

PREVOD DOK. 43

BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BiH
SARAJEVO
Number: KT-RZ-19/08
Sarajevo, 12 March 2008

COURT OF BOSNIA AND HERZEGOVINA
- Preliminary Hearing Judge -

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

INDICTMENT

AGAINST JOVAN OSTOJIĆ, son of Vojin and mother Divka, born on 01 January 1955 in Gornji Grbavci, municipality of Zvornik, ID No. 03 GCC 6554, JMB 0101955100108, completed Military Academy for the JNA Land Army in Belgrade, married, father of two children, citizen of BiH and of the Republic of Serbia, of Serb nationality, left the Army with the rank of Lieutenant-Colonel, decorated with the Karadorde's star, 3rd class, residing in Banja Luka, Prote Todora Srdića, 6-A, currently in pre-trial custody under the Decision of the Court of BiH No. X-KRN/08/504 dated 29 February 2008, ordering custody until 28 March 2008.

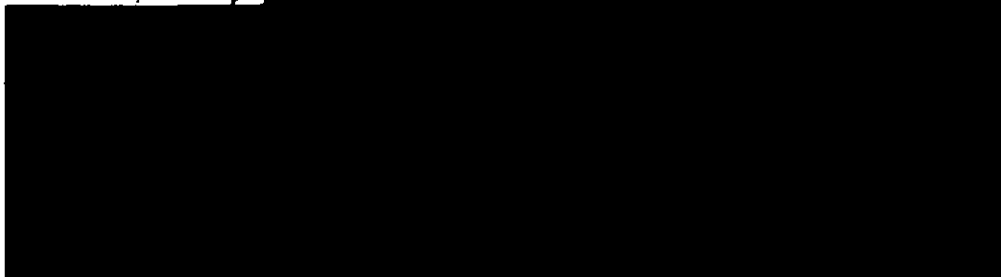
Because:

From 14 July 1992, until 31 December 1992, within a widespread or systematic attack of the SDS paramilitary formations and the Army of the so-called Serb Republic of Bosnia Herzegovina directed against the non-Serb civilian population of the so-called Autonomous Region of Krajina, knowing of the existence of such an attack, and knowing that by his actions he was taking part therein, JOVAN OSTOJIĆ, in his capacity of Commander of the 11th Krupa Light Infantry Brigade, knowingly participated in a Joint Criminal Enterprise, together with RADOVAN KARADŽIĆ, MOMČILO KRAJIŠNIK, GOJKO KLIČKOVIĆ, [REDACTED]

[REDACTED] and other SDS and VRS members in the so-called Serbian Republic of Bosnia and Herzegovina and in the so-called Serb Municipality of Bosanska Krupa sharing the purpose to link Serb-populated areas in BiH together, to gain and maintain control over those areas and to create a separate Bosnian Serb state, from which most non-Serbs would be permanently removed.

JOVAN OSTOJIĆ, being fully aware that the execution of the plans of the above Joint Criminal Enterprise would entail either as a necessity, or as a natural and foreseeable consequence all of the crimes that form part of this indictment, by his acts and omissions planned, instigated, ordered, perpetrated (including by participating in and contributing to the above-described Joint Criminal Enterprise), or otherwise aided and abetted in the planning, preparation or execution, or failed to take the necessary and reasonable measures to prevent or punish the commission of criminal offences by his *de jure* or *de facto* subordinates over whom he had effective control when he knew or had reason to know that his *de jure* or *de facto* subordinates were about to commit such acts or had done so, thereby furthering the purpose of the above mentioned Joint Criminal Enterprise, which resulted in the following:

1. Between 14 July and 21 August 1992 at least 36 persons of Muslim nationality, including both combatants and civilians, were detained for a protracted period of time in the Petar Kočić School, which served as the Brigade Prison for the 11th Krupa Light Infantry Brigade, receiving inadequate food and living in unhygienic conditions, namely:



and two other unidentified males, during which time:

- a. The detainees were deprived of all their personal belongings, including identity papers, money and other valuables by some of the guards, all of whom were JOVAN OSTOJIĆ's subordinates, notably by ŽELJKO SMOLJANAC;
- b. Several prisoners, in particular [REDACTED] were repeatedly severely beaten by soldiers subordinated to JOVAN OSTOJIĆ;
- c. The detainees were regularly forced to perform labor, including removing corpses, digging trenches, and cleaning the streets in Bosanska Krupa, being intentionally exposed to dangers to life and limb, during which, at a house on the hill of Hum, [REDACTED] was forced to sit on a cannon aimed at ABiH positions, he was fired upon and died, whilst [REDACTED] were killed by Serb soldiers who were JOVAN OSTOJIĆ's subordinates;

