

BOSNIA AND HERZEGOVINA
Prosecutor's Office of BiH
Sarajevo
Special Department for War Crimes
Regional Prosecution Team V
Number: KT-RZ 42/06
Sarajevo, 27 December 2007

COURT OF BOSNIA AND HERZEGOVINA
Preliminary Hearing Judge
Sarajevo

Pursuant to Article 35 (2) (h) and Article 226 (1) of the Criminal Procedure Code of Bosnia and Herzegovina, I hereby file the following

INDICTMENT

Against:

IVAN HRKAĆ aka Čikota, son of Vinko and Janja, née Penavić, born in Mostar, on 23 October 1967, with permanent residence at 74, Mokro, Široki Brijeg Municipality, personal ID number 2310967152389, Croat by ethnicity, graduated from two-year post-secondary school of administration, single, father of three minor children, served the army in 1986/87 in Požega, holds the rank of a police colonel, registered in the military records of the Defence Office in Široki Brijeg, of average financial status, citizen of Bosnia and Herzegovina and the Republic of Croatia, convicted under the Verdicts of the Municipal and District Courts in Slavenska Požega in the case No. IV-K-278/89-20 dated 18 May 1990, and Kž - 267/90-3 dated 12 September 1990 for the criminal offence in violation of Article 41 (1) of the Criminal Code of Croatia and sentenced to six (6) months

imprisonment, suspended to one (1) year and six (6) months, while there are ongoing criminal proceedings before the Cantonal Court in Mostar under No. K – 8/04 for the criminal offence of Serious Criminal Offences against Public Safety of Persons and Property in violation of Article 308 (2) as read with Article 304 (1) of the CC FBiH, all in conjunction with Article 23 of the CC FBiH,

Because:

In 1993 during the war in Bosnia and Herzegovina and the armed conflict between the Croat Defence Council /HVO/ and the Army of the Republic of Bosnia and Herzegovina, in Široki Brijeg and Dobrkovići near Široki Brijeg, as a member of the HVO Convicts Battalion Široki Brijeg, he acted contrary to Article 3 (1) (a) and (c) of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949 and Article 3 (1) (a) and (c) of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, inasmuch as:

1. On an undetermined day in May 1993, in Široki Brijeg, in the evening hours, from the basement of the Police Station, where Bosniaks - members of the Army of R BiH were detained, including [REDACTED], Witness X and [REDACTED] he took out the detainee [REDACTED] in the corridor, questioned him about the units of the Army of R BiH, their commanders and positions, and since the detainee [REDACTED] did not reply to the questions he punched him on his face several times as a result of which Esad Bašić's nasal bone was broken and eye shut, and after that he continued punching him on his ribs thus breaking his three ribs.

2. On an undetermined day in May 1993, in Široki Brijeg, in the afternoon hours, together with several unknown HVO members he entered the basement of the Police Station Široki Brijeg, saying that his brother Mario was killed by Muslims and that he would get revenge for that, he then ordered a detainee who was a member of the Army of R BiH – detainee X to enter a separate room, whereupon he asked him who among the detainees were members of the Army of R BiH; since the detainee X did not respond to the questions at first, the Suspect started beating him, together with other unknown HVO members, punching and kicking him all over his body, whereupon, having lit a cigarette he slapped the detainee X ordering him to stick his tongue out and then put out the cigarette thereon, forcing him to swallow the cigarette and then ordered him to bang his head against the wall several times, which the detainee X obeyed.

3. In May 1993, he took out detained members of the Army of R BiH from the Police Station in Široki Brijeg on several occasions, including [REDACTED] and took them to the village of Mokro, ordering them to do works on his private-owned house, which is what they did out of fear for their lives and for free, while he would bring them back in the evening hours to the basement of the Police Station in Široki Brijeg.

4. In the night of 4/5 May 1993, after midnight, accompanied by two unknown HVO members, he came to the Elementary School in Dobrkovići near Široki Brijeg, where over 50 Bosniak civilians were detained, entered the larger classroom, ordered the detainees to turn against the wall and bow their heads, whereupon he hit several detainees "at random", including the detainee [REDACTED] punching him in the region of his temple, as a result of which detainee [REDACTED] eye was cut.

5. On an undetermined day in May 1993, in the evening hours, together with an unknown HVO member, he entered the Elementary School in Dobrkovići, Široki Brijeg Municipality, saying "get up, Balija", whereupon he ordered the detained civilians to get up and face the wall with their hands up, whereupon he:

- struck the detainee [REDACTED] with a sharp karate chop below his rib cage, as a result of which the detainee [REDACTED] fell on the floor, whereupon he continued kicking him;
- kicked the detainee Y on the left side below the rib cage;
- made [REDACTED] to eat a plastic bottle threatening he would kill him should he disobey;
- punched and kicked the detainee [REDACTED] all over his body several times and hit him in the head with full cans;
- kicked the detainee [REDACTED] several times on his head, kicked the detainee [REDACTED] and hit him with a broomstick all over his body, which resulted in several bruises on him;
- kicked the detainee [REDACTED] on his head, as a result of which his lower lip was cut.

6. On 24 July 1993, in the Elementary School in Dobrkovići, Široki Brijeg Municipality, in the afternoon hours, together with an unknown HVO member, he entered a classroom wherein Bosniak civilians were detained and kicked the detained civilian [REDACTED] in the region of his heart several times, whereupon he hit him with a sharp object on the back of his head, as a result of which the

detainee [REDACTED] sustained injuries in the form of a laceration of occipital bone and a laceration and compressive injury with a fracture and impressed left temple, impressed bone towards the cranial cavity, as a result of which he died on the spot.

7. On 24 July 1993, in the Elementary School in Dobrkovići, Široki Brijeg Municipality, in the afternoon hours, having killed the detainee [REDACTED] he entered the adjacent classroom and ordered the detained civilians, including [REDACTED] to strip naked, whereupon he forced them to sexual intercourse, threatening he would kill them should they fail to do so.

Therefore, violating the rules of international law, he inflicted strong bodily and mental pain upon prisoners of war – members of the Army of R BiH, and treated them inhumanely, and, violating the rules of international law during the war in BiH and the armed conflict between the HVO and the Army of R BiH, he killed a detained civilian, inhumanely treated the detained civilians, tortured them, forced them to sexual intercourse, intimidated and terrorised them and violated their bodily integrity.

Whereby, by the acts mentioned under Counts 1, 2 and 3 he committed the criminal offence of War Crimes against Prisoners of War in violation of Article 175 (a) of the Criminal Code of Bosnia and Herzegovina, while by the acts under Counts 4, 5, 6 and 7 the criminal offence of War Crimes against Civilians in violation of Article 173 (1) (c) and (e) of the Criminal Code of Bosnia and Herzegovina, all in conjunction with Article 180 (1) and Article 29 of the Criminal Code of Bosnia and Herzegovina.

