

BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BiH
Sarajevo
Case No.: KT-RZ 140/06
15 December 2006

COURT OF BOSNIA AND HERZEGOVINA
Preliminary Hearing Judge
Court of BiH Case No.: X-KRN-06/241

CORRECTION OF TYPOGRAPHICAL ERROR IN THE INDICTMENT

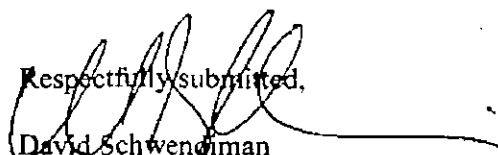
In the case against:

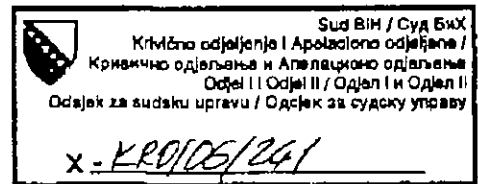
Paško Ljubičić, also known as Toni Raić, son of Bono, born on 15 November 1965 in the village of Nežirovići, municipality of Busovača, Bosnia and Herzegovina, personal identification number ("JMB") 1511965450104, who was commander of the Fourth Military Police Battalion of the HVO from January 1993 to 1 July 1993, currently detained in the detention unit of the Court of Bosnia and Herzegovina pursuant to the Court's Decision No. 06/241 dated 19 October 2006.

RELIEF REQUESTED AND REASONING:

In the Indictment filed today in the case against Paško Ljubičić, numbered paragraph 1 on page 2 contains a typographical error. Specifically, the phrase that reads "and which attack continued until 8 February 1992" should read "and which attack continued until 8 February 1993." The Prosecutor apologizes for this mistake and respectfully requests that the Indictment be corrected accordingly.

Respectfully submitted,


David Schwengman
International Prosecutor
Prosecutor's Office of Bosnia and
Herzegovina



BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA
SARAJEVO
Case No.: KT-RZ-140/06
Sarajevo, 15 December 2006

COURT OF BOSNIA AND HERZEGOVINA
- PRELIMINARY HEARING JUDGE -
Court of BiH Case No.: X-KRN-06/241

Pursuant to Article 35 (2)(h), 226(1) and 227 of the Criminal Procedure Code of Bosnia and Herzegovina ("BiH CPC") in connection with Article 2(1) and (2) of the Law on Transfer of Cases from the International Criminal Tribunal for the Former Yugoslavia to the Prosecutor's Office of Bosnia and Herzegovina and the Use of Evidence Collected from the International Criminal Tribunal for the Former Yugoslavia in the Proceedings before the Courts in Bosnia and Herzegovina ("Law on Transfer") and in accordance with the charges laid out in the Corrected Amended Indictment of the International Criminal Tribunal for the Former Yugoslavia number IT-00-41-PT against Paško Ljubičić and the facts stated therein I hereby file this adapted

INDICTMENT

Against:

Paško Ljubičić, also known as "Toni Raić", son of Bono, born on 15 November 1965 in the village of Nežirovići, the Municipality of Busovača, Bosnia and Herzegovina, personal identification number 1511965450104, of Croat nationality, citizen of Bosnia and Herzegovina and the Republic of Croatia, held in custody based initially on the Decision of the Court of BiH number X-KRO-06/241 dated 22 September 2006, and presently on the Decision to Extend Custody issued by the Court of BiH, number X-KRO-06/241 dated 19 October 2006.

Because

From January 1993 through July 1993, during an armed conflict in the Republic of Bosnia and Herzegovina and in the context of a widespread or systematic attack on the Bosnian Muslim civilian populations of the Vitez and Busovača municipalities by members of the Croatian Defense Council (HVO), including regular soldiers, military police, special units of the military police, and other special units (collectively, 'HVO Forces'), which attack was carried out pursuant to policies of the HVO Forces and the Croatian Community of Herceg-Bosna, and as part of a joint enterprise having the common criminal purpose of killing military-aged men, causing serious bodily harm to civilians, burning or otherwise destroying houses, barns, and mosques, capturing and imprisoning unarmed civilians, and using those civilians for forced labor and other

unlawful purposes, in which joint enterprise Paško Ljubičić, Dario Kordić, Mario Čerkez, Darko Grubešić, Darko Kraljević, Vlado Čosić, Vladimir Šantić, Anto Furundžija, Miroslav Bralo, and other persons participated, a number of villages populated predominantly by Bosnian Muslims were attacked by HVO Forces, including in particular the 4th Military Police Battalion and the Jokers anti-terrorist sub-group of the 4th Military Police Battalion; in the course of these attacks, unarmed civilians were killed and others seriously wounded, houses and barns were burned, mosques were destroyed, the surviving civilians were expelled or taken to detention centers, some of which were guarded and run by the military police, where they were physically and psychologically abused; this abuse included being taken to dig trenches at front line positions, during the course of which some of the prisoners were killed or wounded; the Accused, in the course of the above-mentioned widespread or systematic attack against the Bosnian Muslim population of Vitez and Busovača Municipalities, with knowledge that his actions formed part of the attack, with the intent to discriminate against his victims on political, racial, national, ethnic, cultural, or religious grounds, and in connection with the above-mentioned armed conflict, participated in all of the aforementioned events by planning, instigating, ordering, perpetrating (including by participating in and contributing to the above-described joint enterprise) or otherwise aiding and abetting in the planning, preparation or execution of the above described criminal offenses, and by failing to take the necessary and reasonable measures to prevent criminal acts or to punish the perpetrators thereof who were his subordinates when he knew or had reason to know that such criminal acts were about to be committed or had been committed, in that:

In January 1993, Paško Ljubičić became the commander of the 4th Military Police Battalion, which functioned in the Central Bosnia Operative Zone ("CBOZ") of the HVO, and he remained in that position until 1 July 1993, when he was replaced temporarily by Vladimir Šantić; from January 1993, Paško Ljubičić was the highest-ranking member of all of the HVO Military Police units in the CBOZ as a result of which, he exercised both formal and de facto command and control over the members of the HVO Military Police in the CBOZ, including the 4th Military Police Battalion and the Jokers anti-terrorist sub-group of the 4th Military Police Battalion, and in his capacity as commander of the 4th Military Police Battalion, and as Assistant Chief of Military Police Administration for the CBOZ, Paško Ljubičić had the authority to discipline and punish subordinates who committed breaches of military discipline, including all illegal acts damaging to the reputation of the Armed Forces; in addition, in respect of his subordinates who committed illegal acts, including violations of international humanitarian law, Paško Ljubičić also had the authority to initiate military disciplinary proceedings against them and had the authority to refer matters to an authorized military prosecutor for investigation and prosecution.

1. In the early morning of 25 January 1993, he personally participated and ordered the members of the 4th Military Police Battalion members to attack Bosniak civilian population of Busovača, in which attack the "Nikola Šubić Zrinski" Brigade also participated and which attack continued until 8 February 1992 and which resulted in the death of 27 Bosniak civilians and the looting and destruction by fire and explosives of Bosnian Muslim homes and business establishments,

2. In the period from 16 to 20 April 1993, within the coordinated action of HVO units, including the 4th Military Police Battalion, he participated in planning and execution of the attack on Bosniak towns and villages in the Lašva Valley, in the course of which attack Bosniak civilians were expelled, killed, and their property destroyed and looted, in as much as:

2.a. On the morning of 16 April 1993, the Bosnian Muslim section of the Town of Vitez was attacked as part of the coordinated offensive operation described above; the attacking units included the 4th Military Police Battalion and Paško Ljubičić participated in the planning of this co-ordinated offensive operation, and during and immediately after the attack on the Town of Vitez, Bosnian Muslim civilians were killed and their properties damaged, destroyed and looted,

2.b. In the morning of 16 April 1993, he participated in the planning and conveyed orders to members of the 4th Military Police Battalion, including Anto Furundžija, Miroslav Bralo, Vladimir Šantić, Nino Šarić, Nikica Šafradin, and Josip Jukić to attack the villages of Ahmići, Nadioci, Pirići, and Šantići, and to kill all Bosnian Muslim military-aged men, expel the Bosnian Muslim civilian population, and destroy the houses of Bosnian Muslims, and the attack was carried out, and during the attack Bosniak civilians were expelled from these villages and more than 100 Bosniak civilians were killed, houses were destroyed, numerous others suffered serious mental and physical injuries, and the two mosques of the village of Ahmići were blown up,

2.c. He participated in planning of the attack on the village of Donja Večeriska, Municipality of Vitez, within the co-ordinated action of HVO units, which village was attacked in the morning of 16 April 1993 and during which attack Bosniak civilians were expelled from the village and their houses damaged or destroyed,

2.d. During 16 April 1993, he deployed members of the 4th Military Police Battalion, including Miroslav Bralo, toward the hill feature of Kuber on which the Bosniak village of Lončari is located, and the following day, members of the HVO entered the village and using flammable liquids, they set fire to the mekteb and Bosniak houses in the village, also killing livestock; three men from Lončari [REDACTED] who attempted to flee the village were captured and killed by Miroslav Bralo,

2.e. On 19 April 1993, in concert with other members of the 4th Military Police Battalion and together with the members of the „Nikola Šubić Zrinski“ Brigade, he personally participated in the attack on the village of Očehnići, Municipality of Vitez, during which attack five women were killed, all relatives of [REDACTED] whereas other civilians, including [REDACTED] sustained serious bodily injuries,

2.f. He participated in planning of the attack within the co-ordinated action of the HVO units on the village of Gačice, Municipality of Vitez, which was attacked early in the morning of 20 April 1993 by the HVO units and during which attack Bosniak civilians were confined in seven houses and then expelled to Zenica,

3. Between January and July 1993, members of the HVO 4th Military Police Battalion, on the orders of Paško Ljubičić and with his knowledge, illegally arrested Bosniak civilians and other Bosnian Muslims who were *hors de combat* from the municipalities of Vitez and Busovača and took them to the detention facilities in the Vitez Cinema Complex, Kaonik prison near Busovača, Vitez Veterinary Station, Dubravica Elementary School and SDK offices in Vitez and guarded them in these detention facilities, where those civilians were beaten and subjected to other forms of severe physical and psychological abuse, namely:

3.a. From January 1993, following the attack on Busovača, former barracks of the Yugoslav People's Army (JNA) in Kaonik were used as a detention facility and the HVO 4th Military Police Battalion had responsibility for guarding the facility, where Bosniak civilians were illegally detained, including [REDACTED] who were subjected to physical and psychological abuse there,

3.b. Following commencement of the HVO military offensive on 16 April 1993, Vitez Cinema Complex became a detention facility and over 250 Bosniak civilians were illegally detained at this location,

3.c. Following commencement of the HVO military offensive mentioned in the above sub-paragraph 3.b., premises of Vitez Veterinary Station became a temporary detention facility, where approximately 76 Bosnian Muslims aged 16 to 70 were detained at this location for approximately three days; thereafter, the detainees were transferred to the Dubravica Elementary School,

3.d. Following commencement of the HVO military offensive mentioned in the above sub-paragraph 3.b., premises of the Dubravica Elementary School served as a detention facility with about 500 Bosniak civilians illegally detained there, approximately 100 of whom were women and children; these civilians were physically abused.

