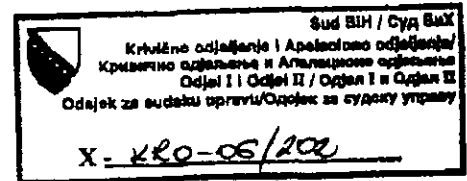


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PREVOD DOK. 272

BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA
SARAJEVO
Number KT-RZ-89/06
Sarajevo, 16 November 2006

COURT OF
BOSNIA AND HERZEGOVINA
- Preliminary Hearing Judge -

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

INDICTMENT

AGAINST:

ŽELJKO LELEK, son of Čedomir and mother Stana, maiden name Radulović, born on 9 February 1962 in Goražde, residing in Višegrad at *Jove Jovanovića Zmaja 21/XIII*, Serb, citizen of BiH, personal identification number 0902962133642, police officer by occupation, employed in the Višegrad Police Station, graduated from high school, married, completed military service in JNA in 1981, discharged from Čačak, no decorations, average financial situation, no previous convictions, no other criminal proceedings pending against him, deprived of liberty on 5 May 2006 at 09:00 hrs, currently in custody in the Kula Penal and Correctional Institution which expires on **27 November 2006**.



Due to grounded suspicion that:

In time of the armed conflict in Bosnia and Herzegovina and a widespread and systematic attack by the Serb army, police and Serb paramilitary formations directed against Bosniak civilian population in the area of the Višegrad Municipality, knowing about the attack, throughout April, May, and June 1992, accused Željko Lelek, in the capacity of the Višegrad Ministry of Interior police officer, persecuted Bosniak civilian populations on political, national, ethnical, cultural, religious grounds by killing, enforced disappearance, unlawful imprisonment, torturing and beating, forcible transfer, rape and other forms of sexual violence, as follows:

1. In early May 1992, in a group, together with Milan Lukić, Oliver Krsmanović and another unknown man, he brought five Bosniak men, among them [REDACTED] from the direction of "Varda" company in Višegrad to the Drina river bank, and there they cut off the heads of the two of the men and killed the other three by firing shots at them from rifles.
2. In early June 1992, in a group, together with Mile Joksimović, Vlatko Pecikoza, he brought two unidentified Bosniak women by car, one of whom was carrying a baby of up to six months of age, to the "Mehmed paše Sokolovića" bridge in Višegrad, and there, the accused slit the throats of both women, however, before that Vlatko Pecikoza threw the baby in the air and the accused Željko Lelek impaled it with the blade of his knife as it fell down, and he ordered the mother to drink the blood of her child, after which the accused went to a nearby hotel and fetched two unidentified imprisoned Bosniak men, and ordered them to throw the bodies of the women and the baby killed into the River Drina, and when the prisoners did so, the attackers forced them to climb the fence of the bridge, and then all three of them killed the prisoners by



firing at them from rifles, as a result of which their bodies fell in the River Drina.

3. On an unspecified date, in spring 1992, in the morning hours, accused Željko Lelek, in a group, together with Mitar Vasiljević, a Lukić (brother of Sredoje Lukić), and another two unidentified men, all armed with automatic rifles, brought at least four unidentified elderly Bosniak civilian men by truck from the "Vilina vlas" spa, where they had been imprisoned, to a concrete plateau on the Drina river bank in the place called Sase in Višegrad, where they forced them to step into the river up to their waist, and then they killed them by shooting them in the back from automatic rifles.
4. Throughout May and June 1992, in a group of several armed members of the Serb army and police, accused Željko Lelek participated in the taking away of Bosniak civilian men from their homes in the settlements of Dušće and Crnča near Višegrad, among them:

[REDACTED]

as well as

when they also destroyed the furniture in the house of

[REDACTED] and the accused forced his wife

[REDACTED] and her mother, an eighty-year old bed-ridden woman,

to strip naked, extorting money from them, since when they have been

unaccounted for, and participated in the taking away of several

Bosniak women from their estates where they lived then in Višegrad,

among them: [REDACTED] whom he physically abused, as well as

her daughters [REDACTED] her mother-in-law

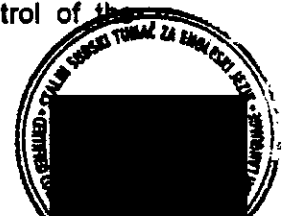
[REDACTED]

and

bringing them in front of the Red Cross building, where Bosniak

civilians were rounded up and then participated in their taking away by

buses and trucks from Višegrad to the areas under control of the



Republic of Bosnia and Herzegovina, by escorting those buses filled with civilians armed with a rifle on at least one occasion.

5. By using force, he forced Bosniak women to a sexual intercourse as follows:
 - a. In April 1992; together with Milan Lukić, the accused raped protected witness A, in a room at the "Vilina Vlas" spa, where the damaged party was staying for treatment; she was first raped by Milan Lukić, cursing and insulting her, and she was then raped by Željko Lelek, when she lost consciousness, and they came again the day after and raped her again.
 - b. In early June 1992 accused Željko Lelek, Sredoje Lukić, one unidentified soldier and Milan Lukić came armed and in uniforms to a room in the "Vilina Vlas" spa in Višegrad, where protected witness D was unlawfully confined together with another three women. Milan Lukić ordered the unidentified soldier to tie the damaged party naked with a cable to the metal bed frame, by tying her legs and hands to the bed frame, and then they raped her, Milan Lukić first, then accused Željko Lelek, insulting her on ethnic and religious grounds; they abused her physically by putting out cigarettes on her body, and stabbing her with a knife all over her body, cutting her in the genital area, due to which she was bleeding and losing consciousness; accused Željko Lelek and the others raped her, physically and mentally abused her every day, throughout the ten days that she spent imprisoned in the spa.
 - c. In mid June 1992, he forced protected witness C to engage in an act of sexual intercourse, and in order to become aroused, he asked her to stroke him on the genitals, threatening to her and cursing her "Turkish mother", then he forced her to hold his penis and stroke it, while he slapped her on the face and beat her.
 - d. In early June 1992, in the "Vilina Vlas" spa, he raped M.H. and A.J., who were confined there unlawfully.



6. In May 1992, together with Milan Lukić and other members of the Serb army and police he participated in unlawful detention of Bosniak civilians in the Višegrad Police Station, as follows:

[REDACTED] and his brother [REDACTED] who was tortured by the accused, by participating in inflicting severe pain and beating, by taking him covered in blood and detaining in a room with other Bosniak civilians in the Višegrad Police Station, and taking him out several times and bringing him back to the room where they were imprisoned, and on one occasion he ordered him to slap his own face and to say to himself "May Alija Izetbegović fuck my mother", after which he beat him with his feet and fists, and kicked him several times with his knee in the genital area, and grabbing him by his hair he banged his head against the wall.

Therefore,

By the actions described under items 1, 2, 3, 4, 5 (a), (b), (c), (d), and 6 of the Indictment, within a widespread and systematic attack directed against Bosniak civilian population, knowing about the attack, the accused persecuted Bosniak civilian population on political, national, ethnic, cultural, and religious grounds in relation to killings, enforced disappearance of persons, forcible transfer of persons, rape, imprisonment, torture, infliction of serious physical and mental injuries,

whereby he committed the criminal offence of Crimes against Humanity in violation of Article 172 (1) (h) in conjunction with items:

- a) Depriving another person of life,
- d) Forcible transfer of population,
- e) Imprisonment,