I, therefore,

MOVE

1. To summon:

- Prosecutor of the Prosecutor's Office of BiH,
- The suspect Ivan Hrkać aka Čikota, and
- his chosen defence counsel Mario Bogdanović, attorney from Mostar.

2. To present the following evidence:

a) Examine witnesses:

1
 2
 3
 4
 5

- Witness X,

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- Witness Y,

1. The first step in the process of identifying a problem is to recognize that a problem exists. This is often done by comparing current performance with a desired state or goal. For example, a manager might notice that sales are down compared to last year's performance. This comparison can be done using various tools, such as a line graph or a bar chart, to visualize the data. Once a problem is identified, the next step is to define the problem more clearly. This involves specifying the scope of the problem, the time frame, and the resources available. For instance, a manager might define the problem as "a 10% decrease in sales over the last six months, with a budget of \$50,000 to address the issue." This definition helps to narrow down the focus of the investigation and provides a clear target for the solution. The third step in the process is to analyze the problem. This involves identifying the causes of the problem and determining the relationships between different factors. For example, a manager might analyze the data to see if there is a correlation between a change in the market and the decrease in sales. This analysis can be done using various techniques, such as regression analysis or correlation analysis, to quantify the relationships between different variables. Once the causes of the problem are identified, the next step is to develop a solution. This involves brainstorming ideas and evaluating them based on their feasibility and potential impact. For instance, a manager might develop a solution that involves increasing marketing efforts or improving the quality of the product. The final step in the process is to implement the solution and monitor its effectiveness. This involves putting the solution into action and tracking the results over time. For example, a manager might implement a new marketing campaign and track the sales figures to see if there is an improvement. This monitoring allows the manager to make adjustments to the solution as needed and ensures that the problem is effectively resolved.



b) To read the Findings and Opinion of Dr Ilijas Dobrača, MSc in Medicine, specialist in forensic science, pursuant to Article 273 (2) of the Criminal Procedure Code of Bosnia and Herzegovina, because the expert witness Dr Ilijas Dobrača, MSc in Medicine has passed away.

c) To inspect:

- The Decision of the Presidency of the Republic of Bosnia and Herzegovina on the declaration of the state of war (Official Gazette of BiH, issue 7/92),
- The Decision of the Presidency of the Republic of Bosnia and Herzegovina on the termination of the state of war (Official Gazette of BiH, issue 50/95),
- Certified copy of a certified copy of the Peace Agreement and Annex to the Peace Agreement of 23 February 1994 (certified copy is in the case file of the Court of Bosnia and Herzegovina No. X-KR/05/42),
- Certified copy of the publication HVO camps in Herzegovina, registered in the ICTY in The Hague under numbers: 02064768 through 02064790. The authenticity of twenty-three pages of this publication has been confirmed by the stamp and signature of the authorised person in the ICTY in The Hague (a certified copy is in the case file of the Court of Bosnia and Herzegovina No. X-KR/05/42),
- Certified copy of the original document of the Ministry of Defence of Bosnia and Herzegovina No. 08-04-65-3/06 dated 13 April 2006,
- Original photographic documents made by the Ministry of the Interior /MUP/ of Herzegovina Neretva Canton Mostar under number 94/98 on 3 June 1998 during the exhumation of mortal remains of [REDACTED] from the graveyard Balinovac,
- Original of the Report of the Health Centre Široki Brijeg No. 68/05 dated 2 June 2005,
- Certified copy of the log of the Health Centre Široki Brijeg for 1993,
- Original of the document of the Registry Office of the City of Mostar – Regional Office Stari Grad No. 04/II-15-8644/07 dated 12 December 2007,
- Original document of the City of Mostar - Organisation, Legal Affairs and General Administration Department – Regional Office Southwest No. 04-IV-15-77722/07 dated 5 December 2007,
- Original of the Examination Record for expert witness Dr Ilijas Dobrača before the High Court in Mostar No. Kri:10/98 dated 25 August 1998,
- Order of the Cantonal Prosecutor's Office of West Herzegovina Canton Široki Brijeg No. KT-66/05 dated 27 October 2005 to carry out forensic science analysis.

- Original of the Examination Record for expert witness Dr Ilijas Dobrača before the Cantonal Prosecutor's Office of West Herzegovina Canton Široki Brijeg No. KT-66/05 dated 31 October 2005,
- Original of the Death Certificate from the Registry of Deaths for the Centar Municipality, Sarajevo No. 08/13-4-344522/07 dated 24 December 2007 for Dr Ilijas Dobrača.
- Excerpt from Database Register (CIPS) for Ivan Hrkać,
- Certified copy of the Nominal List of Personal Income Disbursement for November 1993 for the Convicts Battalion and the Anti-terrorist Unit (38 pages), whose authenticity was confirmed by the stamp and signature of an authorised person in the ICTY in The Hague,
- Certified copy of the Nominal List of Personal Income Disbursement for November 1993 for the Convicts Battalion and Anti-terrorist Unit (38 pages), whose authenticity was confirmed by the stamp and signature of an authorised person in the ICTY in The Hague – English version,
- Document of the "Rules of the Road" Unit of the Office of the Prosecutor of the ICTY in The Hague No. 047251/CDP/RR819 dated 12 August 2004 placing the case against Ivan Hrkać in the category "A" of standard markings in accordance with the "Rules of the Road",
- Original document of the Ministry of Defence of the Federation of Bosnia and Herzegovina - Defence Office Široki Brijeg No.24-3-01-03-32-21/05-2 dated 20 May 2005,
- Certified copy of a Military Card and Alphabetical Record for Ivan Hrkać,
- Certified copy of the Decision of the MUP of Croat Republic of Herceg-Bosna No.03-6/2-190-1/95 dated 3 February 1995,
- Certified copy of the Decision of the MUP of West Herzegovina Canton – Ljubuški No.02-1-515-357/97 dated 4 August 1997,
- Certified copy of the Decision of the MUP of West Herzegovina Canton - Ljubuški No.02-1-126-17/98 dated 16 November 1998,
- Original of Excerpt from Criminal Records of the MUP of Herzegovina-Neretva Canton - Police Administration Mostar No. 02-02/5-2-4-537/05 dated 28 December 2005,
- Original of Excerpt from Criminal Records of the MUP of the Herzegovina Neretva Canton - Police Administration Mostar No. 02-02/5-2-12-466/07 dated 5 December 2007,
- Original of the document of the Prosecutor's Office of BiH No. KTA-RZ 324/05 dated 23 August 2005 (case sensitivity assessment),
- Original of the Decision of the Court of BiH No. X-KRN 06/180 dated 21 February 2006 in which it was established that the Court of Bosnia and

Herzegovina has subject-matter jurisdiction over proceedings in the criminal matter against the suspect Ivan Hrkać,