3.e. Following commencement of the HVO military offensive mentioned in the above sub-paragraph 3.b., the SDK Offices in Vitez were turned into a temporary detention facility for approximately 63 detainees aged from 12 to 64 years guarded by the HVO military police,

4. In the period as described in the introductory part of the Indictment, members of the HVO 4th Military Police Battalion used Bosniak civilians detained in the detention centers mentioned in the sub-paragraph 3. as human shields, and forced them to perform forced labor for HVO members at the front-line positions, such as digging trenches and other labor; this occurred in locations including, but not limited to, Kratine, Kula, Rijeka, Krčevine, Dubravica, Sivrino Selo, Tolovići, Topole, Komare, Bakije, Gradina, Oblice, Križančevo Selo, Strane, Putiš, Prosje, Rovna, an area in the direction of Merdani, an area near Nadioci and Pirići, and an area near Lončari; during this forced labor, some civilians were killed, including [REDACTED]

[REDACTED] whereas other civilians were seriously injured and subjected to mistreatment by members of the 4th Military Police Battalion, Miroslav Bralo and Anto Furundžija were the most brutal ones and they

mistreated [REDACTED]

and they directed the forced labor of the detainees, in so much as:

4.a. On 27 January 1993, members of the HVO 4th Military Police Battalion, together with Žarko Milić, took 13 detainees, including [REDACTED] from the Detention Center at Kaonik, tied them up and later on used them as human shields.

4.b. On 20 April 1993, following the attack on the village of Gačice by the HVO 4th Military Police Battalion, approximately 247 Bosniak civilians were detained and subsequently used as human shields to protect the Vitez hotel, the HVO Headquarters, in a manner that they were forced to march to the hotel so as to protect it from the artillery attack,

4.c. On 22 April 1993, nine Bosnian Muslims, including [REDACTED] were taken from the SDK detention facility by Anto Zabac, an HVO military policeman, and transported to Rijeka to dig trenches for HVO members,

4.d. On 22 April 1993, Bosniak civilians, who had been detained in the SDK Offices in Vitez and directed to forced labour in Rijeka, were transported to the Bungalow in Nadioci, where they were assigned by Vladimir Šantić to locations to perform trench digging and other severe forms of forced labor,

4.e. In the period between 22 and 29 April 1993, five Bosniak civilians, including [REDACTED] and an individual named [REDACTED] were taken to the area of Kratine where they were placed in the custody of subordinates of the Accused, including Anto Furundžija and Miroslav Bralo, and forced to dig trenches for the Jokers and for other units of the HVO, and they were also forced to engage in other forms of dangerous forced labor, including laying land mines,

Thus, as described above, in the course of a widespread or systematic attack against the Bosnian Muslim population of Vitez and Busovača Municipalities, with knowledge that his actions formed part of the attack, 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 enterprise having the common criminal purpose of killing military-aged men and seriously wounding other civilians, burning or otherwise destroying houses, barns, and mosques, capturing and imprisoning unarmed civilians, and using those civilians for forced labor and other unlawful purposes, in which joint enterprise Paško Ljubičić, Dario Kordić, Mario Čerkez, Darko Grubešić, Darko Kraljević, Vlado Čosić, Vladimir Šantić, Anto Furundžija, Miroslav Bralo, and other persons participated, Paško Ljubičić by his acts and omissions planned, ordered, instigated, perpetrated (including by participating in and contributing to the above-described joint enterprise), or otherwise aided and abetted in the planning, preparation or execution of the crimes described above; Paško Ljubičić is also responsible by virtue of his position as superior for offences perpetrated by his subordinates over whom he had effective control, when he knew or had reason to know

that his 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:

As to COUNT 1, Paško Ljubičić committed the criminal offences of (1) Crimes against Humanity under Article 172(1) of the Criminal Code of Bosnia and Herzegovina ("BiH Criminal Code") namely, per sub-clause a) murder (killings) and per sub-clause h) persecution (all acts and omissions as described in Count 1) and (2) War Crimes against Civilians under Article 173(1) of the BiH Criminal Code, namely, per sub-clause a) (attacks on civilians and civilian objects) and per sub-clause f) (destruction and looting of property), as prohibited by Articles 4(2)(g), 13(2), and 14 of Additional Protocol II to the Geneva Conventions of 12 August 1949 and customary international law.

As to COUNT 2, Paško Ljubičić committed the criminal offences of (1) Crimes against Humanity under Article 172(1) of the BiH Criminal Code, namely, per sub-clause a) murder (killings), and per sub-clause h) persecution (all acts and omissions as described in Count 2); (2) War Crimes against Civilians under Article 173(1) of the BiH Criminal Code, namely, per sub-clause a) (attacks on civilians and civilian objects) and per sub-clause f) (destruction and looting of property), as prohibited by Articles 4(2)(g), 13(2), and 14 of Additional Protocol II to the Geneva Conventions of 12 August 1949; and (3) Violating the Laws and Practices of Warfare under Article 179(2) per sub-clause d) (destruction of mosques) as prohibited by Article 16 of Additional Protocol II to the Geneva Conventions of 12 August 1949 and customary international law.

As to COUNT 3, Paško Ljubičić committed the criminal offence of Crimes against Humanity under Article 172(1) of the BiH Criminal Code, namely, per sub-clause e) imprisonment (arbitrary and unlawful arrests and confinement in prison camps), per sub-clause f) torture (beatings and other severe physical and psychological abuse), per sub-clause h) persecution (all acts and omissions as described in Count 3), and per sub-clause k) other inhumane acts (beatings and other severe physical and psychological abuse and confinement in inhumane conditions).

As to COUNT 4, Paško Ljubičić committed the criminal offence of Crimes against Humanity under Article 172(1) of the BiH Criminal Code, namely, per sub-clause h) persecution (all acts and omissions as described in Count 4) and k) other inhumane acts (forced labor and human shield).

All in relation to Articles 29, 31, 35, and 180(1) and (2) of the BiH Criminal Code.

Therefore,

I hereby move the Court to

L 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 Paško Ljubičić, currently detained in the detention unit of the Court of BiH in Sarajevo;

The defence counsel for the Accused, Branka Praljak, attorney-at-law from Novi Travnik.

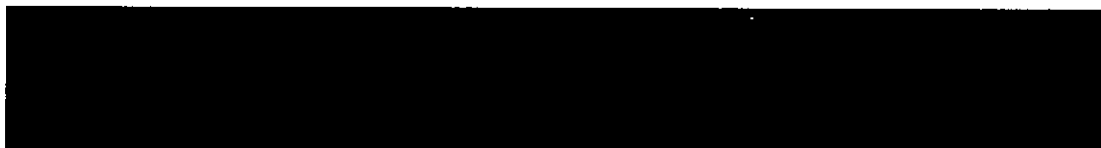
II. Receive evidence as follows

a) To hear the following persons as witnesses:

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b) to inspect the following evidence:

1. "Information by Valentin Ćorić re: Paško Ljubičić's appointment for the new commander of the 4th MP Battalion", 15/01/1992 (D-790);²
2. "Combat Order" from Tihomir Blaškić, 16 April 1993 (D-434/D-434.01);
3. "Interim Report" from Paško Ljubičić, Commander of 4th Military Police Battalion (D-744/D-744.01);
4. "Work Report" from Paško Ljubičić, 26 February 1993 (D-746/D-746.01);

² Numbers in the format D-### refer to ICTY Rule 65ter exhibit numbers.

