

BOSNIA AND HERZEGOVINA  
PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA  
S A R A J E V O  
Special Department for War Crimes  
Regional Team II  
Number: KT-RZ - 106/06  
Sarajevo, 24 March 2008

COURT  
OF BOSNIA AND HERZEGOVINA  
S A R A J E V O  
- Preliminary Hearing Judge -

Pursuant to Article 35 (2) h) and Article 226 (1) of the BiH CPC, I hereby  
file the following:

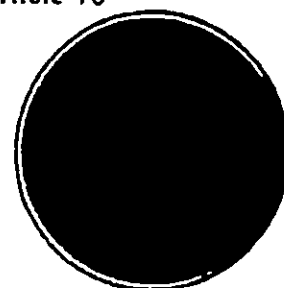
INDICTMENT

Against:

ANTE KOVAČ aka "Žabac", son of Milko and Antunija nee Vidović,  
born on 5 January 1957 in Vitez where he has his permanent residence at  
202 Kralja Tvrtka Street, ID Number 0501957193616, citizen of BiH and  
the Republic of Croatia, Croat, married, father of three children, locksmith,  
secondary education, completed Secondary Business School, employed by  
the HPT Vitez, served the army, KM 1,200.00 salary, in possession of his  
own house and passenger's car of Mercedes make, currently in custody  
under the Decision by the Court of BiH, Number: X-KRN-08/489 of 1  
February 2008 and the Decision by the Court of BiH to extent custody,  
Number: X-KRN-08/489 of 28 February 2008, which lasts until 28  
March 2008,

because:

During the state of war in Bosnia and Herzegovina and the armed conflict  
between the Army of the RBiH and the HVO, he violated Articles 3 and 147 of the  
Geneva Convention on the Protection of Civilian Persons in Time of War of 12  
August 1949 and acted in contravention of Article 75 (1) and (2) and Article 76



(1) of the Additional Protocol I and Articles 1 and 4 of the Additional Protocol II to the Geneva Conventions on the Protection of Victims of International and Non-international Armed Conflicts from 1949, which prohibits violence against life, health or physical or mental wellbeing of people, and requires special protection measures for women, by doing the following:

1. During the time period between April and May 1993, in the area of the Vitez Municipality, as the commander of the Brigade Military Police of the HVO *Viteška* Brigade, he issued orders to his subordinate military police officers and approved of those orders and, together with his subordinate military police officers, unlawfully deprived of liberty Bosniak civilian population, unlawfully detaining them on the premises of the Radnički univerzitet, Movie Theatre and SDK in Vitez. Thus, they unlawfully deprived of liberty and detained [REDACTED]

[REDACTED] persons under the pseudonyms "B" and "D", as well as more than 250 civilians of Bosniak ethnicity. By his order and approval, the military police officers to whom he was superior kept them there under guard in inhumane conditions, of which he was well aware. A large number of persons were placed on the premises of those facilities; they slept there on the floor even in a sitting posture. During their incarceration they received one meagre meal a day consisting of one fourth of a loaf of bread and a fish tin. From there they took them out for examination which on occasions were attended by him personally. By his order, approval or consent, military police officers would take a certain number of detainees in groups by a van for the forced labour at the places called Kratine, Krčevine and Pirići to dig up trenches and perform other physical works at dangerous places where there were lines of separation between units of the HVO and the Army of BiH, although he knew that, while digging up the trenches, the detainees [REDACTED]

were killed performing such works. However, military police officers would take some detainees from the Radnički univerzitet to other detention facilities located in the Chess Club and in the *Kaonik* Camp in Busovača,

2. On 18 April 1993, in Vitez, in the same capacity as under Count 1, armed with a rifle and a pistol, he took during the night a civilian under the pseudonym "B" out of the premises of the SDK detention facility in which she was unlawfully detained and brought her into an apartment in the so-called *Crnogorka* building near the SDK building. While he was taking her there he cursed her "Balija's mother". When they entered the apartment, he

pushed her violently on a bed saying to her, "You will see now who Žabac is", and ordered her to undress. When she refused to do so, he came up to the bed, punched her in her head, and using the force, he pulled her trousers and underwear down, and while she was crying telling him not to do that, he had sexual intercourse with her without her consent, that is, he raped her. Afterwards, he took her back and detained her on the SDK premises,