- Original of the Arrest Warrant of the Prosecutor's Office of BiH No. KT-RZ 42/06 dated 18 May 2006 for the suspect Ivan Hrkać aka Čikota,
- Original of the Official Note of the State Investigation and Protection Agency, War Crimes Investigation Centre, No. 14-04/2-04-2-65/06 dated 5 June 2006 on actions taken upon the Arrest Warrant of the Prosecutor's Office of BiH No. KT-RZ 42/06 dated 18 May 2006 for Ivan Hrkać aka Čikota,
- Original of the summons No. KT-RZ 42/06 dated /sic/ issued for the Suspect to be questioned in the investigation on 2 October 2006,
- Original of the submission of attorney Mario Bogdanović dated 29 September 2006 informing the Prosecutor's Office that the Suspect is not able to respond to the summons to be questioned on 2 October 2006, enclosed to which was a certified copy of medical documents of the Clinical Hospital Centre Split for Ivan Hrkać,
- Criminal Intelligence Report of the State Investigation and Protection Agency - Regional Office Mostar – War Crimes Investigation Section No. RK-MO-17-13/3-2-281/06 dated 1 December 2006,
- Original of the Order of the Prosecutor's Office of BiH No. KT-RZ 42/06 dated 17 December 2007 issued to the State Investigation and Protection Agency - Regional Office Mostar to deliver the summons to Ivan Hrkać for questioning scheduled for 17 December 2007 in the Prosecutor's Office of BiH in Sarajevo,
- Original of the summons dated 3 December 2007 for the Suspect to be questioned as the suspect in the Prosecutor's Office of BiH on 17 December 2007 in the investigation No. KT-RZ 42/06,
- Original of the Official Note of the State Investigation and Protection Agency - Regional Office Mostar No. 17-13/3-1-04-2-177/07 dated 4 December 2007,
- Original of the submission of attorney Mario Bogdanović dated 7 December 2007 informing the Prosecutor's Office that the Suspect is not able to respond to the summons to be questioned on 17 December 2007, enclosed to which was a certified copy of medical documents of the Clinical Hospital Centre Split for Ivan Hrkać,
- Original of the Order of the Prosecutor's Office of BiH No. KT-RZ 42/06 dated 12 December 2007 that an analysis be carried out by the expert witness in neuropsychiatry, Chief Physician [REDACTED]
- Original of the Forensic Psychiatry Report made by the expert witness in neuropsychiatry, Chief Physician [REDACTED] on 13 December 2007,
- Original of the power of attorney for Mario Bogdanović, attorney from Mostar signed by Ivan Hrkać on 8 December 2005,

- Original of the power of attorney for attorneys Borislav Čuljak and Zlatko Čavar, signed by Ivan Hrkać on 8 December 2005,
- Original of the Decision of the Court of BiH No. X-KRN-06/170 dated 20 December 2007 ordering protective measures for witnesses X and Y,
- Original of the document of the NCB Interpol Sarajevo No. 16/04.3-I-IP-I-OK-3565/06-11 dated 5 February 2007,
- Original of the Order to conduct an investigation issued by Cantonal Prosecutor's Office of Herzegovina Neretva Canton Mostar No. KT-1421/04 dated 1 December 2004, against Ivan Hrkać aka Čikota,
- Original of the Record of questioning the suspect Ivan Hrkać in the Cantonal Prosecutor's Office of West Herzegovina Canton Široki Brijeg No. KT-66/05 dated 8 December 2005,
- CD containing the final Judgement of the ICTY in The Hague No. IT-98-34 dated 31 March 2003 in "Prosecutor v. Mladen Naletilić aka Tuta and Vinko Martinović aka Štela".

RESULTS OF THE INVESTIGATION

The results of the investigation conducted by the Prosecutor's Office of Bosnia and Herzegovina in this criminal case undoubtedly confirm the justifiability of the Indictment, or the allegations that the Suspect, personally and together with other HVO members, perpetrated and participated in the perpetration of the criminal acts stated in Counts 1 through 7 of the Indictment in the manner, at the time, in the place and under the circumstances as mentioned in the operative part of the Indictment, while those acts imply all key elements of the criminal offence of War Crimes against Prisoners of War in violation of Article 175 (a) and the criminal offence of War Crimes against Civilians in Article 173 (1) (c) and (e) of the Criminal Code of Bosnia and Herzegovina, in conjunction with Article 180 (1) and Article 29 of the Criminal Code of Bosnia and Herzegovina.

The following has been established through the physical evidence and statements of the examined witnesses obtained by the Prosecutor's Office in the course of the investigation:

- that the suspect Ivan Hrkać aka Čikota committed the criminal offences as charged under the Indictment during the war in Bosnia and Herzegovina, at the time of armed conflict between the HVO and the Army of R BiH,
- that the criminal acts with the commission of which the suspect Ivan Hrkać aka Čikota has been charged under Counts 1, 2 and 3 of the operative part of the Indictment constitute serious violations of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949,

- that the criminal acts with the commission of which the suspect Ivan Hrkać aka Čikota has been charged under Counts 4, 5, 6 and 7 of the operative part of the Indictment constitute serious violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949.

To wit, the suspect Ivan Hrkać aka Čikota inflicted bodily and mental pain upon and inhumanely treated prisoners of war, or members of the Army of R BiH, whereas by killing a detained civilian, inhumane treatment, torture, violation of bodily integrity, forcing detained civilians into sexual intercourse and applying the measures of intimidation and terror, he acted contrary to Article 3 of the Geneva Conventions of 12 August 1949, thus violating the rules of international law,

- that the detainees, victims mentioned in Counts 1, 2 and 3 were members of the Army of R BiH and throughout the time relative to this Indictment were persons protected by the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949,

- that the detainees, victims mentioned in Counts 4, 5, 6 and 7 were civilians and throughout the time relative to this Indictment were persons protected by the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949,

- that all the acts mentioned in the operative part of the Indictment were committed in the territory of the Široki Brijeg Municipality, more precisely in the Police Station Široki Brijeg, in Mokro, Široki Brijeg Municipality and on the premises of the Elementary School in Dobrkovići near Široki Brijeg,

- that the suspect Ivan Hrkać aka Čikota committed the criminal offences as charged under this Indictment as a member of the HVO Convicts Battalion in May and July 1993,

- that not a single criminal act committed by the suspect Ivan Hrkać aka Čikota was justified by military necessity.

a) War in Bosnia and Herzegovina

Pursuant to Article 8 of the Decree with the force of Law on Defence (Official Gazette of RBiH, issue 4/92), following the proposal of the Main Staff of the Armed Force of the Republic of Bosnia and Herzegovina, at a session held on 20 June 1992, the Presidency of the Republic of Bosnia and Herzegovina rendered the Decision on the Declaration of the State of War.

Under this Decision the state of war was declared in the territory of the Republic of Bosnia and Herzegovina.

The Decision on the Declaration of the State of War was published in the Official Gazette of R BiH, issue 7/92 and entered into force on the day it was published in the Official Gazette of R BiH on 20 June 1992.