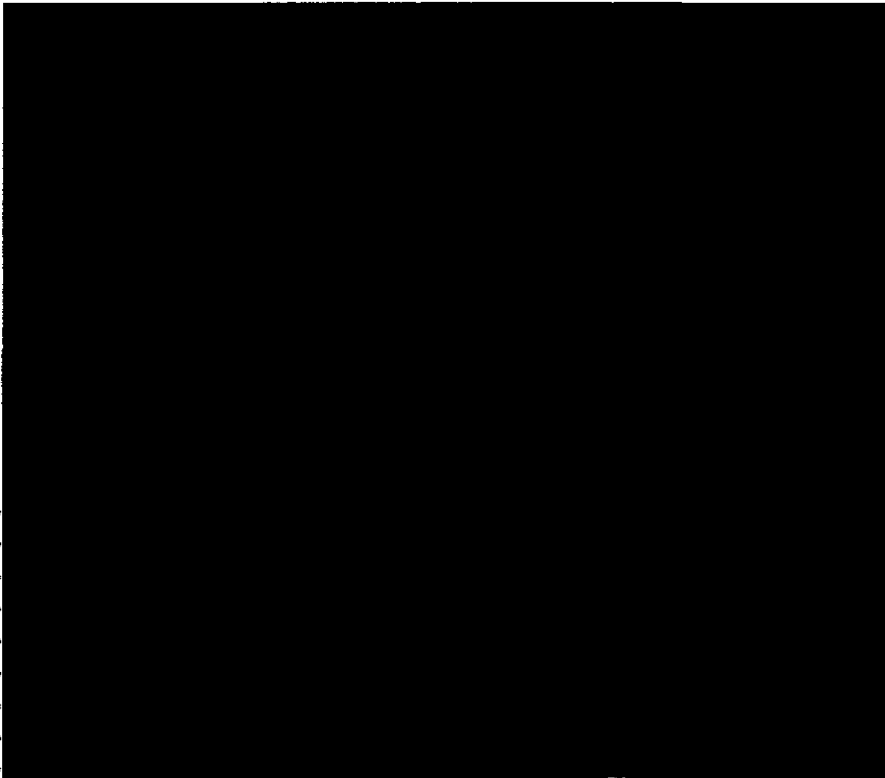


- f) Torture,
 - g) Coercing another by force or by threat of immediate attack upon their life or limb, to sexual intercourse or an equivalent sexual act (rape),
 - i) Enforced disappearance of persons,
 - k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to physical or mental health,
- all in conjunction with Article 29 and 180 (1) of the Criminal Code of Bosnia and Herzegovina.

Proposed evidence:

Hearing of the following witnesses:

- 1.
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27. Hearing of forensic pathologist

Note:

II Presentation of evidence:

1. RS Mol Certificate, PSS Višegrad, number 15-5/09-132-4/2000-71 of 15 August 2000
2. Military ID booklet of 21 March 1997 to the name of Željko Lelek, son of Čedomir
3. Order of the Court of BiH to the State Investigation and Protection Agency to search the premises and seize evidence, Court of BiH number X-KRN-06/202 of 4 May 2006
4. Record of search of dwellings, other premises and movables (owned by Željko Lelek), State Investigation and Protection Agency number 17-04/2-04-2-6/06 of 5 May 2006
5. Record of search of dwellings, other premises and movables (owned by Stanko Lelek), State Investigation and Protection Agency number 17-04/2-04-2-5/06 of 5 May 2006
6. Photographic documentation of the search of the suspect's apartment, State Investigation and Protection Agency number 17-02/8-04-1-05/06 of 5 May 2006
7. Photographic documentation of the search of the suspect's house number 17-13/1-7-16/06 of 5 May 2006
8. Official Report on acting upon the Order of the Court of BiH number X-KRN-06/202 of 4 May 2006, State Investigation and protection Agency number 17-04/2-04-2-174-11/06 of 5 May 2006.
9. Receipt of temporarily seized objects, State Investigation and Protection number 17-04/2-04-2-18/06 of 5 May 2006



