

**BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BIH
S A R A J E V O**

**Number: KT-RZ-101/07
Sarajevo, 15 January 2010**

**C O U R T O F
BOSNIA AND HERZEGOVINA
Preliminary Hearing Judge
Ref. Number: X-KRN-09/823**

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

INDICTMENT

AGAINST:

- 1. DUŠKO JEVIĆ, aka Staljin**, son of Branko and Draginja nee Grbić, born in the village of Vođenica, Bosanski Petrovac Municipality, on 21 June 1957, with permanent residence in Bijeljina, at Filipa Višnjića Street, number 67; Personal Identification Number 2106957172180, citizen of BiH, Serb by ethnicity, married, father of one child of majority age, pensioner, indigent, decorated, with no prior conviction, no other criminal proceedings pending against him, deprived of liberty on 28 October 2009, at 10:25 hours, currently in custody of the Detention Unit of the Court of BiH, under the Decision of the Court of BiH, Number: X-KRN-09/823 of 30 October 2009, which can last until 26 January 2010 or until the Court renders a different decision;
- 2. MENDELJEV ĐURIĆ, aka Mane**, son of Tomo and Jela nee Babić, born in Olovo on 15 October 1960, with permanent residence in Bijeljina, at Majevička Street, number 29; Personal Identification Number 1510960172177, citizen of BiH, Serb by ethnicity, married, father of two children, pensioner, indigent, decorated,

with no prior conviction, no other criminal proceedings pending against him, deprived of liberty on 28 October 2009, at 10:26 hours, currently in custody of the Detention Unit of the Court of BiH, under the Decision of the Court of BiH, Number: X-KRN-09/823 of 30 October 2009, which can last until 26 January 2010 at 11:15 hours or until the Court renders a different decision;

3. **GORAN MARKOVIĆ**, son of Kojo and Stanojka nee Vlajić, born in Sarajevo on 8 November 1964, with permanent residence in Bijeljina, at Josifa Marinkovića Street, number 21, with temporary residence in the place of Tatendorf (Austria), Personal Identification Number 0811964172178, Serb by ethnicity, citizen of BiH, procedure for receiving the citizenship of the Republic of Serbia is ongoing, married, father of two underage children; pensioner, indigent, decorated with the medal of Miloš Obilić, with no prior conviction, no other criminal proceedings pending against him, deprived of liberty on 18 December 2009, at 11:15 hours, currently in custody of the Detention Unit of the Court of BiH, under the Decision of the Court of BiH, Number: X-KRN-09/823 of 20 December 2009, which can last until 18 January 2010, at 11:15 hours or until the Court renders a different decision¹.

For the following:

During the period from 10 July until 19 July 1995, acting in compliance with a plan and with a view to exterminating partially a group of Bosniak people, by inflicting on them severe physical and mental injuries, by forcible transfer of the population, by separating men from their families, by capturing and executing Bosniak men, they participated in the systematic joint criminal enterprise, sharing a joint intent with other members of the joint criminal enterprise, being aware that other participants could perpetrate criminal offences, which had as its aim the expulsion of women and children and murder of Bosniak men from the UN safe area of Srebrenica, together with other members of the RS Army MUP RS /RS Ministry of the Interior/, the plan which was devised and implemented, *inter alia*, by General Ratko Mladić, Commander of the VRS /RS Army/; Colonel Ljubiša Beara, Security Chief of the VRS Main Staff; General Radislav Krstić, Commander of the Drina Corps; Lieutenant Colonel Vujadin Popović, Assistant for Security to the Commander of the Drina Corps; Colonel Vinko Pandurević, Commander of the Zvornik Brigade; Lieutenant Colonel Dragan Obrenović, Deputy Commander and Chief of Staff of the Zvornik Brigade; Colonel Vidoje

¹ On 11 January 2010, the Prosecutor's Office of BiH submitted the Motion for one month extension of custody of the Suspect Goran Marković. The Prosecutor's Office of BiH is waiting for a decision of the Court of BiH.

Blagojević, Commander of the Bratunac Brigade; Momir Nikolić, Assistant for Security and Intelligence to the Commander of the Bratunac Brigade; Dragan Jokić, Chief of engineers of the Zvornik Brigade; Ljubomir Borovčanin, Commander of joint forces of MUP units from 10 July 1995; Miroslav Deronjić, Civil Commissioner for Srebrenica; and many other individuals and military and police units, including units of the Drina Corps, units of the VRS Main Staff, MUP RS units, including the Jahorina Training Center of the RS SBP */Special Police Brigade/*, 2nd Detachment of the Šekovići SBP, Company of the PJP */Special Police Unit/* of the Zvornik CJB */Public Security Center/*, Bratunac PS */Police Station/*, Zvornik PS, that participated in systemic operations of forcibly transferring women and children and murdering Bosniak men, **Duško Jević**, holding his position as Assistant to Commander of the Special Police Brigade of the MUP RS (SBP) and Commander of the Jahorina Training Center of the Special Police Brigade and **Mendeljev Đurić**, Commander of the 1st Company of the Jahorina Training Center, **Goran Marković**, in his capacity as the Commander of the 2nd Platoon of the 1st Company of the Jahorina Training Center, were in command of their units, acting individually and in concert with other participants, planned, ordered, incited and participated in carrying out the systemic joint criminal enterprise, in such a way that:

1. On 12 July 1995, in the settlement of Budak near Potočari, at the time when Bosniak population was leaving their property, escaping to a UN Compound in Potočari, members of the 1st Company of the Jahorina Training Center under the order and supervision of the accused, together with members of the 2nd Detachment of the Šekovići Special Police and the 1st Company of the Zvornik PJP, armed with automatic weapons, participated in the search of Bosniak houses, with the aim of collecting the Bosniak population and escorting them to the UN Compound in Potočari, in which process one member of the Jahorina Training Center activated a hand grenade and threw it into a house where there was a bedridden old Bosniak man, acting in accordance with tasks previously received by the accused that all members of Bosniak people should be directed to the collection center in Potočari, in which process the accused were aware that the Bosniak population would, against their own free will, be transferred from Potočari to the areas under the control of the R BiH Army;
2. On 12 and 13 July 1995, under the order and supervision of the accused, during and after the campaign of forcible transfer, organized executions and spreading terror and violence against the Bosniak civilian population, members of the 1st Company of the Jahorina Training Center, together with members of the VRS and MUP RS, participated in murders of small groups and individuals - captured

Bosniaks from the Srebrenica Enclave, and thus N.M., member of the 1st Company, separated 15-20 Bosniak men from a group of men who were in the "Bijela kuća" /*White House*/, and then he took them to a nearby creek where he killed them by shooting from a pistol, whereas bodies of a number of the killed men, at least 30 of them, were found as follows: on 12 July - 9 bodies were found in a forest in the settlement of Budak near Potočari, in the vicinity of the UN Compound by the main road, where searches were previously made; on 12 July - 9 bodies were found in the creek behind the "Bijela kuća" some 700 m away from the UN Compound; on 13 July in the morning - 6 bodies of Bosniak women and 5 bodies of Bosniak men were found in the creek near the UN Compound, and the execution of one man behind a building in the vicinity of "Bijela kuća", as well as the rape of at least one Bosniak woman in the "Bijela kuća"; those murders and rapes being perpetrated within a systemic joint criminal enterprise in order to forcibly transfer the Bosniak population of Srebrenica and, within the systemic joint criminal enterprise, to kill all Bosniak men from Srebrenica fit for military service;

