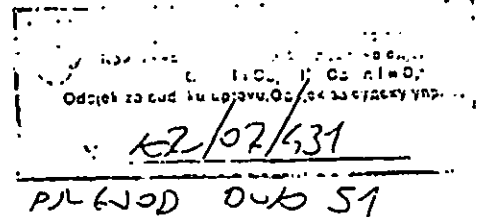


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Bosnia and Herzegovina

Prosecutor's Office of Bosnia and Herzegovina

Special Department for War Crimes
Number: KT-RZ-225/07
Sarajevo, 16 October 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 BiH, I hereby file the

INDICTMENT

AGAINST: SUAD KAPIĆ a.k.a. Hodža, son of Mujo and Rasima, maiden name Huskić, born on 31 July 1975 in Cazin, PIN 3107975112462, residing in Čoralići, at the address Čoralići bb, Muslim – Bosniak, citizen of BiH, bee-farmer, literate, finished Two-Year College of Economics, married, with two underage children, served the army in 1994 in the RNC (*Recruit Training Centre*) Koprivna, sergeant, no decoration, no previous criminal record, no other criminal proceedings underway, of average income, held in pre-trial custody under the Decision of the Court of BiH No. X-KRN-07/431 of 21 September 2007, which may last until 09:30 hrs. on 19 September 2007 under the stated Decision.

On the following grounds:

During the state of war in BiH, as a member of the 3rd Battalion of the 517 (Liberation) Cazin Brigade of the 5th Corps of the Army of the Republic of Bosnia and Herzegovina, in the region of the Municipality of Sanski Most, as part of the military operation "Sana 95" in September 1995, acted in violation of the rules of International Humanitarian Law, Article 3 (1) and (2) (a), Articles 4, 5 and 13 of the III Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949, and in violation of Article 4 (2) of the Protocol II Additional to the Geneva Convention relating to the Protection of Victims of Non-International Armed Conflicts of 12 August 1949, he acted as follows:

On 18 September 1995, early in the morning, in the region of the village of Dabar, Municipality of Sanski Most, as a member of the 3rd Battalion of the 517th Brigade



(Liberation) Cazin Brigade of the 5th Corps of the Army of RBiH, in the combats with the members of the VRS (Army of Republika Srpska), which also included 6th Sana Brigade and the civilian Police of the SJB (Public Security Station) Sanski Most, together with other members of the 517th Brigade of the 5th Corps of the Army of RBiH, he participated in the capturing of [REDACTED]

[REDACTED] they disarmed and then tied them in pairs of two with a rifle-cleaning rope so that [REDACTED]

[REDACTED] were tied in pairs, and then, while they were tied in such a manner, they took them towards the nearby hill of Mrežnica, while the members of the Army of RBiH were saying to each other that they should invite one "Hodža" and, soon afterwards, together with five to six unidentified soldiers, members of the 517th Brigade of the 5th Corps of the Army of RBiH, Suad Kapić a.k.a. Hodža came along and approached [REDACTED] held a knife to his throat, and he then put it back into its belt leather sheath saying: "According to the Koran, it is a sin to slit but not kill", and then he ordered the captives to stand up as they were previously kneeling and, together with several other members of the Army of RBiH, he removed them to another location about 20 meters up the hill of Mrežnica, ordered them to kneel down forming a line, their backs turned to him and to other members of the Army of RBiH, which they did in a manner that they kneeled down being tied two by two at the distance of at about two to three meters, side by side, so that [REDACTED] and [REDACTED] were the last in the line, and then an elderly soldier of about 50 years of age passed by them bringing bread and military food containers, so called *manjirka* and, after asking someone of the present members of the Army of RBiH: "Have you fed them", he put a piece of bread into the mouth of every captive and after that soldier left, there was silence which lasted for one to two minutes, and then Suad Kapić a.k.a. Hodža, being aware that those were war prisoners, with a view of depriving them of their lives, fired at them in rapid succession from an automatic rifle and then he fired a shot directly from a close distance which caused the following persons to fall down as they were shot to death: [REDACTED] and [REDACTED] while the captives [REDACTED] remained kneeling, and [REDACTED] being seriously wounded, was still kneeling and „moaning“ showing signs of life, and then someone of the present members of the Army of RBiH said: "Stab that fat one, it seems that he had plenty of pork", and then Suad Kapić a.k.a. Hodža ordered an unidentified soldier by his side to finish off [REDACTED] which he did by firing one more bullet into his body, and immediately afterwards Suad Kapić a.k.a. Hodža said via the radio station: "A small escape attempt, but it has been prevented", and shortly afterwards, Hasan Hadžalić a.k.a. Haro, Commander of the Reconnaissance-Sabotage Platoon (IDV) of the 517th Brigade of the 5th Corps of the Army of RBiH *Apaci* arrived at the site, together with Safet Huskić and other members of the IDV *Apaci* and, after cutting off the rope with which they were tied, they took the surviving [REDACTED] and [REDACTED] with them and some 24