10. Receipt of temporarily seized objects, State Investigation and Protection number 17-04/2-04-2-19/06 of 5 May 2006
11. Payroll List of Police Permanent Employees and Reserve Force intended for disbursement of salaries for June 1992, PSS Višegrad dated 1 August 1992
12. Decision of the RS Public Pension and Disability Insurance Fund, Sarajevo Branch Office number 9311767212 of 2 December 1997 establishing the years of service for suspect Željko Lelek in the VRS and RS MoI
13. Decision of the RS MoI number 08/1-134-2758 of 20 October 1995 establishing the rank of suspect Željko Lelek
14. Record of exhumation conducted at the site in the village of Slap-Žepa between 9 and 14 October 2000, following the exhumation of several individual grave sites, grave site 19, person [REDACTED] with photographic documentation, site sketch, Cantonal Court of Sarajevo, Kri:344/00.
15. Record of exhumation conducted at the site in the village of Slap-Žepa between 9 and 14 October 2000, following the exhumation of several individual grave sites, grave site 37, person [REDACTED] with photographic documentation, site sketch, Cantonal Court of Sarajevo, Kri:317/00.
16. Record of exhumation conducted at the site in the village of Kurtalići, the Drina right river bank, composed on 4, 5 and 6 December 2000, Cantonal Court of Sarajevo, Kri-521/00 of 4 December 2000 with photographic documentation and autopsy findings.
17. Death Certificate for [REDACTED] dated 4 May 2006
18. Death Certificate for [REDACTED] dated 8 May 2006
19. Death Certificate for [REDACTED] dated 10 October 2006
20. Death Certificate for [REDACTED] dated 13 October 2006
21. Death Certificate for [REDACTED] 13 October 2006
22. Death Certificate for [REDACTED] 13 October 2006
23. Death Certificate for [REDACTED] 13 October 2006
24. Death Certificate for [REDACTED] 13 October 2006
25. Death Certificate for [REDACTED] dated 2 November 2006
26. Official note composed pertaining to the circumstances in relation to measures and actions taken in the Željko Lelek case, State Investigation and Protection Agency number 17-04/2-04-2-87/06 dated 7 July 2006
27. Official note of the Gorazde MoI number 07-02/3-1-83 dated 4 June 2004
28. Photograph of the "Vilina vlas" Spa in Višegrad
29. Several photographs of the "Mehmed paše Sokolovića" Bridge in Višegrad
30. Višegrad Municipality map



31. Video recording and photographs of individual sites pertaining to the place of perpetration of the criminal offence

Investigation result:

Numerous pieces of evidence were collected in the investigation that fully disclose the events in which accused Željko Lelek participated.

The attack on the Town of Višegrad and many villages in the Višegrad Municipality during April, May, June, and July 1992 was carried out by the local Serbs, police and paramilitary formations, who launched one of the most notorious campaigns of ethnic cleansing in Bosnia and Herzegovina. Its purpose was to remove Bosniak residents from the Višegrad Municipality permanently. The Serb forces attacked and destroyed several Bosniak-populated villages.

The Višegrad Municipality is located in the south-eastern part of Bosnia and Herzegovina, bordering the Republic of Serbia on the east. The town centre is on the left bank of the River Drina. In 1991, the Municipality had around 21,000 inhabitants, 9,000 of who lived in the Town of Višegrad itself. Around 63% of the population were Bosniaks, and around 33% Serbs. In November 1990, multiparty elections were held in the Municipality. Two parties won the majority of the votes: SDA (Party of Democratic Action), mainly Bosniak party and SDS (Serb Democratic Party), mainly Serb party. The election results almost entirely corresponded to the ethnic composition of the municipality population. SDA won 27 out of 50 seats in the Municipal Assembly, whereas SDS won 13. Serb politicians were dissatisfied with such a distribution of power and they believed they were underrepresented in the government positions. Soon afterwards, inter-ethnic tensions sparked. In early 1992, residents of Bosniak ethnicity were disarmed or were asked to surrender their weapons. At the same time, Serbs began arming themselves and organising military training. Bosniaks attempted to organise themselves too, but less successfully. As of 4 April 1992, Serb politicians persistently asked that the police be ethnically divided. Soon after, both opposing sides raised barricades around Višegrad, after which sporadic