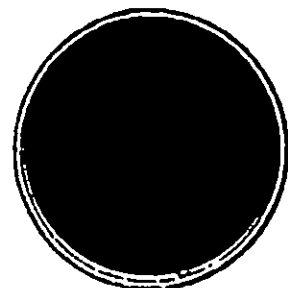
3. On 28 August 1993, in Vitez, in the same capacity as under Count 1 of the Indictment, he ordered military police officers to stop and bring in front of the Military Police Command a motor vehicle Jeep, with the insignia of the International Committee of the Red Cross, which was heading towards Zenica from Stari Vitez, and in which there were sick civilians of Bosniak ethnicity - the person under the pseudonym "A", [REDACTED] and [REDACTED] - who were referred to hospital in Zenica for a medical treatment. He unlawfully deprived those persons of their liberty and unlawfully detained them on the premises of the Radnički univerzitet - Culture Centre where he searched them together with other military police officers and took away and appropriated all valuable objects from them - golden jewellery, money, watch, etc. Afterwards they examined them in respect of the military situation in the place of Mahala which was under the control of BiH Army units. On 30 August 1993, when the person under the pseudonym "A" was alone in an office of the Culture Centre, he threatened her saying that she would never see her children again, questioning her about the location of her husband and about weapons in the place of Mahala. On that occasion, he punched her in her face and, holding the pistol pointed at her chest, he ordered her to undress. When she refused to do so begging him not to do that, he pushed her violently on a bed, tore her clothes, and without her consent, he had sexual intercourse with her, that is, he raped her. Afterwards he threatened that he would kill her if she told anyone about the rape,

therefore, by violating the rules of international law during the war and armed conflict, he acted in an inhumane manner and unlawfully incarcerated people, took them to concentration camps, coerced another person into sexual intercourse - rape by using force and threats, took people to forced labour and plundered their property,

whereby he committed the criminal offence of War Crimes against Civilians in violation of Article 173 (1) c), e) and f) in conjunction with Article 180 (1) of the BiH CC,

It is for this reason that I

**PROPOSE**



**THAT THE FOLLOWING EVIDENCE BE ADDUCED AT THE MAIN TRIAL:**

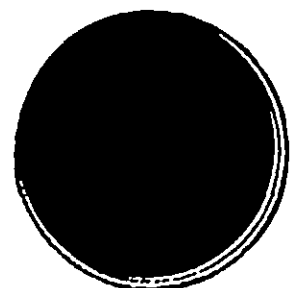
**I – hearing of the following persons in their capacity as witnesses:**

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]
11. [REDACTED]
12. [REDACTED]
13. [REDACTED]
14. [REDACTED]
15. Protected Witness under the pseudonym "B",
16. Protected Witness under the pseudonym "C",
17. Protected Witness under the pseudonym "D",
18. [REDACTED]
19. [REDACTED]
20. Protected Witness under the pseudonym "A",
21. [REDACTED]
22. [REDACTED]
23. [REDACTED]

**II – review of the following:**

1. Decision on Declaring the State of War in the territory of the R BiH and Order on Declaring the General Public Mobilization in the Territory of the R BiH of 20 June 1992 (*Official Gazette of R BiH* of 20 June 1992),
2. Combat Order – Order by the Croat Community of Herceg-Bosna – HVO /Croat Defence Council/ – Command of the OZ /Operative Zone/ SB /Central Bosnia/ – IZM /Forward Command Post/ Vitez of 16 April 1993,