- d. On or about 24 July 1992 [REDACTED] who had been previously beaten on numerous occasions to the point that his wounds had become infected, was beaten by PETAR SENIĆ, ZDRAVKO NARANČIĆ and another guard, all of whom were JOVAN OSTOJIĆ's subordinates, and died a few minutes thereafter;
 - e. On or about 28 July 1992 [REDACTED] who had been previously beaten on numerous occasions, was given a poison by some guards who were JOVAN OSTOJIĆ's subordinates, and died about two days thereafter;
 - f. On or about 12 August 1992 JOJA PLAVANJAC, who was JOVAN OSTOJIĆ's subordinate, entered the school during the guard shift of ZDRAVKO NARANČIĆ, who was JOVAN OSTOJIĆ's subordinate, whereupon he killed by firearm [REDACTED] and 2 other unidentified male Bosniak captives;
 - g. On 21 August 1992 all of the detainees who had remained at the Petar Kočić School, 20 in number, were tied, blindfolded and brutally beaten, whereupon they were transferred to the detention camp of the 2nd Krajina Corps in Kamenica, having been further beaten during the journey, where they were detained until 3 November 1992, during which time they were further abused, and at least four of them died, including [REDACTED]
2. On 21 July 1992, in Skucani Vakuf, members of the Military Police of the 11th Krupa Light Infantry Brigade, all of whom were JOVAN OSTOJIĆ's subordinates, arrested [REDACTED] and threatened the families of [REDACTED] with death if they would not surrendered the following day whereupon, on 22 July, [REDACTED] the latter surrendering instead of his son [REDACTED] surrendered in Lušci Palanka and were then transported to Jasenica where they were interrogated by members of the Military Police, including: MIROSLAV STANIĆ, MIROSLAV EGELJIĆ, MILE DRIJAČA aka TEHO, PETAR SENIĆ, VLADO VIGNJEVIĆ, and MOMIR GRUBIŠA, all of whom were JOVAN OSTOJIĆ's subordinates, then they were kept in Jasenica for 2 or 3 days during which they were severely beaten, before being transferred to the Petar Kočić School.

Therefore, within a widespread or systematic attack directed against the non-Serb civilian population of the so-called Autonomous Region of Krajina, knowing of the existence of such an attack, and knowing that by his actions he was taking part therein, with the intent to discriminate against his victims on political, racial, national, ethnic, cultural, or religious grounds, and in connection with the armed conflict on the territory of Bosnia

and Herzegovina, and as part of a Joint Criminal Enterprise having the common purpose to link Serb-populated areas in BiH together, to gain and to maintain control over these areas and to create a separate Bosnian Serb state, from which most non-Serbs would be permanently removed in which Joint Criminal Enterprise he participated together with RADOVAN KARADŽIĆ, MOMČILO KRAJIŠNIK, GOJKO KLIČKOVIĆ,

and VRS members in the so-called Serbian Republic of Bosnia and Herzegovina and in the so-called Serb Municipality of Bosanska Krupa, being a knowing participant in the implementation of the plan of the above Joint Criminal Enterprise, being fully aware that the execution of the plan of the above Joint Criminal Enterprise would entail either as a necessity, or as a natural and foreseeable consequence all of the crimes that form part of this indictment, JOVAN OSTOJIĆ by his acts and omissions planned, instigated, ordered, perpetrated (including by participating in and contributing to the above-described Joint Criminal Enterprises), or otherwise aided and abetted in the planning, preparation or execution of the crimes described above; JOVAN OSTOJIĆ is also responsible by virtue of his position as *de jure* or *de facto* superior for offences perpetrated by his *de jure* or *de facto* subordinates over whom he had effective control, when he knew or had reason to know that his *de jure* or *de facto* subordinates were about to commit such acts, or had done so, and he failed to take the necessary and reasonable measures to prevent or punish the perpetrators thereof;

Whereby he committed:

Persecution against the Muslim population of the Municipality of Bosansk Krupa on political, racial, national, ethnic, cultural, religious grounds, contrary to Article 172 (1) h), in connection with the following offences:

For Count 1

- o Murder, contrary to Article 172 (1) a);
- o Forcible transfer, contrary to Article 172 (1) d);
- o Imprisonment, contrary to Article 172 (1) e);
- o Torture, contrary to Article 172 (1) f);
- o Inhumane acts, contrary to Article 172 (1) k);
- o Killings, contrary to Article 173 (1) c);
- o Torture and inhuman treatment, contrary to Article 173 (1) c);
- o Displacement, contrary to Article 173 (1) d);
- o Unlawful bringing in concentration camps and other illegal arrests and detention, contrary to Article 173 (1) e);
- o Pillage, contrary to Article 173 (1) f);
- o Forced labor, contrary to Article 173 (1) f);
- o Murder, contrary to Article 175 (1) a);
- o Torture and inhuman treatment, contrary to Article 175 (1) a);

For Count 2

- o Imprisonment, contrary to Article 172 (1) e);
- o Torture, contrary to Article 172 (1) f);
- o Torture and inhuman treatment, contrary to Article 173 (1) c);
- o Torture and inhuman treatment, contrary to Article 175 (1) a);

All in relation to Article 180(1) and (2) of the BiH Criminal Code.

Therefore,

I hereby move the Court, pursuant to Article 23 (1) a) and (2) of the Criminal Procedure Code of Bosnia and Herzegovina, to

I.

Schedule and conduct the main trial and to summon the attendance of the following persons :

The Prosecutor of the Prosecutor's Office of BiH;

The Accused JOVAN OSTOJIĆ, currently detained at the KPZ Kula;

Milan Romanić, attorney-at-law from Banja Luka, Defence Counsel for the Accused;

II.

Receive Evidence as Follows

a) To hear the following persons as witnesses:

1. PWS-14

2. PWS-35

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The witness referred to as PWS-92 is the subject of a protective measures ordered by Decision of the Court of BiH No. X-KRN-08/504 of 11 March 2008. Copies of the original examination record, featuring detailed personal information of this protected witness are contained in the supporting materials provided to the Court.