violence followed, including shooting and shelling. In one such incident, mortar fire was opened on Bosniak settlements, and many civilians, fearing for their lives, ran away from their villages. In early April 1992, a Bosniak resident of Višegrad, Murat Šabanović, took over the control of the nearby river dam and threatened to open the dam. On 13 April 1992, Šabanović released some water, causing damage to the estates downstream. On the following day, Yugoslav People's Army (JNA) Užice Corps intervened, took over the control over the dam and entered Višegrad. Although many Bosniaks from Višegrad escaped fearing precisely the arrival of the JNA Užice Corps, when it actually happened, the presence of the Corps had a calming effect at first. After they secured the town, JNA officers and Bosniak leaders launched a joint campaign in the media in the attempt to encourage the people to return to their homes. In late April 1992, many truly did so. JNA also initiated negotiations between the two sides, attempting to resolve the inter-ethnic tension. Some Bosniaks, however, were worried by the fact that the Užice Corps was composed solely of Serbs. Soon afterwards, convoys were organised, after which many villages remained void of their Bosniak residents. On one occasion, thousands of Bosniaks from the villages and suburban area of Višegrad on both Drina river banks were brought to the football stadium in Višegrad. People were subjected to frisk there, in pursuit of weapons, and a JNA commander addressed them. He told them that those living on the left Drina river bank were allowed return to their villages cleaned from the "reactionary forces", whereas the residents on the right Drina river bank were not allowed to return. That is why many people from the right Drina river bank stayed in Višegrad, decided to hide or escaped. On 19 May 1992, JNA withdrew from Višegrad. Paramilitary units remained there, and only after the army left the town, more of them arrived. Some local Serbs joined them too. Evidence showed that some of those paramilitary groups killed and robbed Bosniaks only because they were Bosniaks.

The Serb paramilitary group that was particularly violent and terrified them most was the group lead by Milan Lukić, in which the accused too undertook



criminal activity. In a few weeks, that group committed a number of crimes ranging from robbery to murder. At the critical time, the accused was frequently seen in the company of Milan Lukić and individuals from his group, and he knew that the particular group carried out systematic and widespread attacks on the Bosniak population. The Bosniaks who stayed in Višegrad and those who went back home found themselves in a trap - disarmed and at the mercy of the paramilitary that acted in complicity - or with tacit approval in the least - of Serb authorities, particularly the police, who at that time were already Serb only. In that period many other incidents of wilful killing of civilians happened in Višegrad. In the few months that followed, hundreds of Bosniak men, women, children and elderly people were killed. Many of the killed were simply thrown in the River Drina, so that many bodies were found floating on the river. Among all of the bodies pulled out of the water, it seems that only one was of a person of Serb ethnicity. Hundreds of Muslim civilians of all ages and both sex were exhumed from the mass graves in the territory of the Višegrad Municipality and around. The disappearance of people peaked in June and July 1992. Sixty two percent of the total number of persons who went missing in the Višegrad Municipality in 1992 disappeared in the period of those two months. The majority of them, if not all, were civilians. The pattern and pace at which people disappeared in Višegrad corresponded to the pattern and pace in the neighbouring municipalities that are now a part of the Republika Srpska. The disappearance of people in those various neighbouring municipalities happened approximately at the same time. Residents of Bosniak ethnicity were also subjected to other forms of abuse and humiliation, such as rape and beating. Valuables, golden jewellery and money were appropriated from many of them. Quite a few non-Serb civilians who had not fled yet, were systematically expelled in an organized fashion and unlawfully detained, when many of them were killed and beaten, in which the accused participated as well, in the manner described in the operative provision of the Indictment.



The result of that process was that in late 1992 only a small number of residents of Bosniak ethnicity remained in Višegrad. Hundreds of them were wilfully deprived of life, whereas thousands of them were expelled using force or were forcibly - using violence and intimidation - transferred. Nowadays, the majority of Višegrad residents are Serbs. Such drastic changes in the ethnic composition happened systematically throughout the territory of the current Republika Srpska, however, from the point of view of the ethnic proportion of the population, the changes that came about in Višegrad are second only to Srebrenica in their size.

