

**Special Department for War Crimes
Number: KT-RZ-80/08
Sarajevo, 10 February 2009**

**THE COURT OF BOSNIA AND HERZEGOVINA
The Preliminary Hearing Judge**

Pursuant to Article 35(2)i) and Article 226(1) of the Criminal Procedure Code of BiH, I hereby file this:

INDICTMENT

AGAINST: TOMO JURINOVIĆ, son of Petar and Jela nee Zebić, born on 30 March 1963 in the village of Duratovci, the municipality of Kotor Varoš, JMBG 3003963102747, resides in the Republic of Croatia, Okučani, Benkovac No. 15, citizen of BiH and the Republic of Croatia, worker by occupation, literate, completed elementary school, married, performed military service in Đakovica, no rank or decoration, indigent financial standing, no other criminal proceedings, held in custody based on the Decision of the Court of BiH No. X-KRN-08/642 of 17 January 2009, which shall last until 16 February 2009, not later than 12:20 a.m.

Because:

In the course of the war in Bosnia and Herzegovina, during the armed conflict, he acted contrary to the provisions of the International Humanitarian Law, in violation of the provisions of Article 3 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and Article 51 (1), (2) and (3) of the Protocol Additional to the Geneva Convention relative to the Protection of Civilians in Time of War of 12 August 1949, in the following manner:

On 31 July 1992, together with Marko Škrobić and three other armed members of the HVO, he arrived in front of the house of [REDACTED] in the village of Novo Selo, Municipality of Kotor Varoš, and forced [REDACTED] his wife [REDACTED] minor daughters [REDACTED] out of the house, and after that he took [REDACTED] father [REDACTED] out of another house that was in the same courtyard, and subsequently, together with the other soldiers, took them towards the village of Ravne and there, in a nearby forest, alongside with another unidentified soldier, he separated [REDACTED] telling him at the time „We have known each other for 15 years, but we don't know each other from this day on“, which was preceded by the threats of the unidentified soldier that the Suspect would slit his throat if he didn't hand over his weapons, and after that the Suspect ordered him to turn around and fired into the air, while at the same time, a few meters away from that place, Marko Škrobić, taking away the other members of the family, killed [REDACTED] by firing his gun at him, and then the Suspects Tomo Jurinović, Marko Škrobić and other unidentified soldiers brought the civilians [REDACTED]

██████████ into the premises of the school in Ravne where the Suspect pointed his rifle at ██████████ while another unidentified soldier was simultaneously interrogating him, and subsequently they unlawfully arrested ██████████ ██████████ by detaining them in the rooms of a private house in Ravno where ██████████ was once again subjected to interrogation.

Thus,

violating the rules of the International Humanitarian Law, during the armed conflict in the territory of the municipality of Kotor Varoš, he attacked the civilians, which, as a consequence, caused the death of one person, applied the measures of intimidation and unlawfully detained the civilians.

Whereby

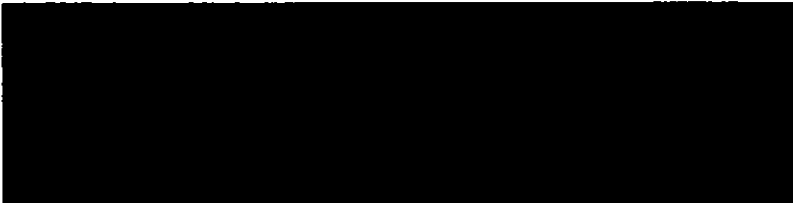
he committed the criminal offence of War Crimes against Civilians contrary to Article 173 (1) a) and e), in conjunction with Article 180(1) of the Criminal Code of Bosnia and Herzegovina;

Therefore, I hereby file the following:

PROPOSAL
of evidence to be presented

I. To hear the following persons as witnesses

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.