The state of war in the territory of Bosnia and Herzegovina lasted until 20 June 1995 when the Presidency of Bosnia and Herzegovina rendered a Decision on the Termination of the State of War.

The operative part of the Indictment implies that Ivan Hrkać aka Čikota has been charged with committing all criminal acts of the criminal offence of War Crimes against Prisoners of War and the criminal offence of War Crimes against Civilians in May and July 1993.

The above-mentioned undoubtedly implies that the criminal offences with which the Suspect has been charged under the Indictment of the Prosecutor's Office of Bosnia and Herzegovina were committed during the war in Bosnia and Herzegovina.

b) Armed conflict between the HVO and the Army of R BiH

The statements of the examined witnesses and the physical evidence obtained by the Prosecutor's Office of Bosnia and Herzegovina during the course of the investigation in this criminal case render it indisputable that there was an armed conflict between the Croat Defence Council and the Army of the Republic of Bosnia and Herzegovina in the territory of the Mostar Municipality at the relevant time.

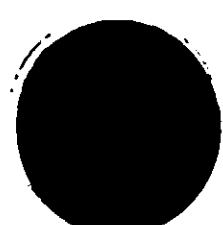
On 23 February 1994, the Peace Agreement and the Annex to the Peace Agreement were signed in Zagreb. General Ante Roso signed the Agreement on behalf of the HVO, while General Rasim Delić signed it on behalf of the Army of R BiH.

Under this Agreement both parties have agreed on a ceasefire including an immediate and complete cessation of hostilities, offensive actions and attacks, and all forms of propaganda of one faction against the other.

The Agreement entered into force on 25 February 1994 at 1200hrs.

The final ICTY Judgement in the case "Prosecutor v. Mladen Naletilić aka Tuta and Vinko Martinović aka Štela" No. IT 98-34 dated 31 March 2003 dated 3 May 2006 established that there was an armed conflict between the Croat Defence Council and the Army of the Republic of Bosnia and Herzegovina at the relevant time in the territory of the Mostar Municipality.

To wit, the following was established in paragraph 177 of the quoted Judgement:



"...an armed conflict exists:

whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organised armed groups or between such groups within a State [...] whether or not actual combat takes place there.

Once it is established that an armed conflict occurred in a territory, the norms of international humanitarian law apply. It is not necessary to further establish that actual combat activities occurred in a particular part of the territory. The existence of an armed conflict nexus is established if the alleged crimes 'were closely related to the hostilities'."

The following was established in paragraph 179 of the same Judgement:

"The Chamber is satisfied that an armed conflict existed during the time relevant to the Indictment, i.e. at least between 17 April 1993 and the end of February 1994."

There were no immediate war activities or armed conflict between the HVO and the Army of R BiH in the territory of the Široki Brijeg Municipality at the relevant time.

However, the acts mentioned in the operative part of the Indictment are directly linked with the armed conflict between the HVO and the Army of R BiH in the territory of the Mostar Municipality.

All witnesses – injured parties in this criminal case were Bosniaks. They resided in the territory of the Mostar Municipality in which armed conflict between the HVO and the Army of R BiH started on 9 May 1993.

Having been deprived of liberty in Mostar, they were taken to the territory of the Široki Brijeg Municipality, some in May 1993 to the prison in the Police Station in Široki Brijeg, and some in early July of the same year to the Elementary School in Dobrkovići near Široki Brijeg.

Given the fact that the referenced criminal offences were committed in the territory of the Široki Brijeg Municipality, there is no doubt that they are a consequence of the armed conflict occurring in the territory of the Mostar Municipality.

The existence of the armed conflict between the HVO and the Army of R BiH is implied in the statements of the examined witnesses: [REDACTED] Witness X, Witness Y, [REDACTED]

Status of detainees

- The statements of the examined witnesses [REDACTED] Witness X, [REDACTED] who were detained in the basement of the Police Station in Široki Brijeg imply that they were all members of the Army of R BiH, and that during the arrest they were in military uniforms with the insignia of A R BiH and were armed. They were all arrested by the HVO in the Vranica building in Mostar in May 1993.

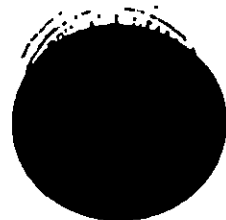
Given the above, there is no doubt that they were members of one party to the conflict, and that pursuant to Article 4 of the Geneva Convention relative to the Prisoners of War of 12 August 1949 they were prisoners of war who should have enjoyed the protection from the acts foreseen under Article 3 of the same Convention, and that pursuant to Article 5 they are considered protected "from the time they fall into the power of the enemy and until their final release and repatriation".

The statements of the examined witnesses - Witness Y, [REDACTED]

[REDACTED] imply that all of them were arrested as civilians at their homes or their families' homes in which they sought refuge from the war, or in the street, and they were all persons protected by the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949.

During their detention, the prisoners of war were placed in the basement of the Police Station in Široki Brijeg, starting from approximately mid-July 1993, while during that period they were occasionally transferred to the premises of the Tobacco Station /Duhanski institut/ in Široki Brijeg, the Military Remand Prison in Ljubuški, and then to the Heliodrom camp near Mostar.

In the Police Station in Široki Brijeg they were detained in the basement in two small cells of 4x2 m in size each. Instead of the windows these cells had hollow



bricks so that the detainees had no air. Cells had no windows and there was a corridor in front of the cells.

The statements of the examined witnesses undoubtedly imply that the criminal offences with which Ivan Hrkać aka Čikota has been charged under the Indictment were committed in the Police Station in Široki Brijeg and the Elementary School Dobrkovići near Široki Brijeg.

This assertion also ensues from the publication entitled "HVO camps in Herzegovina" recorded in the ICTY in The Hague under numbers 02064768 through 02064790.

Pages 02064781 and 02064782 of the "HVO camps in Herzegovina" publication read the following:

"MUP - POLICE STATION", ŠIROKI BRIJEG

There was a camp on the premises of the Police Station in Široki Brijeg in which several persons were detained.

PRISON in the Elementary School Dobrkovići - Široki Brijeg

The "Dobrkovići" camp was located in the Elementary School in Dobrkovići, Široki Brijeg Municipality. On 3 July 1993, 53 civilians from Mostar were brought to this camp. The detainees were used for forced labour on the estate of Mladen Naletilić aka Tuta. The camp was secured by members of the HVO Military Police and members of the Convicts Battalion, whose commander was Mladen Naletilić aka Tuta.

HVO members (Convicts Battalion) who were present in the camp: Ivan Hrkać, Toni Šakota and others.

d) Status of the suspect

The physical evidence and statements of the examined witnesses obtained by the Prosecutor's Office during the course of the investigation established that Ivan Hrkać aka Čikota committed the referenced criminal offences as a member of the HVO Convicts Battalion Široki Brijeg during the war in Bosnia and Herzegovina, at the time of the armed conflict between the HVO and Army of R BiH.

