

**BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BiH
SARAJEVO**

**No. KT-RZ-17/09
Sarajevo, 25 May 2009**

**COURT OF BOSNIA AND HERZEGOVINA
To: Preliminary Hearing Judge
Ref. No. X-KRN-06/180**

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

INDICTMENT

AGAINST

ŽELJKO IVANOVIĆ, a.k.a. Arkan, son of Dragan and Zora, nee Stjepanović, born on November 20, 1972 in the village of Brežani, municipality of Srebrenica, personal ID Number 2011972183120, Serb, citizen of BiH, residing in Mokro bb /no number/, municipality Pale, completed elementary school, construction worker by occupation, unemployed, single, ID card number 06DYB8491 issued by the RS MoI, Public Security Center in Istočno Sarajevo, convicted to one year suspended sentence for having committed the criminal offence of Endangering the Public Transport, no other proceedings are pending against him, currently detained in the Tuzla Correctional Penal Institution, under the Decision of the Court of BiH, number X-KRN-06/180, dated March 5, 2009, the custody being effective until June 4, 2009.

Because:

Intending to destroy, in part, a group of Bosniak people, by inflicting severe physical and mental injuries to a group of Bosniak people, by forcibly transferring the population, by separating men from their families, by capturing and executions, as a member of special police forces of the 2nd Šekovići Detachment of the Special Police Brigade of the RS MoI, Skelani platoon, together with several other members of the 2nd Šekovići Detachment of the SPB of the RS MoI, as a knowing participant of a joint criminal enterprise in which the Army of RS and RS MoI carried out a wide and systematic attack against Bosniak people, in the period between July 10 and July 19, 1995, aware of the

plan to expel Bosniak population and kill Bosniak men, starting already on July 10, 1995, in co-perpetration with other members of the VRS and RS MoI who shared the common objective to forcibly transfer on a permanent basis about 40,000 civilians from the UN "safe area" of Srebrenica and to summarily execute and bury over 7,000 Bosniak men aged between 13 and 70:

1. On July 12, 1995, together with members of the 2nd Detachment, he participated in the search of Bosniak-populated villages within the UN "safe area" of Srebrenica, in the vicinity of Potočari, in an attempt to find Bosniak people, expel them from their homes and take them to Potočari area where Bosniak people were rounded up, aware of the fact that these people would be forcibly and permanently transferred to the area controlled by the Army of RBiH; then in the afternoon hours of the same day and on the following day of July 13, at the section of the road between Bratunac and Konjević Polje, in Sandići, Bratunac municipality, he participated in ensuring that the road is passable in order to carry out an unobstructed transport of Bosniak population by trucks and buses, he secured the road, he opened and closed the road for traffic in accordance with the plan to forcibly transfer Bosniak women, children and elderly who, due to the fear caused by the separations of men, terror and active threats and infliction of injuries by the members of VRS and RS MoI, were loaded onto buses and trucks unresistingly and left the safe area;
2. On July 13, 1995, the accused, together with members of the 2nd Šekovići Detachment of the SPB of the RS MoI, participated in the reconnaissance operation and in armed assaults by tanks, *Pragas*, anti-aircraft guns, and other infantry weapons against the column of Bosniaks in the area above Kamenica, nearby the aforementioned road communication, forcing Bosniak men to surrender, encouraging and alluring them with false promises that they would be exchanged, he participated in the capturing of several thousands of Bosniak men who tried to escape through the woods from the "safe area" and who were afraid of being captured and killed by the RS MoI and Army. They were then frisked and deprived of their money and valuables and they were ordered to put the food, clothes and everything else they had in their bags aside, and in the afternoon hours he participated in escorting the column of more than a thousand of captured Bosniaks from Sandići to a warehouse of the Agricultural Cooperative in Kravica, aware of the fact that they would be executed; after locking the prisoners in the warehouse he stood in a semicircle formed by members of the 2nd Detachment in front of the warehouse and the prisoners in the warehouse were fired at from that semicircle and after that, together with Petar Mitrović, Slobodan Jakovljević and Branislav Medan, also members of the 2nd Detachment, he got out of that semicircle and, armed with an automatic rifle, he went around the warehouse intending to guard the back of it and prevent a possible escape of prisoners through windows at the rear side of the warehouse which represented the only possible escape points for the captives. At the same time, other members of the 2nd Detachment, including Milenko Trifunović, Brano Džinić, Aleksandar Radovanović, Radomir Vuković, Zoran Tomić, Mirko Milovanović and others, firing from their submachine-guns, automatic rifles and throwing hand grenades

from the front part of the warehouse killed the most of over one thousand of captured Bosniak men.