II. To inspect the following supporting evidence:

1. Decision of the Presidency to declare the state of war, dated 20 June 1992, Official Gazette of RBiH No. 7/92;
2. Letter of the Police Station Kotor Varoš, No. 08-9/01/234-11/09, dated 23 January 2009, excerpt from the criminal record of Tomo Jurinović;
3. Certificate of Citizenship for Tomo Jurinović, no. 204-28/09, dated 29 January 2009;

4. Letter of the Federal Ministry for Issues of Combatants and Invalids, No. 01/1-41-3/09, dated 3 February 2009, with attachments: 14 letters – responses of all Sectors of the Ministry including a circular letter – request;
5. List of “the Green Berets Companies – Kotor – Zagrade – Kukavice, Duratovci and Bare” with the Official Note of the State Investigation and Protection Agency, No. 17-12/3-04-2-101-80/07, dated 27 June 2008;
6. Transcript from the main trial in the case No. X-KR-07/480, dated 22 August 2008;
7. Death Certificate for [REDACTED] No. 202-17, dated 21 March 2000;
8. Copy of the identity card record for Tomo Jurinović;
9. Confirmation of the CIPS data for Tomo Jurinović.

RESULTS OF THE INVESTIGATION

Having completed the investigation against the Suspects Marko Škrobić, Tomo Jurinović and other unidentified Suspects, due to the perpetration of the criminal offence of War Crimes against Civilians in violation of Article 173 of the CC of BiH, the Prosecutor’s Office has found sufficient evidence that the Suspect Marko Škrobić committed the criminal offence he is charged with, and an Indictment has been filed against him for the criminal offence of War Crimes against Civilians in violation of Article 173 (1) c) of the Criminal Code of Bosnia and Herzegovina, in conjunction with Article 180 (1) of the same Code. In consideration of the fact that the Suspect Tomo Jurinović was not available to the judicial authorities of Bosnia and Hrezevovina, the Prosecutor’s Office of BiH requested the ordering of custody and the issuing of an international arrest warrant against the Suspect Tomo Jurinović, which resulted in his arrest and bringing to the Court of BiH.

It indisputably results from the Decision to declare the state of war by the Presidency of RBiH, dated 20 June 1992 (Official Gazette of RBiH No. 7/92) as well as the statements of the examined witnesses that an armed conflict existed in the critical period of time.

That the Suspect was a member of the HVO Kotor Varoš during the relevant period of time results from the evidence of the witnesses [REDACTED] as well as the List of “ the Green Berets Companies – Kotor – Zagrade – Kukavice, Duratovci and Bare”, including the Official Note of the State Investigation and Protection Agency, No. 17-12/3-04-2-101-80/07, dated 27 June 2008, which was made by collecting the operational data in the Army of Republika Srpska by Mirko Marković, the retired official of the Secretariat for Relations with the Hague Tribunal of the RS Government. It is obvious from the letter obtained from the Federal Ministry for Issues of Veterans and

Invalids of Homeland War that the Suspect has not been registered as a conscript in the official records of this Ministry.

The Prosecutor's Office of BiH recalls the provisions of Article 173 of the CC of BiH:

"Whoever in violation of rules of international law in time of war, armed conflict or occupation, orders or perpetrates any of the following acts:..."

It is clear from the above mentioned provision that the legal formulation of the Criminal Offence of Crimes against Civilians does not necessarily require a membership in the military formations of one of the parties to the conflict. It is necessary that it involves a person who put himself at the service of one of the parties to the conflict, and committed violations of international law on behalf of that party during an armed conflict.

However, based on the witness statements and physical evidence stated in the Indictment under Nos. 5 and 6, the Suspect Jurinović was a member of the HVO Kotor Varoš. Data of the Federal Ministry for War Veterans showing that the Suspect is not recorded in the draft registration does not prove the opposite. The records of this Ministry prove that the Suspect is not registered as a conscript, which does not represent a proof of actual facts concerning his membership and participation in the last war. Since Tomo Jurinović does not have a registered residence in Bosnia and Herzegovina, either permanent or temporary, and due to the fact that he is a permanent resident of the Republic of Croatia, he has not felt any need for the valorization of his participation in the last war, and according to his own statement he has been recorded in the draft registration records of the Republic of Croatia in Nova Gradiška.

The Suspect Tomo Jurinović has decided to keep silent.