hours after that handed them over to the Military Police of the 5th Corps of the Army of RBiH; the bodies of killed [REDACTED] and [REDACTED] were found at the same location several days after the described event.

Therefore,

During the state of war in BiH, in violation of International Humanitarian Law, he deprived the life of four war prisoners.

Thus,

He committed a criminal offence of War Crimes against Prisoners of War as referred to in Article 175 (1) (a) of the Criminal Code of Bosnia and Herzegovina in conjunction with Article 180 (1) of the same Code.

On that ground, I hereby

M O V E

I that, after the Indictment has been confirmed, the following persons be summoned to appear at the main trial before the Court of Bosnia and Herzegovina which has subject-matter and territorial jurisdiction in this case:

- Prosecutor with the Prosecutor's Office of BiH
- Suspect Suad Kapić, with particulars as stated in the operative part
- Defence Counsel for the suspect, Senad Kreho, lawyer from Sarajevo

II The following evidence to be presented at the main trial:

a) To be examined as witnesses:

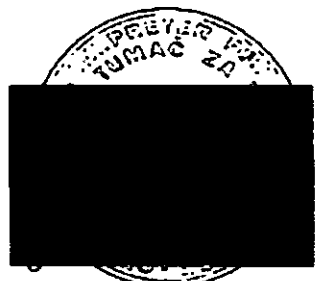
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17. [REDACTED]
18. [REDACTED]

b) To be reviewed:

1. Document of the RS Office for Tracing Captured and Missing Persons, No. 789-1/2007 of 1 October 2007
2. Document of the PA Cazin, excerpt from the criminal record for Suad Kapić, No. 05-1/07-2-04-3-809/07 of 26 September 2007
3. Document of the Cantonal Ministry for Issues of Veterans and Disabled Veterans of Una-Sana Canton, Cazin Section, No. 12/6-41-2967/07 of 28 September 2007
4. Decision of the Disabled-Veteran Protection Unit of the Municipality of Cazin, No. UPI-12/6-41-21/07 of 10 January 2007 for Suad Kapić
5. Excerpt from the CIPS database for Suad Kapić
6. Decision of the Presidency of RBiH on the proclamation of the state of war of 20 June 1992, Official Gazette of RBiH No. 7/92
7. List of soldiers sent to do the combat task of 6 September 1995
8. List of members of the 517th Liberation Brigade of the 5th Corps of the Army of RBiH who were sent to perform the combat task of 10 September 1995
9. List of members of the 517th Liberation Brigade of the 5th Corps of the Army of RBiH
10. Document of the Documentation-Information Centre *Veritas*, RS Representation Office, Banja Luka No. 11/07 of 20 April 2007 and the attachment to the document, CD *Apači*
11. Order for the attack under the code name *Sana*, 5th Corps of the Army of RBiH, operation No. 01-1/352-327 dated 17 August 1995, with a textual-tabular section of the *Sana* operation plan, and the deployment of forces, developed by Major Hilmija Suljić
12. Combat Order op. number 02/271-12 of 12 September 1995 to the Staff of the 3rd Liberation Battalion 517 Obr. (Liberation Brigade)
13. Analysis of the completion of the combat task 517 Obr. No. 02/497-2 of 13 October 1995
14. Report Analysis of the Operation *Sana* by the Staff of the 506th Liberation Brigade No. strictly confidential No. 02/3019-1 of 3 December 1995 and the correction in relation to the *Sana 95* operation analysis of 5 December 1995
15. Excerpt from the Register of Deaths for [REDACTED] No. [REDACTED]
16. Excerpt from the Register of Deaths for [REDACTED] No. [REDACTED] of [REDACTED]
17. Excerpt from the Register of Deaths for [REDACTED] of [REDACTED]
18. Excerpt from the Register of Deaths for [REDACTED] of [REDACTED]



