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BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA
SARAJEVO
Special Department for War Crimes
Regional Team II
Number: KT-RZ 116/05
Sarajevo, 22 November 2007

	Sud BiH / Суд БИХ
	Krivično odjeljenje I / Apelaciono odjeljenje I Krivично одјелјенје I / Апелационо одјелјенје I
	Odjel I / Odsj. II / Odsj. I + Odsj. II Одјел I / Одсј. II / Одсј. I + Одсј. II
	Odsjek za sudsku upravu / Одсјек за судску управу
	X-120/05/96-1

P12 620D O.K. 3

COURT
OF BOSNIA AND HERZEGOVINA
SARAJEVO
- Preliminary Hearing Judge -

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

INDICTMENT

AGAINST:

1. **MIRKO PEKEZ** a.k.a. Guzan, son of Špiro and of Mara née Glamočak, born on 28 October 1966 in the place of Čerkazovići, the municipality of Jajce, Serb by ethnicity, citizen of RS, electro-technician by profession, residing in the place of Čerkazovići bb /no number/ – the municipality of Jajce, married, father of two, works at SZR / Stupna Šipovo, served the military in Niš and Lastovo, of good financial standing, possesses the ID Card no. 04FEA0281, JMBG 2810966102097, no prior convictions, no other criminal proceedings pending against him, currently in custody pursuant to the Decision of the Court of BiH, No. X-KRN/05/96 of 1 November 2007. Custody shall last until 30 November 2007,
2. **MIRKO PEKEZ** a.k.a. Peka, son of Mile and of mother Radojka née Jerinić, born on 31 May 1965 in the place of Čerkazovići, the municipality of Jajce, where he has permanent address, Serb by ethnicity, citizen of BiH, plumber, single, father of two, served the military in 1986 in Slovenia, of poor financial standing, has prior convictions, no pending criminal proceedings against him, possesses the ID Card no. 04FEA0258, JMBG 3105965102105, currently in custody pursuant to the Decision of the Court of BiH, No. X-KRN/05/96 of 1 November 2007. Custody shall last until 30 November 2007,
3. **MILORAD SAVIĆ** a.k.a. Mića, son of Ljupko, born on 25 October 1970 in the place of Čerkazovići, the municipality of Jezero-Jajce, residing in Bosanska Gradiška at Ulica Socijalističke Revolucije bb, Serb by ethnicity, machine fitter, married, father of one minor child, served the military in 1988/89 in

and Niš, military records kept with the VE-Gradiška Municipality, works at Standard Gradiška, of medium financial standing, citizen of BiH, possesses the ID Card no. 05EAB8040, JMBG 2510970102081, currently in custody pursuant to the Decision of the Court of BiH, No. X-KRN/05/96 of 1 November 2007. Custody shall last until 30 November 2007,

Because by acting in concert:

During the state of war in Bosnia and Herzegovina and the armed conflict in the territory of Jajce municipality between the Army of Republika Srpska, on the one side, and the Army of BiH and HVO (Croat Defense Council) on the other side, as members of the Army of Republika Srpska and the reserve police force, they acted in violation of the rules of Articles 3 and 147 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, and having acted contrary to the rules of Article 75 (2) of the 1949 Protocol Additional I to the Geneva Convention relative to the Protection of Victims of International Armed Conflicts, prohibiting violence against life, health or physical or mental wellbeing of persons, by doing the following,