Eyewitnesses: [REDACTED] have clearly, undoubtedly and consistently described the circumstances surrounding the killing of [REDACTED] on several occasions before the District Attorney of Banja Luka, the Prosecutor and Investigator of the Prosecutor's Office of BiH and during the main trial against Marko Škrobić.

Blanket Regulation

Article 3 of the Geneva Convention relative to the protection of Civilian Persons in Time of War, dated 12 August 1949 reads as follows:

- (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.*

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above mentioned persons:

- a) *Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and degrading treatment;*
- c) *Outrages upon personal dignity, in particular humiliating and degrading treatment;*

Article 51 of the Protocol Additional I to the Geneva Convention on Protection of Civilians in Time of War, dated 12 August 1949 reads as follows:

- (1) *The civil population and individual civilians shall enjoy general protection against dangers arising from military operations. To give effect to this protection, the following rules, which are additional to other applicable rules of international law, shall be observed in circumstances.*
- (2) *The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.*
- (3) *Civilians shall enjoy the protection afforded by this Section, unless and for such time as they take a direct part in hostilities.*

It undoubtedly results from the statements of the examined witnesses that the arrested persons took no active part in the hostilities during the relevant period of time, but they were captured in their own homes, as civilians wearing civilian clothes and having no weapons at all.

Also, the actions related to the perpetration of the criminal offence the Suspect Jurinović is charged with by this Indictment are quite clear from the statements, particularly the statement of [REDACTED]. There is no doubt that, on the critical day, the Suspect, together with a group of soldiers, including Marko Škrobić, participated in the attack on the house of the [REDACTED] family in the village of Novo Selo, Kotor Varoš, forcing the members of the [REDACTED] family out of the house and taking them away in an unknown direction. On the way to the village of Ravne, Marko Škrobić deprived the old man [REDACTED] of his life, for the reason of which the criminal proceedings are being conducted against Škrobić before this Court, so that Škrobić has been found guilty and sentenced to a term of imprisonment of 10 years by the first instance verdict. Consequently, the attack on the [REDACTED] family in the early morning of 31 July 1992, forcing them out the house and taking them away, as a consequence, led to the death of one family member, [REDACTED]. Furthermore, simultaneously with this killing, the Suspect, together with another unidentified soldier intimidated [REDACTED] by firing into the air behind his back, while another soldier threatened that Jurinović would slit his throat if he failed to surrender his weapons. At that very moment, Jurinović confirms his active participation and his intent in the actions he undertakes by saying: "We have known each other for 15 years, but we don't know each other from this day on".

After that, the Suspect Jurinović participated in intimidating and unlawful detention of [REDACTED] in the school in Ravne, by pointing his rifle at [REDACTED] while another soldier was interrogating him, and subsequently the same group of soldiers

continued taking the Glamočak family to the centre of the village of Ravne, into a private house location of the Headquarters of HVO Kotor Varoš, and thus the Suspect also participated in an unlawful detention of the [REDACTED] family members.

Witness [REDACTED] knew Tomo Jurinović from before, and he immediately recognized him in the group of the soldiers who participated in the attack and in the taking of the [REDACTED] family from their home on the critical day.

Based on all objective evidence as well as the statements of interviewed witnesses listed in this Indictment, there arises a grounded suspicion that Tomo Jurinović committed the criminal offense of the War Crimes against Civilians in violation of Article 173 (1) a) and e), in conjunction with Article 180(1) of the same Code, at the time, in the place and in the manner described in the operative part of this Indictment. During the perpetration of this offence the Suspect acted with intent, because he was aware of his action and wanted it to be perpetrated.

With regard to all the above stated, it is indisputable that the actions committed by the Suspect produce all essential characteristics of the criminal offence of War Crimes against Civilians, for which criminal offence this Indictment is being filed against him, and we therefore move the Preliminary Hearing Judge to confirm it in its entirety.