The allegations in the indictment are corroborated by the evidence proposed, collected in the investigation and to be presented at the main trial.

That the attack was indeed carried out in the territory of the Višegrad Municipality, on the villages populated by Bosniaks and the Town of Višegrad by armed military formations composed of the local Serbs, paramilitary formations, and police, which was systematic and widespread, i.e. that the crimes were carried out massively and in an organized fashion has been confirmed by the findings of the Judgment of the international Criminal Tribunal for the Former Yugoslavia – ICTY IT – 98 – 32 “VIŠEGRAD” in the Mitar Vasiljević case.

That the accused's actions and activities were a part of such an attack both in their nature and consequences, and that the accused was aware of the existence of the attack and that his actions and activities were an integral part of that attack was confirmed by witnesses in their statements. According to the statements of the proposed witnesses, the accused undertook his criminal activity on several occasions, in different locations, and in different manners, e.g. by killing, torturing, rape, enforced disappearance, imprisonment, forcible displacement etc.

It arises from the statements of the examined witnesses, who are at the same time victims of the criminal offence the accused is charged with, that they were exposed to an attack that was carried out against them and their property at that time. In those attacks, the accused most often participated in groups of Serb soldiers, paramilitary formations and police, who persecuted Bosniak population on political, national, ethnic, and religious grounds.



The witnesses examined in the investigation claimed the following:

- That many of them had known Željko Lelek before the war as a son of Čedo Lelek, who used to be a traffic police officer for many years, while some of the witnesses met accused Željko Lelek for the first time, and learned about his identity subsequently.
- That he participated in the persecution of Bosniak civilians from Višegrad Municipality is confirmed by the statements of witnesses as follows: protected witnesses [REDACTED] then [REDACTED]
[REDACTED]
- The proposed evidence, such as records of exhumations enclosed with which are photographic documentation and autopsy findings, constitutes physical evidence of the death of some persons, in whose taking away and imprisonment accused Željko Lelek participated.

The investigation results indicate beyond doubt the following:

1. The criminal actions that accused Željko Lelek is charged with in this Indictment were committed in the period between April – June 1992, within a widespread and systematic attack of the police and the Republika Srpska Army, paramilitary Serb formations, directed against Bosniak civilians in the area of the Višegrad Municipality.
2. Accused Željko Lelek was aware that he undertook the actions of the criminal offence within a widespread and systematic attack against civilian population.
3. Accused Željko Lelek was aware of and shared the common goal of the RS Police, Army and Serb paramilitary formations to carry out



persecution on national, ethnic, and religious grounds, which is universally accepted as prohibited under international law.

4. Actions of accused Željko Lelek constitute conduct including multiple perpetration of the offence under Article 172 (1) of the BiH CC against Bosniak civilian population on the basis of the policy of the Republika Srpska army and police.
5. The actions of the accused pertaining to the forcible transfer of population are reflected in the forcible displacement of Bosniak civilians from the territory of the Višegrad Municipality, which they lawfully inhabited, by killing, expelling, beating, rape, intimidation, destruction of property etc.
6. The actions of the accused pertaining to the forcible disappearance of persons are reflected in arrest, detention authorised and supported by the government authorities in the Višegrad Municipality.
7. In the critical period, accused Željko Lelek was a member of police, and as such, it was his moral and professional duty to protect civilian residents.

Material corroborating the allegations of the indictment:

1. Record on the questioning of the suspect Željko Lelek, Prosecutor's Office of BiH, KT-RZ-89/06 dated 5 June 2006.
2. Record on the examination of the witness "X" – Protected witness according to the Decision of the Court of BiH, No. X-KRN-06/202 dated 4 September 2006 (in custody of the Court of BiH, as a confidential part of the case file number: X-KRN-06/202).
3. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-321/06 dated 6 June 2006.
4. Record on the examination of the protected witness [REDACTED] Prosecutor's Office of BiH, KT-RZ-89/06 dated 31 October 2006.



5. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-403/06 dated 4 July 2006.
6. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-404/06 dated 4 July 2006.
7. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-108/06 dated 15 March 2006.
8. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-373/06 dated 23 June 2006.
9. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-424/06 dated 2 August 2006.
10. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-626/06 dated 27 October 2006.
11. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-628/06 dated 30 October 2006.
12. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-570/06 dated 10 October 2006.
13. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-597/06 dated 16 October 2006.
14. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-285/06 dated 18 May 2006.



15. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-610/06 dated 19 October 2006.
16. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-414/06 dated 22 July 2006.
17. Record on the examination of the witness [REDACTED] Prosecutor's Office of BiH, KT-RZ-89/06 dated 20 June 2006.
18. Record on the examination of the protected witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-262/06 dated 27 April 2006.
19. Record on the examination of the protected witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-02-132/06 dated 20 March 2006.
20. Record on the examination of the protected witness [REDACTED] Mol Gorazde, Crime Police Sector, number: 07-02/3-1 dated 17 May 2004.
21. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-627/06 dated 27 October 2006.
22. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-372/06 dated 22 June 2006.
23. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-272/06 dated 4 May 2006.
24. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-224/06 dated 14 April 2006.
25. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-569/06 dated 9 October 2006.



26. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-183/06 dated 27 March 2006.
27. Record on the examination of the witness [REDACTED] State Investigation and Protection Agency, number: 17-04/2-04-2-568/06 dated 9 October 2006.
28. RS Mol Certificate, PSS Višegrad, number: 15-5/09-132-4/2000-71 dated 15 August 2000.
29. Military ID booklet dated 21 March 1997 to the name of Željko Lelek, son of Čedomir
30. Order of the Court of BiH to the State Investigation and Protection Agency, to search the premises and seize evidence, Court of BiH, number: X-KRN-06/202 dated 4 May 2006.
31. Record on the search of dwellings, other premises and movables (owner Željko Lelek), State Investigation and Protection Agency, number: 17-04/2-04-2-6/06 dated 5 May 2006.
32. Record on the search of dwellings, other premises and movables (owner Stanko Lelek), State Investigation and Protection Agency, number: 17-04/2-04-2-5/06 dated 5 May 2006.
33. Photographic documents on the search of the suspect's apartment, State Investigation and Protection Agency, number: 17-02/8-04-1-05/06 dated 5 May 2006.
34. Photographic documents on the search of the suspect's house, number: 17-13/1-7-16/06 dated 5 May 2006.
35. Official report on acting upon the Order of the Court of BiH – number: X-KRN-06/202 dated 4 May 2006, State Investigation and Protection Agency, number: 17-04/2-04-2-174-11/06 dated 5 May 2006.
36. Receipt on temporary seizure of objects, State Investigation and Protection Agency, number: 17-04/2-04-2-18/06 dated 5 May 2006.
37. Receipt on temporary seizure of objects, State Investigation and Protection Agency, number: 17-04/2-04-2-19/06 dated 5 May 2006.
38. Payroll List of Police Permanent Employees and Reserve Force intended for disbursement of salaries for June 1992, PSS Višegrad dated 1 August 1992.
39. Decision of the RS Public Retirement and Disability Insurance Fund, Sarajevo Branch, number: 9311767212 dated 2 December 1997 on establishing years of service for suspect Željko Lelek in the VRS and RS Mol.
40. RS Mol Decision number: 08/1-134-2758 dated 20 October 1995 on establishing the rank for the suspect Željko Lelek.
41. Record on exhumation carried out at the site in the village of Slap-Žepa, dated 9 through 14 October 2000, following the exhumation of several individual grave sites, the grave site 19, person [REDACTED] with



photographic documents, site sketch, Cantonal Court in Sarajevo, Kri:344/00.