- On 10 September 1992, after the burial of a killed soldier of the Army of Republika Srpska, Rade Savić, as an organized group of armed people, which consisted of Jovo Jandrić, Mirko Pekez, son of Špiro, Simo Savić, Mirko Pekez, son of Mile, Milorad Savić, son of Ljupko, Zoran Marić, Slobodan Pekez, Ilija Pekez, Milorad Savić, son of Đuro and Blagoje Jovetić, which was organized by Jovo Jandrić, having mutually agreed on the plan to collect civilian Bosniak population located in the place of Ljoljići and Čerkazovići – municipality Jajce, whose freedom of movement was limited since they had to respond to the roll call on a daily basis, intending to take them away and kill them at the place called „Tisovac“; so they went to this place armed with automatic and semi-automatic rifles, under the threat of using the arms, unlawfully arrested and forcibly took out the civilian Bosniak population from the houses, rounded up women, men and children in the place called „Osoje“, and thereupon took them all together to the place called „Draganovac“, with the rifles in their hands, threatening that they would kill whoever tried to escape, while insulting them, and physically harassing them by calling them different names, by punching and kicking them and by hitting them with rifles, and when they reached the place called „Draganovac“, they stopped them there and ordered them to put at a specifically designated place all valuable items they had on them, such as gold jewellery, watches and money, and when they did so, they appropriated those items, and thereupon took them to the place called „Tisovac“, where they ordered them to line up against the edge of an abyss, and when they did so, they all opened fire from the rifles pointed at them, intending to kill them, thus on that occasion they killed [REDACTED] born in 1936, [REDACTED] born in 1933, [REDACTED] born in 1971, [REDACTED] born in 1979, [REDACTED] born in 1956, [REDACTED] born in 1928, [REDACTED] born in 1918, [REDACTED] born in 1933, [REDACTED] born in 1959, [REDACTED] born in 1968, [REDACTED] born in 1933, [REDACTED] born in 1927, [REDACTED] born in 1977, [REDACTED] born in 1928, [REDACTED]

born in 1924, born in 1936, born in 1983, born in 1957, born in 1963, born in 1939, born in 1946, born in 1950 and born in 1979, while survived the execution but sustained physical injuries, while suffered no injuries.

Therefore, by violating the rules of international law in times of war and armed conflicts, they committed the killings and the intentional infliction of severe physical and mental pain to persons, injuries to bodily integrity and the plunder of property,

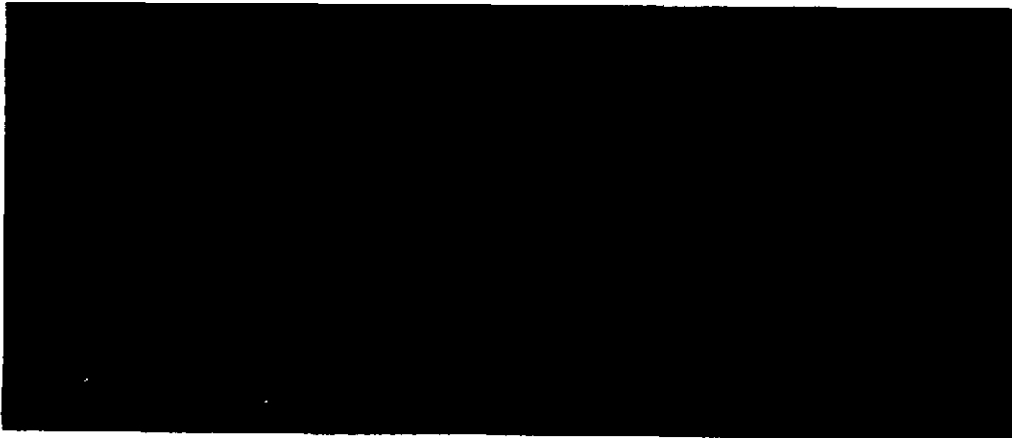
Whereby as co-perpetrators they committed the criminal offense of War Crimes against Civilians in violation of Article 173 (1) items c) and f), in conjunction with Article 29 and Article 180 (1) of the CC BiH.

Hence,

**I MOVE
THAT THE FOLLOWING BE PRESENTED AS EVIDENCE
AT THE MAIN TRIAL**

I - to hear the persons listed below as witnesses :

- 1.
- 2.
- 3.
- 4.
- 5.
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- 7.
- 8.
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II - to examine the following person as expert witness:

- 1.