3. On 12 and 13 July 1995, members of the 1st Company of the Jahorina Training Center, under the order and supervision of the accused, together with other units of the VRS and MUP, participated in the forcible transfer of the civilian population from the UN Compound in Potočari by buses and trucks to areas under the control of the BiH Army, and they did so in such a way that they boarded on buses and trucks only women and children, separating men, more than 1 000 of them, not allowing them to get on the trucks and buses together with their families, previously taking away their personal property, including personal documents, money and valuables, hitting them with rifle-butts and kicking them, with the strength of the blows being such that one of the Bosniak men was knocked down, and then they escorted them to the nearby "Bijela kuća" where they were kept under guard, wherefrom they were taken by trucks and buses to provisional places of detention in Bratunac, being aware that those men would be executed summarily, thus creating the conditions which the accused knew would contribute towards the destruction of the entire Bosniak population of the UN safe area of Srebrenica, *inter alia*, in such a manner that that population was prevented from having a normal life and reproduction, thus acting as members of a systemic joint criminal enterprise aimed at the forcible transfer of the Bosniak population of Srebrenica and killing of all Bosniak men from Srebrenica fit for military service;
4. On 12 and 13 July 1995, members of the 1st Company and 2nd Company of the Jahorina Training Center, together with other units of the VRS and MUP, under

the order and supervision of the accused, participated in capturing several thousands of Bosniak men who were trying to escape through a forest from the Safe Area, fearing they would be captured and executed by the MUP and RS Army, whom they searched during the capturing and from whom they took away money and valuables, and ordered them to put aside food, clothes and other objects they carried in their bags, kept them until late afternoon or early evening on the Sandići meadow some 18 kilometres to the west of Bratunac, along the Bratunac–Konjević Polje road, and then they took them to different places of detention, among other places, to Bratunac schools and to the Kravica Warehouse, while they kept the Bratunac–Konjević Polje road passable for the unhindered passage of the columns of buses and trucks with Bosniak population therein, on which occasion, in the place of Sandići, in the evening, they summarily executed at least 17 prisoners, after A.G. and N.M., members of the 1st Company of the Jahorina Training Center, had called volunteers who would execute the prisoners, whose bodies were exhumed in July 2004 at the location of Sandići, being aware that they thus participated in the perpetration of the systemic joint criminal enterprise in order to forcibly transfer the Bosniak population of Srebrenica and to kill all Bosniak men from Srebrenica fit for military service;

5. Members of the 1st and 2nd Company of the Jahorina Training Center, together with forces of the 2nd Detachment of the Special Police from Šekovići and the 1st Company of the PJP, under the orders and supervision of the accused, after the capturing of more than 1000 Bosniak men from Srebrenica, they escorted them to the Kravica Warehouse where they kept them under guard, and from early evening on 13 July 1995 they started summarily with the execution of prisoners which continued during the night and the following day, that is, on 14 July, in the presence of the accused Duško Jević and Mendeljev Đurić who supervised and supported the killings, and in that process, a certain Arkan and a certain man from Herzegovina, also members of the 1st Company of the Jahorina Training Center, were throwing bombs in the warehouse in which there were prisoners, whereas N.M., member of the 1st Company of the Jahorina Training Center, directed the execution of several dozens of prisoners, and the Accused Goran Marković was calling volunteers from his unit to execute the prisoners, after they had previously lured the prisoners fraudulently into coming out of the warehouse, and in order that the survived men would come out they previously had to remove the corpses from the warehouse exit area, and then they formed several lines of those prisoners who were seriously injured during the executions of 13 July 1995 and during the night between 13 and 14 July, in the warehouse of the *ZZ /farming cooperative/* Kravica, and ordered them to kneel down and executed them; after they had executed all the prisoners, individuals from the 1st and 2nd Company of

- the Jahorina Training Center, shooting from a pistol, finished off those prisoners who were giving signs of life, that is, "verified" those who were already shot, and thus participated in the execution of more than 1,000 prisoners, being aware that they thus participated in the perpetration of the systemic joint criminal enterprise in order to forcibly transfer the Bosniak population of Srebrenica and to kill all Bosniak men from Srebrenica fit for military service;
6. Members of the 1st and 2nd Company of the Jahorina Training Center, together with parts of the Bratunac Brigade of the VRS, on 17 and 18 July 1995, under the order and supervision of the accused, participated in the search of the forest area above the Bratunac-Konjević Polje road with the aim of finding, capturing and executing the Bosniak men, and after the capturing they executed at least four captured Bosniak men, two of which N.M., member of the 1st Company, summarily killed by shooting from an automatic rifle, and A.G., member of the 1st Company, summarily killed one prisoner under the order of the Accused Goran Marković by shooting from an automatic rifle, and in the place of Jelah, Zoran Ilić, member of the Jahorina Training Center, summarily killed the fourth captured Bosniak by shooting from an automatic rifle, while they brought several hundred Bosniak men whom they had captured, including children, near the Konjević Polje–Bratunac road, at the location of the village of Pervani, took away their personal items, including personal documents, money and valuables, tied their hands behind their backs, and brought and detained them in a warehouse at a junction in Konjević Polje, where they executed them, wherefrom their bodies were relocated to the locality of Cerska where they were buried in a mass grave, being aware that it was a part of the plan and activities for carrying out the systemic joint criminal enterprise in order to forcibly transfer the Bosniak population of the UN protected zone of Srebrenica and to kill all Bosniak men from Srebrenica fit for military service.

Therefore,

As co-perpetrators, they inflicted serious bodily injuries and mental pain on a group of Bosniaks who, being Bosniaks of Eastern Bosnia, made up a significant part of the Bosniak ethnic group, murdered male members of the referenced Bosniak group and forcibly transferred women, children and elderly members of the Bosniak population, beyond the Republika Srpska borders, all with the aim to completely or partially exterminate the national, ethnic and religious group of Bosniaks,

whereby they committed the criminal offence of Genocide in violation of Article 171a) and b) of the BiH Criminal Code, in conjunction with Article 29 and Article 180(1) of the same law.

Because of that, I hereby

P r o p o s e

I That, after the confirming of the Indictment, the following persons be summonsed at the main trial before the Court of Bosnia and Herzegovina:

- Prosecutor of the Prosecutor's Office of BiH, Ibro Bulić,
- The accused:
 1. Duško Jević and his defence counsel, Attorney Slavko Aščerić,
 2. Mendeljev Đurić and his defence counsel, Attorney Miodrag Stojanović,
 3. Goran Marković and his defence counsel, Attorney Veljko Čivša,
- Authorized representative of the aggrieved parties

II Proposal of evidence to be adduced:

1) Hearing of the witnesses:

1. Protected Witness S-100
2. Protected Witness S-101
3. Protected Witness S-102
4. Protected Witness S-103
5. Protected Witness S-104
6. Protected Witness S-105
7. Protected Witness S-106
8. Protected Witness S-108
9. Protected Witness S-109
10. Protected Witness S-110
11. Protected Witness S-111
12. Protected Witness S-113
13. Protected Witness PW-100

[REDACTED]

[REDACTED]

2) Hearing of the expert witnesses:

[REDACTED]

3) Adducing documentary evidence:

3a) List of documentary evidence is included in Annex A of the Indictment.