5. "Report" from Paško Ljubičić, 16 April 1993 (D-753/D-753.01);
6. "Proposal for Commendations" from Paško Ljubičić, 29 March 1993 (D-779/D-779.01);
7. "Document signed by Paško Ljubičić re: disciplinary action taken", 08/12/1992 (D-789)
8. "Proposal for Commendations" from Paško Ljubičić, 29 March 1993 (D-779/D-779.01);
9. Classified document No. 02-4/3-1-53/93 addressed to MP headquarters in Ljubuški, signed by Paško Ljubičić, (D- 819);
10. „Stamped document by P. Ljubičić re: comments and explanations concerning the organization of HVO MP 4 BAT“ (D-802);
11. "Organization chart of 4th MP Battalion", 31/03/1993 (D-807);
12. "Report on the work for February 18th 1993", signed by Paško Ljubičić (D-876.01);
13. "Report on the activities of the 4th MP Bat on 15th February 1993" (D-878.01);
14. "Request for the return of equipment and material"(D-883);
15. "Instruction for the work of MP units of HVO", (D-854.01);
16. "Directions on MP procedures in case of the state of war or immediate threat of war," (D-855);
17. „Set of documents re: looting of Muslim property in Busovača on January 31st 1993 – Criminal record signed by P. Ljubičić, Decision ordering custody signed by P. Ljubičić etc.“ (D-785);
18. "Set of documents re: killing of 5 members of [REDACTED] family in Vitez on June 26th 1993 – Criminal record, signed by Paško Ljubičić and Report on measures taken, signed by Paško Ljubičić" (D- 786);
19. "Set of documents re: killing of [REDACTED] by Goran Međugorac on Nov 11th 1993 - Criminal record and other docs signed by P. Ljubičić" (D-787);
20. "Set of documents re: killing of POWs, while performing forced labor on Feb 2nd 1993 in Krčevine, Busovača – Criminal record, signed by P.LJ. and supporting docs" (D-788);
21. "Criminal record signed by Paško Ljubičić re: murder of [REDACTED] (D-857);
22. "Criminal record against Stipo Maroš and Drmić Vitomir", signed by Paško Ljubičić (D-870);
23. "Report on the activities of the Crime department in the month of Feb 1993", signed by Paško Ljubičić (D-886.01)
24. Information on the enlargement of MP signed by Vlado Čosić, deputy commander of the 4th MP Bat. 09/03/1993 (D-747/D-747-1);
25. "List of civilian war casualties from Busovača municipality" (D-777);
26. Information on the enlargement of MP signed by Vlado Čosić, deputy commander of the 4th MP Bat. 09/03/1993 (D-747/D-747-1);
27. „Preparatory combat command“ from Tihomir Blaškić, 15/04/1993 (D-578/D-578-1);
28. "Order to take action" from Tihomir Blaškić, 15 April 1993 at 15:45 (D-579/D-579-1);
29. "Combat order to Vitez Brigade" from Tihomir Blaškić, 16 April 1993 at 01:30 (D-580/D-580-1);

30. "Order to MP and Travnička brigade" from Tihomir Blaškić, 16 April 1993 at 19:40 (D-755/D-755-1);
31. "Memo – invitation to the commanders for a meeting in Hotel Vitez on 15th April 1993", signed by Paško Ljubičić (D-873);
32. "List of people killed in Ahmići, Vitez, Donja Večeriska and Stari Vitez on 16th April 1993" (D-775);
33. List of 13 leading Muslims arrested in Vitez (D- 768);
34. Order to Viteška Brigade, issued by Tihomir Blaškić (D-764);
35. Operations report of the Viteška Brigade, 17 April 1993 at 24:00 (D- 766);
36. Report of attempted Muslim attack on the Military Police bungalow near Ahmići and fire returned by Military Police, signed on behalf of Paško Ljubičić, 16 April 1993 (D-753/D-753-1);
37. Records concerning the wounding of Mijo Đotlo (member of 4th Military Police Battalion) in Ahmići (D-756/D-756-1);
38. Records concerning the wounding of Nikola Omazić (member of 3rd Company) in Pirići (D-757/D-757.01, D-758/D-758.01, D-759/D-759.01);
39. Records concerning the wounding of Draženko Vidović (member of Vitez Brigade) in Šantići (D -760/D-760-1);
40. Records concerning the wounding of Ivica Semren (member of 92nd Vitez HG Regiment) in the region of Ahmići-Šantići (D761/D761.01, D762/D-762.01);
41. Records concerning the wounding of Stipica Šafradin (member of the 3rd Company) in Ahmići (D-763/D-763.01);
42. Blaškić Order to Viteška and Zrinska Brigades and 4th Military Police Battalion, 16 April 1993 at 18.15 (D-765/D-765.01);
43. Order to Viteška brigade, issued by Tihomir Blaškić (D-764);
44. "List of civilian war casualties from Busovača municipality" (D-777);
45. "List of Muslims held at Kaonik prison", signed by Zlatko Aleksovski, 15/05/1993 (D-769);
46. "Report from Ljubičić on the incursion of members of the HVO into the Kaonik-Busovača military prison on 2nd and 16th Feb 1993" (D-869.01).
47. All witness statements and transcripts are included in this list of documents supporting the allegations of this Indictment are also included in this list by reference.
48. Photograph of 
49. Photograph of 
50. Photograph of 
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60. Photograph of [REDACTED]
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63. Photograph of [REDACTED]
64. Photograph of [REDACTED]
65. Photograph of [REDACTED]
(P110-02);
66. Photograph of [REDACTED]
67. Photograph of [REDACTED]
[REDACTED]
68. Photograph of [REDACTED]
69. Photograph of [REDACTED]
70. Photograph of [REDACTED]
71. Photograph of [REDACTED]
72. Photograph of [REDACTED]
73. Photograph of Another victim (P110-10);
74. Photograph of [REDACTED]
75. Photograph of [REDACTED]
76. List of HVO Commanders (P98);
77. Photograph of [REDACTED]
78. Photograph of [REDACTED]
79. Photograph of [REDACTED]
80. Photograph of [REDACTED]
81. PH 207: Location of witness (P157-01);
82. PH 206: Hotel Vitez where witness and others taken (P157-02);
83. Photograph of headstone of [REDACTED]
84. Z2-238: Former small mosque (P160-01);
85. Z2-241: [REDACTED]
86. Z2-252: [REDACTED]
87. Z2-261: Destroyed building (P160-04);
88. Z2-258: Destroyed building (P160-05);
89. Z2-259: Destroyed building (P160-06);
90. Z2-255: House used as youth centre (P160-07);
91. Red Cross certificate, 16 March 1994, for Kavazović, Menaf (P99);
92. Photograph of witness's husband (P179);
93. Photograph of Dzenana Pezer (P123);
94. Photograph of Ahmed Pezer (P124);
95. Rear of the cinema building (P33-06);
96. Entrance to the cinema building (P33-07);
97. Front entrance of what was the HVO brigade HQ (P33-08);
98. Sniper position just outside Stari Vitez (P81-10);
99. Sniper position (P81-11);
100. Copy of exhibit 29 (Large display of whole Lasva valley area composed of 6 sheets) (P29E);
101. List of HVO Commanders (P98);
102. Transcript from videotape of [REDACTED] in English (P112A);

103. Video clip provided to OTP by BBC, (where Kraljevic was identified by witness) (P436);
104. Photograph of private home of [REDACTED]
105. Various Documents (W4);
106. Photograph of house of witness [REDACTED]
107. Legend to 120a (P120B);
108. Photograph of [REDACTED]
109. Photograph of [REDACTED]
110. Floor plan of Hotel Vitez (P257);
111. Order by ŠANTIC, Vladimir regarding imprisonment of [REDACTED] for seven days. (D90);
112. Photograph of family and friend of [REDACTED]
113. Photograph of Brother (P130-02);
114. Photograph of [REDACTED]
115. Photograph of [REDACTED]
116. Photograph of Witness's husband (P133-01);
117. Photograph of [REDACTED]
118. ABiH 3rd Corp Report (W14);
119. English translation of ABiH 3rd Corp Report (W14.1);
120. Information about new crimes by HVO. From the Republic of Bosnia and Herzegovina, 3rd Corps of the 333rd Mountain Bridage, Busovaca, Security Department (W15);
121. Translation of Information about new crimes by HVO. From the Republic of Bosnia and Herzegovina, 3rd Corps of the 333rd Mountain Bridage, Busovaca, Security Department (W15.1);
122. Tape recording in which one hears an individual giving orders concerning the attck of Ožehnići. [REDACTED] states that the person on the tape is Ljubičić.
123. House of [REDACTED]
124. Legend to 142a (P142b);
125. Video – Aerial views, buildings and roads in the Vitez area (ICTY) (V000 – 5935)
126. Video – Aerial views, buildings and roads in the Vitez area (V000 – 5936)
127. Audio Recording (ICTY) (T000 – 0017 – 1 – A)
128. Audio Recording (ICTY) (T000 – 0017 – 1 – B)
129. Video clip – Ahmici – Burials (D-363)
130. Video clip – Sky News – Ahmici, Vitez (D-424)
131. Video clip – Meeting – 19 January 1992 (D-448)
132. Video clip – HVO soldiers (D-476)
133. Video clip – Busovaca, Ahmici (D-491)
134. Video clip – Ahmici (D-592)
135. Video clip – Busovaca (D-654)
136. Video clip – Ahmici (D-750)
137. Translation of Excerpts of videotape of Busovaca TV showing attack on Ahmici and fires (D-750.1)
138. Video clip – Ahmici (D-834)
139. Photograph – Ahmici (D-034)

- 140. Photograph – Ahmici (D-062)
- 141. Photograph – Ahmici (D-205)
- 142. Photograph – Ahmici (D-246)
- 143. Photograph – Ahmici (D-288)
- 144. Photograph – Ahmici (D-289)
- 145. Photograph – Ahmici (D-290)
- 146. Photograph – Ahmici (D-291)
- 147. Photograph – Ahmici (D-292)
- 148. Photograph – Ahmici (D-295)
- 149. Report, „Combat Use of MP units in OZ SB,“ dated 26 November 1993, ERN 0281-0598-0281-0601.

Results of the Investigation

In June of 1991, the declarations of independence by the Republics of Slovenia and Croatia marked the beginning of the disintegration of the Socialist Federal Republic of Yugoslavia ("SFRY"). These declarations provoked armed conflict among the Yugoslav People Army ("JNA"), the federal army of the SFRY, and the pro-independence forces within those respective Republics. The European Community recognized the Republic of Slovenia and the Republic of Croatia as sovereign nations on 15 January 1992.

In the Republic of Bosnia and Herzegovina, the issue of independence created profound political fissures along ethnic lines: the Bosnian Croats and the Bosnian Muslims supported independence while the Bosnian Serbs favored remaining part of the SFRY. On 18 November 1991 Bosnian Croats established the Croatian Community of Herceg-Bosna ("HZ H-B") with the purpose of defending Croatian ethnic space and interests in the territory of Bosnia and Herzegovina. On 29 February and 1 March 1992, a referendum was held in Bosnia and Herzegovina on the question of independence. Most Bosnian Serbs boycotted the referendum. According to the results of the referendum Bosnia and Herzegovina declared independence on 3 March 1992 and the European Community recognized the Republic of Bosnia and Herzegovina as a sovereign state on 6 April 1992.