3. Document by the Croat Community of Herceg-Bosna – HVO – Command of the Central Bosnia OZ IZM – Vitez, Number: 01-4-259/93 of 16 April 1993,
4. Report by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 02-125-13/93 of 16 April 1993,
5. Order by the Croat Community of Herceg-Bosna – HVO – Command of the Central Bosnia OZ IZM – Vitez, Number: 01-4-280/93 of 16 April 1993,
6. Order by the Croat Community of Herceg-Bosna – HVO – Command of the Central Bosnia OZ IZM – Vitez, Number: 01-4-319/93 of 17 April 1993,
7. Instructions by the HVO – Military Police Administration on the conduct of the Military Police in conditions of the applicability of the Decree on the CPC application in the event of the state of war or the Croat Community of Herceg-Bosna being directly endangered,
8. Instruction for the operation of units of the HVO Military Police – Croat Community of Herceg-Bosna, Number: 02-413-01-1688/92 of 30 November 1992,
9. List of employees and military police officers of the 4<sup>th</sup> Battalion of the Military Police of Vitez from the area of the Vitez Municipality – Croat Community of Herceg-Bosna – HVO – 4<sup>th</sup> Battalion of the Military Police of Vitez, Number: 02-4/3-07-542/93 of 27 March 1993,
10. Notification by the Commander of the Brigade Police – Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command – Brigade Police, Number: 13-943-1/93 of 23 August 1993,
11. Record by the Commander of the Military Police – Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command – Brigade Police of 23 August 1993,
12. Report of daily events by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command – Brigade Police, on the dates of 23/24 August 1993,
13. Requisition of food by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-163-1/93 of 23 April 1993,
14. Order by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-222/93 of 1 May 1993,
15. List of 13 prominent Muslims who were arrested in Vitez of 15 May 1993,
16. Order by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-415-1/93 of 1 June 1993,
17. List of persons of interest to the security service by the Defence Staff – Vitez Municipality – Crime Prevention Service, Number: Strictly confidential 02/2-230-175/93 of 2 June 1993,



18. Document by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-554-1/93 of 25 June 1993,
19. Excerpt from the register of deaths for [REDACTED] – Vitez Municipality, Number: 02-13-03-539/07 of 5 December 2007,
20. Excerpt from the register of deaths for [REDACTED] – Vitez Municipality, 02-13-03-542/07 of 5 December 2007,
21. Excerpt from the register of deaths for [REDACTED] – Vitez Municipality, 02-13-03-541/07 of 5 December 2007,
22. Excerpt from the register of deaths for [REDACTED] – Vitez Municipality, 02-13-03-540/07 of 5 December 2007,
23. Official Letter by the U.G. /Citizens Association/ *Medica Zenica*, Number: 01-0275-2006 of 30 March 2006 containing the Psychologist's Finding for the Protected Witness under the pseudonym "A", Gynaecologist's Examination Card and Notes about the first contact of [REDACTED] with the Protected Witness under the pseudonym "A",
24. Written Finding – Forensic psychiatrist team evaluation by Prof. Dr. [REDACTED] neuropsychiatrist and Docent Dr. [REDACTED] neuropsychiatrist of 30 October 2007,

## INVESTIGATION RESULTS

It unequivocally ensues from the evidence collected by this Prosecutor's Office during the investigation that the suspect Anto Kovač, at the time and in the manner described in the operative part of the Indictment under Counts 1, 2 and 3, committed the criminal actions which include all essential elements of the criminal offence of War Crimes against Civilians in violation of Article 173 (1) c), e) and f) as read with Article 180 (1) of the BiH CC.

Pursuant to Article 8 of the Decree with the force of law on Defence (*Official Gazette of RBiH*, Number: 4/92), and at the proposal by the Main Staff of the Armed Forces of the Republic of Bosnia and Herzegovina, in the session held on 20 June 1992, the Presidency of the Republic of Bosnia and Herzegovina rendered the Decision on Declaring the State of War. By this Decision the state of war was declared in the territory of the Republic of Bosnia and Herzegovina. The Decision on Declaring the State of War was promulgated in the *Official Gazette of RBiH*, Number: 7/92 and it became effective on the date of the promulgation thereof.

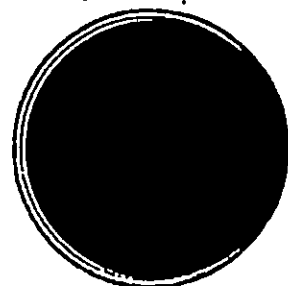
At the material time, in the area of the Vitez Municipality, there existed the armed conflict between the Croat Defence Council (HVO) on the one hand and the Army of the Republic of Bosnia and Herzegovina on the other, which ensues from the evidence collected by this Prosecutor's Office in the course of the