Therefore,

With the objective to destroy in part, national, ethnic and religious group of Bosniaks, as a co-perpetrator, he killed members of a group of Bosniak people and forcibly transferred civilian Bosniak population to the areas outside of Republika Srpska,

Whereby, he committed the criminal offense of Genocide in violation of Article 171 (a) (b) and (d) of the Criminal Code of BiH, as read with Article 29 and Article 180 (1) of the same Code.

Therefore,

I propose

I That the following persons be summoned to appear at the main trial before the Court of Bosnia and Herzegovina after the Indictment is confirmed:

- Prosecutor of the Prosecutor's Office of BiH, Mr. Dubravko Čampara,
- The accused Željko Ivanović and his defense counsel, Mr. Midhat Kočo,
- Authorized representative of aggrieved parties.

II Proposal of evidence to be presented:

1) Examination of witnesses:

1. Protected witness I-1

2. Protected witness I-2

3. Protected witness I-3

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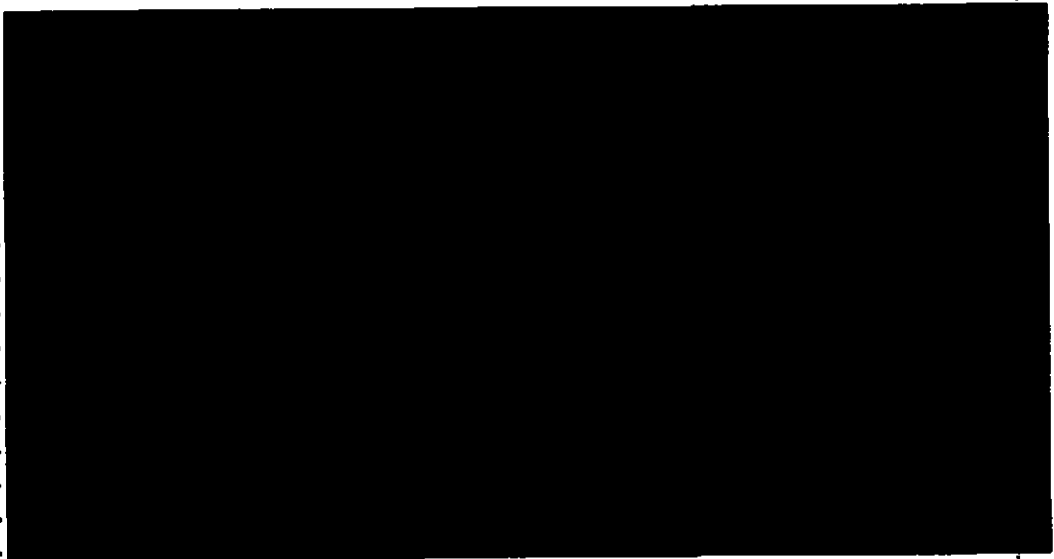
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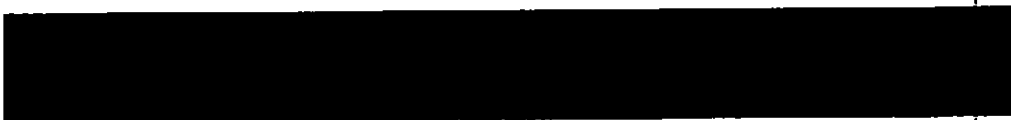
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2) Examination of expert witnesses:

- 1.
- 2.



3) Presentation of documentary evidence

3a) List of documentary evidence may be found in Annex A of the Indictment

3b) Evidence proposed pursuant to Articles 5, 6, and 7 of the Law on Transfer of Cases from the International Criminal Tribunal for former Yugoslavia to the Prosecutor's Office of BiH and Use of Evidence Collected by the ICTY in Proceedings before Courts in Bosnia and Herzegovina:

The List may be found in Annex B of the Indictment.

III Results of Investigation:

The Prosecutor's Office of Bosnia and Herzegovina, following the conducted investigation of the suspect Željko Ivanović, believes that there is sufficient evidence for grounded suspicion that the suspect, as co-perpetrator, committed the criminal offense of Genocide, in violation of Article 171 of the Criminal Code of Bosnia and Herzegovina, in the manner, at the time and place as detailed in the operative part of the Indictment.

The investigation revealed the following:

During the entire period this Indictment refers to, there was an armed conflict in the Republic of Bosnia and Herzegovina (BiH).

