, Obstruction of an Official Person in Executing his Official Duties in violation of Article 358, paragraph 1 of the FBiH CC in conjunction with Article 26, paragraph 1, the Court imposes the sentence of imprisonment on him for a term of 6 months; applying Article 53 of the BiH CC, the Court sentences him to a single sentence of imprisonment for a term of 13 (thirteen) years and 4 (four) months.

The Court also imposes a sentence of imprisonment on the accused Bajro Ikanović, who has been found guilty of the criminal offence of terrorism in violation of Article 201, paragraph 1 in conjunction with paragraph 4 item (f), as read with Article 29 of the BiH CC, for a term of 8 (eight) years.

The Court imposes a sentence of imprisonment on the accused Senad Hasanović, who has been found guilty of the criminal offence of Illicit Possession of Weapons and Explosive Substances in violation of Article 371, paragraph 2, in conjunction with paragraph 1 of the FBiH CC, as read with Article 29 of the BiH CC, for a term of 2 (two) years and 6 (six) months.

When meting out the punishments, under Article 48 of the Criminal Procedure Code of BiH, the Court had in mind the limitations set out by the law, the purpose of sanctioning, and all the circumstances affecting the pronouncement of a higher or lower sentence (mitigating and aggravating), in particular: the degree of the criminal responsibility of the accused, the motives for committing the crime, the degree of threat, that is, the violation of public value, circumstances in which the crime was committed, and the behaviour of the perpetrators prior to the crime, their personal circumstances, and their conduct after the perpetration of the criminal offence.

The Court has evaluated as mitigating circumstances in favour of the accused Bektašević, Cesur and Hasanović the fact that they are young persons ; in favour of Cesur, Ikanović and Hasanović the additional fact that they have no previous convictions (Bektašević, according to what he said, was imposed some educational measures in Sweden while he was a juvenile on account of fight and threat). The Court has taken into account as mitigating the fact that Bektašević grew up in an incomplete family (without a father) in Sweden; with respect to Hasanović, his poor financial situation in the family, and the fact that notwithstanding that fact he is still a good student, and in respect to Ikanović the fact that he is a family man and a father of two underage children.

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With respect to aggravating circumstances, the Court had in mind the accused's persistence in the perpetration of the offence, considering the number and type of the acts carried out, the quantity of explosive and the danger it posed, the degree of threat to the public value and the likely consequences that might have occurred had they not been discovered.

In the opinion of the Court, the sentences imposed are proportionate to the gravity of the crimes and appropriate to the personality and the conduct of the accused, and they will achieve the purpose of sanctioning provided under Article 39 of the BiH CC. The punishments are such that they clearly express the public condemnation of the offence perpetrated, that they would have a didactic effect on the accused teaching them not to commit crimes in future, that they will have a preventive effect on others not to commit crimes and that they will raise public awareness of the danger posed by the criminal offences and the justice done by sanctioning the perpetrators, all of which is particularly important if one bears in mind the growing wave of terrorism worldwide and the necessity to prevent it.

Pursuant to Article 56 of the Criminal Code of Bosnia and Herzegovina, the time spent in custody will be credited towards the sentence of imprisonment imposed on the accused, as follows: Mirsad Bektašević and Abdulkadir Cesur, as of 19 October 2005 onwards - until the Verdict becomes final and legally binding or revoked, and accused Bajro Ikanović as of 18 November 2005 onwards – until the Verdict becomes final and legally binding of revoked, and Senad Hasanović as of 24 November 2005 until 22 December 2005.

In accordance with Article 188, paragraph 1 of the Criminal Procedure Code of BiH, given that the accused have been found guilty, they are under the obligation to pay the expenses of the criminal proceedings, the amount of which will be decided upon in a separate decision, once the relevant information is collected.

RECORD-TAKER
Legal Officer
Sanin Bogunić

PRESIDING JUDGE
Mirza Jusufović

INSTRUCTION ON LEGAL REMEDY: An appeal may be filed against this Verdict to the Appellate Panel of this Court within 15 (fifteen) days of the date of receiving the Verdict in writing.

We hereby confirm that this document is a true translation of the original written in Bosnian/Croatian/Serbian.

Sarajevo, 7 March 2007

[redacted] *(pages 1-21)*
Certified Court Interpreter for English Language
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[redacted] *(pages 22-55)*
Certified Court Interpreter for English Language
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[redacted] *(pages 56-75)*
Certified Court Interpreter for English Language
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