investigation. It follows from the documentary evidence as well as from statements by the witnesses who were examined at the Prosecutor's Office of Bosnia and Herzegovina that the armed conflict in the area of the Vitez Municipality began exactly on 16 April 1993 in such a way that HVO units attacked the places which were populated by Muslim residents in that municipality and unlawfully deprived the Muslim civilian population from the town of Vitez and surrounding places of their liberty at their houses and unlawfully incarcerated them in HVO-controlled detention facilities. Five HVO-related documentary pieces of evidence, more specifically, by the Command of the Central Bosnia Operative Zone and the Command of the *Viteška* Brigade of 16 April 1993 and 17 April 1993, confirm the existence of the armed conflict in the referenced area. In those HVO documents, members of "the extreme Muslim forces" are referred to as enemies, and it clearly ensues from those documents that the BiH Army and Muslim population are regarded as enemies. All of the examined witnesses of the Prosecutor's Office of BiH as well as the judgments of the International Criminal Tribunal for the Former Yugoslavia in the cases "Prosecutor versus Tihomir Blaškić" and "Prosecutor versus Dario Kordić and Mario Čerkez" confirm that the armed conflict both existed and began in the aforesaid manner. It is stated in the referenced ICTY judgments that the presented evidence clearly points to the organized attack by the HVO in those areas, more specifically, Vitez, Stari Vitez, Večeriska, Ahmići, Nadioci, Pirići and Šantići and to the incarceration of the Muslim civilian population in the detention facilities: Movie Theatre, Chess Club, SDK premises and the *Kaonik* Camp, and inhumane treatment of them.

Further, Paragraph 54 of the Hague ICTY final judgment in the *Jelisić* Case Number IT-95/10 holds, *inter alia*, that the reference to the civilian population is aimed at putting an accent more on the collective aspect of the criminal offence than on the status of the victim, in other words, that the notion of the civilian population must even cover all those persons who do or did carry weapons, but who, strictly speaking, were not included in military activities. The ICTY Trial Chamber concluded in the referenced case that the notion of civilians, in the strict sense, also covers all those persons who were *hors de combat* when the criminal offence was committed.

It undoubtedly arises from the statements of all witnesses examined – the victims of the referenced criminal offence – that here we have civilians who were unlawfully deprived of their liberty at their houses - apartments, alone or together with members of their families, or on their way to hospital and that they were not included in military activities. It is certain that all of those victims were *hors de combat* at the time when the criminal offence was committed.

Grounded suspicion that the suspect Anto Kovać committed the act described under Count 1 of the Indictment arises from the statements of the following witnesses: [REDACTED]



[REDACTED] and from the following documentary evidence collected: Combat Order – Order by the Croat Community of Herceg-Bosna – HVO – Command of OZ SB – IZM Vitez of 16 April 1993, Report by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 02-125-13/93 of 16 April 1993, Requisition of food by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-163-1/93 of 23 April 1993, Order by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-222/93 of 1 May 1993 and Excerpts from the register of deaths for [REDACTED]

That the Suspect committed the criminal actions described under Count 2 of the operative part of the Indictment ensues from the statements by the witnesses "B", "C", "D", [REDACTED] whereas grounded suspicion that he committed the action described under Count 3 of the Indictment ensues from the statements by the witnesses "A", [REDACTED] and the following objective evidence collected: Notification by Commander of the Brigade Police – Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command – Brigade Police, Number: 13-943-1/93 of 23 August 1993, Record by the Commander of the Military Police – Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command – Brigade Police of 23 August 1993, Report of daily events by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command – Brigade Police, on the dates of 23/24 August 1993, Official Letter by the U.G. *Medica Zenica*, Number: 01-0275-2006 of 30 March 2006 containing the Psychologist's Finding for the Protected Witness under the pseudonym "A", Gynaecologist's Patient Examination Record and a Note about the first contact of [REDACTED] with the Protected Witness under the pseudonym "A" and the Written Finding – Team forensic psychiatrist expert evaluation by Prof. Dr. [REDACTED] neuropsychiatrist, and Docent [REDACTED] neuropsychiatrist, of 30 October 2007.