3b) Evidence that is proposed pursuant to Articles 5, 6 and 7 of the Law on the Transfer of Cases from the ICTY to the Prosecutor’s Office of BiH and the Use of Evidence Collected by ICTY in Proceedings before the Courts in Bosnia and Herzegovina:

The List is included in Annex B of the Indictment.

III Results of investigation:

Following the investigation of the accused Duško Jević, Mendeljev Đurić and Goran Marković, the Prosecutor’s Office of Bosnia and Herzegovina argues that there exists sufficient evidence for grounded suspicion that the accused as co-perpetrators and participants in the systemic joint enterprise committed the criminal offence of *Genocide* in violation of Article 171 of the Criminal Code of Bosnia and Herzegovina, in the manner, at the place and at the time as detailed in the Operative Part of the Indictment.

The investigation showed the following:

Throughout the time to which this Indictment refers there was a state of armed conflict in effect in the Republic of Bosnia and Herzegovina (BiH).

During the whole of the material time, participants in the armed conflict were, on the one side, units of the Republika Srpska Army (VRS) and parts of the Ministry of the Interior of Republika Srpska and police forces which were associated or which otherwise operated with the VRS, and the Army of Bosnia and Herzegovina (ABiH) on the other.

During the armed conflict, members of the Jahorina Training Center of the Special Brigade of police of the Republika Srpska Ministry of the Interior (MUP RS) and the RS Army (VRS) were obliged to comply with the laws or customs of war.

All actions and omissions were part of a widespread and systematic attack directed against the Bosniak civilian population of the UN Safe Area of Srebrenica and its environs.

After the outbreak of the armed conflict in the Republic of Bosnia and Herzegovina (R BiH) in Spring 1992, military and paramilitary forces of Bosnian Serbs attacked and occupied towns, places and villages in the eastern part of the country, including Zvornik, and they participated in the campaign of ethnic cleansing which resulted in the massive exodus of civilians, Bosniaks, to the enclaves of Srebrenica, Goražde and Žepa.

On 19 November 1992, General Ratko Mladić, the Commander of the VRS Main Staff, issued Operational Directive 04. This Directive, in part, ordered the Drina Corps to "*...inflict the heaviest possible losses on the enemy, and force him to leave the Birač, Žepa and Goražde areas together with the Bosnian Muslim population. First, offer the able-bodied and armed men to surrender, and if they refuse, destroy them*".

On 16 April 1993, the Security Council of the United Nations, acting pursuant to Chapter VII of its Charter, adopted Resolution 819, in which it demanded that all parties to the conflict in the Republic of Bosnia and Herzegovina treat Srebrenica and its surroundings as a "safe area" which was to be free from any armed attack or any other hostile act.

On 8 March 1995, the Supreme Command of the Armed Forces of the Republika Srpska issued Operational Directive 07. In this Directive, Republika Srpska President Radovan Karadžić directed the VRS (specifically the VRS Drina Corps) to "*...complete the physical separation of the Srebrenica and Žepa enclaves as soon as possible, preventing even communication between individuals between 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 or Žepa*".

On 2 July 1995, in the Drina Corps operational order for the attack on the Srebrenica enclave, General Milenko Živanović ordered that the attack of the enclave should result in "reducing the enclave to its urban area". The size of the enclave on 2 July 1995 was approximately 58 square kilometres and the urban area of the enclave was about two (2) square kilometres. Large numbers of the Bosniak population of the enclave lived outside the urban area of Srebrenica prior to 2 July 1995.

The Drina Corps plan for the execution of this order constituted a step closer to the execution of a more extensive VRS plan for bringing the Bosniak population into a humanitarian crisis and eventually bringing about the elimination of the enclave.

On or about 6 July 1995, units of the Drina Corps shelled Srebrenica and attacked Dutch-manned United Nations observation posts which were located in the enclave. The Drina Corps attack on the Srebrenica enclave, including the shelling, continued through 11 July 1995, when forces of the "Drina Wolves", Bratunac and Zvornik Brigades, and other units of the VRS entered Srebrenica.

Under the Order 64/95 of 10 July 1995, which was issued by the RS Acting Minister of the Interior Tomo KOVAČ, joint forces of MUP units (including the Training Center at Jahorina, 2nd Detachment Šekovići and 1st Company of the PJP CJB Zvornik) were formed to assist forces of the RS Army during the attack. Ljubomir Borovčanin, who was Deputy of Commander of the Special Police Brigade of the MUP RS, Goran Sarić, was appointed as the Commander of joint forces of the MUP RS.

The shelling of Srebrenica on 10 and 11 July by the VRS Drina Corps was designed to cause fear among the Bosniak population and force them to leave the town of Srebrenica and the area.

The Bosniaks, men, women and children, who were in Srebrenica after the commencement of the VRS attack, chose one of the two options:

a) Several thousand women, children and a few mainly elderly men, escaped to the UN Compound in Potočari within the "Safe Area" of Srebrenica and sought protection of the Dutch Battalion. This Bosniak civilian population remained in Potočari and its environs from 11 until 13 July 1995, and during that time VRS and MUP members terrorised them. Afterwards, they were transported by buses and trucks under the control of the VRS and MUP to the areas outside the enclave, to the territory under the control of A RBiH.

b) At the same time, approximately 15,000 Bosniak men from the enclave, with some women and children, gathered at the villages of Šušnjari and Jagličići during the evening of 11 July 1995 and fled, in a huge column, through the woods towards Tuzla.

Approximately one-third of this group consisted of soldiers of the 28th Division of the RBiH Army. The rest were civilians and unarmed military personnel.

On or around 12 July 1995, Ratko Mladić and Radislav Krstić, as well as other representatives of the VRS and civilian authorities of Bosnian Serbs, met in the *Fontana* Hotel in Bratunac with Dutch military officers and representatives of the Bosniaks who escaped into Potočari. In that meeting, Ratko Mladić explained that he would supervise the "evacuation" of refugees from Potočari and that he wanted to see all Bosniak men aged from 16 to 60 in order that the check could be made whether there possibly were any war criminals among them.

On or around 12 July 1995, in the presence of Ratko Mladić and Radislav Krstić, approximately 50 to 60 buses and trucks arrived in the vicinity of the UN Compound in Potočari. Shortly after the arrival of those vehicles, deportation process of Bosniak women and children commenced. When the women, children and men started boarding the buses and trucks, VRS members and parts of MUP, especially members of the Jahorina Training Center, separated men from women and children, and detained the men in Potočari and its environs, wherefrom they were later on relocated by buses to the places of mass executions.

On 12 and 13 July 1995, the Command and units of the Drina Corps, as well as MUP units, participated in the forcible transfer of Bosniak civilians from Potočari.

The UN soldiers who were in the Potočari Compound on 12 and 13 July 1995 were aware of the disastrous humanitarian situation that loomed over the Bosniak who had fled and of the abuses by forces of Bosnian Serbs, but failed to take any measures in that regard.

The Bosniaks, civilians from Srebrenica, who were transported by buses from Potočari on 12 and 13 July 1995, were deprived of the right to freely decide on whether they wanted to leave the area of the former enclave. Members of the Drina Corps and MUP, who participated in the transport operation, knew that the VRS forced the Bosniak population to leave that area.