The statement of the witness [REDACTED] implies that Ivan Hrkać aka Čikota was a member of the Convicts Battalion Široki Brijeg in the referenced period.



To wit, [REDACTED]
the Suspect's brother Mario Hrkać who got killed on 20 April 1993 during the HVO attack in Doljani.

[REDACTED] and in his statement he confirmed that Ivan Hrkać aka Čikota was in Široki Brijeg at the relevant time, as well as that he was a member of the HVO Convicts Battalion Široki Brijeg.

The final ICTY Judgement No. IT-98-34, Prosecutor v. Tuta and Stela, dated 31 March 2003 established that the Suspect was a member of the Battalion.

To wit, this Judgement established the following:

Paragraph 115: "Further members of the KB [Convicts Battalion] were Juka Prazina, Vedran Bijuk called 'Splićo', Robert Medić called 'Robo', 'Roba', 'Robi' and 'Robia', Željko Bošnjak; Boro Pusić, Miroslav Kolobara called 'Droba', Robert Kolobarić, Romeo Blažević, Ivica Kraljević, and Ivan Hrkać called 'Čikota' who was a brother of Mario Hrkać called 'Čikota'."

Paragraph 398: While detained at the MUP Station, several witnesses were beaten and mistreated by Romeo Blažević, Ernest Takač and Ivan Čikota. Witness AA was beaten badly by Romeo Blažević and Ernest Takač, with sticks and pistols. Witness AA was beaten on another occasion during the weekend. Four or five soldiers took another prisoner out and beat him, after which they took witness AA out of the cell. They beat him around the kidneys and told him to do push ups. The soldier who had already beaten him and Meho Zilić at their arrival pointed a pistol at him and fired but he only heard the pin. Ivan Čikota and the others extinguished a cigarette in Witness AA's mouth and forced him to swallow it. He then had to hit his head against the wall counting 10 times, after which he was returned to his cell. The Chamber accepts this evidence and rejects Defence witness NG's evidence that Ivan Čikota was not present as he was working as a policeman in Croatia at the time. The Chamber heard credible and reliable evidence from prisoners with building skills that they worked for Ivan Hrkać (Čikota) at this time.

Paragraph 403: The Chamber is satisfied beyond reasonable doubt that detainees were beaten at the MUP Station on various occasions in a brutal manner that caused severe physical and mental suffering. The Chamber finds that the main perpetrators of these beatings were Romeo Blažević, Ivan Hrkać, nicknamed Čikota, and Ernest Takač, all KB members and therefore in a subordinate relationship to Mladen Naletilić.

During the examination in the Prosecutor's Office of Bosnia and Herzegovina, pursuant to Article 85 (2) of the Criminal Procedure Code, the examined witnesses - injured parties Witness X, Witness Y, [REDACTED] made an identification by recognising Ivan Hrkać as the perpetrator of the referenced criminal acts.

The statements of witnesses examined by the Prosecutor's Office of Bosnia and Herzegovina during the course of the investigation, who are proposed as witnesses at the main trial in the Court of Bosnia and Herzegovina, undoubtedly imply that by the acts mentioned and described in Counts 1 through 7 of the Indictment (murder, torture, participation in torture, violation of bodily integrity, inhumane treatment of detainees, intimidation and terror), as a member of the Convicts Battalion Široki Brijeg, Ivan Hrkać aka Čikota committed the criminal offence of War Crimes against Prisoners of War in violation of Article 175 (1) (a) and War Crimes against Civilians in violation of Article 173 (1) (c) and (e) of the Criminal Code of Bosnia and Herzegovina in conjunction with Article 180 (1) and Article 29 of the Criminal Code of Bosnia and Herzegovina.

Material corroborating the allegations of the Indictment

- The Decision of the Presidency of the Republic of Bosnia and Herzegovina on the declaration of the state of war (Official Gazette of BiH, issue 7/92),
- The Decision of the Presidency of the Republic of Bosnia and Herzegovina on the termination of the state of war (Official Gazette of BiH, issue 50/95),
- Certified copy of a certified copy of the Peace Agreement and Annex to the Peace Agreement of 23 February 1994 (a certified copy is in the case file of the Court of Bosnia and Herzegovina No. X-KR/05/42),
- Certified copy of the publication HVO camps in Herzegovina, registered in the ICTY in The Hague under numbers: 02064768 through 02064790. Authenticity of twenty-three pages of this publication has been confirmed by the stamp and signature of authorised person in the ICTY in The Hague (a certified copy is in the case file of the Court of Bosnia and Herzegovina No. X-KR/05/42),
- Certified copy of the original document of the Ministry of Defence of Bosnia and Herzegovina No. 08-04-65-3/06 dated 13 April 2006,
- Original photographic documents made by the Ministry of the Interior /MUP/ of Herzegovina Neretva Canton Mostar under number 94/98 on 3 June 1998 during the exhumation of mortal remains of [REDACTED] from the graveyard Balinovac,
- Original of the Report of the Health Centre Široki Brijeg No. 68/05 dated 2 June 2005,

- Certified copy of the log of the Health Centre Široki Brijeg for 1993,
- Original of the document of the Registry Office of the City of Mostar – Regional Office Stari Grad No. 04/II-15-8644/07 dated 12 December 2007,
- Original document of the City of Mostar - Organisation, Legal Affairs and General Administration Department – Regional Office Southwest No. 04-IV-15-77722/07 dated 5 December 2007,
- Original of the Examination Record for expert witness Dr Ilijas Dobrača before the High Court in Mostar No. Kri:10/98 dated 25 August 1998,
- Order of the Cantonal Prosecutor's Office of West Herzegovina Canton Široki Brijeg No. KT-66/05 dated 27 October 2005 to carry out forensic science analysis,
- Original of the Examination Record for expert witness Dr Ilijas Dobrača before the Cantonal Prosecutor's Office of West Herzegovina Canton Široki Brijeg No. KT-66/05 dated 31 October 2005,
- Original of the Death Certificate from the Registry of Deaths for the Centar Municipality, Sarajevo No. 08/13-4-344522/07 dated 24 December 2007 for Dr Ilijas Dobrača,
- Excerpt from Database Register (CIPS) for Ivan Hrkać,
- Certified copy of the Nominal List of Personal Income Disbursement for November 1993 for the Convicts Battalion and Anti-terrorist Unit (38 pages), whose authenticity was confirmed by the stamp and signature of an authorised person in the ICTY in The Hague ,
- Certified copy of the Nominal List of Personal Income Disbursement for November 1993 for the Convicts Battalion and Anti-terrorist Unit (38 pages), whose authenticity was confirmed by the stamp and signature of an authorised person in the ICTY in The Hague – English version,
- Document of the "Rules of the Road" Unit of the Office of the Prosecutor of the ICTY in The Hague No. 047251/CDP/RR819 dated 12 August 2004 placing the case against Ivan Hrkać in the category "A" of standard markings in accordance with the "Rules of the Road",
- Original document of the Ministry of Defence of the Federation of Bosnia and Herzegovina - Defence Office Široki Brijeg No.24-3-01-03-32-21/05-2 dated 20 May 2005,
- Certified copy of a Military Card and Alphabetical Record for Ivan Hrkać,
- Certified copy of the Decision of the MUP of Croatian Republic of Herceg-Bosna No.03-6/2-190-1/95 dated 3 February 1995,
- Certified copy of the Decision of the MUP of West Herzegovina Canton – Ljubuški No.02-1-515-357/97 dated 4 August 1997,
- Certified copy of the Decision of the MUP of West Herzegovina Canton - Ljubuški No.02-1-126-17/98 dated 16 November 1998,