During the entire critical period, sides in the armed conflict were: on one side, Republika Srpska (RS) whose armed forces consisted of the Army of RS units and formations (VRS), and elements of the Ministry of Interior of Republika Srpska and police forces attached to or otherwise operated with the VRS; and on the other side, Bosnia and Herzegovina whose Armed forces consisted of units and formations of the Army of Bosnia and Herzegovina (ABiH).

During the armed conflict, members of the 2nd Šekovići Detachment of the RS MoI Special Police Brigade and Army of RS (VRS) were required to adhere to the laws and customs of war.

All actions and omissions to act were a part of a widespread and systematic attack against the civilian Bosniak population from the UN "safe area" of Srebrenica and its surrounding areas.

Once the armed conflict broke out in the Republic of Bosnia and Herzegovina (RBiH) in the spring of 1992, military and paramilitary forces of Bosnian Serbs attacked and occupied cities, towns, and villages in the eastern part of the country, including Zvornik, and participated in a campaign of ethnic cleansing which resulted in a massive exodus of civilians, Bosniaks, to the enclaves of Srebrenica, Gorazde and Žepa.

On 19 November 1992, General Ratko Mladić, the commander of the Main Staff of the VRS, issued a Directive op. No. 4. In one part of the directive, Drina Corps is ordered to: *inflict on the enemy as many casualties as possible and force it to leave the areas of Birač, Žepa and Gorazde together with Muslim population. Prior to that, offer the disarmament of able-bodied armed men, and if the offer is not accepted – destroy them* .

On April 16, 1993, the UN Security Council, acting in accordance with the Chapter VII of the Charter of the United Nations, adopted Resolution 819, requiring all sides in the conflict in Bosnia and Herzegovina to treat Srebrenica and its surrounding areas as a safe area which should be free from any armed attack or any other hostile act.

On March 8, 1995, Supreme Command of the Armed Forces of Republika Srpska issued the Directive op. No. 7. In this Directive, the president of Republika Srpska, Radovan

Karadžić, orders the VRS (the Drina Corps of the VRS in particular) to do the following: *"... to complete physical separation of Srebrenica from Žepa, preventing even communication between individuals in the two enclaves. By planned and well-thought out combat operations, create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica and Žepa"*.

On July 2, 1995, in the order to perform active combat activities issued by the Drina Corps and ordering an attack against the Srebrenica enclave, general Milenko Živanović ordered that the attack on the enclave must result in "narrowing down the enclave to the urban area". On July 2, 1995, the size of the enclave was approximately 58 square kilometers, and the size of the urban area of the enclave was about 2 (two) square kilometers. Prior to July 2, 1995, a large number of Bosniaks, inhabitants of the enclave, lived outside the urban area of Srebrenica.

The plan of the Drina Corps for the execution of this order represented a step forward to the accomplishment of a wider plan of the VRS to create a humanitarian crisis within the Bosniak population and eventually to eliminate the enclave.

On July 6, 1995, or around that date, units of the Drina Corps shelled Srebrenica and attacked the UN observation posts within the enclave, manned by the Dutch forces. The attack of the Drina Corps against the Srebrenica enclave, including shelling, continued until July 11, 1995 when "Drina Wolves", Bratunac and Zvornik Brigade, as well as other units of the VRS entered Srebrenica.

Under the Order No. 64/95 dated July 10, 1995, issued by the acting RS Minister of Interior, Tomo KOVAČ, joint forces of the MoI were formed (including one company from the Training Center on Jahorina, 2nd Šekovići Detachment and 1st PJP Company /special police unit/ of the PSC Zvornik) to assist the VRS forces in the attack. According to this order, joint forces of the MoI units were put under the command of the Drina Corps of the VRS which was subordinate to the Main Staff of the VRS under the command of General Ratko Mladić.

Shelling of Srebrenica that took place on July 10 and July 11, that was carried out by the Drina Corps of the VRS, was intended to spread fear among the Bosniak population and force them to leave the town of Srebrenica and that area in general.

Bosniak men, women and children, who were in Srebrenica after the beginning of the attack of the VRS, chose one of the two options:

- a) Several thousands of women, children and some elderly men, fled to the UN base in Potočari within the "safe area" of Srebrenica and sought protection from the Dutch battalion. These Bosniak civilians stayed in and around Potočari from July 11 until July 13, 1995, and during that time they were terrorized by members of the VRS and MoI. After that, they were taken in buses and trucks under the control of VRS and MoI outside the enclave to the territory controlled by the ARBiH.

b) At the same time, about 15,000 men, Bosniaks from the enclave, together with some women and children, gathered in the evening of July 11, 1995 in the villages of Šušnjari and Jaglići and started their escape, moving in a huge column through the woods and heading in the direction of Tuzla. Approximately one third of this group were the soldiers of the 28th Division of the Army of RBiH. The rest of the column were civilians and unarmed military personnel.