Members of the Drina Corps and MUP, who were in the Potočari Compound on 12 and 13 July 1995, knew that the Bosniak men, who had been separated from women, children and elderly persons, were not treated in compliance with the accepted practice of screening for potential war criminals and that there existed grave uncertainty about the fate of those people. The Command of the Drina Corps and chiefs of the MUP also knew that the separated men from Potočari were transported by buses to the places of detention in Bratunac, for which the buses which initially were intended for the transportation of women, children and elderly persons were used.

Upon the fall of Srebrenica, the permanent military base of the 28th Division of the Army of the Republic of Bosnia and Herzegovina (A RBiH) was unknown, which was a matter of great concern for the VRS because of the possibility that, by the attack from the direction of Tuzla and Kladanj, the 2nd Corps of the A RBiH could link up with parts of the 28th Division of the A BiH. In the meetings held in the Fontana Hotel on 11 and 12 July, General Mladić tried to arrange the surrender of A RBiH forces from the area of the former enclave. However, as he failed in that attempt, in the days to follow the VRS units, including the Drina Corps units which were not engaged in the attack on Žepa, were tasked to block the column.

In addition to those Drina Corps units, units which were not part of the Drina Corps, such as the Special Police Brigade of the MUP, parts of the Battalion of Military Police of the 65th Protection Regiment and regular police also took action on blocking the column.

After the 28th Division of the Army of RBiH had pulled back from the enclave following the fall of Srebrenica, MUP forces were included in the “final” operations.

MUP units present in Potočari, including the 1st and 2nd Companies of the Jahorina Training Center, the 2nd Detachment Šekovići of the Special Police Brigade and the 1st Company of the PJP CJB Zvornik, were deployed along the Bratunac-Konjević Polje road where they participated in blocking the column and in capturing a great number of Bosniaks on 13 July 1995.

VRS members who were assigned to the Bratunac, Zvornik and Milići Brigades, together with parts of the 5th Engineers Battalion, the 65th Protection Regiment and the MUP Special Police, with support of armoured personnel carriers, tanks, anti-aircraft guns and artillery, took up positions along the Bratunac-Milići road in the attempt to intercept the column. During the withdrawal, some of the armed Bosniak members of the column got involved in a fight with members of the Bosnian Serb forces. Thousands Bosniaks from the column were captured while withdrawing or they surrendered themselves to the Army and MUP of the RS.

The Drina Corps assisted MUP forces in carrying out the assignment of blockade and capture of the fleeing Bosniaks and co-ordinated their military operations with MUP forces.

After Srebrenica was taken in July 1995, the Army and MUP of the RS devised and carried out the plan for executing as many Bosniak men fit for military service as possible who were in the enclave. Over a few days following the attack on Srebrenica, the VRS and MUP forces captured, kept detained, forcibly relocated, summarily executed and buried more than 7,000 men and young Bosniak men from the Srebrenica enclave and forcibly relocated Bosniak women and children of Srebrenica outside the enclave.

Bosnian Serb forces executed several thousand Bosniak men. The total number of victims most likely ranges from 7,000 to 8,000 men.

Political and military leaders of the VRS formulated the plan for the Bosniak population to be permanently removed from Srebrenica upon taking the enclave. During the period from 11 until 13 July, that plan, which is also called "ethnic cleansing," was carried out mainly by the forcible transfer of the majority of civilian population from Potočari after the men fit for military service had been separated from the rest of the population.

In an attempt to eliminate a group of Bosniaks, VRS and MUP RS members committed genocide. They ordered the destruction of forty thousand Bosniaks, Srebrenica residents, who as a group represented Bosniaks in general. They took personal things and documents away from all the captured Bosniak men and combatants and civilians, old and young alike, and killed them deliberately and methodically solely because of their ethnicity. When Bosnian Serb forces started with their genocidal enterprise they were aware that the evil they did to the Bosniaks would leave long-term consequences.

It was found in the final ICTY Judgement in the Case against General Radislav Krstić that during the Krivaja 95 military and police operation, that is, the capturing of the UN Safe Area of Srebrenica by the Army and MUP of the Republika Srpska, **genocide was committed against members of Bosniak people, which was also confirmed by the Judgement of the International Court of Justice in the Hague handed down by virtue of charges of BiH against Serbia and Montenegro.**

That crimes against Bosniaks were planned and organized ensues *inter alia* from the fact that, within a short period of time, more precisely, from 10 until 19 July 1995, all Bosniak women, children and elderly persons were expelled from the enclave, and that all mass executions of Bosniak men and young men were carried out. Thus, the final Judgements against Radislav Krstić and Vidoje Blagojević specified the time of the executions of Bosniak men and young men at the locations of Potočari, Tišća, the Cerska Valley, Jadar, the Kravica Warehouse, Orahovac, the Pilica Community Center, the Branjevo Military Farm, the Nova Kasaba Stadium, Kozluk, the Petkovci Dam. Regarding the mentioned locations which served as execution sites to the military and police of the Republika Srpska, on 13 July 1995 organized murders took place in Jadar in the morning, in the Cerska Valley in the afternoon, in the Kravica Warehouse in the late afternoon and in Tišća in the evening. In the days that followed, executions were carried out in Pilica, Orahovac and the Branjevo Military Farm (ICTY Judgement against Dražen Erdemović).

In addition to the mentioned Judgements of the Hague Tribunal, great contribution in elucidating the so-called Srebrenica incidents was given by the admissions of Momir

Nikolić, Security Officer of the Bratunac Brigade, and Dragan Obrenović, Chief of Staff of the Zvornik Brigade. Relevant information ensues from the admission by Momir Nikolić, above all the fact that the Military Security Service was in the midst of the crimes, and that everything was very well-organized. In his admission Momir Nikolić stated that on 12 July, in the morning, General Mladić was still negotiating with the UN on the evacuation of civilians from Potočari, while Nikolić had already been ordered to find a location for the prisoners and thereafter to work on finding suitable execution sites.

For getting an objective picture of the incidents in and around Srebrenica from July 1995, forensic evidence collected by the Hague investigators and experts in the past ten years is of huge relevance. It is known that the process of finding mass graves (primary, secondary and tertiary) is still topical and that a great number of bodies of the killed Bosniaks has yet to be found and identified. The extensive forensic evidence strongly corroborates important aspects of the testimony of survivors from the various execution sites. Commencing in 1996, the ICTY Office of the Prosecutor conducted exhumations of 21 gravesites associated with the take-over of Srebrenica: four exhumations in 1996 (at Cerska, Nova Kasaba, Orahovac (also known as Lazete 2) and Branjevo Military Farm (Pilica)); eight exhumations in 1998 (Petkovci Dam, Čančar Road 12, Čančari Road 3, Hodžići Road – location 3, Hodžići Road – location 4, Hodžići Road – location 5, Liplje 2, Zeleni Jadar 5); five gravesites in 1999 (Kozluk, Nova Kasaba, Konjević Polje 1, Konjevic Polje 2, and Glogova); 134 and four gravesites in 2000 (Lazete 1, Lazete 2C, Ravnice and Glogova 1). Of the 21 gravesites exhumed, 14 were primary gravesites, where bodies had been put directly after the individuals were killed. Of these, eight were subsequently disturbed without authorization and bodies were removed and reburied elsewhere, often in secondary gravesites located in more remote regions. Seven of the exhumed gravesites were secondary burial sites. The Office of the Prosecutor retained ballistics, soil analysis and materials analysis, experts to comparatively examine materials and residues found in the primary and secondary gravesites. As a result of these analyses, links were discovered between certain primary gravesites and certain secondary gravesites. Since the year 2000, local judicial authorities have taken over the work on finding and exhuming the corpses of Srebrenica residents killed during the Krivaja 95 operation, with great help of the Commission for the Search for Missing Persons, the International Commission for Missing Persons (ICMP) and the Podrinje – Identification Center based in Tuzla.