Following the international recognition of Bosnia and Herzegovina as a sovereign state, war broke out in Bosnia and Herzegovina between the Bosnian Serbs, on one side, and the Bosnian Muslims and the Bosnian Croats, on the other. On 8 April 1992 the Bosnian Croat armed forces, known as the Croatian Defense Council ("HVO") were established and on 10 April 1992 the Military Police of the HVO was set up. The armed forces of the remaining ethnic groups of Bosnia and Herzegovina were the army of the Republika Srpska (VRS) and the military forces of the government of Bosnia and Herzegovina, initially the Territorial Defense (TO) and later the Army of Bosnia and Herzegovina (ABiH).

One of the efforts of the international community to resolve the conflict in Bosnia and Herzegovina resulted in the Vance-Owen Peace Plan (VOPP) which was made public on 2 January 1993. The plan proposed to divide Bosnia and Herzegovina into separate,

numbered provinces, each falling under the authority of Croats, Serbs or Bosnian Muslims. Under the VOPP, Provinces 3, 8 and 10 (containing the municipalities of Vitez and Busovača) would have been placed under Croat authority. The Bosnian Croats leadership supported and accepted the VOPP. The Bosnian Serb Assembly rejected the VOPP on 2 April 1993. Following that decision the HZ H-B leaders met in Mostar and prepared a "Joint Statement" calling for the formation of a joint HVO-Muslim command and issued an ultimatum which indicated that if Bosnia and Herzegovina President Izetbegović did not sign the "Joint Statement" by 15 April 1993 at the latest, its terms would be unilaterally implemented by the HVO in Provinces 3, 8 and 10. President Izetbegović did not sign the "Joint Statement." On the 16th of April 1993 war between the nominal allies (the Bosnian Croats against the Bosnian Muslims) erupted throughout Central Bosnia.

The crimes that are described in the Indictment occurred in the municipalities of Vitez and Busovača.

Periodic Clashes before the 15th of April 1993

The first clash between the HVO and Bosnian Muslims occurred on 20 October 1992 in the Vitez municipality when the Bosnian Muslims erected a roadblock on the main road near the village of Ahmići. The HVO forces destroyed the roadblock and some buildings in the village of Ahmići and killed a Bosnian Muslim boy. An HVO soldier was also killed. Thereafter, the HVO demanded that the Muslim residents of the village of Ahmići surrender their weapons to the HVO and the demand was complied with.

The next violent clash between the HVO and Bosnian Muslims occurred on 25 January 1993 in the town of Busovača, located in the Busovača municipality: members of the Nikola Šubić Zrinski Brigade (the HVO brigade based in Busovača) and members of the 4th Military Police Battalion of the HVO attacked the Muslim part of the town of Busovača. This resulted in the deaths of 27 Bosnian Muslims, the destruction and widespread looting of Bosnian Muslim homes and businesses, and the large-scale arrest of Bosnian Muslim males and their incarceration in the Kaonik Prison. About 400 Muslims were held at the Kaonik Prison, where they were kept in substandard conditions, physically and psychologically abused, and forcibly taken to dig trenches at front line positions. Some of them were killed or wounded while performing this forced labor. As outlined above, Paško Ljubičić and members of the 4th Military Police Battalion who were under his command took part in this attack.

HVO Attacks on Villages: 16 – 20 April 1993

On 15 April 1993, HVO political and military leaders, including the Accused, participated in a series of meetings to plan surprise attacks against various towns and villages in the Vitez and Busovača municipalities, including the town of Vitez and the villages of Donja Večeriska, Ahmići, Nadioci, Pirići, and Šantići. Different HVO units were assigned specific responsibilities and geographical areas of responsibility for these

attacks. The HVO Military Police were assigned principal responsibility for attacking Ahmići and adjacent villages, although members of other HVO units participated in the attack as well.

On 16 April 1993, at 0530 hours, the HVO launched widespread, coordinated surprise attacks on numerous Bosnian Muslim villages in the Vitez and Busovača municipalities, including the towns and villages of Vitez, Ahmići, Nadioci, Pirići, Šantići, and Donja Večeriska. The town of Lončari in Busovača municipality was attacked the next day. In the course of the attacks, over 100 Bosnian Muslim civilians, including women and children were killed, with the majority of the victims killed in Ahmići on 16 April 1993. The other Muslim civilians were forcibly evicted or fled, and Muslim houses were selectively destroyed.

Ahmići, Nadioci, Pirići, and Šantići

The attack on the village of Ahmići was executed by military units of the HVO, the HVO Military Police and members of the Jokers, a special anti-terrorist sub-unit of the 4th Military Police battalion. Anto Furundžija and Vladimir Šantić were commanders of the Jokers. Other members of the Jokers included Miroslav Bralo, aka Cicko, Nino Šarić, Nikica Šafradin and Josip Jukić. All of these individuals were direct subordinates of Paško Ljubičić and all of them participated in the attack on Ahmići on 16 April 1993.

The Jokers were based in a building known as the "Bungalow" which was located in Nadioci. The Bungalow was approximately 5-10 minutes by foot from Ahmići and was used as the HVO Military Police command centre during the attacks in Ahmići and its environs. Prior to the attack on Ahmići, Paško Ljubičić met in the Bungalow with members of the HVO Military Police and with members of the Jokers, including Anto Furundžija, Vladimir Šantić, and Miroslav Bralo, and he gave them operational orders for the attack on the village. His orders included orders to kill all Muslims of military age, expel Muslim residents from Ahmići, and burn all Muslim homes. He also said that civilians were not to be killed, but in a subsequent meeting with these same subordinates, he instructed them that there were to be "no living witnesses."

Following a pre-arranged signal, a cannon shot, the attack on Ahmići, Nadioci, Pirići, and Šantići commenced at 0530 hours on 16 April 1993, a time when most of the residents of the villages were asleep. The attackers in Ahmići targeted Muslim civilians and their houses. Some of the men who possessed arms resisted the attackers in an effort to protect members of their families and their homes. During the course of the attack on Ahmići, most of the Muslim residents of the village were killed, imprisoned, or driven from the village. Most, if not all, of the Muslim homes were destroyed, and livestock owned by Muslims was killed. None of the homes belonging to Croat families were damaged. Finally, both of the town's mosques were destroyed with explosives.

Similarly, during the course of the attack on the villages of Nadioci, Pirići, and Šantići, the Muslim residents of the villages were killed, forcibly evicted, or fled, and Muslim homes were selectively destroyed.

Donja Večeriska

On 16 April 1993, the village of Donja Večeriska was attacked by the HVO at approximately 0530 hours. Armed members of the village guards resisted the attackers. This resistance continued through the following day, during which time seven Muslim civilians were killed, Muslim houses were burned, and the mekteb (a place used for Muslim religious instruction) was destroyed. On the morning of 18 April 1993, Muslim residents abandoned the village and sought refuge at the UNPROFOR base that was located nearby. Following the abandonment of the village, Muslim homes were burned and looted.

Lončari

In January 1993, the HVO disarmed the Muslim village of Lončari located in the municipality of Busovača. On or about 15 or 16 of April 1993, HVO soldiers and HVO Military Police, including members of the Jokers, entered the village and arrested numerous men from the village and transported them to Kaonik Prison where they were detained. The next day, HVO soldiers returned to the village, arrested the male residents they were able to locate, deliberately destroyed the homes and barns of the Bosnian Muslim inhabitants by setting them on fire, destroyed the mekteb, killed livestock, and evicted the remaining women, children and elderly residents from the village. Three Muslim male residents of the village who fled the village were later captured and killed by Miroslav Brao, a subordinate of Paško Ljubičić.

Očehnići

On the morning of 19 April 1993, the village of Očehnići, located in the Busovača municipality, was attacked and destroyed in a joint operation conducted by members of the 4th Military Police Battalion under the command of Paško Ljubičić and by members of the Nikola Šubić Zrinski Brigade (the HVO Brigade based in Busovača). During the attack, 5 female civilians were killed and the village was razed.

Gačice

On the morning of 20 April 1993, the village of Gačice, located in Vitez Municipality, was attacked by members of the HVO. Following the attack, 247 Bosnian Muslim civilians from Gačice were detained and forced to march to the Hotel Vitez, the HVO military headquarters in the town of Vitez, where they were used as human shields to protect the headquarters from artillery attacks by the ABiH. At the time that the civilians from Gačice were used as human shields, the 4th Military Police Battalion was responsible for the protection of the Hotel Vitez. The villagers from Gačice remained around the Hotel Vitez for number of hours and later that day the HVO marched them back to the village and secured them in seven houses. A short time thereafter, the HVO expelled civilians from the village.

Detention Crimes

During and after the 16 April 1993 attacks on Muslim villages in the Vitez and Busovača municipalities, Bosnian Muslim men, women and children were arrested and detained in various detention facilities, including the Vitez Cinema Complex, Kaonik Prison, Vitez Veterinary Station, Dubravica School, and the SDK offices. The majority of the people were detained for one to two months and most of them were civilians.

The conditions in all of the detention facilities were substandard and did not meet international human rights requirements: the heat and bedding were inadequate, and sanitary and hygiene facilities were poor. The detainees were subjected to serious psychological and physical mistreatment and were forced to engage in involuntary forms of labor, including digging trenches and laying mines at dangerous front line positions throughout the Vitez and Busovača municipalities. In the course of this forced labor, they were exposed to small arms fire from ABiH forces on the other side of the confrontation lines. A number of Muslim detainees were wounded, injured, or killed on these occasions.

Members of the HVO Military Police played a critical role in the scheme of forced labor and Paško Ljubičić was aware of and supported this scheme.