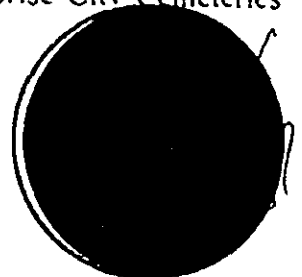


III - to review:

1. Decision on declaring the state of war in the territory of the Republic of Bosnia and Herzegovina (RBiH Official Gazette No. 7/92 of 20.06.1992);
2. Regular Operations Report of the 5th Corps Command of Bosnian Serb Army No. OP.STR.POV. BR. 84-84, of 23.04.1992;

3. Regular Combat Reports of the Command of the 1st Krajina Corps of Bosnian Serb Army No. OP.POV. BR. 44-1/160 of 03.06.1992, No. OP.STR.POV. BR. 44-1/180 of 14.06.1992, No. OP.STR.POV. BR. 44-1/195 of 23.06.1992, No. STR. POV. BR. 44-1/248 of 20.07.1992, No. STR. POV. BR. 44-1/286 of 09.08.1992, No. STR.POV. BR. 44-1/332 of 31.08.1992, No. STR. POV. BR. 44-1/440 of 26.10.1992;
4. Order of the Command of the 1st Krajina Corps of Bosnian Serb Army No. OP.STR.PO.BR. 535-1 of 19.06.1992;
5. On-site Investigation Report of the Basic Court in Mrkonjić Grad, No. Kri: 57/92 of 12.09.1992;
6. Specialist's Findings and Opinion - external post-mortem examination of the body of ██████████ Šipovo Health Centre, dated 12.09.1992;
7. Specialist's Findings and Opinion - external post-mortem examination of the body of ██████████ Šipovo Health Centre, dated 12.09.1992;
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28. Specialist's Findings and Opinion - external post-mortem examination of the body of ██████████ Šipovo Health Centre, dated 12.09.1992;
29. Submission of data on military records of Jajce Public Security Station, No. 11-11/01-828/93 of 26.06.1993;
30. Letter concerning military records of the Military Post, numbered 7048 of 01.07.1993;
31. Checking of military records of Ministry of Interior, Banja Luke, No. 02-11347/07 of 18.10.2007;
32. Decision on exhumation No. Kri.5/99 of 27.04.1999 made by the Cantonal Court in Travnik;
33. Record on exhumation No. Kri.5/99 of 28.04.1999 made by the Cantonal Court in Travnik;
34. Certification of Death issued by the Public Utility Enterprise City Cemeteries Visoko for ██████████ of 08.05.1999;
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56. Certification of Death issued by Public Utility Enterprise City Cemeteries Visoko for [REDACTED] of 08.05.1999;
57. Findings on exhumed and post-mortem examined bodies in the territory of Jajce municipality, Institute of Forensic Medicine – Sarajevo Faculty of Medicine;
58. Letter bearing standard marking „A“ for Mirko Pekez, son of Mile, No. 025285/GB/RR810 of 17.01.2002;
59. Letter bearing standard marking „A“ for Milan Savić aka „Mića“, No. 025286/GB/RR810 of 17.01.2002;
60. Letter bearing standard marking „A“ for Mirko Pekez, No. 025281/GB/RR810 of 17.01.2002;
61. Criminal Record Report of the Jajce Police Department, No. 04-10/3-2-1-1119/02 of 10.12.2002, for Pekez Mirko, son of Mile;
62. Video cassette „War Crime against Civilians, 10.09.1992 in Tisovac, Jajce municipality;
63. Decision of the Court of BiH, No. KT-55/99, to take over the criminal case from the Cantonal Prosecutor's Office in Travnik No. X-KRN/05/96 of 17.10.2005.