On or about July 12, 1995, Ratko Mladić and Radislav Krstić, as well as other representatives of the VRS and civilian authorities of Bosnian Serbs, met in "Fontana" hotel in Bratunac with the Dutch military officers and representatives of Bosniaks who escaped to Potočari. At this meeting, Ratko Mladić explained that he would oversee the "evacuation" of refugees from Potočari and that he would like to see all Bosniak men aged 16 to 60 so that they could check if any among them were war criminals.

On or about July 12, 1995, while Ratko Mladić and Radislav Krstić were still present there, about 50 to 60 buses and trucks arrived in the area in the vicinity of the UN base in Potočari. Soon after these vehicles arrived, the process of deportation of Bosniak women and children started. When women, children and men started entering the buses and trucks, members of the VRS and elements of the MoI separated men from women and children and detained those men in and around Potočari and from there they were subsequently taken by buses to the execution sites.

On July 12 and July 13, 1995, the command and units of the Drina Corps, as well as units of the MoI, monitored the forcible transfer of Bosniak civilians from Potočari.

UN soldiers who were in the Potočari base on July 12 and July 13, 1995, were aware of the catastrophic humanitarian situation that the Bosniak refugees were facing, and of the torture by the Bosnian Serb forces, but they did nothing about that.

Bosniak civilians from Srebrenica who were taken in buses from Potočari on July 12 and July 13, 1995, were deprived of their right to independently decide about whether they wanted to leave the area of the former enclave. Members of the Drina Corps and MoI who participated in the transportation operation were aware that the VRS used force to compel the Bosniak population to leave that area.

Members of the Drina Corps and MoI who were in the Potočari base on July 12 and July 13, 1995, were aware of the fact that the Bosniak men, who were separated from women, children and the elderly, were not treated in accordance with the accepted practice of checking whether some possible war criminals were among them and that there was an excruciating uncertainty with regard to the fate of these men. The command of the Drina Corps and commanders of the MoI were also aware of the fact that the men who had been separated in Potočari were taken by buses to the detention sites in Bratunac, and the buses that were used for their transportation were initially planned to be used to transport women, children and elderly and the transportation was overseen by the Drina Corps.

Once Srebrenica was occupied, the location of the 28th Division of the Army of Republic of Bosnia and Herzegovina (ARBiH) was unknown, which represented a big concern for

the VRS because there was a possibility that the 2nd Corps of the ARBiH, by attacking from the direction of Tuzla and Kladanj, could link up with the elements of the 28th Division of ARBiH. At the meetings held in "Fontana" hotel on July 11 and July 12, general Mladić attempted to negotiate the surrender of the ARBiH forces from the area of the former enclave. However, as he failed in doing so, in the following days, the VRS units, including the units of the Drina Corps that were not engaged in the attack against Žepa, received the mission to block the column.

In addition to these units of the Drina Corps, other units which were not part of the Drina Corps, such as Special Brigade of the MoI, elements of the Military Police Battalion of the 65th Protection Regiment and regular police forces, undertook the operation of blocking the column.

Once the 28th Division of the Army of RBiH withdrew from the enclave, after the fall of Srebrenica, the MoI forces were engaged in the "final" operations.

The MoI units, including the 2nd Šekovići Detachment of the Special Police Brigade, were in Potočari and they were deployed along the road between Bratunac and Konjević Polje, and on July 13, 1995 they took part in the blocking of the column and capturing a large number of Bosniaks.

Members of the VRS who were assigned to the Bratunac, Zvornik and Milići Brigades, together with elements of the 5th Engineering Battalion, 65th Protection Regiment, and Special Police of the MoI, supported by armored APCs, tanks, anti-aircraft guns and artillery, were deployed along the road between Bratunac and Milići in an attempt to intercept the column. Some armed members from the column of Bosniaks engaged in combat with members of Bosnian Serb forces. Thousands of Bosniaks from the column were captured during their withdrawal or they surrendered to the Army and MoI of the RS.

The Drina Corps assisted the MoI forces with their mission to block and capture the fleeing Bosniaks, and coordinated their military operations with the MoI forces.