The witnesses referred to as PWS-14 and PWS-35 are the subject of protective measures ordered by the ICTY. The Prosecution has been provided with their identities, personal information and evidence under condition of confidentiality. The Prosecution has requested the ICTY to issue an order varying protective measures for those witnesses, so that the Prosecution can be granted the right to disclose and use this confidential information in this case. Upon issuance of such an order, the Prosecution will request the Court of BiH such protective measures as are necessary to comply with the conditions imposed by the ICTY on usage of these materials. As a precautionary measure pending decision on this matter, the Prosecution refers to these witnesses through the use of pseudonyms and does not enclose their statements given to the ICTY within the supporting materials. The Prosecution is also in the possession of other statements of the witnesses referred to as PWS-14 and PWS-35 which are not covered by confidentiality. Copies of these examination records are contained in the supporting materials provided to the Court. The names and personal information of those witnesses have been redacted in order to avoid unauthorized disclosure of confidential information provided by the ICTY.

b) to inspect the following evidence:

1. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa No. 141/92 of 29 April 1992, signed by Gojko Kličević;
2. List of members of the 3rd TO Battalion;
3. Order no. 01/1-92 of 4 May 1992 from the Commander of the "Podgrmeč" TO Brigade;
4. Order no. 100-2 of 7 May 1992, from the Commander of the 1st Krajina TO Brigade;

5. List of Persons who will until further notice remain in detention in the Serb Municipality of Bosanska Krupa, dated 19 May 1992, issued by the War Presidency of the Serb Municipality of Bosanska Krupa, with handwritten notes;
6. List of Persons who will until further notice remain in detention in the Serb Municipality of Bosanska Krupa, dated 19 May 1992, issued by the War Presidency of the Serb Municipality of Bosanska Krupa;
7. Report on Interview with the Captive Suad Sefić, dated 30 May 1992, from Miroslav Stanić;
8. Law on Army;
9. Decision on Establishment, Seat and Competences of Military Courts and Military Prosecutor Offices;
10. Report no. 154-1/92 of 13 July 1992 from the Chief of Intelligence and Security, Mile Drljača;
11. Regular Combat Report no. 107-8, of 13 July 1992, from the Commander of the 11th Light Infantry Brigade, Colonel Vukašin Daničić;
12. Document no. 166-1/92 of 15 July 1992, from the Chief of Intelligence and Security, Mile Drljača;
13. Official Note by Slavko Ilić et al., on the occasion of visiting Bosanski Novi on 15 July 1992 in order to locate and apprehend the extremists from the area of the Bosanska Krupa Municipality;
14. Official Note of 22 July 1992, from the Military Police Company, signed by Petar Senić and Miroslav Stanić;
15. Banja Luka TV footage of Interview with [REDACTED] and another Bosnjak Captive;
16. Telex No. 307-3 of 5 August 1992, from the Assistant Commander for Information and Political Matters, Mladen Skenderija;
17. Order No. 307-3 of 5 August 1992, from the Commander of the 2nd Krajina Corps, Colonel Grujo Borić;
18. Order No. 306-2/92 of 8 August 1992, from the Commander of the 11th Krupa Light Infantry Brigade (1 copy typed, 1 copy handwritten);
19. Order No. 349-1/92 of 18 August 1992, from the Commander of the 11th Krupa Light Infantry Brigade, Jovan Ostojić;
20. Review of Commanding Officers of the Brigade;
21. Order for Patrol No. 113/92 and annexed Report;
22. Diary of [REDACTED];
23. Diary of [REDACTED];
24. Diary of [REDACTED];
25. Document No. 274/45 of 15 December 1992, from the Department for OBP of the 11th Krupa Light Infantry Brigade;
26. Analysys of activities and combat actions for 1992, handwritten, signed by Jovan Ostojić, Commander of the 11th Light Infantry Brigade;

27. Document No. 399-2/93 of 2 June 1993 from the Command of the 11th Light Infantry Brigade, "Review of Order, Performance and Discipline";
28. Article from "Serb Army" magazine, "Medals on Bosoms of Krajina Soldiers";
29. Order no. 3-11 of the Chief of General Staff of the Yugoslav Army;
30. Request for Assistance of 10 February 1994, signed by Joja Plavanjac;
31. Decision No. 35/94 of 28 February 1994, from the President of the Executive Board of the Municipality of Krupa-na-Uni;
32. Official Note No. Ki 1/96-RZ, of 8 February 1996, concerning the Exhumation of [REDACTED]
33. Decision of the Municipal Court of Sanski Most, No. R-697/97 of 16 December 1997;
34. Decision of the Municipal Court of Sanski Most, No. R-63/98 of 11 February 1998;
35. Record of the Investigative Judge of the Cantonal Court in Bihać No. Ki-1/97-RZ of 18.05.1998, on statement of Witness [REDACTED]
36. Death Certificate for [REDACTED]
37. Death Certificate for [REDACTED]
38. Death certificates for [REDACTED]
39. Death certificate for [REDACTED]
40. Death certificates for [REDACTED]
41. Minutes of Autopsy [REDACTED]
42. ICTY – Submission of the Corrigendum of the Expert Witness Report, [REDACTED] filed on 20 June 2002 and submission of an updated report of the Expert Witness No. IT-00-39-T of 26.11.2004;
43. Military developments in the Bosanska Krajina, expert report by [REDACTED] 27 November 2002;
44. ICTY Expert Report "VRS Brigade Command Responsibility", by [REDACTED]
45. Transcript of the interview with Milorad Vjestica dated 04.12.2002, ICTY office in Banja Luka;
46. Transcript of interview with Milorad Vjestica dated 27.02.2003;
47. DNA Report for [REDACTED]
48. DNA Report for [REDACTED]
49. DNA Report for [REDACTED]
50. Record of suspect examination –Miroslav Vjestica, Prosecutor's Office of Unsko-Sanski Canton No. KT-147/92-RZ dated 23.12.2004;
51. Record of suspect examination –Miroslav Vjestica, Prosecutor's Office of BiH No. KT-1/05-RZ dated 04.05.2005;
52. Record of suspect examination –Miroslav Vjestica, Prosecutor's Office of BiH No. KT-1/05-RZ dated 06.05.2005;

53. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 26.07.2005 on statement of Witness Jovan Ostojić;
54. DNA Report for [REDACTED];
55. Letter from the third Police Administration of the Una-Sana Canton No. 05-1/08-1-428/07 of 28 June 2007;
56. Letter of the District Prosecutor Office of Banja Luka, No. A-534/07 of 23 January 2008;
57. Personal file and Unit file of:
 - a. Zdravko Narančić;
 - b. Mile Drljača;
 - c. Petar Senić;
 - d. Željko Smoljanac;
 - e. Momir Grubiša;
 - f. Joja Plavanjac;
58. Record of the Prosecutor's Office of BiH No. KT-RZ-19/08 of 29.02.2008, on examination of Suspect Jovan Ostojić;

RESULTS OF THE INVESTIGATION

Relevant Background Facts

- Starting from Summer 1991, the SDS-dominated Serb Leadership of the Municipality of Bosanska Krupa (SMBK leadership), led by Gojko Kličković, undertook extensive acts and preparations with the aim of partitioning the legally established Municipality of Bosanska Krupa and establishing the so-called Serb Municipality of Bosanska Krupa (SMBK) as an area populated by an absolute Serb majority, where Serbs could assert absolute control in all areas of power and administration. As part of such preparations, the SMBK leadership established and organized the Territorial Defence Brigade of the SMBK (SMBK TO).

On 21 April 1992, the SMBK leadership, through the SMBK TO, launched an attack on the town of Bosanska Krupa with the aim to forcefully implement the partitioning of the Municipality which required the ethnic cleansing of the entire area of the Municipality of Bosanska Krupa laying to the right side of the river Una. The implementation of this aim resulted in the persecution of the Muslim population during the period from 21 April 1992 until the end of 1992 by way of forceful transfer, arbitrary arrests and detention, torture and other forms of physical and mental abuses.

Following a request by Gojko Kličković to the commander of the 10th Corps of the JNA, as of 4 May 1992 the SMBK TO was put on the strength of the JNA 10th and commanded by Colonel Vukašin Daničić. Following the withdrawal of the JNA from BiH and the establishment of the Army of Republika Srpska (VRS), the SMBK TO was renamed 11th Krupa Light Infantry Brigade and it was put on the strength of the 2nd VRS Krajina Corps as of 2 June 1992. In July 1992 Daničić requested to be relieved of his duties (for

personal reasons) and JOVAN OSTOJIĆ was sent by the VRS General Staff to replace him. JOVAN OSTOJIĆ became the effective Commander of the 11th Krupa Light Infantry Brigade on 14 July 1992, retaining that role throughout the entire war. At all times material to this Indictment the SMBK leadership maintained a degree of influence over the Army units stationed in the SMBK.

Crimes committed at the Petar Kočić Elementary School, 14 July – 21 August

From 1 May until 21 August 1992 the Petar Kočić School (PKS) in Bosanska Krupa was used as a prison by the the SMBK civilian and military authorities. At least 77 persons of Muslim nationality, including both combatants and civilians, were detained for a protracted period of time in the PKS.

The PKS was guarded by the Military Police, notably by two different platoons commanded by MOMO GRUBIŠA and MILE ČAZIĆ. Amongst the Military Policemen who were guarding the PKS, the following were identified: ZDRAVKO NARANČIĆ, MIROSLAV DESNICA, LUKA DESNICA, PETAR TODIĆ, ĐURO BESLAĆ, ŽELIKO BRČIN, ZORAN MALEŠEVIĆ, ŽELJKO MANDIĆ, DARIO GRUBIŠA, MILE KERKEZ, VASO JEŽ, BORO ŠKORIĆ, NEBOJŠA KAČAVENDA, ZORAN BRČIN, GORAN ŠEVO, MLADEN KLJAIĆ, MIROSLAV JERKOVIĆ, RADOVAN PETROVIĆ, DUŠKO JAKŠIĆ, BRANE RAĐENOVIĆ, DRAGO SENIĆ and ZORAN MARČETA.

On the day when JOVAN OSTOJIĆ assumed command of the Brigade, there were 27 prisoners detained in the PKS. Ten of those prisoners, namely:

[REDACTED]

had been captured by the SMBK TO during the ethnic cleansing of the SMBK, and had been detained on orders of the War Presidency and the Provisional Military Court (PMC). All of the other detainees had been captured by the Army in the course of subsequent military operations, specifically:

[REDACTED] had been captured on 28 May,

[REDACTED] had been captured on or about 19 June whilst

[REDACTED] and 2 unidentified males had been captured between 12 and 14 July. All the detainees were detained under very poor and unhygienic conditions and they were insufficiently fed.

Upon arrival at the PKS the detainees were deprived of all their personal belongings, including identity papers, money and other valuables by some of the guards, notably by ŽELJKO SMOLJANAC.

Beatings occurred very often at the PKS. The following persons were regularly beaten:

[REDACTED]

Sometimes the prisoners were taken to the Krušnica River to bathe and they were forced into the very cold river even if they could not swim.

Forced fights and brutal games between the prisoners, or between the prisoners and the guards, were commonplace at the PKS. Soldiers of the 11th Krupa Light Infantry Brigade were allowed to enter the PKS and to abuse the prisoners at leisure. Amongst the soldiers involved in these abuses were: ŽELJKO SMOLJANAC, PETAR KARANOVIC, ŠKORO ŠTRBAC, NENAD NEDIMOVIĆ, ZDRAVKO NARANČIĆ, MILE KOTUR, VASO PELAGIĆ, PERO LNU aka "Sniper", ŽELJKO MANDIĆ, ZORAN MARČETA, DJURO BESLAĆ and an unidentified person referred to as "Inspector". The detainees were also subjected to electric shocks by ĐURO BESLJAC, MIROSLAV DESNICA, and FNU TODIĆ.