INVESTIGATION RESULTS:

It undoubtedly arises from the evidence collected and obtained during the investigation by this Prosecutor's Office that the suspects Mirko (Špiro) Pekez, Mirko (Mile) Pekez and Milorad Savić, at the time and in the manner as described in the operative part of the Indictment, committed the criminal actions referred to in this Indictment, from which all the essential elements of the criminal offense of War Crimes against Civilians in violation of Article 173 (1) items c) and f), in conjunction with Article 29 of the CC BiH and Article 180 (1) of the CC BiH ensue.

Pursuant to Article 8 of the Decree on Defense with the Force of Law („Official Gazette of RBiH“, number 4/92), upon the proposal by the Main Staff of the Armed Forces of the Republic of Bosnia and Herzegovina, at the session held on 20 June 1992, the Presidency of the Republic of Bosnia and Herzegovina issued the Decision

on Declaring the State of War under which the state of war was proclaimed in the territory of the Republic of Bosnia and Herzegovina. The Decision on Declaring the State of War was published in the „Official Gazette of the RBiH“, number 7/92 and it came into force on the day when it was published.

During the critical period, in the territory of municipality Jajce, an armed conflict was ongoing between the Army of Republika Srpska on the one side and the Army of the R BiH-HVO on the other side, which ensues from the evidence collected by this Prosecutor's Office during the investigation. From the collected documentary evidence, as well as from the statements of the witnesses who were interviewed in the Prosecutor's Office of Bosnia and Herzegovina, it arises that the armed conflict in the territory of municipality Jajce started in the spring of 1992. Nine proposed pieces of documentary evidence, that is, Operative Report, Combat Reports and Orders by the Command of the V and I Krajina Corps of the Army of Republika Srpska comprised in the period from 23 April 1992 to 26 October 1992 confirm the existence of the armed conflict in the stated territory. In these documents of the Army of Republika Srpska, members of the HVO and the Army of R BiH were indicated as enemies, while the most frequently used term was „the units of the Muslim-Croat formations“.

Paragraph 54 of the final Judgment of the ICTY in The Hague, in the „Jelisić“ case, number IT-95/10 established, inter alia, that the aim of the term of civilian population is to emphasize the collective aspect of the criminal offense more than the status of the victim, namely that the term of civilian population must include all persons who are carrying or who carried weapons, but who did not, strictly speaking, partake in military activities. The ICTY Trial Chamber concluded in the stated case that the term civilian, strictly speaking, also includes all persons who were *hors de combat* when the criminal offense was committed.

It undoubtedly ensues from the statements of all the examined witnesses and the suspects Mirko Pekez, son of Špiro, and Milorad Savić, that the persons who were forcibly expelled from their houses, taken away and killed in the place called „Tisovac“, were unarmed civilians, who were not included in armed conflicts in any way, and that there were 13 men, 10 women, including one child and three minor persons, all ages 9 to 74. Four civilians, who were also taken to the place called „Tisovac“ to be killed, survived the execution. That 23 persons were killed when this criminal offense was committed ensues also from the Record of On-Site Investigation by the Basic Court in Mrkonjić Grad, an expert Finding and Opinion concerning the external examination of the persons' corpses, the Death Certificate for the killed persons and the other material evidence collected during the investigation. Some victims-survivors themselves and the other proposed witnesses speak about the victims-survivors and their condition after the commission of this criminal offense.

Based on the evidence obtained during the investigation, it was established that at the time of the commission of the criminal offense with which they are charged, the suspects Mirko (Špiro) Pekez and Milorad Savić were members of the reserve police forces within the Public Security Station in Jajce, and that Mirko Pekez (son of Mile) was a member of the Army of Republika Srpska. This primarily ensues from the document of the PSC Jajce, number: 11-11/01-828/93 of 26 June 1993, the docu

of the Military Post number 7048 of 1 July 1993 and the MoI Banja Luka document, number: 02-11347/07 of 18 October 2007, while the suspects Mirko Pekez (son of Špiro) and Milorad Savić confirmed those facts during the questioning. During the commission of the criminal offense, the suspects voluntarily joined the group and following the jointly agreed plan to collect the civilian Bosniak population from the villages of Ljoljići and Čerkazovići, intending to take and kill them in the place of „Tisovac“, participated in the action of rounding up, taking away and killing the civilian Bosniak population.