- Original of Excerpt from Criminal Records of the MUP of Herzegovina-Neretva Canton - Police Administration Mostar No. 02-02/5-2-4-537/05 dated 28 December 2005,
- Original of Excerpt from Criminal Records of the MUP of the Herzegovina Neretva Canton - Police Administration Mostar No. 02-02/5-2-12-466/07 dated 5 December 2007,
- Original of the document of the Prosecutor's Office of BiH No. KTA-RZ 324/05 dated 23 August 2005 (case sensitivity assessment),
- Original of the Decision of the Court of BiH No. X-KRN 06/180 dated 21 February 2006 in which it was established that the Court of Bosnia and Herzegovina has subject-matter jurisdiction over proceeding in the criminal matter against the suspect Ivan Hrkać,
- Original of the Arrest Warrant of the Prosecutor's Office of BiH No. KT-RZ 42/06 dated 18 May 2006 for the suspect Ivan Hrkać aka Čikota,
- Original of the Official Note of the State Investigation and Protection Agency, War Crimes Investigation Centre, No. 14-04/2-04-2-65/06 dated 5 June 2006 on actions taken upon the Arrest Warrant of the Prosecutor's Office of BiH No. KT-RZ 42/06 dated 18 May 2006 for Ivan Hrkać aka Čikota,
- Original of the summons No. KT-RZ 42/06 dated /sic!/ issued for the Suspect to be questioned in the investigation on 2 October 2006,
- Original of the submission of attorney Mario Bogdanović dated 29 September 2006 informing the Prosecutor's Office that the Suspect is not able to respond to the summons to be questioned on 2 October 2006, enclosed to which was certified copy of medical documents of the Clinical Hospital Centre Split for Ivan Hrkać,
- Criminal Intelligence Report of the State Investigation and Protection Agency - Regional Office Mostar - War Crimes Investigation Section No. RK-MO-17-13/3-2-281/06 dated 1 December 2006,
- Original of the Order of the Prosecutor's Office of BiH No. KT-RZ 42/06 dated 17 December 2007 issued to the State Investigation and Protection Agency - Regional Office Mostar to deliver the summons to Ivan Hrkać for questioning scheduled for 17 December 2007 in the Prosecutor's Office of BiH in Sarajevo,
- Original of the summons dated 3 December 2007 for the Suspect to be questioned as the suspect in the Prosecutor's Office of BiH on 17 December 2007 in the investigation No. KT-RZ 42/06,
- Original of the Official Note of the State Investigation and Protection Agency - Regional Office Mostar No. 17-13/3-1-04-2-177/07 dated 4 December 2007,
- Original of the submission of attorney Mario Bogdanović dated 7 December 2007 informing the Prosecutor's Office that the Suspect is not able to respond to the summons to be questioned on 17 December 2007, enclosed to which was

certified copy of medical documents of the Clinical Hospital Centre Split for Ivan Hrkać,

- Original of the Order of the Prosecutor's Office of BiH No. KT-RZ 42/06 dated 12 December 2007 that analysis be carried out by the expert witness in neuropsychiatry, Chief Physician [REDACTED]
- Original of the Forensic Psychiatry Report made by the expert witness in neuropsychiatry, Chief Physician [REDACTED] on 13 December 2007,
- Original of the power of attorney for Mario Bogdanović, attorney from Mostar signed by Ivan Hrkać on 8 December 2005,
- Original of the power of attorney for attorneys Borislav Čuljak and Zlatko Čavar, signed by Ivan Hrkać on 8 December 2005,
- Original of the Decision of the Court of BiH No. X-KRN-06/170 dated 20 December 2007 ordering protective measures for witnesses X and Y,
- Original of the document of the NCB Interpol Sarajevo No. 16/04.3-1-IP-I-OK-3565/06-11 dated 5 February 2007,
- Original of the Order to conduct investigation issued by Cantonal Prosecutor's Office of Herzegovina Neretva Canton Mostar No. KT-1421/04 dated 1 December 2004, against Ivan Hrkać aka Čikota,
- Original of the Record of questioning the suspect Ivan Hrkać in the Cantonal Prosecutor's Office of West Herzegovina Canton Široki Brijeg No. KT-66/05 dated 8 December 2005,
- CD containing the final Judgement of the ICTY in The Hague No. IT-98-34 dated 31 March 2003 in "Prosecutor v. Mladen Naletilić aka Tuta and Vinko Martinović aka Štela", including the summary of the second-instance Judgement.
- Photocopy of the Indictment of the Cantonal Prosecutor's Office of Herzegovina Neretva Canton Mostar No. KT-136/01 dated 5 February 2004,
- Witness examination record for Armin Omerika No. KT-RZ-42/06 dated 27 March 2007,
- Witness examination record for [REDACTED] No. KT-RZ-42/06 dated 27 March 2007,
- Witness examination record for [REDACTED] No. KT-RZ-42/06 dated 26 February 2007,
- Witness examination record for [REDACTED] No. KT-RZ-42/06 dated 26 March 2007,
- Witness examination records for Witness X No. KT-RZ-42/06 dated 26 February 2007 and 15 November 2007,
- Witness examination record for [REDACTED] No. KT-RZ-42/06 dated 6 November 2007,

- Witness examination record for [REDACTED] No. KT-RZ-42/06 dated 31 August 2007,
- Witness examination record for [REDACTED] No. KT-RZ-42/06 dated 28 March 2007,
- Witness examination record for [REDACTED] No. KT-RZ-42/06 dated 28 March 2007,
- Witness examination record for Witness Y No. KT-RZ-42/06 dated 10 July 2007,
- Witness examination record for [REDACTED] T-RZ-42/06 dated 30 August 2007,
- Witness examination record for [REDACTED] KT-RZ-42/06 dated 11 July 2007,
- Witness examination record for [REDACTED] KT-RZ-42/06 dated 11 July 2007,
- Witness examination record for [REDACTED] No. KT-RZ-42/06 dated 12 July 2007,
- Witness examination record for [REDACTED] KT-RZ-42/06 dated 12 July 2007,
- Witness examination record for [REDACTED] KT-1421/04 dated 6 January 2005 made in the Cantonal Prosecutor's Office of Herzegovina Neretva Canton Mostar,
- Witness examination record for [REDACTED] No. KT-1421/04 dated 7 January 2005 made in the Cantonal Prosecutor's Office of Herzegovina Neretva Canton Mostar,
- Witness examination record for [REDACTED] T-RZ 42/06 dated 29 August 2007,
- Witness examination record for [REDACTED] No. KT-RZ 42/06 dated 14 September 2007,
- Witness examination record for [REDACTED] T-RZ 42/06 dated 28 August 2007,
- Witness examination record for [REDACTED] No. KT-RZ 42/06 dated 28 August 2007,
- Witness examination record for [REDACTED] No. KT-RZ 42/06 dated 28 August 2007,
- Witness examination records for [REDACTED] No. KT -RZ dated 21 September 2007 and 26 December 2007.