After the seizure of Srebrenica in July 1995, the Army and MoI of the RS prepared and carried out the plan to execute as many able-bodied Bosniak men as possible who were in the enclave. Over the course of several days after this attack on Srebrenica, the VRS and MoI forces captured, detained, forcibly transferred and summarily executed and buried more than 7,000 Bosniak men and boys from the Srebrenica enclave and forcibly transferred Bosniak women and children from Srebrenica out of the enclave.

Bosnian Serb forces executed several thousands of Bosniak men. The total number of victims is probably somewhere between 7,000 and 8,000 men.

Political and military leadership of the VRS prepared a plan to permanently remove Bosniak population from Srebrenica once the enclave was seized. In the period between July 11 and July 13, that plan, also referred to as "ethnic cleansing", was carried out

primarily through the forcible transfer of the majority of civilian population from Potočari, once the able-bodied men were separated from the rest of the population.

Attempting to eliminate a part of the group of Bosniaks, members of the VRS and RS MoI committed genocide. They decided to destroy forty thousand Bosniaks, residents of Srebrenica, who as a group represented Bosniaks in general. They seized personal belongings and documents from all captured Bosniak men, both soldiers and civilians, both elderly and young ones, and they killed them deliberately and methodically, primarily on the grounds of their background. Bosnian Serb forces were aware when they started their genocidal venture, that the evil they caused to Bosniaks would permanently affect them.

In the final Judgment pronounced by the ICTY, in the case against general Radislav Krstić, it was established that genocide was committed against members of Bosniak people during the military-police operation "Krivaja 95", i.e. during the seizure of the UN "safe area" of Srebrenica, by the Army and MoI of Republika Srpska, and this was confirmed by the Judgment of the International Court of Justice in the Hague in the lawsuit that BiH filed against Serbia and Montenegro.

Another fact, among other things, suggests that the crimes against Bosniaks were planned and organized and that is the fact that all Bosniak women, children and elderly were expelled from the enclave and that all mass executions against Bosniak men and boys were carried out within a short time period, namely between July 10 and July 19, 1995. Thus, in the final Judgments pronounced to Radislav Krstić and Vidoje Blagojević, the times of executions of Bosniak men and boys in Potočari, Tišće, Cerska Valley, Jadar, Kravica warehouse, Orahovac, Pilica Dom, Branjevo military farm, Nova Kasaba stadium, Kozluk, Petkovci dam, were established. Of these locations that the Army and the Police of Republika Srpska used as execution sites, organized murders took place on July 13, in the morning hours in Jadar, in the afternoon hours in Cerska Valley, in late afternoon hours in the Kravica warehouse, and in the evening hours in Tišće. During the following days, executions followed in Pilica, Orahovac and Branjevo military farm (ICTY Judgment - Dražen Erdemović).

In addition to these Judgments of the ICTY, confessions of Momir Nikolić, security officer in the Bratunac Brigade and Dragan Obrenović, Chief of Staff of the Zvornik brigade, contributed largely to shedding light on the so-called Srebrenica events. Important facts were provided in the confessions of Momir Nikolić, primarily the fact that the military security service was in the midst of the crime and that everything was very well organized. In his confession, Momir Nikolić states that in the morning of July 12, while general Mladić was still negotiating with the UN about the evacuation of civilians from Potočari, Nikolić had already been given the order to find locations for prisoners and after that to find suitable execution sites.

Forensic evidence collected by the Hague investigators and experts in the past 10 years have been extremely significant in providing a more objective picture of events that took place in and around Srebrenica in July 1995. It is a common fact that locating mass graves (primary, secondary and tertiary) is still an ongoing process and that a large

number of bodies of Bosniaks who were killed has not yet been found and identified. Detailed forensic evidence firmly corroborates important aspects of testimonies given by survivors from various execution sites. Since 1996, the ICTY Office of the Prosecutor conducted exhumations of 21 graves linked to the fall of Srebrenica, namely: four exhumations during 1996 (graves in Cerska, Nova Kasaba, Orahovac (also known as Lazete 2) and Branjevo military farm (Pilica); eight exhumations during 1998 (Petkovci dam, Čančar road 12, Čančar road 3, road towards Hodžići – location No. 3, road towards Hodžići – location No. 4, road towards Hodžići – location No. 5, Liplje 2, Zeleni Jadar 5); five graves during 1999 (Kozluk, Nova Kasaba, Konjević Polje 1, Konjević Polje 2 and Glogova), and four graves during 2000 (Lazete 1, Lazete 2C, Ravnice and Glogova 1). Of these 21 exhumed graves, 14 of them were primary graves, where the bodies of those who were killed were placed immediately after the killing. Eight of these graves were subsequently dug out in an unauthorized manner and the bodies were buried on some other location, often in secondary graves, located in more distant and less accessible areas. Seven of these exhumed graves were secondary graves. The Office of the Prosecutor hired experts to perform the ballistic analysis, the analysis of the ground and materials in order to perform comparative examinations of materials and remains found in the primary and secondary graves. The links between some primary and secondary graves were found as a result of those analyses. Since 2000, locating and exhuming of corpses of people from Srebrenica who had been killed during the “Krivaja 95” operation was taken over by domestic judicial authorities who were greatly assisted by the Commission for Missing Persons, International Commission for Missing Persons (ICMP) and Identification Center Podrinje whose seat is in Tuzla.