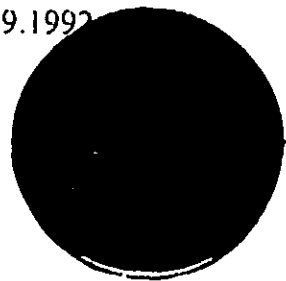
MATERIALS CORROBORATING THE ALLEGATIONS IN THE INDICTMENT

The materials corroborating the allegations in the Indictment include the evidence proposed for presentation at the main trial; they refer to the statements of the witnesses examined and the written documents as well as the statements given by the suspects, as follows:

- Record on examination of the suspect Mirko Pekez, son of Špiro, No. KT-RZ 116/05 of 30.10.2007;
- Record on examination of the suspect Mirko Pekez, son of Mile, No. KT-RZ 116/05 of 30.10.2007;
- Record on examination of the suspect Milorad Savić, No. KT-RZ 116/05 of 30.10.2007;
- Record on hearing the witness [REDACTED] No. KT-RZ 116/05 of 05.11.2007;
- Record on hearing the witness [REDACTED] No. KT-RZ 116/05 of 15.05.2007;
- Record on hearing the witness [REDACTED] No. KT-RZ 116/05 of 06.06.2007;
- Record on hearing the witness [REDACTED] No. KT-RZ 116/05 of 06.06.2007 and 19.10.2007;
- Record on hearing the witness [REDACTED] No. KT-RZ 116/05 of 23.05.2007;
- Record on hearing the witness [REDACTED] No. KT-RZ 116/05 of 13.11.2007;
- Record on hearing the witness [REDACTED] No. KT-RZ 116/05 of 06.11.2007;
- Record on hearing the witness [REDACTED] No. KT-RZ 116/05 of 27.04.2007;
- Record on hearing the witness [REDACTED] No. KT-RZ 116/05 of 08.05.2007;
- Record on hearing the witness [REDACTED] No. KT-RZ 116/05 of 06.11.2007;
- Record on hearing the witness [REDACTED] MD, No. KT-RZ 116/05 of 14.11.2007;
- Decision on declaring the state of war in the territory of the Republic of Bosnia and Herzegovina (RBiH Official Gazette No. 7/92 of 20.06.1992);
- Regular Operations Report of the 5th Corps Command of Bosnian Serb Army No. OP.STR.POV. BR. 84-84, of 23.04.1992;
- Regular Combat Reports of the Command of the 1st Krajina Corps of Bosnian Serb Army No. OP.POV. BR. 44-1/160 of 03.06.1992, No. OP.STR.POV. BR.

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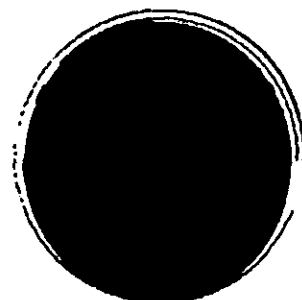
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- Decision on exhumation No. Kri.5/99 of 27.04.1999 made by the Cantonal Court in Travnik;
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- Certification of Death issued by the Public Utility Enterprise City Cemeteries Visoko for ██████████ of 08.05.1999;