By virtue of evidence obtained during the investigation, it has been found that the Suspect was the Commander of the Brigade Military Police of the HVO *Viteška* Brigade at the time of the commission of the criminal offence he is charged with. It arises in the first place from the Order by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-222/93 of 1 May 1993, Document by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-554-1/93 of 25 June 1993, Notification by the Commander of the Brigade Police – Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command – Brigade Police, Number: 13-943-1/93 of 23 August 1993, Record by the Commander of the Military Police – Croat Community of

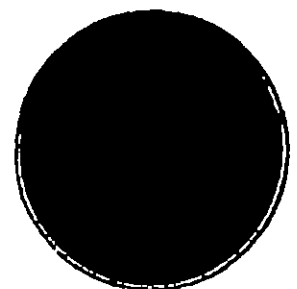


Herceg-Bosna – HVO – *Viteška* Brigade Command – Brigade Police of 23 August 1993, Report of daily events by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command – Brigade Police, on the dates of 23/24 August 1993, as well as the statements by the witnesses examined.

The suspect Anto Kovač was examined on two occasions during the investigation into the circumstances surrounding the offence he is charged with and, following the consultations with his Defence Counsel, on both occasions he exercised his right to remain silent as prescribed by law.

### **MATERIALS CORROBORATING THE ALLEGATIONS OF THE INDICTMENT**

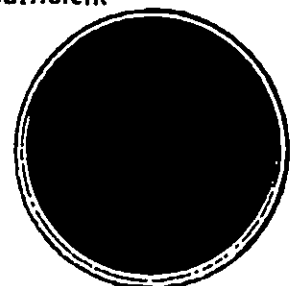
1. Record of the questioning of the suspect Ante Kovač, Number: KT-RZ-106/06 of 31 January 2008 and 4 March 2008,
2. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 10 July 2006,
3. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 11 July 2006,
4. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 16 October 2007,
5. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 16 October 2007,
6. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 17 October 2007,
7. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 18 October 2007,
8. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 23 October 2007,
9. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 5 February 2008,
10. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 7 February 2008,
11. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 13 February 2008,
12. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 14 February 2008,
13. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 14 February 2008,
14. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 27 February 2008,



15. Witness Examination Record for [REDACTED]  
Number: KT-RZ-106/06 of 4 March 2008,
16. Record of the examination of the Protected Witness under the pseudonym "B", Number: KT-RZ-106/06 of 15 February 2008,
17. Record of the examination of the Protected Witness under the pseudonym "C" by the State Investigation and Protection Agency of BiH, Number: 17-04/2-04/2-149/08 of 5 February 2008,
18. Record of the examination of the Protected Witness under the pseudonym "D", Number: KT-RZ-106/06 of 20 February 2008,
19. Witness Examination Record for [REDACTED] Number: KT-RZ-106/06 of 19 February 2008,
20. Witness Examination Record for [REDACTED]  
Number: KT-RZ-106/06 of 5 March 2008,
21. Record of the examination of the Protected Witness under the pseudonym "A", Number: KT-RZ-106/06 of 10 July 2006,
22. Witness Examination Record for [REDACTED]  
[REDACTED] Number: KT-RZ-106/06 of 10 July 2006,
23. Witness Examination Record for [REDACTED]  
[REDACTED] Number: KT-RZ-106/06 of 17 October 2007,
24. Decision on Declaring the State of War in the territory of the R BiH of 20 June 1992 (*Official Gazette of R BiH* of 20 June 1992),
25. Combat Order – Order by the Croat Community of Herceg-Bosna – HVO – Command of the OZ SB – IZM Vitez of 16 April 1993,
26. Document by the Croat Community of Herceg-Bosna – HVO – Command of the OZ Central Bosnia IZM – Vitez, Number: 01-4-259/93 of 16 April 1993,
27. Report by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 02-125-13/93 of 16 April 1993,
28. Order by the Croat Community of Herceg-Bosna – HVO – Command of the OZ Central Bosnia IZM – Vitez, Number: 01-4-280/93 of 16 April 1993,
29. Order by the Croat Community of Herceg-Bosna – HVO – Command of the OZ Central Bosnia IZM – Vitez, Number: 01-4-319/93 of 17 April 1993,
30. Instructions by the HVO – Military Police Administration on the conduct of the Military Police in conditions of the applicability of the Decree on the CPC application in the event of the state of war or the Croat Community of Herceg-Bosna being directly endangered,
31. Instruction for the operation of units of the HVO Military Police – Croat Community of Herceg-Bosna, Number: 02-413-01-1688/92 of 30 November 1992,
32. List of employees and military police officers of the 4<sup>th</sup> Battalion of the Military Police of Vitez from the area of the Vitez Municipality – Croat