Forensic evidence corroborates the Prosecution allegation that, once Srebrenica was occupied, thousands of Bosniak men were summarily executed and buried in mass graves. Although forensic experts were not able to determine the exact number of bodies in the mass graves, due to the degree of body decomposition, and due to the fact that many bodies were massacred during the process of relocating them from primary to secondary graves which was done by heavy machinery, of the total number of exhumed persons, 4,067 persons were identified until April 2009. Based on the results of forensic examinations, it can be concluded that majority of persons whose bodies were exhumed were not killed in combat. Those men were killed in mass executions.

Grounded suspicion that Željko Ivanović a.k.a. “Arkan” committed the criminal offense of Genocide, in violation of Article 171 of the CC of BiH, as read with Article 29 and 180 (1) of the same Code, arises from evidence collected during the investigation and particularly from statements of the protected witness I-3, statements of

others who spoke during the investigation about the involvement of the 2nd Sekovići Detachment in the search of terrain around Potočari which was aimed at locating and persecuting Bosniaks, and who spoke about Željko Ivanović’s participation in securing the road between Bratunac and Konjević Polje, seizing money, valuables and personal documents from prisoners and Bosniak men who surrendered to the RS MoI on the road between Bratunac and Konjević Polje, escorting the column of prisoners to a warehouse

of the Agricultural Cooperative in Kravica and killing of prisoners, as described in detail in the operative part of the Indictment.

Testimonies of two witnesses who survived mass executions in the warehouse of the Agricultural Cooperative in Kravica are important. They will testify under the pseudonyms I-1 and I-2. In his testimony, witness I-1 gives details about how a large group of Bosniaks, comprising 400-500 persons, surrendered to the Serb's soldiers in the area above Kamenica once they were encircled. At that time, some of the Bosniaks were wounded because there was some shooting there. He also describes the events that took place on a meadow where they had been kept before they were escorted by armed soldiers in a column to the warehouse of the Agricultural Cooperative in Kravica. The part of his testimony about the moment when the shooting in the warehouse started is particularly significant and the witness precisely stated that the shooting of the prisoners started immediately after the last prisoner entered the hangar and that the shooting of the prisoners was not preceded by any direct resistance of the prisoners or shooting by the prisoners, which convincingly eliminates the allegations of several members of the 2nd Šekovići Detachment who stated that the shooting had started after the police officer Krsto Dragičević had been killed. This allegation is almost identically eliminated by the testimony given by the protected witness I-2, who said that the killing of prisoners had started without being caused by the prisoners in any way.

About the restoration of the terrain and loading of corpses onto trucks by excavators, transportation to the predetermined locations in Glogova wherefrom bodily remains were dug out and hidden in secondary graves in Zeleni Jadar several months later, in 1995, spoke the direct eyewitnesses to the massacre, primarily workers of the Agricultural Cooperative in Kravica, including [REDACTED]. Testimonies provided by the members of the 2nd Šekovići Detachment of the Special Police, namely [REDACTED] etc., as well as [REDACTED] who were engaged in the restoration of the terrain, speak about that, too. The restoration of the terrain included the loading of corpses on trucks by excavators and their transportation to the predetermined locations.

There are numerous pieces of documentary evidence confirming that at the time when crimes were committed the suspect was out in the field in Bratunac, near Sandići and Kravica, as a member of the Skelani platoon of the 2nd Šekovići Detachment of the Special Police, and that he actively participated in the events relevant for the Indictment. There are numerous photographs and satellite images that objectively testify about the events that took place in the warehouse of the Agricultural Cooperative in Kravica, showing buses parked in front of the warehouse, the disturbed land testifying to the transfer of bodily remains from mass graves as well as the locations of mass graves.