- Certification of Death issued by the Public Utility Enterprise City Cemeteries Visoko for [REDACTED] of 08.05.1999;
- Certification of Death issued by the Public Utility Enterprise City Cemeteries Visoko for [REDACTED] of 08.05.1999;
- Certification of Death issued by the Public Utility Enterprise City Cemeteries Visoko for [REDACTED] of 08.05.1999;
- Certification of Death issued by the Public Utility Enterprise City Cemeteries Visoko for [REDACTED] of 08.05.1999;
- Certification of Death issued by the Public Utility Enterprise City Cemeteries Visoko for [REDACTED] of 08.05.1999;
- Certification of Death issued by the Public Utility Enterprise City Cemeteries Visoko for [REDACTED] of 08.05.1999;
- Certification of Death issued by the Public Utility Enterprise City Cemeteries Visoko for [REDACTED] of 08.05.1999;
- Certification of Death issued by the Public Utility Enterprise City Cemeteries Visoko for [REDACTED] of 08.05.1999;
- Findings on exhumed and post-mortem examined bodies in the territory of Jajce municipality, Institute of Forensic Medicine – Sarajevo Faculty of Medicine;
- Letter bearing standard marking „A“ for Mirko Pekez, son of Mile, No. 025285/GB/RR810 of 17.01.2002;
- Letter bearing standard marking „A“ for Milan Savić aka „Mića“, No. 025286/GB/RR810 of 17.01.2002;
- Letter bearing standard marking „A“ for Mirko Pekez, No. 025281/GB/RR810 of 17.01.2002;
- Criminal Record Report of the Jajce Police Department, No. 04-10/3-2-1-1119/02 of 10.12.2002, for Pekez Mirko, son of Mile;
- Video cassette „War Crime against Civilians, 10.09.1992 in Tisovac, Jajce municipality;
- Decision of the Court of BiH, No. K1-55/99, to take over the criminal case from the Cantonal Prosecutor's Office in Travnik No. X-KRN/05/96 of 17.10.2005.

After the analysis of every piece of the evidence collected during the investigation, both individually and in their correlation, we are of the opinion that grounded suspicion exists that the suspects Mirko Pekez, son of Špiro, Mirko Pekez, son of Mile, and Milorad Savić, as co-perpetrators committed the criminal offense of War Crimes against Civilians in violation of Article 173 (1) items c) and f), in conjunction with Article 29 and Article 180 (1) of the CC BiH, therefore we propose to the Preliminary Hearing Judge of the Court of BiH to confirm the Indictment and refer it for further action.



MOTION TO EXTEND CUSTODY

Pursuant to Article 227 (3), in conjunction with Article 137 of the CPC BiH, I propose to the Court, should it confirm this Indictment, to extend custody of the suspects Mirko (Špiro) Pekez, Mirko (Mile) Pekez and Milorad Savić, due to the existence of particular reasons referred to in Article 132 (1) items a) and b) of the CPC BiH, because we are of the opinion that all the grounds which existed at the time of the issuance of the decision ordering custody during the investigation, still exist.

To wit, from the evidence already existing in the case file it can be seen that the Cantonal Court in Travnik sent summonses to the Accused back in 2002 to be questioned as suspects, the accused at the time. The accused Mirko Pekez, son of Mile, and Mirko Pekez, son of Špiro, duly received the summons, but they never responded to be questioned as the accused, nor did they justify their non-attendance. The summons for the accused Milorad Savić could not have been served upon him because after the commission of the criminal offense he left the territory of municipality Jajce, and thus his address was not known in 2002. When the foregoing circumstances are correlated with the gravity of the criminal offense with which the Accused are charged, and with their awareness that a sentence of imprisonment for a term of 10 years or more can be imposed on them, then, in the opinion of this Prosecutor's Office, a justified risk of flight and hiding exists if the Accused were released from custody. This is all the more so if it is taken into account that, according to the information in our possession, the remaining three suspects-co-perpetrators are currently in the Republic of Serbia, and the fact that the accused Mirko (Mile) Pekez has a sister who lives in the Republic of Serbia. We are convinced that the Accused would be provided with full support by the stated persons in order to avoid the criminal responsibility for the offense with which they are charged, which means that they would be helped to flee and hide in the Republic of Serbia, in particular because they have already showed intention to avoid the responsibility for the committed crime by changing their residence and failing to respond to the summons by the Cantonal Court. Consequently, they would be unavailable to the prosecution authorities of Bosnia and Herzegovina. I am of the opinion that the foregoing circumstances still constitute the grounds to extend custody pursuant to Article 132 (1) item a) of the CPC BiH.