- Community of Herceg-Bosna – HVO – 4<sup>th</sup> Battalion of the Military Police of Vitez, Number: 02-4/3-07-542/93 of 27 March 1993,
33. Notification by the Commander of the Brigade Police – Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command – Brigade Police, Number: 13-943-1/93 of 23 August 1993,
  34. Record by the Commander of the Military Police – Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command – Brigade Police of 23 August 1993,
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  36. Requisition of food by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-163-1/93 of 23 April 1993,
  37. Order by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-222/93 of 1 May 1993,
  38. List of 13 prominent Muslims who were arrested in Vitez of 15 May 1993,
  39. Order by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-415-1/93 of 1 June 1993,
  40. List of persons of interest to the security service by the Defence Staff – Vitez Municipality – Crime Prevention Service, Number: Strictly confidential 02/2-230-175/93 of 2 June 1993,
  41. Document by the Croat Community of Herceg-Bosna – HVO – *Viteška* Brigade Command, Number: 01-554-1/93 of 25 June 1993,
  42. Excerpt from the register of deaths for [REDACTED] – Vitez Municipality, Number: 02-13-03-539/07 of 5 December 2007,
  43. Excerpt from the register of deaths for [REDACTED] – Vitez Municipality, 02-13-03-542/07 of 5 December 2007,
  44. Excerpt from the register of deaths for [REDACTED] – Vitez Municipality, 02-13-03-541/07 of 5 December 2007,
  45. Excerpt from the register of deaths for [REDACTED] – Vitez Municipality, 02-13-03-540/07 of 5 December 2007,
  46. Official Letter by the U.G. *Medica* Zenica, Number: 01-0275-2006 of 30 March 2006 containing the Psychologist's Finding for the Protected Witness under the pseudonym "A", Gynaecologist's Patient Examination Record and a Note about the first contact of [REDACTED] with the Protected Witness under the pseudonym "A",
  47. Written Finding – Forensic psychiatrist team evaluation by Prof. Dr. [REDACTED] neuropsychiatrist, and Docent Dr. [REDACTED] neuropsychiatrist, of 30 October 2007.

Upon analysing the pieces of evidence collected during the investigation, both individually and in their correlation, we believe that there is sufficient



evidence showing grounded suspicion that the suspect Anto Kovać committed the criminal offence of War Crimes against Civilians in violation of Article 173 (1) c), c) and f) as read with Article 180 (1) of the BiH CC, so we propose that the Preliminary Hearing Judge of the Court of BiH confirm the Indictment and refer it for further action.

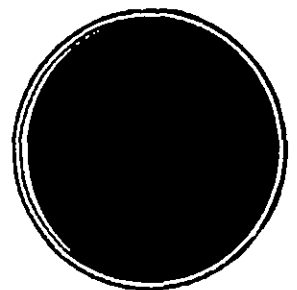
### **MOTION TO EXTEND CUSTODY**

Pursuant to Article 227 (3) and as read with Article 137 of the BiH CPC, if the Court confirms the Indictment, I move that it extends the custody of the accused Anto Kovać because of the existence of the special pre-trial custody grounds laid down in Article 132 (1) a) and b) of the BiH CPC, as we consider that there still exist all the reasons for custody which existed at the time of rendering decisions to order the custody and extend the custody in the course of the investigation.