The detained of the PKS were regularly forced to perform various forms of labor, including removing corpses, digging trenches, and cleaning the streets in Bosanska Krupa. Whilst doing labor the captives were intentionally exposed to dangers to life and limb. Various incidents occurred while the detainees were performing forced labor: on one or more dates, at a house on the hill of Hum, [REDACTED] was forced to sit on a cannon aimed at ABiH positions, he was fired upon and died, whilst [REDACTED] were killed by Serb soldiers. Their corpses were buried by Muslim prisoners in Lipik where [REDACTED] is still buried, while the bodies of [REDACTED] were exchanged in 1994 and are buried in Bihać.

On 16 July [REDACTED] who had been captured in Bosanski Novi by the civilian police on 15 July, was handed over to the Military Police whereupon he was detained at the PKS.

On 21 July 1992 members of the Military Police of the 11th Krupa Light Infantry Brigade went to Skucani Vakuf in order to arrest [REDACTED]

[REDACTED] Only the first five were captured that day. As for the others, the Military Police members threatened their families with death if they did not surrender the following day. Therefore on 22 July [REDACTED] the latter surrendering instead of his son [REDACTED] reported to the police in Lušci Palanka. The captives were not given a reason or an order justifying their arrest. They were transferred to the elementary school in Jasenica and to the local community building where they were interrogated one by one by members of the Military Police, including: MIROSLAV STANIĆ, MIROSLAV EGELJIĆ, MILE DRLJAČA aka TEHO, PETAR SENIĆ, VLADO VIGNJEVIĆ, and MOMIR GRUBIŠA. They were kept in Jasenica for 2-3 days, during which they were severely beaten and taken by the military policemen to look for hidden weapons in their Muslim villages, whereupon they were transferred to the Petar Kočić School in Bosanska Krupa.

[REDACTED] was often heavily beaten, and his wounds became infected. On or about 24 July 1992 some detainees asked the guards to call a doctor to treat [REDACTED] PETAR SENIĆ, ZDRAVKO NARANČIĆ and another guard all of whom were subordinates of the Accused took [REDACTED] away to another room where they severely beat him. [REDACTED] was then returned with the other captives and died a few

minutes thereafter. His body was buried by Muslim prisoners in Lipik, from where it was exhumed on 8 February 1996.

██████████ was often heavily beaten by the guards. On a date around 28 July 1992 some guards who were subordinates of the Accused administered him some purported medicine, ostensibly to heal his wounds. His conditions deteriorated and he died about two days thereafter. His body was buried by Muslim prisoners in Lipik, from where it was exhumed in 1996.

On or about 12 August 1992 JOJA PLAVANJAC, a senior Officer in the 11th Krupa Light Infantry Brigade, entered the school during the guard shift of the Military Policeman ZDRAVKO NARANČIĆ, and he shot dead 11 captives of Muslim nationality. Ten of those captives were a group of ABiH soldiers referred to as "JOKS" who had been arrested between 12 and 14 July 1992, namely: ██████████

██████████ and 2 unidentified males. The other victim was called TOFIK SEDIĆ. After the murder, the bodies were loaded onto a lorry and taken away by the guards and buried in the mass grave "Jama Zvečarka" in Lusci Palanka, from where they were exhumed in 2006. JOJA PLAVANJAC was immediately brought to the Brigade Command in Jasenica where he was received by JOVAN OSTOJIĆ and the Chief of Staff ZDRAVKO MARČETA. JOVAN OSTOJIĆ failed to take any measure to punish JOJA PLAVANJAC or ZDRAVKO NARANČIĆ for their actions.

On 21 August 1992 all of the detainees who had remained at the Petar Kočić School, 20 in number, were tied, blindfolded and brutally beaten, whereupon they were transferred to the detention camp of the 2nd Krajina Corps in Kamenica, having been further beaten during the journey, where they were detained until 3 November 1992, during which time they were further abused, and at least four of them died, including ██████████ all of whom were exhumed from the mass grave "Jama Golubnjača", in Drvar, in 2001.

Jovan Ostojić's unawareness of the existence of the PKS

When interviewed as a witness in the investigation against Miroslav Vještica, JOVAN OSTOJIĆ stated that he was not aware of the existence of the PKS. The investigation has amply proven that, at all times from his arrival in Bosanska Krupa, he was fully aware of the existence of the PKS and of the presence of prisoners there. This conclusion is supported, *inter alia*, by the following averments and evidence:

- o The statement of Vukašin Daničić, to the effect that he and JOVAN OSTOJIĆ worked together for a few days in order for OSTOJIĆ to get appraised of all matters relevant to the Brigade, and that OSTOJIĆ was present when Vukašin sent a telegram to the 2nd Krajina Corps concerning the capture of 8 Muslim prisoners on 13 July 1992;

- o The fact that on JOVAN OSTOJIĆ's first day as Brigade Commander, two more Muslim men were captured. Their capture was reported by OSTOJIĆ's immediate subordinate, Mile Drljača, to the Chief of Intelligence and Security of the 2nd Krajina Corps. It is illogical and contrary to the established procedure that OSTOJIĆ's superiors would be informed of a capture within his Brigade, whilst he would not.
- o The fact that more Muslim men were captured and processed by JOVAN OSTOJIĆ's subordinates in Jasenica, just few metres from OSTOJIĆ's Command Office, in the first weeks following his arrival, namely: one man on 16 July 1992, and 8 more men between 21 and 24 July 1992
- o The fact that on 5 August 1992 JOVAN OSTOJIĆ received two orders from the Corps Command establishing procedures for PoWs, including the fact that the Brigades should have collection centres where prisoners could be detained up to 48 hrs before being transported to the Corps. One of those Orders warns the Brigade Commanders not to allow collection centres to be turned into Camps, and of the possibility that civilians could have been detained. JOVAN OSTOJIĆ copied by hand one of those orders, and relayed it to his subordinates on 8 August 1992.
- o The fact that on 12 August 1992 JOVAN OSTOJIĆ was immediately informed of the crime committed by Joja Plavanjac in the PKS (see below).
- o The fact that on 21 August 1992 the remaining prisoners were transferred to the Camp established at the Corps level. This transfer could not have happened without JOVAN OSTOJIĆ's knowledge and approval.