Materials in support of the Indictment

1. Record on statement of the Suspect Tomo Jurinović No. KT-RZ-80/08 of 21 January 2009;
2. Record on statement of the Witness [REDACTED] No. KT-RZ-165/07 of 18 June 2007 and No. KT-RZ-80/08 of September 2009;
3. Record on statement of the Witness [REDACTED] No. KT-RZ-165/07 of 18 June 2007 and No. KT-RZ-80/08 of 9 February 2009;
4. Record on statement of the Witness [REDACTED] No. KT.RZ-165/07 of 14 June 2007;
5. Record on statement of the Witness [REDACTED] No. KT-RZ-165/07 of 14 June 2007 and No. KT-RZ-80/08 of 9 February 2009;
6. Record on statement of the Witness [REDACTED] No. KT-RZ-165/07 of 6 November 2007;
7. Decision of the Presidency on declaration of the state of war of 20 June 1992, Official Gazette of the RBiH No. 7/92;
8. Letter of the Police station Kotor Varoš No. 08-9/01-234-11/09 of 23 January 2009, excerpt from the criminal record for Tomo Jurinović;
9. Certificate on citizenship for Tomo Jurinović No. 204-28/09 of 29 January 2009;
10. Letter of the Federal Ministry for Issues of Combatants and Invalids No. 01/1-41-3/09 of 3 February 2009 with enclosure; 14 letters – replies from all the Ministry departments with circular letter – request;

11. List of the "Green Berets" Companies – Kotor – Zagrađe – Kukavice – Duratovci and Bare" with the Official Note of the State Investigations and Protection Agency No. 17-12/3-04-2-101-80/07 of 27 June 2008;
12. Transcript from the main trial in the case X-KR-07/480 of 22 August 2008 and audio record from the same trial;
13. Excerpt from the Death Registry for [REDACTED] No. 202-17 of 21 March 2000;
14. Copy of the ID Form for Tomo Jurinović;
15. Excerpt from the CIPS data base for Tomo Jurinović.

PROPOSAL FOR PRE-TRIAL CUSTODY FOLLOWING CONFIRMATION OF THE INDICTMENT

Pursuant to Article 227 (1) of the BiH CPC and in conjunction with Article 137 of the BiH CPC the Prosecutor's Office of BiH proposes that following the confirmation of a grounded suspicion that the Accused had committed the criminal offence he was charged with and following the confirmation of the Indictment, the Preliminary Hearing Judge extends the custody of the Accused Tomo Jurinović, until the completion of the trial, for the reason provided for by Article 132 (1) a) of the BiH CPC.

The Prosecutor's Office of BiH believes that besides the grounded suspicion, established in the previous decisions of the BiH Court on custody as well as in the allegations and evidence in support of this Indictment, the reason for custody is also provided for by Article 132 (1) a) of the BiH CPC.

With regard to the custody reason stipulated in Article 132 (1) a) of the BiH CPC, the Prosecutor's Office of BiH points out that there were realistic circumstances indicating the fear of flight of the Accused if released.

The BiH Prosecutor's Office believes that there are sufficient grounds supporting the allegations that the Accused is hiding in the territory of the Republic of Croatia, with a view of avoiding criminal prosecution, taking into account the aforementioned facts regarding the efforts to locate the Suspect and the need for custody to be ordered in his absence and for the warrant to be issued, all with the aim of bringing the Suspect before the judicial authorities of BiH.

Also, as stated during the hearing on determining and extending the custody against the Suspect following his appearance before the Court of BiH, the Prosecutor's Office of BiH reiterates the fact that at the hearing of 20 June 2008, the Attorney-at-law, Branka Praljak, the Defense Counsel for the Suspect Marko Škrobić, informed the Court of BiH that the Defense had contacted the Witness Tomo Jurinović permanently residing in Croatia but was not successful in arranging his appearance before this Court, since Jurinović refused to come for fear that he could be detained for his participation in this incident.

Following the confirmation of the Indictment and its delivery to the Accused with all the supporting evidence, he will become aware of the gravity of the crime he has been charged with and the evidence against him, which will give a strong motive to the Accused to flee and avoid criminal prosecution and criminal responsibility. When the fact that the Accused Tomo Jurinović, besides being a citizen of BiH, also obtained the citizenship of the Republic of Croatia, is added to the above stated, it can clearly be concluded that all these facts constitute very important circumstances pointing to the fear of flight of the Suspect if the measure of custody is not extended for the reasons stipulated in Article 132 (1) a) of the BiH CPC.