Taking into account the above, the prosecution believes that there is sufficient evidence that Željko Ivanović committed the criminal offense he is charged with in this Indictment, and the intent to commit genocide arises from the fact that the captured Bosniak men did not represent a serious military threat, and the decision of the suspect to participate in the liquidations of prisoners while the planned and organized killing of prisoners was taking place did not come from the intention to eliminate them as a military threat. Killing of

able-bodied men represented, without doubt, physical destruction, and considering the extent of the killings, their extermination was motivated by a genocidal intent. The suspect was aware that considering the patriarchal nature of the Bosniak community in Srebrenica, destruction of such a large number of men will inevitably result in the physical disappearance of Bosniak population in Srebrenica. Physical destruction of men, therefore, has severe consequences on bringing offsprings within the Bosniak community in Srebrenica, with a possibility of a complete eradication of that community. The suspect, as a member of the RS Mol, was aware of such consequences when he decided to assist in the systematic elimination of the captured men.

Forcible transfer of women, children and elderly was just another way to ensure the physical destruction of the Bosniak community from the "safe area" of Srebrenica. By conducting this transfer, all members of the Bosniak people were definitely removed and thus, even the smallest possibility of renewal of the Bosniak community in that area was eliminated. Unlike the operation of killing of the captured men, it was difficult to conceal such an operation or portray it as a military operation and it therefore carried a higher risk of condemnation by the international community. When establishing whether the genocide was committed in Srebrenica, the main question is whether there was an intent to commit genocide. Although that intent must be supported with facts, the criminal offense of genocide does not require a proof that the perpetrator chose the most effective method to achieve his goal to destroy the targeted part of a group. Even when the selected method does not result in full accomplishment of the perpetrator's intent, and the destruction remains incomplete, the inefficiency *per se* does not preclude the conclusion that the genocidal intent existed. Allegations of the protected witness I-3 are worth-mentioning here, and this witness states that even on July 10, 1995, out in the field in Srednje, it was known that the 2nd Detachment would go to Srebrenica and with a mission to persecute Bosniak people from Srebrenica and kill able-bodied Bosniak men and the accused knew that as a member of the 2nd Detachment; that is, his assignments were the same as the assignments of all other police officers from the 2nd Detachment and they did not have combat character related to clashes with the Army of RBiH, rather, this assignment was about the destruction of Bosniak population in the Srebrenica area.

IV Evidence corroborating allegations from the Indictment:

- 1. List of witness statements, findings and opinions and statements of expert witnesses may be found in Annex C of the Indictment.**
- 2. List of documentary evidence may be found in Annexes A and B of the Indictment.**

V Motion to Extend Custody:

The Prosecutor's Office of Bosnia and Herzegovina moves the Court to extend custody of the accused Željko Ivanović once the Indictment is confirmed, pursuant to Article 137

(1) (2) (d) of the CPC of BiH, for reasons set forth in Article 132 (1) (b) and (d) of the Criminal Procedure Code of Bosnia and Herzegovina as follows:

Article 132 (1) (b): Influencing witnesses, accessories and accomplices

1. The Prosecutor's Office of BiH believes that grounds for extension of custody exist pursuant to Article 132 (1) (b) of the CPC of BiH. There are justified reasons to believe that Željko Ivanović, if released, would probably hinder the criminal proceedings by influencing witnesses, accessories and accomplices.
2. On March 26, 2009, the Prosecutor's Office of BiH interviewed the witness I-3. Witness I-3 was an eyewitness of events that took place in Sandići and the killings of prisoners in the Kravica warehouse. He can testify about all the events that Ivanović is charged with. The witness gave a statement to the Prosecutor's Office that unidentified persons threatened his family saying that they would kill them all if witness I-3 appears before the Court and testifies about the things known to him
3. The witness does not know the persons who threatened his family; however, one cannot ignore the fact that these threats were directed against a witness and his family immediately before his testimony at the Court of BiH. Termination of Željko Ivanović's custody, at the time when one of the key witnesses received serious threats, would not create an atmosphere of security and trust in judicial authorities.
4. The Prosecution believes that the nature and character of the criminal offense that the accused committed also point to the risk of intimidating witnesses. The criminal offense Željko Ivanović is charged with indicates an absolute lack of respect for human dignity and human life.
5. It is necessary to ensure that witnesses give their statements freely and consciously, free of fear for their personal safety and the safety of their family members. There is a justified risk that Željko Ivanović, if released, would contact his former colleagues from the Detachment, who are to appear as prosecution witnesses in the proceedings against him. These are the witnesses who belong to the same ethnic group as the accused; they all reside in the area of municipalities of Bratunac, Šekovići, Srebrenica and Zvornik. Some witnesses were members of the police forces of the RS MoI at the time relevant to the Indictment, and some of them still work there, including members of the 1st Company of the Special Police Units of the Public Security Center in Zvornik and members of the Special Police Brigade who might be condemned or pressured by the accused, his friends and relatives, and the accused himself, if released, could easily exert influence on them.
6. Most of the possible witnesses who provided their testimonies at the main trial in the case against *Miloš Stupar and others*, former colleagues of the accused, have changed their statements, obviously under pressure or in fear. Having in mind the first-instance Verdict pronounced to the colleagues of the accused, he now has