Motion to order custody following the confirmation of the Indictment

The results of the conducted investigation or the obtained pieces of evidence undoubtedly indicate the existence of grounded suspicion that the suspect Ivan Hrkać aka Čikota committed the criminal offence of War Crimes against Prisoners of War in violation of Article 175 (a) of the Criminal Code of Bosnia and Herzegovina and the criminal offence of War Crimes against Civilians in violation of Article 173 (1) (c) and (e) of the Criminal Code of Bosnia and Herzegovina, all in conjunction with Article 180 (1) and Article 29 of the Criminal Code of Bosnia and Herzegovina.

Given that based on the evidence obtained during the course of the investigation the Prosecutor's Office of Bosnia and Herzegovina proved the existence of grounded suspicion that Ivan Hrkać aka Čikota had committed the referenced criminal offences as the fundamental, general requirement for custody, I move that, following the confirmation of the Indictment against Ivan Hrkać aka Čikota, the Court of Bosnia and Herzegovina order custody pursuant to Article 137 (1) of the Criminal Procedure Code of Bosnia and Herzegovina on the grounds referred to in Article 132 (1) (a) of the same Code.

To wit, it is the fact that the Cantonal Prosecutor's Office of West Herzegovina Canton Široki Brijeg conducted the investigation in this case under No. K1 -66/05 before the Court of Bosnia and Herzegovina rendered the Decision No: X-KRN/05/42 dated 26 August 2005 on the takeover of the case.

In the Cantonal Prosecutor's Office of West Herzegovina Canton in Široki Brijeg, Ivan Hrkać aka Čikota was questioned on 8 December 2005 in the presence of his retained defence counsel, Mario Bogdanović, attorney from Mostar, and Borislav Čuljak, attorney from Široki Brijeg. During the questioning, the Suspect was cautioned about all the rights and obligations deriving from his status as a suspect, including the obligation to respond to the summons of the Prosecutor's Office and to report a potential change of his permanent place of residence. On that occasion, the Suspect denied the commission of the criminal acts as charged under the Indictment.

Following the Decision of the Court of Bosnia and Herzegovina No. X-KRN/05/42 dated 26 August 2005 on the takeover of the criminal case against the suspect Ivan Hrkać aka Čikota, under which it was established that the Court of Bosnia and Herzegovina had the subject-matter jurisdiction in this criminal case,

the Prosecutor's Office of Bosnia and Herzegovina continued to obtain evidence which, beyond doubt, confirms the grounded suspicion that Ivan Hrkać aka Čikota committed the referenced criminal offences. On 18 May 2006, pursuant to Article 139 (1) of the Criminal Procedure Code of Bosnia and Herzegovina, the Prosecutor's Office of BiH issued the Arrest Warrant No. KT-RZ-42/2006 to the State Investigation and Protection Agency - War Crimes Investigation Centre for Ivan Hrkać aka Čikota.

Acting upon the Arrest Warrant of the Prosecutor's Office of BiH for Ivan Hrkać aka Čikota, the State Investigation and Protection Agency - War Crimes Investigation Centre submitted the Report No. 17-04/2-04-2-533-7/06 to the Prosecutor's Office of BiH on 8 June 2006. The Report reads that the above-named person could not be located which is why it was impossible to execute the Arrest Warrant of the Prosecutor's Office issued for Ivan Hrkać aka Čikota.

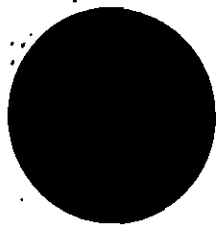
Having in mind the above, the Prosecutor's Office of Bosnia and Herzegovina conducted a new search of the Civilian Register Database (CIPS) for Ivan Hrkać aka Čikota and found that he was still registered at 74, Mokro, Široki Brijeg Municipality.

On 29 August 2006, a summons was issued for the suspect Ivan Hrkać aka Čikota to come to the Prosecutor's Office of BiH and be questioned as the suspect in the criminal case on Monday, 2 October 2006.

On behalf of the suspect Ivan Hrkać aka Čikota the summons was received by his brother Zoran Hrkać who also signed the delivery note.

On 2 October 2007, Mario Bogdanović, attorney from Mostar appeared in the Prosecutor's Office of BiH as the retained defence counsel for the Suspect. On that occasion, he delivered a submission to the Prosecutor's Office of Bosnia and Herzegovina justifying the failure of his client to appear. It contained a reasoning that his client was currently in hospital in the Clinical Hospital Centre Split, Republic of Croatia, and that he was diagnosed with the following psychological disorders: PTSD, ST.DEPRESSIVUM, ENDURING PERSONALITY CHANGES, Encephalopathia posttraumatica.

In addition, the defence counsel stated in the submission that he would inform the Prosecutor's Office of BiH in a timely manner of the medical condition of the Suspect in order to schedule a new date for the questioning of his client.



Given that the defence counsel failed to act upon his submission, in other words he did not inform the Prosecutor's Office of BiH of any changes in the medical condition of the Suspect, the Prosecutor's Office of BiH issued the Order to the State Investigation and Protection Agency - War Crimes Department on 3 December 2007 to serve a sealed summons on the suspect Ivan Hrkać aka Čikota at his address of permanent place of residence, with prior verification in the CIPS database.

The questioning of the suspect Ivan Hrkać aka Čikota was scheduled for 17 December 2007 in Sarajevo, at 88 Kraljice Jelene Street, on the premises of the Prosecutor's Office of BiH.