RESULTS OF THE INVESTIGATION

The results of the investigation undoubtedly confirm that the Indictment is grounded, that is, that the suspect Suad Kapić a.k.a. Hodža from Čoralići, Municipality of Cazin, committed the criminal offence of War Crimes against the Prisoners of War in violation of Article 175 (1) (a). It stems from the state of facts established in the course of the investigation and based on the objective evidence and the statements of the examined witnesses that, during the state of war in BiH, the suspect, as a member of the armed forces of the Army of BiH, 5th Corps, 517th Liberation (Cazin) Brigade, 3rd Battalion, acted in violation of the provisions of Article 3 (1) and (2) (a), Article 4, Article 5 and Article 13 of the III Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949, and in violation of Article 4 (2) of the Protocol II Additional to the Geneva Convention relative to the Protection of Victims of Non-International Armed Conflicts of 12 August 1949, in a manner as described in the operative part of this Indictment.

It undoubtedly stems from the Decision of the Presidency of the RBiH on the proclamation of the state of war of 20 June 1992, Official Gazette of RBiH No. 7/92, that there was the state of war at the time relevant to the Indictment.

It stems from the list of the 5th Corps of the 517th Liberation (Cazin) Brigade which was marked as strictly confidential, under No. 1183, that the suspect was a member of the Army of BiH, 5th Corps, 517th Liberation (Cazin) Brigade, 3rd Battalion, which is also corroborated by the statements of the witnesses and the list of soldiers sent to perform the combat task on 6 September 1995 (the same person is mentioned as a member of the crew "Karl Gustav" of the 517th Obr.), which is also supported by the list of soldiers of the 517th Obr. 3rd Liberation Battalion who were sent to perform the combat task on 10 September 1995 where the name of Suad Kapić was stated under No. 63.

The Order to attack, op. No. 01-1/352-327 of 17 August 1995 given by the Commander of the 5th Corps, Division General Atif Dudaković, under the code name *Sana*, proves the planned movement of the Units of the 5th Corps in the territory of the west Krajina municipalities, including Sanski Most, which covers the location at which the criminal offence referred to in the operative part of this Indictment was committed. This document also confirms that, under the Order for the Attack, the Units of the 517th Obr. were positioned as the attack forces, which is also confirmed by the textual-tabular part of the *Sana* operation plan and the deployment of the grouped forces for the *Sana* operation which was developed by Major Hilmića Suljić.

The movement of the 3rd Liberation Battalion of the 517th Brigade of the 5th Corps at the time as described in the operative part of the Indictment, to which the suspect belonged, is confirmed by the Combat Order op. No. 02/271-12 of 12 September 1995 to the Staff of the 3rd Liberation Battalion of 517th Obr., which suggests that the 3rd Liberation Battalion was issued marching orders in the Grmuša region and to also proceed with the performance of the combat tasks at other locations within the area of responsibility of the 5th Corps, under the orders of the superior Staff.

The operations of the Units of the 517th Obr. which took place on 19 September 1995 in the region covering the site of the perpetration of the criminal offence relevant to



this Indictment, are also confirmed by the Analysis of the Combat Task Completion from 8 September to 8 October 1995, No. 02/497-2 of 13 October 1995.

The Analysis-Report on the operation *Sana* of the Staff of the 506th Brigade confirms that the brigades of the 5th Corps operated in the territory relevant to the operative part of this Indictment, and it states that, on 18 September 1995, the defence line of the 506th Brigade included Korčanica-Stanića brdo-Medede brdo, which was broken through in Korčanica and that the 6th Sana Brigade retreated while organising the defence of Sanski Most at the line covering the village of Bošnjaci-Gornji Dabar, in front of the Units of 506th Obr. and 517th Obr. of the 5th Corps of the Army of RBiH.

The same document includes the fact suggesting that on 19 September 1995, Major Ismet Mujanović visited the Staff of the 506th Brigade and ordered the movement towards the village of Stanići at any cost with the intent of joining up with the 517th Liberation Brigade, and about 06:10 p.m. the 506th Obr. and the 517th Liberation Brigade linked up in the area of Stanića brdo.