Material supporting the allegations of the Indictment

1. [REDACTED] ICTY Witness Statement, 03-Feb-95 (R65W-03/R65W-03.1);
2. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 13-14 November 1997;
3. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T), 10-11 June 1999;
4. [REDACTED] ICTY Witness statement, 26-Jan-95 (R65W-04/R65W-04.1);
5. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 2 October 1997;
6. [REDACTED] ICTY Witness statement, 08-Feb-1995 (R65W-05/R65W-05.1);
7. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 18 November 1997;
8. [REDACTED] ICTY Witness Testimony, *Kupreškić* Case (IT-95-16-T), [REDACTED]
9. [REDACTED] ICTY Witness statement, 26-Jan-1995 (R65W-06/R65W-06.1);
10. [REDACTED] Witness statement, 09-Jul-95 (R65W-07/R65W-07.1);
11. [REDACTED]

³ Items in yellow to be redacted for public version of indictment.

12. [REDACTED] ICTY Witness statement, 17-Nov-97 (R65W-09/R65W-09.1);
13. [REDACTED]
14. [REDACTED] ICTY Witness Statement, 24-Jan-99 (R65W-11/R65W-11.1);
15. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T), 2-3 February 2000;
16. [REDACTED] ICTY Witness statement, 23-Jun-95 (R65W-01/R65W-01.1);
17. [REDACTED] Witness statement, 13-Dec-94 (R65W-02/R65W-02.1);
18. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 15 December 1997;
19. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T), 28 July & 2-5 August 1999;
20. [REDACTED] ICTY Witness Testimony, *Kupreškić* Case (IT-95-16-T), 27 & 31 August 1998;
21. [REDACTED] ICTY Witness Statement, 27-Aug-96 (R65W-12/R65W-12.1);
22. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 21, 22, & 25 August 1997;
23. [REDACTED] ICTY Witness Statement, 15-Apr-1997 (R65W-13/R65W-13.1);
24. [REDACTED] ICTY Witness Statement, 06-Apr-01 (R65W-14/R65W-14.1);
25. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 5 & 29 June 1998;
26. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T), 1-2 November 1999;
27. [REDACTED] Witness statement given to investigative judge in Vitez court re: murder of [REDACTED] 23-Nov-95 (R65W-15/R65W-15.1);
28. [REDACTED] ICTY Witness statement, 20, 21, 22 Oct-2003 (R65W-16/R65W-16.1);
29. [REDACTED] ICTY Witness Statement, 25-Jan-95 (R65W-17/R65W-17.1);
30. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 24 November 1997;
31. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 24-25 June and 21-22 July 1997;
32. [REDACTED] ICTY Witness Statement, 27, 29 Nov 1996 (R65W-18/R65W-18.1);
33. [REDACTED] ICTY Witness Testimony, *Kupreškić* Case (IT-95-16-T), 21 September 1998;
34. [REDACTED] ICTY witness statement, 21-Jul-95 (R65W-19/R65W-19.1);
35. [REDACTED] ICTY Witness Statement, 30-Jan-95 (R65W-20/R65W-20.1);
36. [REDACTED]
37. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 29-30 September 1997;

38. [REDACTED] ICTY Witness statement, 16-Feb-1995 (R65W-22/R65W-22.1);
39. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 9-10 December 1997;
40. [REDACTED] LEGEND: Prosecutor's exhibit, 04-Jun-1998 (R65W-23/R65W-23.1);
41. [REDACTED] ICTY Witness statement, 2, 6 Feb-1997 (R65W-24/R65W-24.1);
42. [REDACTED] ICTY Witness Statement, 24-Oct-1994 (R65W-25/R65W-25.1);
43. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T), 7 March 2000;
44. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 8-9 December 1997;
45. [REDACTED] ICTY Witness Statement, 26-Jan-95 (R65W-26/R65W-26.1);
46. [REDACTED] ICTY Witness Testimony, *Kupreškić* Case (IT-95-16-T), 13-14 October 1998;
47. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 26 November 1997;
48. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 10-11 December 1997;
49. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 16 July 1998;
50. [REDACTED] ICTY Witness Statement, 26-May-99 (R65W-27/R65W-27.1);
51. [REDACTED] ICTY Witness Statement, with attachments, 26-Jan-95 (R65W-28/R65W-28.1);
52. [REDACTED] ICTY Witness Statement, 02-Sep-95 (R65W-29/R65W-29.1);
53. [REDACTED] ICTY Witness Testimony, *Aleksovski* Case (IT-95-14-1-T), 9 January 1998;
54. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T), 22 September 1999;
55. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 26-27 August 1997;
56. [DELETED];
57. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 11 December 1997;
58. [REDACTED] ICTY Witness Statement, 03-Jun-02 (R65W-31/R65W-31.1);
59. [REDACTED] Witness Statement, 27-Apr-95 (R65W-32/R65W-32.1);
60. [REDACTED] ICTY Witness Testimony, *Kupreškić* Case (IT-95-16-T), 15 October 1998;
61. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 20 November 1997;

62. [REDACTED] ICTY Witness Statement, with one page attachment, 19-Dec-96 (R65W-33/R65W-33.1);
63. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T), 11-13 October 1999 & 16 November 2000;
64. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 6 July 1999;
65. [REDACTED] ICTY Witness Statement, 04-Feb-95 (R65W-34/R65W-34.1);
66. [REDACTED] ICTY Investigator's Notes, 06-Feb-97 (R65W-35/R65W-35.1);
67. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 14 November 1997;
68. [REDACTED] ICTY Witness Statement, 02-Aug-2002 (R65W-36/R65W-36.1);
69. [REDACTED] ICTY Witness Statement, 27-Apr-95 (R65W-37/R65W-37.1);
70. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 10 December 1997;
71. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 14 November 1997;
72. [REDACTED] ICTY Witness Statement, 05-Nov-98 (R65W-38/R65W-38.1);
73. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 19 August 1997;
74. [REDACTED] ICTY Witness Statement, with attachments, 11-Jan-1998 (R65W-39/R65W-39.1);
75. [REDACTED] ICTY Witness Statement, 21-Feb-95 (R65W-40/R65W-40.1);
76. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 20-21 January 1998;
77. [REDACTED] ICTY Witness Statement, 12-Mar-2003 (R65W-41/R65W-41.1);
78. [REDACTED] ICTY Witness Statement, 31 May 2002 (Exhibit W5 in *Blaškić* Case);
79. [REDACTED] ICTY Witness Statement, 23-Sep-97 (R65W-42/R65W-42.1);
80. [REDACTED], ICTY Witness Statement, with a one page attachment (drawing), 08-Feb-96 (R65W-43/R65W-43.1);
81. [REDACTED] ICTY Witness statement, 02-Jun-98 (R65W-44/R65W-44.1);
82. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T), 17-18 January 2000;
83. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 17-18 June 1999;
84. [REDACTED] ICTY Witness Statement, 12-Jun-1995 (R65W-45/R65W-45.1);
85. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 24 September 1997;

86. [REDACTED] ICTY Witness Statement, 02-Aug-1997 (R65W-46/R65W-46.1);
87. [REDACTED] ICTY Witness Statement, 14-May-1997 (R65W-47/R65W-47.1);
88. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T), 18 October 1999;
89. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 13 July 1998;
90. [REDACTED] ICTY Witness Testimony, *Kupreškić* Case (IT-95-16-T), 9 October 1998;
91. [REDACTED] ICTY Witness Statement, 28-Feb-1997 (R65W-48/R65W-48.1);
92. [REDACTED] ICTY Witness Testimony, *Kupreškić* Case (IT-95-16-T), 30 September 1998;
93. [REDACTED] ICTY Witness Statement, 13-Mar-2003 (R65W-49/R65W-49.1);
94. [REDACTED] ICTY Witness Statement, 11-Mar-2003 (R65W-50/R65W-50.1);
95. [REDACTED] ICTY Witness Statement, 25-Jan-1997 (R65W-51/R65W-51.1);
96. [REDACTED] ICTY Witness Statement, 14-Jul-1995 (R65W-52/R65W-52.1);
97. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T), 13-14 September 1999;
98. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T), 25-26 September 1997;
99. [REDACTED] ICTY Witness Statement, 11-Nov-1998 (R65W-53/R65W-53.1);
100. [REDACTED] ICTY Witness Statement, 27, 28-Sep-1997 (R65W-54/R65W-54.1);
101. [REDACTED] ICTY Witness Statement, 10-Jun-1997 (R65W-55/R65W-55.1);
102. [REDACTED] ICTY Witness Statement, 04-Feb-1999 (R65W-56/R65W-56.1);
103. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T), 28-29 April and 3-4 May 1999;
104. [REDACTED]
105. [REDACTED] ICTY Witness statement, 29-Jan-1996 (R65W-57/R65W-57.1);
106. [REDACTED] ICTY Witness Statement, with attachments, 22-Oct-94 (R65W-58/R65W-58.1);
107. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T);
108. [REDACTED] ICTY Witness Statement, 03-Feb-95 (R65W-59/R65W-59.1);
109. [REDACTED]
110. [REDACTED] ICTY Testimony, *Blaškić* Case (IT-95-14-T);
111. [REDACTED] ICTY Witness Statement, 02-May-1997 (R65W-61/R65W-61.1);

⁴ Two different interviews appear to have been assigned Rule 65ter ID number R65W-56.