In the Indictment concerned, the Prosecutor's Office of Bosnia and Herzegovina proposed that the witnesses examined during the investigation be heard at the main trial before the Court of Bosnia and Herzegovina, including the victims who survived the criminal offense committed. All those witnesses who are proposed in the Indictment should give their testimonies before the Court of Bosnia and Herzegovina without any pressure and fear from possible consequences which may result from their giving evidence. Some of the witnesses proposed still live in the place where the criminal offense was committed and in the surrounding places. Also, a certain number of Bosniak families have returned to the place where the criminal offense was committed, some of whom are related to the victims in this case. We again draw the attention to the fact that the accused Mirko (Mile) Pekez has prior convictions too, and that the witnesses described him as a problematic person.

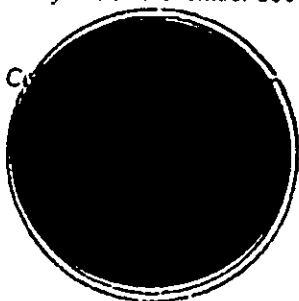
The witness [REDACTED] stated that Mirko Pekez, son of Mile, approached him in late 2002, while he was in front of the „Rosića“ inn and told him „I know you from somewhere“, while keeping his hands on his eyes, and that on that day he followed him to the bus station, due to which the witness sought help from the police. Also, this witness stated that, when he was in his house in Ljoljici in 2006, someone knocked on his door twice, cursed and told him: „will you testify“. The accused Mirko Pekez, son of Špiro, has already contacted the survivor witness [REDACTED] earlier, and told this witness „this was done by Mirko Pekez, son of Mile, with the others.“. We reiterate that the other co-perpetrators, against whom this Prosecutor's Office conducts the investigation, are on the run. Bearing in mind that the Accused are now aware of the gravity of the criminal offense with which they are charged, and also of the punishment prescribed for that crime, a grounded fear exists that if released, the Accused would quite certainly influence the witnesses in this case and make contacts with the co-perpetrators, who are on the run, all with a view to avoiding or reducing their criminal responsibility and obstructing the criminal proceedings. We are also of the opinion that any release of the Accused would cause a serious feeling of fear with all the survived witnesses, which they still feel today, whereby the further conduct of these criminal proceedings would be jeopardized. Therefore, we are of the opinion that the reasons to extend custody set forth under Article 132 (1) item b) of the CPC BiH are still met.

Based on all the foregoing, I am of the opinion that the grounds to extend custody of the Accused Mirko Pekez, son of Špiro, Mirko Pekez, son of Mile and Milorad Savić, son of Ljupko, set forth under Article 132 (1) items a) and b) of the Criminal Procedure Code of BiH are met, due to which I propose to the Preliminary Hearing Judge of Section I for War Crimes of the Criminal Department of the Court BiH, to uphold the Motion by the BiH Prosecutor's Office to extend custody, and extend custody of the Accused.

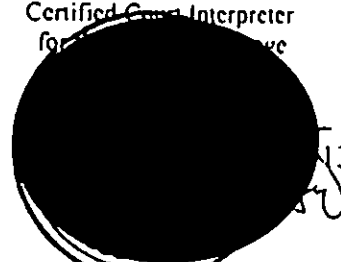
**PROSECUTOR OF THE
PROSECUTOR'S OFFICE OF BiH**
Lečić Mirko
(Seal and signature affixed)

We hereby certify that this document is a true translation of the original written in Bosnian /Croatian /Serbian language.

Sarajevo, 27 November 2007



[REDACTED]
Certified Court Interpreter
for [REDACTED]



11

12