The suspect Suad Kapić a.k.a. Hodža defended himself by silence.

It has been established based on the testimonies of the examined witnesses [REDACTED] and [REDACTED] and the Commander of the IDV *Apaci* of the 517th Brigade, that all persons who were killed, including those who survived at the material time, as stated in the operative part of the Indictment, were all members of the VRS, 6th Sana Brigade and the Civilian Police of the PSS Sanski Most who, at the moment of capturing, laid down their arms and then were deprived of liberty, while the members of the 517th Brigade were aware of their status of prisoners of war being under the special form of protection as foreseen by the Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949, and the Protocol Additional to the Geneva Convention.

The statements of the eye-witnesses who survived and the witnesses in this case are also corroborated by the statements of the protected witnesses "S1" and "S2".

It stems from all stated and the documents attached to this Indictment that there exists grounded suspicion that Suad Kapić a.k.a. Hodža committed the criminal offence of War Crimes against Prisoners of War in violation of Article 175 (1) (a) of the CC of BiH, in conjunction with Article 180 (1) of the stated Code, at the time and the location and in the manner as described in the operative part of this Indictment, by killing four members of the VRS and RS MUP, although he was aware that they were prisoners of war. While perpetrating this criminal offence, the suspect acted intentionally, that is, with the direct intent, as he was aware of his action and he wanted the action to be executed.

The reasons resulting from the investigation suggest that this Indictment is legitimate and grounded on the law.

Materials corroborating the arguments in the Indictment:

1. Record on Examination of Witness [REDACTED] No. KT-RZ-117/07 of 17 April 2007



2. Record on Examination of Witness [REDACTED] No. KT-RZ-117/07 and KT-RZ-30/05 of 17 April 2007
3. Record on Examination of Witness [REDACTED] No. KTN-RZ-66/07 of 10 September 2007
4. Record on Examination of Witness [REDACTED] No. KTN-RZ-66/07 of 11 September 2007
5. Record on Examination of Witness [REDACTED] No. KT-RZ-117/07 and KTN-RZ-66/07 of 17 April 2007
6. Record on Examination of Witness [REDACTED] No. KTN-RZ-66/07 of 6 September 2007
7. Record on Examination of Witness [REDACTED] No. KTN-RZ-66/07 of 7 September 2007
8. Record on Examination of Witness [REDACTED] No. KTN-RZ-66/07 of 10 September 2007
9. Record on Examination of Witness [REDACTED] No. KTN-RZ-66/07 of 7 September 2007
10. Record Examination of Witness "S1"
11. Record Examination of Witness "S2"
12. Record on Examination of Witness [REDACTED] No. KT-RZ-225/07 of 10 October 2007
13. Record on Examination of Witness [REDACTED] No. KT-RZ-225/07 of 4 October 2007
14. Record on Examination of Witness [REDACTED] No. KT-RZ-225/07 of 11 October 2007
15. Record on Examination of Witness [REDACTED] No. KT-RZ-225/07 of 11 October 2007
16. Record on Examination of Witness [REDACTED] No. KT-RZ-225/07 of 16 October 2007
17. Document of the RS Office for Tracing Captured and Missing Persons, No. 789-1/2007 of 1 October 2007
18. Document of the PA Cazin, excerpt from the criminal record for Suad Kapić, No. 05-1/07-2-04-3-809/07 of 26 September 2007
19. Document of the Cantonal Ministry for Issues of Veterans and Disabled Veterans of Una-Sana Canton, Cazin Section, No. 12/6-41-2967/07 of 28 September 2007
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21. Decision of the Presidency of RBiH on the proclamation of the state war of 20 June 1992, Official Gazette of RBiH No. 7/92
22. List of soldiers sent to perform the combat task of 6 September 1995
23. List of members of the 517th Liberation Brigade of the 5th Corps of the Army of RBiH who were sent to perform the combat task of 10 September 1995
24. List of members of the 517th Liberation Brigade of the 5th Corps of the Army of RBiH