112. [REDACTED] ICTY Witness Testimony, *Kupreškić* Case (IT-95-16-T);
113. [REDACTED] Testimony, *Blaškić* Case (IT-95-14-T);
114. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T);
115. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T);
116. [REDACTED] ICTY Witness Statement, 23-Feb-95 (R65W-62/R65W-62.1);
117. [REDACTED] ICTY Testimony, *Blaškić* Case (IT-95-14-T);
118. [REDACTED] ICTY Witness Statement, 25-Mar-98 (R65W-63/R65W-63.1);
119. [REDACTED] ICTY Witness Statement, with attachments, 17-Oct-94 (R65W-64/R65W-64.1);
120. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T);
121. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T);
122. [REDACTED] ICTY Witness statement, 04-Feb-95 (R65W-73/R65W-73.1);
123. [REDACTED] ICTY Testimony, *Blaškić* Case (IT-95-14-T);
124. [REDACTED] ICTY Witness statement, 04-Feb-95 (R65W-74/R65W-74.1);
125. [REDACTED] ICTY Testimony, *Blaškić* Case (IT-95-14-T);
126. [REDACTED] ICTY Witness Statement, 12-Mar-03 (R65W-30/R65W-30.1);
127. [REDACTED] ICTY Witness Statement, 29-Jul-97 (R65W-65/R65W-65.1);
128. [REDACTED] ICTY Witness Statement, 25-Feb-95 (R65W-66/R65W-66.1);
129. [REDACTED] ICTY Witness Statement, 09-Mar-03 (R65W-67/R65W-67.1);
130. [REDACTED] ICTY Testimony, *Blaškić* Case (IT-95-14-T);
131. [REDACTED] ICTY Witness Testimony, *Aleksovski* Case (IT-95-14-1-T);
132. [REDACTED] ICTY Witness Statement, 04-Apr-1996 (R65W-68/R65W-68.1);
133. [REDACTED] ICTY Witness Testimony, *Kupreškić* Case (IT-95-16-T), 4 October 1999;
134. [REDACTED] ICTY Testimony, *Blaškić* Case (IT-95-14-T), 28 January 1998;
135. [REDACTED] ICTY Witness Testimony, *Aleksovski* Case (IT-95-14-1-T);
136. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T);
137. [DELETED]
138. [REDACTED] ICTY Witness Statement, 26-Jan-99 (R65W-70/R65W-70.1);
139. [REDACTED] ICTY Witness Statement, 10-Sep-95 (R65W-71/R65W-71.1);
140. [REDACTED] Statement of Witness J: Addendum to Earlier Testimony, 28-Feb-02 (R65W-72/R65W-72.1);
141. [REDACTED] ICTY Witness Testimony, *Blaškić* Case (IT-95-14-T);
142. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T);
143. [REDACTED] ICTY Witness Testimony, *Aleksovski* Case (IT-95-14-1-T);
144. [REDACTED] ICTY Witness Statement, 27-Nov-1998 (R65W-75/R65W-75.1);
145. [REDACTED] ICTY Witness Statement, 30-Jul-97 (R65W-76/R65W-76.1);
146. [REDACTED] ICTY Witness Testimony, *Aleksovski* Case (IT-95-14-1-T);
147. [REDACTED] ICTY Witness Testimony, *Aleksovski* Case (IT-95-14-1-T);
148. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez* Case (IT-95-14-2-T);
149. [DELETED];

150. Witness M, ICTY Witness Testimony, *Kordić & Čerkez Case* (IT-95-14-2-T);
151. [REDACTED]
152. [REDACTED]
153. [REDACTED] ICTY Witness statement, 18-Feb-1995, 08-Sep-1995 (R65W-80/R65W-80.1);
154. [REDACTED] ICTY Witness Statement, 02-Feb-98 (R65W-81/R65W-81.1);
155. [REDACTED] ICTY Witness Testimony, *Aleksovski Case* (IT-95-14-1-T);
156. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez Case* (IT-95-14-2-T);
157. [REDACTED] ICTY unsigned witness statement/Investigator's Notes, 04-Feb-1997 (R65W-82/R65W-82.1);
158. [REDACTED] ICTY Witness statement, 29-Nov-96 (R65W-83/R65W-83.1);
159. [REDACTED] ICTY Witness statement with attachments, 13, 14, 15 July 1995 (R65W-84/R65W-84.1);
160. [REDACTED] ICTY Witness Statement, 20-Feb-1998 (R65W-85/R65W-85.1);
161. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez Case* (IT-95-14-2-T);
162. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez Case* (IT-95-14-2-T);
163. [REDACTED] ICTY Witness Testimony, *Aleksovski Case* (IT-95-14-1-T);
164. [REDACTED] ICTY Witness Statement, 07-May-2000 (R65W-86/R65W-86.1);
165. [REDACTED] Witness Statement by Lieutenant Colonel [REDACTED] 16-Apr-1997 (R65W-87/R65W-87.1);
166. [REDACTED] ICTY Witness Testimony, *Kupreškić Case* (IT-95-16-T);
167. [REDACTED] ICTY Testimony, *Blaškić Case* (IT-95-14-T);
168. [REDACTED] ICTY Witness Testimony, *Kordić & Čerkez Case* (IT-95-14-2-T);
169. [REDACTED] ICTY Witness Statement, with attachments, 27, 28-Jan-1995 (R65W-88/R65W-88.1);
170. [REDACTED] ICTY Testimony, *Blaškić Case* (IT-95-14-T);
171. [REDACTED] ICTY Witness Testimony, *Kupreškić Case* (IT-95-16-T);
172. "Information by Valentin Čorić re: Paško Ljubičić's appointment for the new commander of the 4th MP Battalion", 15/01/1992 (D-790);⁵
173. "Combat Order" from Tihomir Blaškić, 16 April 1993 (D-434/D-434.01);
174. "Interim Report" from Paško Ljubičić, Commander of 4th Military Police Battalion (D-744/D-744.01);
175. "Work Report" from Paško Ljubičić, 26 February 1993 (D-746/D-746.01);
176. "Report" from Paško Ljubičić, 16 April 1993 (D-753/D-753.01);
177. "Proposal for Commendations" from Paško Ljubičić, 29 March 1993 (D-779/D-779.01);
178. "Document signed by Paško Ljubičić re: disciplinary action taken", 08/12/1992 (D-789)
179. "Proposal for Commendations" from Paško Ljubičić, 29 March 1993 (D-779/D-779.01);

⁵ Numbers in the format D-### refer to ICTY Rule 65ter exhibit numbers.

180. Classified document No. 02-4/3-1-53/93 addressed to MP headquarters in Ljubuški, signed by Paško Ljubičić, (D- 819);
181. „Stamped document by P. Ljubičić re: comments and explanations concerning the organization of HVO MP 4 BAT“ (D-802);
182. “Organization chart of 4th MP Battalion”, 31/03/1993 (D-807);
183. “Report on the work for February 18th 1993”, signed by Paško Ljubičić (D-876.01);
184. “Report on the activities of the 4th MP Bat on 15th February 1993” (D-878.01);
185. “Request for the return of equipment and material”(D-883);
186. “Instruction for the work of MP units of HVO”, (D-854.01);
187. “Directions on MP procedures in case of the state of war or immediate threat of war,” (D-855);
188. „Set of documents re: looting of Muslim property in Busovača on January 31st 1993 – Criminal record signed by P. Ljubičić, Decision ordering custody signed by P. Ljubičić etc.“ (D-785);
189. “Set of documents re: killing of 5 members of [REDACTED] family in Vitez on June 26th 1993 – Criminal record, signed by Paško Ljubičić and Report on measures taken, signed by Paško Ljubičić” (D- 786);
190. “Set of documents re: killing of [REDACTED] by Goran Medugorac on Nov 11th 1993 - Criminal record and other docs signed by P. Ljubičić” (D-787);
191. “Set of documents re: killing of POWs, while performing forced labor on Feb 2nd 1993 in Krčevine, Busovača – Criminal record, signed by P.LJ. and supporting docs” (D-788);
192. “Criminal record signed by Paško Ljubičić re: murder of [REDACTED] (D-857);
193. “Criminal record against Stipo Maroš and Drmić Vitomir”, signed by Paško Ljubičić (D-870);
194. “Report on the activities of the Crime department in the month of Feb 1993”, signed by Paško Ljubičić (D-886.01)
195. Information on the enlargement of MP signed by Vlado Čosić, deputy commander of the 4th MP Bat. 09/03/1993 (D-747/D-747-1);
196. “List of civilian war casualties from Busovača municipality“ (D-777);
197. [DELETED];
198. „Preparatory combat command“ from Tihomir Blaškić, 15/04/1993 (D-578/D-578-1);
199. “Order to take action” from Tihomir Blaškić, 15 April 1993 at 15:45 (D-579/D-579-1);
200. “Combat order to Vitez Brigade” from Tihomir Blaškić, 16 April 1993 at 01:30 (D-580/D-580-1);
201. “Order to MP and Travnička brigade” from Tihomir Blaškić, 16 April 1993 at 19:40 (D-755/D-755-1);
202. “Memo – invitation to the commanders for a meeting in Hotel Vitez on 15th April 1993“, signed by Paško Ljubičić (D-873);
203. “List of people killed in Ahmići, Vitez, Donja Večeriska and Stari Vitez on 16th April 1993” (D-775);
204. List of 13 leading Muslims arrested in Vitez (D- 768);