even stronger motive to influence witnesses and force them to testify in his favor. In addition, there is a high likelihood that he might use the people who are interconnected within the community where the parents of the accused live (village of Brežani) and within the community where the accused had his last reported place of residence, as well as linked networks, in order to ask for or get help from his co-perpetrators who are still at large and wanted under the international arrest warrant.

7. The Prosecutor's Office of BiH runs an investigation of several members of the RS Moli because of the grounds for suspicion that they participated, in various manners, in crimes committed in the period between July 11 and November 1, 1995, as members of two police units, namely the 1st Company of the Special Police Unit of the PSC Zvornik (police officers from 8 police stations: Šekovići, Zvornik, Bratunac, Vlasenica, Milići, Osmaci, Kozluk, Srebrenica) and 2nd Detachment of the Special Police Šekovići (police officers from Šekovići, Skelani, Kladanj, Srebrenica), who are still at liberty. Some of them are unavailable to the Court and Prosecutor's Office, that is, they are fugitives, and they are wanted under the international arrest warrant that was issued pursuant to the Order of the Court of BiH [REDACTED].
8. Specific character of the criminal offenses of war crimes, crimes against humanity and genocide is reflected in organized and systematic perpetration and in far-reaching consequences for victims. Considering the massive character of the committed crime and the fact that the immensity of these consequences require a higher level of protection, these witnesses need to be protected from the possibility of being influenced by the accused whereas the co-perpetrators need to be prevented from influencing witnesses through their contacts with the accused because these witnesses will provide important evidence in prosecuting this kind of criminal offenses.

Article 132 (1) (d)

9. The accused is charged with the criminal offense of Genocide, punishable by imprisonment for a term of not less than 10 years or a long-term imprisonment. Having in mind the demonstrated cruelty in the perpetration of this criminal offense, and the fact that it caused extremely severe consequences, that is, the death of over 1,000 persons, it is clear that these are extraordinary circumstances. These are specific circumstances and a criminal offense which is particularly severe considering the manner of perpetration and consequences of the criminal offense, and, therefore, release of the suspect would create a realistic threat against public peace and order. Taking into account all the specific circumstances, particularly the manner of perpetration and incalculable consequences of the perpetrated Crime of Genocide, as one of the most severe forms of violations of values protected under both domestic and international law, and considering the role of the accused in the period relevant to the Indictment as a member of the 2nd Šekovići Detachment of the Special Police and considering the fact that the

persons, with whom the accused should have been co-accused, received long-term imprisonment sentences in the first-instance Verdicts, the Prosecution believes that all these circumstances are unquestionable and they represent, in their entirety, a specific circumstance within the meaning of Article 132(1) (d) of the CPC of BiH.

10. Persons who were direct or indirect victims of this criminal offense have returned or are still returning to the area where the crimes had been committed, and the Prosecution believes that releasing a person suspected of perpetrating the Crime of Genocide would cause a realistic threat against the public peace and order. The Prosecution also believes that it is necessary to avoid the re-traumatization of victims and ensure that they have trust in the rule of law, and that everything should be done to prevent the contact with the accused.
11. The Prosecution believes that, considering that seven co-perpetrators of the accused Željko Ivanović were sentenced to a long-term imprisonment under the first-instance Verdict of the Court of BiH, and considering all the features of this case, that the release of the accused would certainly lead to public disapproval, because the public would not tolerate the fact that he is at liberty.
12. Considering all of the above, the Prosecutor's Office of BiH moves the Court to extend custody of the accused Željko Ivanović pursuant to Article 137 (1) (2) (d) of the CPC of BiH, for the reasons set forth in Article 132 (1) (b) (d) of the CPC of BiH.

PROSECUTOR
PROSECUTOR'S OFFICE OF
BIH

Dubravko Čampara