25. Document of the Documentation-Information Centre *Veritas*, RS Representation Office, Banja Luka No. 11/07 of 20 April 2007 and the attachment to the document, CD *Apaci*
26. Order to attack under the code name *Sana*, 5th Corps of the Army of RBiH, operation No. 01-1/352-327 of 17 August 1995, with the textual and tabular part of the plan of operation *Sana* and the deployment of forces developed by Major Hilmija Suljić
27. Combat Order op. No. 02/271-12 of 12 September 1995 to the Staff of the 3rd Liberation Battalion 517th Obr.
28. Analysis of the completion of the combat task 517th Obr. No. 02/497-2 of 13 October 1995
29. Report-Analysis of the Operation *Sana* by the Staff of the 506th Liberation Brigade No. strictly confidential No. 02/3019-1 of 3 December 1995 and the correction of the analysis of the *Sana 95* operation of 5 December 1995
30. Excerpt from the Register of Deaths for [REDACTED]
31. Excerpt from the Register of Deaths for [REDACTED]
32. Excerpt from the Register of Deaths for [REDACTED]
33. Excerpt from the Register of Deaths for [REDACTED]

MOTION FOR THE EXTENSION OF PRE-TRIAL CUSTODY

The Prosecutor's Office of BiH hereby moves the Court of BiH to extend pre-trial custody of Suad Kapić a.k.a. Hodža, pursuant to Article 137 (1) on the grounds as foreseen by Article 132 (1) (a), (b) and (d) of the CPC of BiH, as moved by the Prosecutor's Office of BiH on the occasion of filing the motion for ordering pre-trial custody No. KT-RZ-225/07 of 20 September 2007.

The reasons and the grounds for the extension of pre-trial custody which existed at the time of filing the motion for pre-trial custody still exist and, considering the stage of the criminal proceedings, all grounds for the extension of pre-trial custody have been intensified.

To wit, the fact that the accused has been hiding and that there is the possibility of his flight gains in importance as, although in pre-trial custody for the time being, the accused has strong reasons to hide and to escape from the BiH prosecution authorities after facing the concrete and very grave charges depicted in this Indictment. By this Indictment, the Prosecutor's Office of BiH acts in a procedural and essential manner, prosecuting the person in relation to whom there exists grounded suspicion that he committed the criminal offence, and also observing and applying the principle of urgency in pre-trial cases. Considering this argument, the Prosecutor's Office is aware that the Indictment may be taken by the accused as a risk from which he must flee, thus strengthening his intent and commitment to flee and hide himself. Given these arguments, there exist reasons for the extension of pre-trial custody as referred to in Article 132 (1) (a) of the CPC BiH.



There still exists the risk of influencing the witnesses, being a reason for the extension of pre-trial custody, and it is extremely noticeable and obvious, which the Prosecutor's Office of BiH reasoned in its motion for ordering pre-trial custody dated 20 September 2007. The Prosecutor's Office of BiH also notes that this risk does not deteriorate simply because the witnesses have already been examined by the Prosecutor's Office of BiH, since influence may also be exerted in regard to the testimonies at the main trial before the Court of BiH, which is undoubtedly more important and significant, and it is exactly this influence which could directly hamper the criminal proceedings. The Prosecutor's Office reminds that many witnesses in this case explicitly expressed their fear from the accused and from the possible consequences of testifying in this procedure. Given the foregoing, there exist the grounds for the extension of pre-trial custody as referred to in Article 132 (1) (b).

The Prosecutor's Office of BiH also finds it necessary to also have the measure of pre-trial custody of the suspect extended on the grounds as foreseen by Article 132 (1) (d), given that the accused has been charged with the criminal offence punishable by a sentence of imprisonment of ten (10) years or more, where there is the risk of threatening the public security if the accused is released, which stems from the extremely cruel manner of commission of the criminal offence, brutal and cold-blood killing of four persons along with the discriminating comments by the accused, as stated in the operative part of the Indictment. The Prosecutor's Office of BiH hereby also highlights the fact that the accused belongs to the so-called Wahhabi movement in BiH, as mentioned by the protected witness "SI", which is a post-war activity of the accused which should not be disregarded and which the Court of BiH should take under advisement when rendering a decision on the extension of pre-trial custody of the accused.