Besides the above mentioned, the BiH Prosecutor's Office notes that the neighboring countries, including the Republic of Croatia, are hesitant about the extradition of their citizens, especially the war crime suspects. That is supported by the European Convention on Extradition which allows the parties to the Convention, including the Republic of Croatia, to refuse extradition of their citizens, with the Republic of Croatia being one of those countries that exercised its right to be reserved in that regard.

Taking into account the fact that the Suspect is not registered in the CIPS data base, and that his place of residence in BiH was not registered after the armed conflict, although being a citizen of BiH, and regardless of the fact that the Suspect is entitled to freely choose his place of residence, all the above stated facts clearly indicate the intention of the Suspect to hide outside of the BiH borders, by which the reason for custody of the Suspect provided for by Article 132 (1) a) of the BiH CPC has been fulfilled.

Taking into consideration all the above mentioned, the Prosecutor's Office of BiH proposes that following the confirmation of the Indictment of the Prosecutor's Office of BiH and after establishing the existence of a reasonable doubt, the Preliminary Hearing Judge of the Court of BiH issues decision on the extension of custody of the Suspect Tomo Jurinović for the reasons provided for by Article 132 (1) a) of the BiH CPC.

**PROPOSAL
FOR TRANSFER OF THE CASE TO THE COURT WITH TERRITORIAL
JURISDICTION PURSUANT TO ARTICLE 27 OF THE BiH CPC**

Pursuant to Article 27 of the BiH CPC, the Prosecutor's Office of BiH submits proposal for transfer of the case to the court with territorial jurisdiction, for the following reasons:

Starting from the requirement for complying with three cumulative conditions, the BiH Prosecutor's Office recalls that these proceedings do not involve a criminal offence against the integrity of BiH, that the trial has not been scheduled yet, and that the Prosecutor's Office has assessed that there are important reasons for transfer of the case to another court with territorial jurisdiction.

The important reasons supporting such assessments are primarily the gravity of the case since it involves the criminal offence of war crime against civilians perpetrated through the attack against the civilians resulting in death, application of the intimidation measure and illegal detention of civilians causing the death of one person, of which Marko Škrobić was accused and sentenced by the first instance verdict. The BiH Prosecutor's Office is of the opinion that these proceedings do not involve a complex and highly sensitive case with respect to the existing internal criteria of the war crime prosecution in the Prosecutor's Office of BiH, because they involve one case, and the offence the Suspect has been charged with does not result in the circumstances as is the case with the majority of the cases being prosecuted before the Court of BiH. The transfer of this case would also enable that other especially complex cases, both in the sense of factual and legal complexity, are undisturbedly and effectively prosecuted before the Court of BiH, which could be minimized if the majority of less complex cases of factual-legal character were prosecuted before this Court. We would also like to note that during the critical period the Suspect Jurinović did not have any commanding or authoritative position in HVO and that his responsibility was limited to a direct and immediate participation in the criminal offence as described in the operative part of the Indictment.

The Prosecutor's Office of BiH considers important that the Court of BiH should be seen as the institution maintaining respect for the highest standards of professionalism as well as the public trust in the judicial institutions in BiH, which shall be realized in the best way if the Court of BiH tried only the most complex and factual-legal war crime cases.

Also, none of the witnesses interviewed in this case have requested protection, which could eventually cast doubt on the effective realization of that protection before the other court.

Besides, although the Prosecutor's Office of BiH emphasized this in a number of similar proposals filed pursuant to Article 27 of the BiH CPC in other cases, we would like to reiterate the fact that the prosecutors of the Special Department for War Crimes of the Prosecutor's Office of BiH intensively work on the completion of a number of war crime investigations, and the Court may expect continuous filing of new indictments, which could result in overburdening the Court.

We believe that lower courts are not overburdened with a large number of the war crime cases as the Court of BiH, and therefore consider that the court with territorial jurisdiction could conduct efficient and effective criminal proceedings in this particular case.

**CHIEF PROSECUTOR
PROSECUTOR'S OFFICE OF BiH
(signature affixed)
Milorad Barašin**