205. Order to Viteška Brigade, issued by Tihomir Blaškić (D-764);
206. Operations report of the Viteška Brigade, 17 April 1993 at 24:00 (D- 766);
207. Report of attempted Muslim attack on the Military Police bungalow near Ahmići and fire returned by Military Police, signed on behalf of Paško Ljubičić, 16 April 1993 (D-753/D-753-1);
208. Records concerning the wounding of Mijo Đotlo (member of 4th Military Police Battalion) in Ahmići (D-756/D-756-1);
209. Records concerning the wounding of Nikola Omazić (member of 3rd Company) in Pirići (D-757/D-757.01, D-758/D-758.01, D-759/D-759.01);
210. Records concerning the wounding of Draženko Vidović (member of Vitez Brigade) in Šantići (D -760/D-760-1);
211. Records concerning the wounding of Ivica Semren (member of 92nd Vitez HG Regiment) in the region of Ahmići-Šantići (D761/D761.01, D762/D-762.01);
212. Records concerning the wounding of Stipica Šafradin (member of the 3rd Company) in Ahmići (D-763/D-763.01);
213. Blaškić Order to Viteška and Zrinska Brigades and 4th Military Police Battalion, 16 April 1993 at 18.15 (D-765/D-765.01);
214. Order to Viteška brigade, issued by Tihomir Blaškić (D-764);
215. "List of civilian war casualties from Busovača municipality" (D-777);
216. "List of Muslims held at Kaonik prison", signed by Zlatko Aleksovski, 15/05/1993 (D-769);
217. "Report from Ljubičić on the incursion of members of the HVO into the Kaonik-Busovača military prison on 2nd and 16th Feb 1993" (D-869.01);
218. Photograph of [REDACTED]
219. Photograph of [REDACTED]
220. Photograph of [REDACTED]
221. Photograph of [REDACTED]
222. Photograph of [REDACTED]
223. Photograph of [REDACTED]
224. Photograph of [REDACTED]
225. Photograph of [REDACTED]
226. Photograph of [REDACTED]
227. Photograph of [REDACTED]
228. Photograph of [REDACTED]
229. Photograph of [REDACTED]
230. Photograph of [REDACTED]
231. Photograph of [REDACTED]
232. Photograph of [REDACTED]
233. Photograph of [REDACTED]
234. Photograph of [REDACTED]
235. Photograph of [REDACTED]
236. Photograph of [REDACTED]
237. Photograph of [REDACTED] and his granddaughter and a Photograph of [REDACTED]

- 238. Photograph of [REDACTED]
- 239. Photograph of [REDACTED]
- 240. Photograph of [REDACTED]
- 241. Photograph of [REDACTED]
- 242. Photograph of [REDACTED]
- 243. Photograph of [REDACTED]
- 244. Photograph of [REDACTED]
- 245. Photograph of [REDACTED]
- 246. List of HVO Commanders (P98);
- 247. Photograph of [REDACTED]
- 248. Photograph of [REDACTED]
- 249. Photograph of [REDACTED]
- 250. Photograph of [REDACTED]
- 251. PH 207: [REDACTED]
- 252. PH 206: Hotel Vitez where witness and others taken (P157-02);
- 253. Photograph of headstone of [REDACTED]
- 254. Z2-238: Former small mosque (P160-01);
- 255. Z2-241: [REDACTED]
- 256. Z2-252: [REDACTED]
- 257. Z2-261: Destroyed building (P160-04);
- 258. Z2-258: Destroyed building (P160-05);
- 259. Z2-259: Destroyed building (P160-06);
- 260. Z2-255: House used as youth centre (P160-07);
- 261. Red Cross certificate, 16 March 1994, for [REDACTED]
- 262. Photograph of witness's husband (P179);
- 263. Photograph of [REDACTED]
- 264. Photograph of [REDACTED]
- 265. Rear of the cinema building (P33-06);
- 266. Entrance to the cinema building (P33-07);
- 267. Front entrance of what was the HVO brigade HQ (P33-08);
- 268. Sniper position just outside Stari Vitez (P81-10);
- 269. Sniper position (P81-11);
- 270. Copy of exhibit 29 (Large display of whole Lasva valley area composed of 6 sheets) (P29E);
- 271. List of HVO Commanders (P98);
- 272. Transcript from videotape of [REDACTED] in English (P112A);
- 273. Video clip provided to OTP by BBC, (where Kraljevic was identified by witness) (P436);
- 274. Photograph of private home of [REDACTED]
- 275. Various Documents (W4);
- 276. Photograph of [REDACTED]
- 277. Legend to 120a (P120B);
- 278. Photograph of [REDACTED]
- 279. Photograph of [REDACTED]
- 280. Floor plan of Hotel Vitez (P257);

- 281. Order by ŠANTIC, Vladimir regarding imprisonment of [REDACTED] for seven days. (D90);
- 282. Photograph of family and friend of [REDACTED]
- 283. Photograph of Brother (P130-02);
- 284. Photograph of [REDACTED]
- 285. Photograph of [REDACTED]
- 286. Photograph of [REDACTED]
- 287. Photograph of [REDACTED]
- 288. ABiH 3rd Corp Report (W14);
- 289. English translation of ABiH 3rd Corp Report (W14.1);
- 290. Information about new crimes by HVO. From the Republic of Bosnia and Herzegovina, 3rd Corps of the 333rd Mountain Bridge, Busovaca, Security Department (W15);
- 291. Translation of Information about new crimes by HVO. From the Republic of Bosnia and Herzegovina, 3rd Corps of the 333rd Mountain Bridge, Busovaca, Security Department (W15.1);
- 292. Tape recording in which one hears an individual giving orders concerning the attack of Očehnići. [REDACTED] states that the person on the tape is Ljubičić.
- 293. House of [REDACTED]
- 294. Legend to 142a (P142b).

Proposal for pre-trial detention following the adapted indictment

Based upon the results of the investigation conducted by the ICTY and based on the ICTY Corrected Amended Indictment against the Accused, there is grounded suspicion that the Accused committed the offences with which he is charged. By Decision of the Preliminary Proceedings Judge of the Court of BiH, Reference Number X-KRN-06/241, dated 22 September 2006, custody was ordered against the Accused for a period of one month. By Decision of the Panel of the Court of BiH, Reference Number X-KRN-06/241, dated 19 October 2006, custody was extended for two months to 22 December 2006. Both decisions on custody were confirmed on appeal.

Pursuant to Articles 227(3) and 137(1) of the BiH CPC, the Prosecutor's Office of BiH proposes that following the acceptance of the adapted Indictment, custody of the Accused be extended, as provided for in Article 132(1) a), b), and d) of the BiH CPC.

Custody of the Accused is sought under Article 132 of the BiH Criminal Procedure Code on three grounds, namely sub-paragraph (1) (a) – that he may hide or that other circumstances suggest a possibility of flight; sub-paragraph (1) (b) – that there is justified fear to believe that he will, destroy, conceal, alter or falsify evidence important to the criminal proceedings, or particular circumstances indicate that he will hinder the inquiry by influencing witnesses, accessories or accomplices; and sub-paragraph (1) (d) – that custody should be ordered for the reason of public or property security where, as here, the charges facing the Accused carry imprisonment of 10 years or more.

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

It is submitted that there is convincing evidence that the Accused will flee if granted liberty. This risk arises for the following reasons: (1) Paško Ljubičić is charged with extremely grave crimes and faces a lengthy sentence if convicted; (2) the Accused has demonstrated that he is willing and able to hide from judicial authorities when he chooses to do so; (3) as between BiH and Croatia, the Accused would prefer to stand trial in Croatia; and (4) the Accused is a dual citizen of BiH and Croatia, which would make it difficult for BiH to secure his return if he were to flee.

Paško Ljubičić is suspected of extremely grave crimes and faces a lengthy sentence if convicted

This indictment charges Paško Ljubičić with, among other things, the killing of more than 100 civilians and the destruction of several villages. If convicted of all of the charges contained in this indictment, he will face many years, possibly even decades, in prison. It is common sense that anyone in that situation faces the temptation to flee to avoid justice.

The Accused has demonstrated that he is willing and able to hide from the judicial authorities when he chooses to do so.

The original ICTY indictment against the Accused was unsealed on 31 October 2001. The Accused surrendered to the authorities of Croatia on 9 November 2001 and was transferred to the ICTY on 21 November 2001. This apparently speedy surrender, however, is deceptive. Paško Ljubičić had, at that point, already been on the run from the judicial authorities for some time.

On 6 September 2000, the County Court in Zadar, Croatia ordered an investigation against the Accused for some of the same acts for which he was charged in the ICTY indictment.⁶ His detention was ordered the same day, and a wanted warrant for him was circulated within days afterwards.⁷ After the Accused's surrender in Zagreb on 9 November 2001, the County Court in Zagreb concluded that the fact that he had not been apprehended in the time between the circulation of the warrant and his eventual surrender "clearly leads to the conclusion that he was on the run all this time."⁸ The County Court went on to say that "it is evident that there is a danger of the flight of the accused Paško Ljubičić" and ordered his detention pending transfer to the ICTY.⁹

During the period between the circulation of the warrant and his surrender, the Accused was living under the assumed name "Toni Raić" and carrying a set of false identification papers for this assumed identity.

⁶ See Ruling No. Kv-I-637/01 of the County Court in Zagreb, 15 November 2001, attached as Annex III to the Accused's "Second Application for the Provisional Release of the Accused," dated 18 October 2004.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

During a hearing related to the Accused's first motion for provisional release at the ICTY, the Accused explained his motives for hiding: "I fled from the Croatian judiciary for somewhat less than 14 months because ... I simply thought that I would not be able to prepare myself for this Court and defend myself there because I think there were lots of unfair constructs in the offing."¹⁰ The Accused also claimed that he was motivated to flee from BiH to Croatia and obtain false documents because of threats that he and his family were receiving: "Somebody assumed the right to call me and my family by telephone and voice a number of threats, and that is why I left Bosnia-Herzegovina for Croatia, and that is why I wanted – wanted new papers."¹¹

In denying this first motion for provisional release, the Trial Chamber considered (among other things) "the fact that the Accused has shown that he is capable of evading arrest, that he has used a false name and has shown that he has the means and knows how to obtain false documents."¹² The Trial Chamber rejected a subsequent motion for provisional release on the grounds that "[t]he accused went into hiding when receiving indications that he was a suspect or accused falling within the Tribunal's jurisdiction and used a false name."¹³

The Prosecutor submits that the logic of the ICTY Trial Chambers' decisions is just as applicable to the issue of detention currently before the Court. The Accused has demonstrated that he is willing and able to obtain false identity documents. He has also demonstrated that he is willing to hide from the judicial authorities when he is not satisfied with the venue in which he will be tried. Now that the Accused knows he will not be tried before the ICTY, the Prosecutor submits that he is very likely to go into hiding and evade prosecution altogether.

As between BiH and Croatia, the Accused would prefer to stand trial in Croatia.