More specifically, it ensues from the evidence already contained in the case file that there still exist circumstances suggesting the risk of flight by the Accused given that during the examination by the Prosecutor, as well as during the examination by the Preliminary Proceedings Judge at the hearing for reviewing the Motion to order custody, the accused Anto Kovać stated that he had the citizenship of Bosnia and Herzegovina and the Republic of Croatia, and also that he held a passport of the Republic of Croatia. Having in mind that, pursuant to Article 9 of the Constitution of the Republic of Croatia, and using the powers laid down in Article 26 of the European Convention on Extradition, the Republic of Croatia expressed reservation regarding the extradition of its citizens, implying that it would allow neither the extradition nor the transit of its citizens, it is clear that, if released, the Accused could become unavailable to the law enforcement agencies of Bosnia and Herzegovina. The reason for this is all the more stronger when the fact is taken into account that the Accused is charged that he committed the criminal offence for which the sentence of long-term imprisonment is prescribed and that he became aware of the gravity of the criminal offence he is charged with and the possible consequences, which makes the motive for his flight and hiding even stronger. Bearing in mind that Anto Kovać was a long-time sports official who through his work met a large number of people in Bosnia and Herzegovina and beyond, and had a specific influence on them, and that such influence can have the effect even today, which unequivocally arises from the witnesses' statements, we consider that the flight from Bosnia and Herzegovina would not pose a problem for him at all. I consider that the referenced circumstances still constitute the reasons for extension of the custody pursuant to Article 132 (1) a) of the BiH CPC.

In the referenced Indictment the Prosecutor's Office of Bosnia and Herzegovina proposed that the witnesses who were examined during the investigation, including the victims who survived the commission of the criminal offence, be heard at the main trial before the Court of Bosnia and Herzegovina. All of those witnesses who are proposed in the Indictment should give their testimonies before the Court of Bosnia and Herzegovina free of pressure and fear of possible consequences which may follow the giving of those testimonies. The majority of the proposed witnesses live even today in the place of the commission of the criminal offence or in surrounding places, and the identity of those witnesses is well known to the Accused. As it can be seen from the factual description of the offences with which the Accused is charged, the place of the commission of those offences is exactly the town of Vitez, that is, a small place in which the Accused lives with his family and in which the Accused is quite certainly a very influential person, having in mind the work he does. Also, as it can be seen from evidence contained in the case file, the majority of witnesses or members of their families also returned to Vitez after the completion of the war, so that in the event of his possible release, and being aware of the gravity of the offence he is charged with and the evidence which the Prosecutor's Office of BiH obtained in the course of the investigation hitherto, the Accused would quite certainly exert his influence on the witnesses of the Prosecutor's Office, all for the purpose of evading or diminishing his criminal responsibility. This assertion is confirmed by the behaviour of the Accused after the commission of the criminal offence he is charged with. Such behaviour clearly points to the fact that the Accused is willing to exert his influence on witnesses and wants to do so. It can be seen from the statement by the Witness "A" that, even after the commission of the criminal offence, the Accused continued to provoke that Witness in a very brazen manner during their meetings, which causes great fear in that Witness. This Witness suffered major traumas and has not recovered from them to date; not only this Witness but also the family members of the Witness are haunted by the consequences of the commission of the offence. All the abovementioned is additionally confirmed by the fact that the Accused has already visited the cafe owned by a witness of the Prosecutor's Office, which points to grounded suspicion that he talked to the Witness about the case. We must accentuate at this point that, in respect of the fear, consequences and traumatising arising from the commission of the referenced criminal offence, the situation concerning the Witnesses "B" and "D" is identical to the situation in which the Witness "A" has found herself, which clearly ensues from the statements of those witnesses. We also regard that one must especially bear in mind the fact that the Witness "B" was a minor at the time of the commission of the offence.

Given all the above stated we are of the view that, should the Accused be released, the influence could certainly be exerted on the witnesses. It would infallibly intensify the serious feeling of fear already present in all of the survived



witnesses who obviously feel that fear even today. Further conduct of these criminal proceedings could thus be endangered. Hence, we believe that the reasons for the extension of custody stipulated in Article 132 (1) b) of the BiH CPC are still satisfied.

Based on all the above mentioned, I consider that the reasons for the extension of custody of Ante Kovač stipulated in Article 132 (1) a) and b) of the Criminal Procedure Code of BiH are still satisfied, for which reason I propose that the Preliminary Hearing Judge of Section I for War Crimes of the Criminal Division of the Court of BiH grant the Motion by the Prosecutor's Office of BiH to extend custody and to extend the custody of the Accused.

Mirko Lečić  
PROSECUTOR  
PROSECUTOR'S OFFICE OF BiH  
*/signature and seal affixed/*

*I hereby confirm that this document is a true translation of the original written in  
Bosnian/Serbian/Croatian.  
Sarajevo, 21 April 2008*

*Ce... for English*