The Prosecutor's Office of BiH particularly notes that, regardless of the Decision of the Court of BiH No. X-KRN-07/431 dated 20 September 2007 on ordering pre-trial custody on the grounds as foreseen by Article 132 (1) (b) of the CPC BiH, wherein it refused to order pre-trial custody on the grounds stated in subparagraphs a) and d) of the same Article of CPC BiH, there still exist the grounds also foreseen by paragraphs a) and d) of the same Article of CPC of BiH, and it is therefore incorrect not to take into consideration the facts and the arguments pertaining to these paragraphs and the reasons stated therein, merely because the pre-trial custody was not ordered based on these subparagraphs, which is a type of decision-rendering that has been observed in the previous jurisprudence of the Court of BiH. To wit, if this is about a linguistic formulation causing the difference in ordering and extending pre-trial custody, the Court of BiH should not limit itself thereto and, if there exist the grounds as is the case with this Indictment, a decision should be rendered on an essential basis and, finding that there exist the reasons for ordering, that is, extending pre-trial custody under Article 132 (1) (a) and (d), it should extend, that is, order pre-trial custody on the aforementioned grounds.

PROSECUTOR
PROSECUTOR'S OFFICE
Milorad Barašin



Bosnia and Herzegovina
Prosecutor's Office of Bosnia and Herzegovina

Special Department for War Crimes
Number: KT-RZ-225/07
Sarajevo, 16 October 2007

COURT OF BOSNIA AND HERZEGOVINA
- Preliminary Hearing Judge -

S a r a j e v o

SUBJECT: List of documents attached to the Indictment No. KT-RZ-225/07 of 16 October 2007

1. Record on Examination of Witness [REDACTED] No. KT-RZ-117/07 of 17 April 2007
2. Record on Examination of Witness [REDACTED] No. KT-RZ-117/07 and KT-RZ-30/05 of 17 April 2007
3. Record on Examination of Witness [REDACTED] KTN-RZ-66/07 of 10 September 2007
4. Record on Examination of Witness [REDACTED] No. KTN-RZ-66/07 of 11 September 2007
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13. Record on Examination of Witness [REDACTED] No. KT-RZ-225/07 of 4 October 2007
14. Record on Examination of Witness [REDACTED] No. KT-RZ-225/07 of 11 October 2007
15. Record on Examination of Witness [REDACTED] KT-RZ-225/07 of 11 October 2007
16. Record on Examination of Witness [REDACTED] KT-RZ-225/07 of 16 October 2007



17. Document of the RS Office for Tracing Captured and Missing Persons, No. 789-1/2007 of 1 October 2007
18. Document of the PA Cazin, excerpt from the criminal record for Suad Kapić, No. 05-1/07-2-04-3-809/07 of 26 September 2007
19. Document of the Cantonal Ministry for Issues of Veterans and Disabled Veterans of Una-Sana Canton, Cazin Section, No. 12/6-41-2967/07 of 28 September 2007
20. Decision of the Disabled-Veteran Protection Unit of the Municipality of Cazin, No. UPI-12/6-41-21/07 of 10 January 2007 for Suad Kapić
21. Decision of the Presidency of RBiH on the proclamation of the state war of 20 June 1992, Official Gazette of RBiH No. 7/92
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26. Order for the attack under the code *Sana*, 5th Corps of the Army of RBiH, operation No. 01-1/352-327 of 17 August 1995, with the textual and tabular part of the plan of *Sana* operation and the deployment of forces, developed by Major [REDACTED]
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28. Analysis of the completion of the combat task 517th Obr. No. 02/497-2 of 13 October 1995
29. Report Analysis of the *Sana* Operation by the Staff of the 506th Liberation Brigade No. strictly confidential No. 02/3019-1 of 3 December 1995 and the correction of the analysis of the *Sana* 95 operation of 5 December 1995
30. Excerpt from the Register of Deaths for Goran Šućur, No. 202-100/07 of 11 October 2007, entered under No. 01 for 1995
31. Excerpt from the Register of Deaths for [REDACTED]
32. Excerpt from the Register of Deaths for [REDACTED]
33. Excerpt from the Register of Deaths for [REDACTED]

ANNEX I: Authentic, unredacted statements of the protected witnesses S1 and S2

PROSECUTOR
PROSECUTOR'S OFFICE
Milorad Barašin

I hereby confirm that this document is a true translation of the original written in Bosnian/Croat/Serb.
Sarajevo, 23 October 2007

Certified Court Interpreter for English Language