Forensic evidence substantiates the Prosecution assertion that upon the take-over of Srebrenica thousands of Bosniak men were summarily executed and buried in mass graves. Although experts, forensic specialists, could not establish with certainty how many bodies were buried in mass graves because of the degree of their decomposition and the fact that many were deformed during the process of their relocating from primary to secondary gravesites, which was performed with the use of huge machines, **by 13**

January 2010, out of the total number of exhumed persons, 4,590 were identified. Based on the results of forensic examinations it can be concluded that the majority of persons whose bodies were exhumed were not killed during the combat. **Those persons were killed during the mass executions.**

Grounded suspicion that Duško Jević, Mendeljev Đurić and Goran Marković committed the criminal offence of *Genocide* in violation of Article 171 of the BiH CC, as read with Article 29 and 180(1) of the same law, ensues from the evidence collected during the investigation and especially from the statements by Duško Jević, Mendeljev Đurić, the witnesses S-100, S-101, S-102, S-103, S-104, S-105, S-106, S-107, S-108, S-109, S-110, [REDACTED], S-111, S-112, members of the UN Dutch Battalion and from military documents of the MUP RS and VRS, including dispatches, instructions, orders, reports and directives; those documents were seized by the ICTY during the search of the VRS files.

That the criminal offence with which the suspects are charged was committed and that the MUP RS unit, the Jahorina Training Center, of which the suspects were members, participated in it was established beyond doubt by the final Judgements of the International Criminal Tribunal for the former Yugoslavia in the Hague in the cases against Radislav Krstić, Dragan Obrenović, Momir Nikolić, Vidoje Blagojević and others.

Under the order of Radovan Karadžić, the Center for training of police on Jahorina was formed as a center for training recruits-police officers - future members of the MUP RS. Duško Jević, former member of the R BiH Special Police Brigade based in Sarajevo, was the Commander of the Center. Besides Duško Jević, the Center engaged instructors who were members of the same unit until the beginning of the war in April of 1992. As experienced police officers, under the command of Duško Jević, the instructors provided recruits who had no prior military experience with combined police-military training. That kind of training lasted until mid-June of 1995 when civilians were brought in the Center on Jahorina upon the arrest in the area of Serbia.

According to the available data and the facts established during the investigation, the Jahorina Training Center Unit was staffed with deserters who were deprived of liberty in the wide area of Serbia in June of 1995 during raids organized by police Serbia². During the operation, deserters were transported to several collection centers, whereupon they were transported by buses as far as the border with Bosnia and Herzegovina where they were taken over by MUP RS members. On several occasions, the taking over of deserters was carried out by the RS police in the very collection centers in Serbia. All the arrested deserters were transported to Janja and Zvornik where the selection was made for the

needs of the VRS and MUP RS in such a manner that in previously prepared questionnaires deserters opted for a formation in which they wished to be engaged. All the deserters who chose the MUP were transported to Jahorina to the police officers training center. Duško Jević, Chief of the Center, took active part in the selection of deserters. According to the available data and statements by members of the Unit, around 250 deserters were brought to Jahorina and received a training of some 20 days. On arrival at the Center, personal documents were taken away from the deserters. During the training, deserters were divided into two companies and, within the companies, further into platoons. The training was conducted by commanders of companies and platoons, and in June of 1995 the command structure of the unit was the following:

Duško Jević, Chief of the Center
Mendeljev Đurić, Commander of the 1st Company
Neđo Ikonić, Commander of the 2nd Company

Instructors and commanders of platoons of the 1st Company: Nedeljko Milidragović, Goran Marković, Jevto Doder, Tomislav Krstović.

Instructors and commanders of platoons of the 2nd Company: Radovan Sladoje, Siniša Renovica, Dejan Radojković and Duško Kusmuk.

1st Company of the Jahorina Training Center

After the members of the 1st Company had been lined up on Jahorina and after the location to which the unit was assigned was brought to their attention, they arrived in the Bratunac area on 11 July 1995, in the afternoon, and were billeted on the premises of the primary school in the place of Bjelovac, several kilometres away from Bratunac, upstream the Drina River. Mendeljev Đurić was in command of the 1st Company. The Chief of the Jahorina Training Center, Duško Jević, was also billeted in the same school. On 12 July 1995, Duško Jević ordered departure for Potočari under instructions he received in the evening of 11 July 1995.

- Potočari, 12 and 13 July 1995

On 11 July 1995, under the order of the commanding officers of the Republika Srpska MUP, the Special Police Unit of the Jahorina Training Center, the 1st Company of the PJP and the 2nd Detachment of the Special Police Brigade were sent to the location of “Žuti most” /*Yellow Bridge*/ in Bratunac to block and capture the Bosniaks who were escaping from the enclave and to secure the Bratunac-Potočari road communication. On 12 July 1995, those units were sent to search the terrain and houses in the area around the UNPROFOR Compound, in the settlements around Potočari where a large body of Bosniak civilians gathered. There is evidence that members of that Unit participated in

separating Bosniak men from a large group of the rounded up Bosniak civilians, that some of them entered buses in which there were civilians – women, children and elderly persons, and took money and other valuables from them. On 12 July 1995, members of the 1st Company of the Jahorina Training Center captured the UN Compound in Potočari, disarmed members of the Dutch Battalion and restricted their movement. During the day, Mendeljev Đurić ran the separation of men fit for military service from their families. The separation of the men was carried out by members of the 1st Company who directed them towards the facility known as the "Bijela kuća". After the captured men had been interrogated by members of the military and police, they were taken towards Bratunac. While the men fit for military service were being separated, Captain Van Duijn, the Dutch Battalion member saw that personal documents and personal items, which were scattered in the field in front of the "Bijela kuća", were taken away from the men. Mendeljev Đurić personally told Captain Van Duijn that he was tasked to detect potential war criminals among the men fit for military service and that the captured men would not need their personal documents any more. On 12 July 1995, member of the 1st Company, N.M., separated 10 to 15 men and personally executed them in the vicinity of the UN Compound in Potočari. Besides Mendeljev Đurić, also present in Potočari were the other commanders of platoons, more specifically, Goran Marković, Neđo Milidragović, Tomo Krstović and Jevto Doder. Duško Jević was present in Potočari and he supervised the operation of evacuation and separation of the men fit for military service. The following day, on 13 July 1995, the operation of evacuation of the civilian population from Potočari and the separation of men fit for military service from their families resumed.