Jovan Ostojić's duty to prevent or punish crimes committed by his subordinates at the PKS

Upon taking over responsibility for the Brigade, and being informed about the existence of the PKS, it was JOVAN OSTOJIĆ's duty to vigilate over this detention centre, in order to ensure the correct treatment of the prisoners, in conformity with the applicable provisions of international law, in particular of the 1949 Geneva Conventions. As a trained professional soldier, considering the fact that the Brigade was mostly staffed with reservists, and that he had a low professional opinion of the Chief of Intelligence and Security Mile Drljača, JOVAN OSTOJIĆ should have been particularly on notice of the possibility that crimes could take place in the PKS. Moreover, the rumours concerning beatings and "special treatments" of certain captives were an open secret in Krupa.

JOVAN OSTOJIĆ was immediately informed of the murder of 11 prisoners committed by Joja Plavanjac at the PKS on 12 August 1992. Plavanjac was deprived of his liberty and brought before OSTOJIĆ. It was JOVAN OSTOJIĆ's responsibility, and well within his powers, to order the Brigade's security organ to carry out an investigation and prepare a criminal report to be forwarded to the Military Prosecutor in Banja Luka, together with

the Accused. He completely failed to do so, and instead of reporting Plavanjac he appointed him to a new duty just few days later. No one else was reported or prosecuted in connection with that event, not even Zdravko Narančić, the Military Policeman during whose guard shift the crime happened.

Existence of an International Armed Conflict

At all times between 14 July and 31 December 1992 there was an international armed conflict on the territory of BiH, in the ARK and in the SMBK.

Widespread or Systematic Attack

The campaign of persecutions in Bosanska Krupa in 1992 was part of a larger widespread or systematic attack on the Bosniak and Croatian populations of the ARK. In the case of *The Prosecutor vs. Radoslav Brđanin* (Case No. IT-99-36), the Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia established that:

[T]here was a widespread or systematic attack against the Bosnian Muslim and Bosnian Croat civilian population in the Bosnian Krajina during the period [between 1 April 1992 and 31 December 1992]. The attack took many forms. By the end of 1992, nearly all Bosnian Muslims and Bosnian Croats had been dismissed from their jobs in, amongst others, the media, the army, the police, the judiciary and public companies. Numerous crimes were committed against Bosnian Muslims and Bosnian Croats, including murder, torture, beatings, rape, plunder and the destruction of property. Villages were shelled, houses were torched and looted. In the spring of 1992, a number of detention camps where Bosnian Muslim and Bosnian Croat civilians were arrested and detained *en masse* were established throughout the ARK. In several instances, mass killings of civilians took place. Moreover, a policy of "ethnically cleansing" the ARK of its non-Serb population was systematically implemented by the Bosnian Serbs. Indeed, tens of thousands of Bosnian Muslims and Bosnian Croats were forcibly expelled from the ARK by the Bosnian Serbs and taken in convoys of buses and trains to Bosnian Muslim held territory in BiH or to Croatia.

MATERIAL SUPPORTING THE ALLEGATIONS OF THE INDICTMENT

1. Record of the Cantonal Court Bihac No. Ki: L/97-RZ of 27.09.2000 on statement of Witness PWS-14;
2. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 11.02.2005 on statement of Witness PWS-14;
3. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 08.02.2005 on statement of Witness PWS-35;
4. Record of the Cantonal Court Bihac No. Ki. 1/97 – RZ of 27.09.2000 on statement of Witness PWS-35;

5. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 21.04.2005 on statement of Witness [REDACTED]
6. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 12.04.2005 on statement of Witness [REDACTED]
7. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 31.05.2007 on statement of Witness [REDACTED]
8. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 08.02.2008 on statement of Witness [REDACTED]
9. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 31.05.2007 on statement of Witness [REDACTED]
10. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 23.11.2007 on statement of Witness PWS-92;
11. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 of 07.12.2007 on statement of Witness [REDACTED]
12. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 21.01.2008 on statement of Witness [REDACTED]
13. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 17.01.2008 and 24.01.2008 on statement of Witness [REDACTED]
14. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 04.02.2008 on statement of Witness [REDACTED]
15. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 8.02.2008 on statement of Witness [REDACTED]
16. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 11.02.2008 on statement of Witness [REDACTED]
17. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 13.02.2008 on statement of Witness [REDACTED]
18. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 13.02.2008 on statement of Witness [REDACTED]
19. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 13.02.2008 on statement of Witness [REDACTED]
20. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 and KT-RZ-1/05 of 04.03.2008 on statement of Witness [REDACTED]
21. Record of the Prosecutor's Office of BiH No. KT-RZ-100/06 and KT-RZ-1/05 of 03.03.2008 on statement of Witness [REDACTED]
22. Record of the Prosecutor's Office of BiH No. KT-RZ-19/08 of 07.03.2008 on statement of Witness [REDACTED]
23. Letter of the War Presidency of the Serb Municipality of Bosanska Krupa No. 141/92 of 29 April 1992, signed by Gojko Kličković;
24. List of members of the 3rd TO Battalion;
25. Order no. 01/1-92 of 4 May 1992 from the Commander of the "Podgrmeč" TO Brigade;