Even if the Accused is willing to face prosecution somewhere, the Prosecutor submits that, as between BiH and Croatia, the Accused would prefer to be tried in Croatia. The Accused specifically sought to have his case referred to Croatia rather than BiH.¹⁴ The motivation for this desire is, at least in part, his greater faith in the Croatian judicial system. In the Defence Position on Referral, the Accused argued that "the level of legal security in the Republic of Croatia is *incomparably higher* than in BiH."¹⁵ He also argued that "it seems to be pointless to hope for an expeditious trial in BiH..."¹⁶

¹⁰ *Prosecutor v. Ljubičić*, Transcript, 1 July 2002, p. 41.

¹¹ *Id.*, pp. 42-3.

¹² See *Prosecutor v. Ljubičić*, IT-00-41-PT, Trial Chamber, Decision on the Defence Motion for the Provisional Release of the Accused, 2 August 2002.

¹³ *Prosecutor v. Ljubičić*, IT-00-41-PT, Trial Chamber, Decision on Second Application for Provisional Release, 26 July 2005.

¹⁴ See *Prosecutor v. Ljubičić*, IT-00-41-PT, Defence Position to the Prosecutor's Request under Rule 11bis for Referral of the Indictment to Another Court, 2 August 2005 („Defence Position“).

¹⁵ *Id.*, paragraph 8 (emphasis added).

¹⁶ *Id.*, paragraph 11.

The Prosecutor submits that the Accused's preference for Croatian courts may also be based on his awareness that he could face a more severe penalty in BiH than in Croatia. During the hearing on the Accused's first motion for provisional release before the ICTY, the Accused's counsel argued that, if provisionally released, the Accused would not flee from Croatia to BiH because "there is no practical reason for Mr. Ljubičić ... to flee the trial before the Croatian legal authorities, where the maximum sentence is 20 years, and then to go to Bosnia-Herzegovina where the sentence would be higher and charges even possibly higher – more serious..."¹⁷ Later in the same hearing, the Accused himself said, "I have no reason to go to Bosnia-Herzegovina because the punishment for what I'm being charged here are much stricter in Bosnia-Herzegovina."¹⁸

Because of his greater faith in the Croatian judicial system and because of his awareness of the longer prison sentences possible in BiH, the Prosecutor submits that, even if the Accused is willing to stand trial somewhere, he is likely to flee to Croatia so as to be able to stand trial in his preferred venue.

The Accused is a dual citizen of BiH and Croatia, which would make it difficult or impossible for BiH to secure his return if he were to flee.

It is undisputed that the Accused is a citizen of both BiH and Croatia. The Constitution of the Republic of Croatia provides, "No Croatian citizen shall be exiled from the Republic of Croatia or deprived of citizenship, nor extradited to another state."¹⁹ Therefore, if the Accused is released and does flee to Croatia, he will not be extradited to BiH.

In numerous previous cases, this Court has considered the risk of flight to Serbia or Croatia and the impossibility of securing the return of those who flee there as a factor justifying detention under Article 132(1)(a).²⁰

Conclusion: Article 132(1)(a)

Paško Ljubičić is suspected of extremely serious crimes. If he is convicted, he can expect to spend years or decades in prison. In addition, he has expressed a lack of faith in the judiciary of Bosnia and Herzegovina, and has demonstrated his ability to hide from judicial authorities. He is a Croatian citizen, and if he crosses the porous border between BiH and Croatia, he cannot be extradited back to BiH. Based on all of these factors, the Prosecutor submits that there are grounds for ordering custody under Article 132(1)(a).

¹⁷ *Prosecutor v. Ljubičić*, IT-00-41-PT, 1 July 2002, T. 32-3.

¹⁸ P. 42

¹⁹ Constitution of the Republic of Croatia, Article 9(2). Croatia's obligation to transfer its own citizens to the ICTY is a result of the ICTY's powers under Chapter VII of the U.N. Charter which trump this provision of the Croatian constitution. Obviously, BiH does not have any such Chapter VII powers.

²⁰ See, e.g., *Marko Radić et al.* (Appeal of Marko Radić and Emir Brekalo), Appeals Panel, X-KRN-05/139, 08.06.2006; *Marko Radić et al.* (Appeal of Dragan Šunjić), Appeals Panel, X-KRN-05/139, 09.06.2006; *Željko Mejakić et al.* (Appeal of Dušan Fuštar only), Appeals Panel, X-KRN-06/200, 13.05.2005; *Dragoje Paunović*, Appeals Panel, X-KR-05/16, 03.02.2006.

Article 132(1)(b): Influence of Witnesses, Accessories, and Accomplices

The Prosecutor's Office of BiH further submits that grounds for detention exist under Article 132(1)(b) of the CPC of BiH. There are valid reasons to fear that the Accused, if released, might hinder the proceedings by influencing witnesses, accessories, and accomplices.

Witnesses

As a result of materials he received during his time in detention at the ICTY and as a result of other ICTY trials related to the same events with which he is charged, the Accused is now aware of the identities of at least some of the individuals who are likely to be witnesses against him. Therefore, the Accused is in a position to attempt to influence these witnesses by threats or otherwise.

In addition, the Prosecutor submits that the nature of the crimes committed by the Accused also poses a risk of witness intimidation. The crimes that Paško Ljubičić is suspected of demonstrate a complete lack of respect for human dignity and human life. Also, the crimes were committed on several occasions, with ample opportunity for reflection between the criminal incidents. This opportunity for reflection, however, did not prevent the Accused from continuing his criminal conduct. It is submitted that such a person is much more likely to use or threaten violence to influence the outcome of his case than, for example, a non-violent offender or one who committed a single violent crime motivated by passion.

Accomplices and Accessories

In addition to the risk that the Accused will influence witnesses if left at liberty, there is a very real risk that the suspect will also attempt to influence his accomplices and accessories.

Paško Ljubičić did not act alone in committing the crimes of which he is suspected. Rather, he committed these crimes as the commander of a military police battalion, in concert with the other members of the battalion and possibly other HVO soldiers. As a result, he has a very large number of accomplices and co-perpetrators. If left at liberty, Paško Ljubičić would have the opportunity to communicate with these co-perpetrators and accessories to discuss their potential testimony as defense witnesses. This coordination would also be in the interest of these co-perpetrators and accessories, since they also may become the subjects of investigation or prosecution by this office in the future. Indeed, this Court has previously found that this kind of „collusion risk“ was a factor justifying detention under Article 132(1)(b).²¹ The Prosecutor submits that allowing the Accused to remain at liberty could adversely affect the proceedings both in this case and in future investigations into events in Central Bosnia.

²¹ *Željko Lelek*, Appeals Panel, X-KRN-06/202, 15.06.2006.

If, on the other hand, Paško Ljubičić is kept in custody during the pre-trial phase of these proceedings, the Court will be in a position to monitor the people he telephones or receives visits from, and will be able to restrict his access to co-perpetrators and accessories as appropriate.

Conclusion: Article 132(1)(b)

Because of the risk that Paško Ljubičić will attempt to intimidate witnesses and influence co-perpetrators and accomplices, the Prosecutor submits that there are grounds for ordering his detention under Article 132(1)(b) of the BiH CPC.

Art. 132(1)(d): Public or Property Security

Finally, the Prosecutor submits that there are grounds for ordering detention against the Accused under Article 132(1)(d). Clearly, Paško Ljubičić is suspected of criminal offenses punishable by a sentence of imprisonment of ten years or more, as required by Article 132(1)(d).

This Court has recognized that the existence of grounds for detention under Article 132(1)(d) is to be determined based on the risk to public or property security caused by the manner of commission or the consequences of a criminal offense.²² In this case, the criminal offenses were committed on a widespread scale with the apparent goal of creating the greatest possible terror, anxiety, and insecurity in the population. The manner of commission was brutal and demonstrated complete contempt for life and human dignity. The consequences of the crimes were grave: dozens of deaths; disappearances; severe and permanent physical injuries; the destruction of religious monuments and religious and educational institutions; and the permanent dislocation of a large number of people.

This Court has recognized that the existence of a large number of victims and injured parties is an important consideration in determining whether releasing a suspect would threaten public or property security.²³ The Court has also recognized that the level of anxiety, frustration and insecurity resulting from the crimes is a factor justifying detention under Article 132(1)(d).²⁴ In addition, the Prosecutor submits that the particular notoriety of the crimes committed at Ahmići is also a factor further justifying detention under Article 132(1)(d).

Detention: Conclusion

For the foregoing reasons, pre-trial custody is necessary to secure the presence of the Accused during all phases of the criminal proceedings; to prevent interference with witnesses, accessories and accomplices; and to protect public and property security.

²² *Željko Lelek*, Appeals Panel, X-KRN-06/202, 15.06.2006.

²³ See, e.g., *Petar Mitrović et al.*, Appeals Panel, X-KRN-05/24, 5.10.2005 and 03.08.2005; *Željko Lelek*, Appeals Panel, X-KRN-06/202, 18.05.2006.

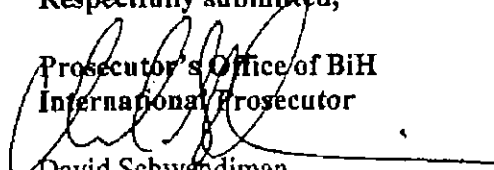
²⁴ See, e.g., *Mithad Novalić*, Appeals Panel, X-KRN-05/167, 15.03.2006.

The Prosecutor therefore respectfully requests the Honorable Preliminary Hearing Judge to order the custody of the Accused Paško Ljubičić during the course of the main trial.

Based on the foregoing, the Prosecutor further requests the Preliminary Hearing Judge of the Court of BiH to (1) confirm this Indictment with respect to the charge of murder as a Crime against Humanity in Count 1 and (2) accept this remainder of this adapted Indictment pursuant to Article 2(1) of the Law on Transfer.

Respectfully submitted,

Prosecutor's Office of BiH
International Prosecutor


David Schwendiman