- Sandići, 13 July 1995

All day long, on 13 July 1995, members of the MUP forces referred to in the previous paragraph who were in command of and led by Ljubomir Borovčanin, arrested and detained Bosnian Muslims. They held the prisoners in the Sandići meadow, some 18 kilometres to the west of Bratunac, along the Bratunac-Konjević Polje road communication, until late afternoon or early evening, and then they took them from the meadow to various places, among others, to schools in the Bratunac area and to the Kravica Warehouse. During the surrender, members of the Unit communicated by radio communications with the Command and informed them about the number of captured men and the need for transportation. In a number of cases, members of the Center used radio communication which was used by the Special Police that were deployed in the same area on the Sandići – Kravica route. By the evening, there remained 15-20 prisoners in the meadow, for whose transportation a bus was requested, but members of the Center received information that the remaining prisoners would not be provided with transportation. Members of the Jahorina Training Center, N.M. and A.G., issued the order that the remaining prisoners should be "liquidated", and then they were summarily

liquidated by police officers of the Unit from Jahorina in the area a short distance away from Sandići.

- Kravica Warehouse 13 and 14 July 1995

In the early evening hours, on 13 July, members of the 1st and 2nd Company of the Jahorina Training Centre replaced the Unit which secured the area around the Kravica Warehouse where on 13 July 1995 */as rendered in the original/* and which participated in the mass execution of the captured men. According to statements of witnesses who secured the Kravica Warehouse during the night and the following day, on 14 July 1995 there were still some men left in the warehouse who survived the execution. In the early morning on 14 July 1995, the survivors were told to come out of the warehouse in order that they could be exchanged in the Tuzla area. Around 100-150 men left the warehouse, whereupon they were executed by members of the Jahorina Training Centre. During the day on 14 July 1995, the executions were carried out in the area in front of the warehouse, and also individual executions were carried behind, next to and in front of the warehouse, and members of the Jahorina Training Centre participated in those executions.

2nd Company of the Jahorina Training Centre

Members of this Unit arrived in the Konjević Polje area on 12 July 1995 and were immediately deployed along the Konjević Polje–Bratunac road communication. Deployment of the Unit members was made by Commander of the 2nd Company Neđo Ikonić. Besides Neđo Ikonić, the assignment was carried out by platoon commanders Duško Kusmuk, Dejan Radivojević, Siniša Renovica and Radovan Sladoje. While carrying out the assignment, a great number of men fit for military service surrendered themselves to members of the 2nd Company, whereupon they were transported by buses in the direction of Konjević Polje and Bratunac. During the surrender, the prisoners were searched and personal items and personal documents and money were taken away from them. All items that were taken away were put down on a previously spread tent-half. Neđo Ikonić arranged and controlled the capturing and transportation of prisoners. One of the captured men was taken away by members of the Jahorina Training Center in the direction of Bratunac.

- Search of the terrain along the Lolići–Konjević Polje line

Under the written order by Goran Sarić, a unit for the search of terrain in the direction of Lolići – Konjević Polje, the Pervan area, was formed, and it was under the command of Duško Jević. Members of the VRS Bratunac Brigade and police dogs with canine officers participated in that search, too.

During the search on 17 and 18 July 1995, several thousand Bosniak men were captured, including children. During the search itself, members of the Jahorina Training Center committed individual murders of the men they found, and one of those murders was committed under the direct order of Goran Marković.

After the captured men were brought on the Bratunac-Konjević Polje road communication, they were searched and their hands were tied behind their backs with ligatures. Then they were taken in the Konjević Polje direction where they were killed in a warehouse. Bodies of those slain were transported to a grave in Cerska, from which they were exhumed in 1996.

Testimonies by two witnesses who survived at the place of a mass execution in the ZZ Kravica Warehouse, who testified under the pseudonyms S-111 and S-112, are of importance. In his testimony, Witness S-112 goes into details as to how a large group of Bosniaks, from 400 up to 500 persons, surrendered themselves in the area above Kamenica to the Serb soldiers when they were surrounded. On that occasion, some Bosniak men were injured as there was some shooting, too. The Witness also describes the events on a meadow where they had been kept before they were taken in a column under the escort of armed police officers to the ZZ Kravica Warehouse. In an almost identical manner, such assertion was also eliminated by the testimony of the Protected Witness S-112 who notes that the killing of the prisoners started without any occasion given by prisoners.

The activities regarding the clearing up of the terrain and loading of corpses on trucks by means of an excavator, their transportation to previously identified locations in Glogova, from which a couple of months later in 1995, body remains were relocated and hidden in secondary gravesites in Zeleni Jadar, were related by direct eye-witnesses of the massacre, in the first place, workers of the Kravica Farming Cooperative, including Luka Marković and Jovan Nikolić, as well as Krsto Simić and Ostoja Stanojević, loader operator and driver of a truck by which the bodies were transported to a grave.

There are many photographs and satellite pictures which objectively testify about the events in the Kravica Farming Cooperative Warehouse, and which show parked buses in front of the Warehouse, the disturbed soil which attests to the relocation of the body remains from mass gravesites, and the locations of mass gravesites.

Taking into account the aforementioned, the Prosecutor's Office argues that there exists sufficient evidence that Duško Jević, Mendeljev Đurić and Zoran Marković committed the criminal offence with which they are charged by this Indictment, and the intent to commit the genocide ensues from the fact that the captured Bosniak men did not pose any serious threat in military terms, and the decision of the accused to participate in the liquidation of the prisoners, while the planned and organized killing of prisoners lasted,

did not ensue solely from their intention to eliminate them as a military threat. The killing of the men fit for military service constituted, beyond doubt, a physical destruction and, given the scale of the killing and the time continuity during which the acts of killing lasted, their extermination was motivated by genocidal intent. The accused were aware that, given the patriarchal quality of the Bosniak community in Srebrenica, the destruction of such a great number of men will inevitably result in the physical disappearance of Bosniak population in Srebrenica. The physical destruction of men therefore has serious consequences for future generations in the Bosniak community in Srebrenica, with the possibility of that community becoming extinct. The accused, as high-ranking members of the MUP RS, were aware of those consequences.

The forcible transfer of women, children and elderly persons was one method more to ensure the physical destruction of the Bosniak community from the Srebrenica safe area. By that transfer, all members of the Bosniak people were definitively removed from Srebrenica, which removed even the least possibility of renewal of Bosniak community in that area. As opposed to the operation of killing the captured men, such operation hardly could have been concealed or described as a military operation, and therefore it posed a great risk of condemnation by the international community. The main question in establishing whether the genocide was committed in Srebrenica is whether there existed the intent for genocide to be committed. Although that intent must be confirmed by facts, the evidence that the perpetrator chose the most efficient method for achieving his aim to destroy the targeted part of the group is not necessary for the criminal offence of genocide. Even when the chosen method does not bring about the complete execution of the perpetrator's intent, and the destruction remains incomplete, that very ineffectiveness does not exclude the possibility of conclusion that there existed the genocidal intent. It is also important at this point to mention the averment by the Protected Witness S-110 that as early as on 10 July 1995 in the area of Srednje it was known that the 2nd Detachment would get a field assignment in Srebrenica to persecute the Bosniak population from Srebrenica and kill Bosniak men fit for military service. As the 2nd Detachment Šekovići was sent to the area of Srebrenica and Bratunac by the same order as was the Jahorina Training Center, it is a logical thing to conclude that both Duško Jević, Mendeljev Đurić and Goran Marković knew that their assignment as well as the assignment of their unit was the same as that of all other participants in the joint criminal enterprise, and those assignments did not have a combat character as they were not connected with fighting against the R BiH Army, but were the assignments of destruction of the Bosniak population in the area of Srebrenica, which, as the Bosniaks of eastern Bosnia, constituted an essential part of the Bosniak population.