26. Order no. 100-2 of 7 May 1992, from the Commander of the 1st Krajina TO Brigade;
27. List of Persons who will until further notice remain in detention in the Serb Municipality of Bosanska Krupa, dated 19 May 1992, issued by the War Presidency of the Serb Municipality of Bosanska Krupa, with handwritten notes;
28. List of Persons who will until further notice remain in detention in the Serb Municipality of Bosanska Krupa, dated 19 May 1992, issued by the War Presidency of the Serb Municipality of Bosanska Krupa;
29. Report on Interview with the Captive Suad Sefić, dated 30 May 1992, from Miroslav Stanić;
30. Law on Army;
31. Decision on Establishment, Seat and Competences of Military Courts and Military Prosecutor Offices;
32. Report no. 154-1/92 of 13 July 1992 from the Chief of Intelligence and Security, Mile Drljača;
33. Regular Combat Report no. 107-8, of 13 July 1992, from the Commander of the 11th Light Infantry Brigade, Colonel Vukašin Daničić;
34. Document no. 166-1/92 of 15 July 1992, from the Chief of Intelligence and Security, Mile Drljača;
35. Official Note by Slavko Ilić et al., on the occasion of visiting Bosanski Novi on 15 July 1992 in order to locate and apprehend the extremists from the area of the Bosanska Krupa Municipality;
36. Official Note of 22 July 1992, from the Military Police Company, signed by Petar Senić and Miroslav Stanić;
37. Banja Luka TV footage of Interview with [REDACTED] and another Bosnjak Captive;
38. Telex No. 307-3 of 5 August 1992, from the Assistant Commander for Information and Political Matters, Mladen Skenderija;
39. Order No. 307-3 of 5 August 1992, from the Commander of the 2nd Krajina Corps, Colonel Grujo Borić;
40. Order No. 306-2/92 of 8 August 1992, from the Commander of the 11th Krupa Light Infantry Brigade (1 copy typed, 1 copy handwritten);;
41. Order No. 349-1/92 of 18 August 1992, from the Commander of the 11th Krupa Light Infantry Brigade, Jovan Ostojić;
42. Review of Commanding Officers of the Brigade;
43. Order for Patrol No. 113/92 and annexed Report;
44. Diary of [REDACTED];
45. Diary of [REDACTED];
46. Diary of [REDACTED];
47. Document No. 274/45 of 15 December 1992, from the Department for OBP of the 11th Krupa Light Infantry Brigade;

48. Analysis of activities and combat actions for 1992, handwritten, signed by Jovan Ostojić, Commander of the 11th Light Infantry Brigade;
49. Document No. 399-2/93 of 2 June 1993 from the Command of the 11th Light Infantry Brigade, "Review of Order, Performance and Discipline";
50. Article from "Serb Army" magazine, "Medals on Bosoms of Krajina Soldiers";
51. Order no. 3-11 of the Chief of General Staff of the Yugoslav Army;
52. Request for Assistance of 10 February 1994, signed by Joja Plavanjac;
53. Decision No. 35/94 of 28 February 1994, from the President of the Executive Board of the Municipality of Krupa-na-Uni;
54. Official Note No. Ki 1/96-RZ, of 8 February 1996, concerning the Exhumation of [REDACTED];
55. Decision of the Municipal Court of Sanski Most, No. R-697/97 of 16 December 1997;
56. Decision of the Municipal Court of Sanski Most, No. R-63/98 of 11 February 1998;
57. Record of the Investigative Judge of the Cantonal Court in Bihać No. Ki-1/97-RZ of 18.05.1998, on statement of Witness [REDACTED];
58. Death Certificate for [REDACTED];
59. Death Certificate for [REDACTED];
60. Death certificates for [REDACTED];
61. Death certificate for [REDACTED];
62. Death certificates for [REDACTED];
63. Minutes of Autopsy [REDACTED];
64. ICTY – Submission of the Corrigendum of the Expert Witness Report, D.Hanson, filed on 20 June 2002 and submission of an updated report of the Expert Witness No. IT-00-39-T of 26.11.2004;
65. Military developments in the Bosanska Krajina, expert report by [REDACTED] 27 November 2002;
66. ICTY Expert Report "VRS Brigade Command Responsibility", by [REDACTED];
67. Transcript of the interview with Milorad Vjestica dated 04.12.2002, ICTY office in Banja Luka;
68. Transcript of interview with Milorad Vjestica dated 27.02.2003;
69. DNA Report for [REDACTED];
70. DNA Report for [REDACTED];
71. DNA Report for [REDACTED];
72. Record of suspect examination –Miroslav Vjestica, Prosecutor's Office of Unsko-Sanski Canton No. KT-147/92-RZ dated 23.12.2004;
73. Record of suspect examination –Miroslav Vjestica, Prosecutor's Office of BiH No. KT-1/05-RZ dated 04.05.2005;

74. Record of suspect examination –Miroslav Vjestica, Prosecutor's Office of BiH No. KT-1/05-RZ dated 06.05.2005;
75. Record of the Prosecutor's Office of BiH No. KT-RZ-1/05 of 26.07.2005 on statement of Witness Jovan Ostojić;
76. DNA Report for [REDACTED];
77. Letter from the third Police Administration of the Una-Sana Canton No. 05-1/08-1-428/07 of 28 June 2007;
78. Letter of the District Prosecutor Office of Banja Luka, No. A-534/07 of 23 January 2008;
79. Personal file and Unit file of:
 - a. Zdravko Narandžić;
 - b. Mile Drljača;
 - c. Petar Senić;
 - d. Željko Smoljanac;
 - e. Momir Grubiša;
 - f. Joja Plavanjac;
80. Record of the Prosecutor's Office of BiH No. KT-RZ-19/08 of 29.02.2008, on examination of Suspect Jovan Ostojić;

PROPOSAL FOR PRE-TRIAL DETENTION FOLLOWING CONFIRMATION OF THE INDICTMENT

Based upon the results of the investigation conducted by the Prosecutor's Office of BiH there is grounded suspicion that the Accused Jovan Ostojić committed the criminal offence with which he is charged.