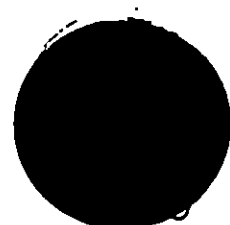
With regard to the actions taken upon the Order of the Prosecutor's Office to serve the summons on the suspect Ivan Hrkać aka Čikota, the State Investigation and Protection Agency - War Crimes Investigation Centre delivered the Report No. 17-13/3-1-04-2-392/07 on 11 December 2007 in which it was stated that the above-named person was not served the summons for questioning as the suspect, and that on 4 December 2007, mother of Ivan Hrkać aka Čikota appeared at the address retrieved from the CIPS database. She stated it was true that it was the family house of Ivan Hrkać and that she was his mother. She also told the investigators of the State Investigation and Protection Agency that: "Ivan is in Hvar in Croatia, she will not sign anything on behalf of Ivan and that Ivan told her not to sign anything on his behalf"

Given the above-mentioned, the investigators of the State Investigation and Protection Agency left the summons on a table in the family house of Ivan Hrkać, pursuant to Article 169 and Article 173 of the Criminal Procedure Code of Bosnia and Herzegovina.

On 10 December 2007, the Prosecutor's Office received a submission of the Suspect, or the submission written on his behalf by the retained defence counsel Mario Bogdanović, attorney from Mostar.

In the mentioned submission, the defence counsel informed the Prosecutor's Office of BiH that the Suspect was unable to appear at the hearing in Sarajevo, at 88 Kraljice Jelene Street due to poor medical condition.

Enclosed with the submission were medical documents justifying the failure to respond to the Prosecution summons for questioning.



Having in mind that the issue here is the medical condition of the Suspect, pursuant to Article 35 (2) (a) and (c) and Article 96 (1) of the Criminal Procedure Code of BiH, the Prosecutor's Office of Bosnian and Herzegovina issued the Order No. KT-RZ 42/06 on 12 December 2007 for the expert evaluation of medical documents, which will be conducted by the expert witness in neuropsychiatry, Chief Physician, [REDACTED]

The Order contains a request by the Prosecutor's Office that following the detailed review of the delivered medical documents, the expert witness provide his professional Findings and Opinion concerning the possibility that the suspect Ivan Hrkać aka Čikota comes to the Prosecutor's Office of BiH, given the medical condition recorded in medical documents delivered to the Prosecutor's Office of BiH by the defence counsel.

On 13 December 2007, the expert witness, neuropsychiatrist, Chief Physician, [REDACTED] delivered his Forensic Psychiatric Report.

Following the review of the delivered medical documents, the expert witness provided his Conclusion and Opinion that, from the psychiatric point of view, the suspect Ivan Hrkać aka Čikota is capable of coming to the Prosecutor's Office of BiH in Sarajevo, in order to be questioned as the suspect. He also stated that the mental condition described in the delivered medical documents, as well as the therapy the Suspect should undergo, could have a negative effect on the mental capabilities of the Suspect during the course of the investigation in terms of diminishing the ability to have a long-lasting mental activity concerning a particular content - giving a statement during the course of questioning, which should be borne in mind, while the procedure itself should be adjusted thereto (length of questioning, breaks and the like).

It is indicative that the Findings and Opinion of the expert witness in neuropsychiatry indicates that the medical documents for the suspect Ivan Hrkać aka Čikota contain two diagnoses mutually excluding one another: PTSD - Post-traumatic Stress Disorder - F43.1 and Enduring personality change after catastrophic experience F 62.0, as explicitly stated in the International Classification of Diseases and Related Health Problems – Tenth Revision, ICD-10.

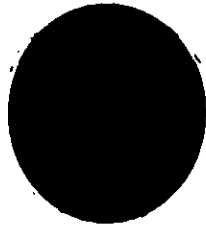
All the above-mentioned implies that Ivan Hrkać aka Čikota is in hiding, given that he has refused to respond to the summons of the Prosecutor's Office of Bosnia and Herzegovina in order to be questioned as the suspect in the criminal case,

although according to the Findings and Opinion of the expert witness in neuropsychiatry, Chief Physician, [REDACTED] he is medically and mentally capable of responding to the summons of the Prosecutor's Office.

It is evident that in addition to the citizenship of BiH, Ivan Hrkać aka Ćikota holds the citizenship of the Republic of Croatia, which he himself stated during his questioning in the Cantonal Prosecutor's Office of West Herzegovina Canton in Široki Brijeg on 8 December 2005, as well as that he holds permanent residence at 74, Mokro, Široki Brijeg Municipality, which is located in the immediate vicinity of the border between Bosnia and Herzegovina and Republic of Croatia. All these circumstances suggest the actual risk that, while at liberty, the suspect Ivan Hrkać aka Ćikota might leave Bosnia and Herzegovina; in other words, these circumstances suggest the risk of flight, whereby he would become unavailable to the Court of Bosnia and Herzegovina. The mentioned circumstances constitute grounds for custody as referred to in Article 132 (1) (a) of the Criminal Procedure Code of Bosnia and Herzegovina.

Article 225 (2) of the Criminal Procedure Code of Bosnia and Herzegovina stipulates that prior to the completion of the investigation, the Prosecutor shall question the suspect if this has not been done previously. It is the fact that Ivan Hrkać aka Ćikota was questioned by the Prosecutor of the Cantonal Prosecutor's Office of West Herzegovina Canton in Široki Brijeg on 8 December 2005, that he was cautioned about his rights and obligations pursuant to the law and that he presented his defence in the presence of his retained defence counsel, attorneys Mario Bogdanović and Borislav Čuljak. In addition, it is the fact that the Prosecutor's Office of Bosnia and Herzegovina took all actions prescribed by the law in order to question the Suspect in the course of the investigation. Furthermore, it is the fact that under the referenced Indictment Ivan Hrkać aka Ćikota has been charged with the commission of criminal acts comprised by the Order to conduct investigation issued by the Cantonal Prosecutor's Office of Herzegovina Neretva Canton Mostar No. KT-1421/04 dated 1 December 2004, and that Ivan Hrkać aka Ćikota had the opportunity to respond thereto during the questioning conducted by the Prosecutor of the Cantonal Prosecutor's Office of West Herzegovina Canton in Široki Brijeg on 8 December 2005.

The Prosecutor's Office of Bosnia and Herzegovina submits that by taking over of this criminal case the Court of Bosnia and Herzegovina took over all the actions taken by the Cantonal Prosecutor's Office of West Herzegovina Canton in Široki Brijeg prior to the takeover of the case.



Given that it ensues from the results of the investigation that during the war in Bosnia and Herzegovina and the armed conflict between the HVO and the Army of R BiH, Ivan Hrkać aka Čikota committed the referenced criminal offences in May and July 1993 in the Police Station in Široki Brijeg and the Elementary School in Dobrkovići, Široki Brijeg Municipality, as a member of the HVO Convicts Battalion Široki Brijeg, I find the Indictment fully justified, and move that it be confirmed in its entirety by the Preliminary Hearing Judge of the Court of Bosnia and Herzegovina.

**Prosecutor of the
Prosecutor's Office of BiH**
/Signature and stamp affixed/
Vesna Tančica

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

Sarajevo, 10 March 2008

Certified Court Interpreter for English