IV Evidence substantiating allegations of the Indictment:

- 1. List of statements by witnesses, findings and opinions by expert witnesses is included in Annex C of the Indictment.**
- 2. List of documentary evidence is included in Annex A and Annex B of the Indictment.**

V Motion for extension of custody:

The Prosecutor's Office of Bosnia and Herzegovina moves that, pursuant to Article 137(1) and (2)d) of the BiH CPC, and for the reasons prescribed in Article 132(1)b) and d) of the Criminal Procedure Code of Bosnia and Herzegovina, the Court extend the custody following the confirmation of the Indictment against Duško Jević, Mendeljev Đurić and Goran Marković for the reasons:

Article 132(1)b): Influence on the witnesses, accessories and accomplices and concealing the evidence and clues relevant to the criminal proceedings

1. The Prosecutor's Office of BiH argues that there exist grounds for the extension of custody pursuant to Article 132(1)b) of the BiH CPC. There are justified reasons to believe that, if released, the suspects could hinder the criminal proceedings by exerting their influence on the witnesses, accessories or accomplices, and that they could conceal evidence and clues relevant to the criminal proceedings.
2. The Prosecutor's Office argues that the nature of criminal offences which were committed by the accused also indicates the risk of the witnesses being intimidated. The criminal offence with which Duško Jević, Mendeljev Đurić and Goran Marković are charged points to a complete lack of respect for human dignity and human life. Also, the crimes were repeated, and they constituted a lengthy and violent period of crimes where there was more than sufficient opportunity for the change of the accused's behaviour in perpetration of the criminal offences.
3. The Prosecutor's Office heard a great number of witnesses during the investigation, the majority of whom were direct eye-witnesses of the relevant events. It is necessary to ensure that those persons give their testimonies freely and knowingly, without fear for their own safety and safety of their family members.
4. The contacts which the Prosecutor's Office had had with several protected witnesses after the accused were deprived of their liberty show their fear of the accused for

themselves and for their families because of the statements they gave, as well as the fear of persons who are brought into connection with the perpetration of the referenced criminal offence, the persons who are still at liberty.

5. During the investigation many witnesses were heard, and some of them stated in their testimonies that after or immediately after return from the Srebrenica field mission or in some later period, they were told by their superiors that they should not talk about the events they had participated in.

Specifically, the witnesses S-108, [REDACTED], S-105, S-102 and S-101 testified that their superiors told them that they should not talk about the events from July of 1995, after the fall of Srebrenica, in other words, that they feared the reaction by their former colleagues and superiors.

Witness S-102 describes in the statement he gave to the Prosecutor's Office of BiH on 7 April 2008:

"My last meeting with **Goran Marković** caused my concern, perhaps, too much fear for safety, because it is well known that explosive can be easily planted and in other ways people's lives may be put in danger."

[REDACTED] describes in his statement of 6 February 2009:

When we returned to Jahorina, they lined us up and Commander Mendeljev said that it was an open secret, that it should be kept silent – both if someone participated in and who participated in, that no one was allowed to talk, and he said that in front of the whole line. It is possible that there was a person named Duško. A complete unit was lined up there, between 50 and 100 persons. I realized from the Mendeljev's statement that members of my unit participated in the acts of killing.

Witness S-101 states in the statement he gave to SIPA investigators:

"When asked by an investigator if anyone from the unit told us to keep silent about that event, I state that X conveyed a message to me to hold my tongue in early September of 1995. That message was allegedly sent to me by some commander."

Witness S-108 states in the statement he gave to SIPA investigators:

After we returned to Jahorina, the instructors searched us, deserters, and I recall, we were told that we should not talk about what was happening during our stay in the area of Srebrenica. I cannot state who told us that.

Witness S-105 states in the statement he gave to SIPA investigators:

”On that occasion, Y told me that no one should talk about what was happening in Srebrenica, and if someone among us said that, then he would tell that we too participated in the acts of killing together with him. I was frightened on that occasion and I could hardly wait to leave the place.”

6. Having in mind such statements by witnesses, as well as the fact that Duško Jević and Mendeljev Đurić were Commander of the Unit and Commander of the Company respectively, whereas Goran Marković was Commander of the Platoon, and as such they had great influence on their subordinates, it is quite certain that, if their custody was not extended, they would try to exert their influence on the witnesses whose statements incriminate them. Also, on the basis of the actions and situations described by the witnesses, they can easily discover which witnesses are in question, irrespective of the fact that the data related to those witnesses have been redacted, and thus jeopardize and hinder the criminal proceedings against them.
7. In the case that was conducted before the Court of BiH against *Miloš Stupar et al.*, the majority of witnesses who gave their testimony at the main trial were former colleagues of the accused, and they changed their testimonies, apparently being under pressure or out of fear. The majority of witnesses in this case are members of the Jahorina Training Center. Some witnesses were at the relevant time, and some are even now, members of police structures of the Republika Srpska MUP, including members of the 1st Company of the Special Police Forces of the Zvornik Public Security Centre and members of the 2nd Detachment of the Special Police Brigade, who could be exposed to condemnation and pressure by the accused, their friends and relatives, whereas the accused themselves, if released, could easily exert their influence on them.
8. Having that in mind, the Prosecutor’s Office notes that also those witnesses who were heard during the investigation have yet to testify at the main trial before the Court of BiH.
9. The Prosecutor’s Office of BiH has been conducting an investigation of several members of the RS MUP, because of the existence of grounded suspicion that, in different ways, they participated in the crimes committed during the period from 11 July until 1 November 1995, as members of the following three police formations: the Jahorina Training Center of the Special Police Brigade, the 1st Company of the PJP CJB Zvornik (police officers from 8 police stations: Šekovići, Zvornik, Bratunac, Vlasenica, Milići, Osmaci, Kozluk, Srebrenica) and the 2nd Detachment of the Special Police Šekovići (police officers from Šekovići, Skelani, Kladanj, Srebrenica), who are at liberty. Some of them are unavailable to the Court and Prosecutor’s Office, i.e. they

are on the run, and under the order of the Court of BiH an international arrest warrant was issued against them (suspects Neđo Ikonić, Dejan Radojković³, Milenko Savić, Milija Blagojević, Milija Jovanović, Miko Milić⁴).