The pre-trial custody of the Accused was initially granted by the Decision of the Court of BiH – Preliminary Proceedings Judge – on 29 February 2008, on the grounds referred to in Article 132 (1) (a) and (b) for a period of one month, in accordance with Article 135 (1).

Pursuant to Articles 227 (3) and 137 (1) of the BiH CPC the Prosecutor's Office of BiH proposes that, following confirmation of the Indictment, the detention of the Accused, Jovan Ostojić be extended for the duration specified in Article 137 (2) (d) for the grounds provided for in Articles 132 (1) (a) and (b) of the BiH CPC.

Article 132 (1) (a): Risk of Absconding

With regard to the legal grounds for detention prescribed under Article 132 (1) a) of the BiH CPC the Prosecution emphasizes that the crime which the Accused is charged with carries a minimum penalty of 10 years imprisonment or long term imprisonment. The Accused's position of superior responsibility is likely to aggravate any sentence given should he be convicted. Given the gravity and stigma of the crime and the potential sentence that it entails the Accused has a strong motive to evade prosecution by fleeing.

The fact that the Accused has resided in Banja Luka until now without flight is not truly relevant in this case. The case being brought against the Accused is principally constructed on the basis of Joint Criminal Enterprise and Superior Responsibility in the crimes named rather than direct physical perpetration of those crimes. It is respectfully submitted that the Accused did not foresee a true likelihood of prosecution applying to him and therefore did not consider flight until he was arrested.

The Accused is retired and has no job to tie him to Bosnia and Herzegovina.

The Accused has Serbian citizenship as well as Bosnian and Herzegovinian citizenship and can reside in Serbia whenever he wants. Serbia does not extradite its citizens. The Republic of Serbia is a short drive from Banja Luka. The Accused's pension is paid from Serbia.

Former colleagues and military associates of his from the time of his Command in Bosanska Krupa live in Serbia; these include the murderer, Joja Plavanjac who has a strong incentive to assist and shelter him if he chooses to flee. The Accused's former military associates, Vukašin Daničić and Grujo Borić reside in Serbia. The Accused has a strong motive to flee to Serbia and to contact these men face to face. Together with them and other local military colleagues of theirs they will be much better able to falsify facts and evidence so as to create an untrue but credible explanation to show that the Accused had no knowledge of crimes and to explain why Plavanjac was not punished. This fact also has double relevance as it also relates to the second ground for custody under 132 (1) (b).

Taking into consideration all these circumstances and considerations, the Prosecution concludes that there is a real risk, and not only a mere possibility, to fear that the Accused, if released, would not voluntarily respond to a Court summons and that he would flee across the border to Serbia and thus become unavailable to the Court of BiH. Accordingly, the Prosecution submits that there are grounds for ordering custody under Article 132 (1) (a) of the CPC of BiH.

Article 132 (1) (b): Risk of Hindering the Inquiry

With regard to the grounds for custody under Article 132 (1) (b) of the CPC the Prosecution considers that there are very valid reasons to fear that the Accused, if released, might hinder the proceedings by influencing the witnesses, accessories or accomplices.

Although the general crimes described above are testified to by many witnesses the evidence that directly implicates the Accused as Commander is limited to the evidence of only a few witnesses, all of whom were either his fellow soldiers, friends or associates. Equally, potential documentary evidence derives from VRS military archives in Banja Luka where the Accused resides. If the Accused is at liberty, with his status and military seniority, he will be uniquely placed to adversely influence witnesses and harm the evidence. All the evidence that the Prosecution has collected during the investigation

needs to be repeated at the main trial. The Accused's powerful influence on witnesses can persuade them to, with-hold testimony, alter testimony, with-hold relevant details in testimony or to ignore Prosecution summons. It can also result in the alteration, removal or destruction of documents or the creation of false documents to nullify or favourably explain the effect of other evidence.

The Accused can very reach these crucial witnesses who all live either here on in neighbouring Serbia. The Accused can be expected to strenuously deny all guilt. When interviewed as a witness in the investigation against Miroslav Vještica in July 2005 the Accused stated that despite being Commander of his Brigade he had never known of a prison in Bosanska Krupa or that Muslim Captives were detained there.

The Accused can far better construct false explanations and defences for himself if at liberty than if in custody. Although the investigation phase of the proceedings is over the building of the Defence case is just beginning. If not in custody he has obvious motives to work carefully with a circle of sympathetic witnesses to create a credible but false defence.

Taking into consideration all these circumstances and considerations, the Prosecution concludes that there is a real risk, and not only a mere possibility, that the Accused, if released, will hinder the criminal proceedings by influencing witnesses, accomplices or accessories. Accordingly, the Prosecution submits that there are grounds for ordering custody under Article 132 (1) (b) of the BiH CPC

The Prosecutor therefore respectfully requests the Preliminary Hearing Judge to order the custody of the Accused JOVAN OSTOJIĆ during the course of the main trial.

Based on the foregoing, the Prosecutor further requests the Preliminary Hearing Judge to confirm this Indictment with respect to all the charges against JOVAN OSTOJIĆ contained in Counts 1 and 2.

Respectfully submitted,

Prosecutor's Office of BiH
International Prosecutor


Philip M. Alford