10. The Prosecutor's Office is trying to secure the presence in the Court of a certain number of persons who are linked with the perpetration of that criminal offence, including Neđo Ikonić (Commander of the 2nd Company of the Jahorina Training Center), who is to be extradited from the USA within a month. It is therefore necessary to prevent the possibility of collusion of the accused with the co-perpetrators.
11. The fact that the Prosecutor's Office has been conducting an investigation of several dozens of persons who are currently unavailable to the Prosecutor's Office, and some of those persons are former members of the Training Centre, indicates the risk of influence on the co-perpetrators and the risk of collusion to jeopardize the investigation that is carried out against them.
12. On 22 September 2009, the Prosecutor's Office of BiH received two Official Notes, numbers 17-04/2-6-04-2-1122/09 and 17-04/2-6-04-2-1123/09, made by SIPA investigators and the Prosecutor's Office of BiH, referring to the information they received from witnesses. Specifically, a daughter of Dejan Radojković, Platoon Commander of the 2nd Company of the Jahorina Training Center, against whom an international arrest warrant was issued and against whom the proceedings are conducted in the USA because of immigration fraud, contacted two witnesses of the Prosecutor's Office, [REDACTED], requiring them to testify about the participation of her father in the events from July of 1995, which refer to the area in and around Srebrenica.
13. There is a likelihood that all of the accused will contact their former colleagues from the MUP, and they could use closely connected communities and networks of aiders to require help or that help be provided to them by known and unknown co-perpetrators who are still at large. There is a risk that they could be in collusion with those other potential accused who are known and unknown to the Prosecutor's Office of BiH, and that they could conceal, alter or falsify evidence in order to hinder the investigation into the crimes committed after the take-over of the Srebrenica zone.
14. The specificity of the criminal offences of war crimes, crimes against humanity and genocide is the organized and systematic nature of the perpetration and far-reaching

³ Instructors of the Jahorina Training Center - Neđo Ikonić, Commander of the 2nd Company, Dejan Radojković - Commander of the Platoon of the 2nd Company of the Training Centre

⁴ Members of the 2nd Detachment Šekovići

consequences for victims. Having in mind the massive nature of the crimes committed and that the gravity and extent of those consequences require higher protection of witnesses, even from the very possibility of influence of the accused on the witnesses, and that the co-perpetrators be prevented from exerting their influence on the witnesses through a contact with the accused who are in custody, as especially relevant evidence in the trying of this kind of criminal offences */as rendered in the original/*.

Prevention of influence on the survived /victims/ vulnerable witnesses. Further, the witnesses who survived are faced with special risk because many of them, especially the women and young men who were forcibly separated from men in Potočari, and who were forcibly transferred to the territory under the control of BiH Army (Bosniaks). It is possible that those witnesses-victims do not appear and do not offer co-operation in the investigation if the alleged perpetrators are released.

Concealing the evidence and clues relevant to the criminal proceedings: Bearing in mind the information that the largest number of Bosniaks' bodies has not been discovered yet, there is a risk that the accused could attempt to conceal the traces of mass graves and hinder the finding of remains of bodies of victims of the criminal offence. Also, in the event that the accused are released, especially the Accused Duško Jević, they could conceal the items taken away from the captured Bosniaks, such as jewellery, money and valuables, as indicated by Witness S-106 who mentions in his statement that the Accused Duško Jević issued the order to members of the Centre that they, while coming out of the forest, take away from the Bosniak men weapons, money and jewellery, and to collect all of them on a tent-half, and then the Accused Jević took it all away with him.

15. Bearing in mind all the mentioned reasons, the Prosecutor's Office argues that all requirements that could justify the extension of custody of Duško Jević, Mendeljev Đurić and Goran Marković on this ground are satisfied.

Article 132(1)d)

16. The Prosecutor's Office considers that the reason for custody referred to in Article 132(1)d) of the BiH CPC is satisfied in this case, given that it is a grave criminal offence, genocide, for which a sentence of long-term imprisonment can be imposed, and accordingly, the extension of custody is necessary for the reason of public safety. Bearing in mind the facts which refer to the nature and gravity of the committed criminal offence, the circumstances under which the offence was committed, length

of sentence, level of threat to the protected object, and that consequences of the criminal offence took place, the Prosecutor's Office argues that the extension of custody measure under this ground is justified beyond doubt.

17. Regarding the existence of extraordinary circumstances and real threat to disturbing public order and peace, the Prosecutor's Office notes that the accused are charged with participating in, that is, ordering and inciting forcible transfer of Bosniak population from Potočari, the capturing of Bosniak men and their individual and mass murders. It is unquestionable that those were extraordinary circumstances, given the manner in which the acts were committed (giving false promises while calling people to surrender, taking away personal documents and valuables during surrender, keeping the prisoners on a meadow without food and water, killing the prisoners who survived the executions of the previous day in the ZZ Kravica Warehouse, calling the volunteers to kill the prisoners who survived the executions of the previous day in the ZZ Kravica Warehouse, and forming a firing squad that would carry out those acts of killing, as well as killing the prisoners in Potočari, on the meadow in Sandići and during the search of the terrain) as well as with regard to the consequences of the acts that emerged (number of victims, pain and suffering that the families of the killed persons undergo, the majority of whom has not been exhumed yet).

18. While reviewing the justification of custody of the accused Momir Pelemiš and Slavko Perić, the Panel states the following in the Decision Number X-KR-08/602 of 29 May 2009: "The Panel took into account the averments in the previously mentioned decision of the Constitutional Court of BiH⁵ which reads: "*while deciding on justification of ordering the custody of the suspect or accused, the gravity of the criminal offence with which he is charged is certainly a relevant element for rendering decision*". Also, the Panel also had in mind the Recommendation R (80) 11 of the Committee of Ministers to the member states with regard to custody⁶... Paragraph 4 of Recommendation states (...*even if the existence of the aforementioned requirements cannot be determined, in extraordinary circumstances, custody can be justified in cases of particularly grave acts.*") It is beyond doubt that in the present case there exists a particularly grave act which falls within the gravest criminal offences and which carries the sentence of long imprisonment. Given the above mentioned, all standards required do exist in the present case, with regard to the merits of custody of the accused Jević, Đurić and Ilić.

⁵ Decision by the Constitutional Court of BiH on admissibility and merits, Number AP 6/08 of 13 May 2008.

⁶ Recommendation R (80) 11 of the Committee of Ministers to the member states with regard to custody of 27 June 1980.

19. To order/extend custody under this ground it is sufficient that the risk of disturbing public order and peace is possible, but not that the disturbing of public order and peace has already occurred. In support of this is the case law of the European Court of Human Rights which confirms that the need for securing public order justifies the duration of custody measure in the event when it could become evident that the release of a person will disturb public order during a particular period.⁷ The Trial Panel of the Court of BiH⁸ refers to such case law of the European Court.
20. The period of time which passed from the commission of that criminal offence cannot constitute the circumstance which would diminish the consequence of those crimes. For victims and their families the lapse of time does not diminish the traumatization, and especially for the families of victims whose bodies have not been exhumed yet. The crime of genocide is not subject to the statute of limitations exactly because of the gravity of the crimes which were qualified as Genocide, the interest of public for trying the perpetrators is not diminished by the lapse of time. If the accused were released, and taking into account all the referenced circumstances, it would certainly cause public unrest and insecurity among the citizens, especially direct and indirect, so the Prosecutor's Office of BiH opines that there exist grounds for extension of custody under Article 132(1)d) of the BiH CPC.
21. Taking into account all above mentioned, the Prosecutor's Office of BiH proposes that the Court extend the custody of the accused Duško Jević, Mendeljev Đurić and Goran Marković pursuant to Article 137(1) and (2)d) of the BiH CPC, for the reasons prescribed under Article 132(1)b) and d) of the BiH CPC.

Ibro Bulić

PROSECUTOR

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

⁷ Letellier versus France, Application No. 12369/86, 26 June 1991

⁸ See Decision Number X-KR-08/602 of 29 May 2009