42. Record on exhumation carried out at the site in the village of Slap-Žepa, dated 9 through 14 October 2000, following the exhumation of several individual grave sites, the grave site 37, person [REDACTED] with photographic documents, site sketch, Cantonal Court in Sarajevo, Kri:317/00.
43. Record on exhumation carried out at the locality of the village of Kurtalići, right bank of the Drina River, made on 4, 5 and 6 December 2000, Cantonal Court in Sarajevo, Kri-521/00 dated 4 December 2000 with photographic documents and autopsy findings.
44. Death Certificate for [REDACTED] dated 4 May 2006.
45. Death Certificate for [REDACTED], dated 8 May 2006.
46. Death Certificate for [REDACTED], dated 10 October 2006.
47. Death Certificate for [REDACTED], dated 13 October 2006.
48. Death Certificate for [REDACTED], dated 13 October 2006.
49. Death Certificate for [REDACTED], dated 13 October 2006.
50. Death Certificate for [REDACTED] dated 13 October 2006.
51. Death Certificate for [REDACTED] dated 13 October 2006.
52. Death Certificate for [REDACTED] dated 2 November 2006.
53. Official note made concerning the circumstances of undertaking measures and actions in the case of Željko Lelek, State Investigation and Protection Agency, number: 17-04/2-04-2-87/06 dated 7 July 2006.
54. Official note of the Mol Goražde, number 07-02/3_1-83 dated 4 June 2004.
55. A photograph of the "Vilina Vlas" spa in Višegrad.
56. Several photographs of the "Mehmed paše Sokolovića" bridge in Višegrad.
57. A map of the Višegrad Municipality.
58. Video recording and photographs of individual sites pertaining to the place of perpetration of the criminal offence.

Motion to extend the custody

Based on the results of the investigation, in other words the evidence obtained, a conclusion can be drawn that there exists grounded suspicion that the suspect Željko Lelek committed the criminal offence of Crimes against Humanity in violation of Article 172 (1) (h) of the CC of BiH in the manner, at the time, at the place and under the circumstances as mentioned in the actions of the criminal offence contained in Counts 1 through 6 of the Indictment.



The Prosecutor's Office moves that after the Indictment has been confirmed, the custody against the suspect Željko Lelek be extended for the purpose of Article 137 (1) and on the grounds referred to in Article 132 (1) (b) and (d) of the Criminal Procedure Code of Bosnia and Herzegovina.

In view of the circumstance that many victims of the enforced disappearance have been unaccounted for to date, and it is reasonable to conclude that they are not alive, if at liberty the accused might undertake actions to hide the remains of their bodies and in doing so hinder the finding of the missing persons:

Having in mind the fact that the suspect was deprived of liberty while performing the duty of a police officer in the Police Station Višegrad, it is reasonable to conclude that, if released from custody, the suspect would carry on with performing the duty of a police officer exactly in the territory where all the actions of the criminal offence which is the subject matter of this Indictment were carried out, and that, through his post as a police officer, he might influence witnesses with regard to their testimonies by intimidating the witnesses, in particular those who intend to return to their property from which they were persecuted at the critical time, and who will be heard during the trial and who need to be able to testify in an atmosphere without pressure and fear of retaliation.

The fact that the suspect performed the duty of a police officer until the moment of his deprivation of liberty also contributes to the conclusion that as a person with official authority he has access to data and information and may get in contact with a rather large number of persons than usual.

Having in mind the manner of the commission and the consequences of the criminal offence punishable by a sentence of imprisonment of ten years or a more severe punishment, ordering custody is necessary for the public security because the evidence enclosed to the Indictment hereby submitted to the Court implies that majority of witnesses damaged by the commission of the criminal



offence originate from Višegrad where they have not returned after the war as yet and in which the accused holds permanent residence with his family, and the fact that at the time of the commission of the criminal offence until his deprivation of liberty the accused served as a police officer in the Police Station Višegrad, as well as the sympathy of the community inhabited predominantly by Serb population for the accused, it is reasonable to conclude that having the accused at liberty would completely prevent the return of displaced persons to their estates.

There exist specific circumstances suggesting that, if at liberty, the accused might influence witnesses and co-perpetrators who are free. With regard to the public security, the wording of Article 132 (1) (d) of the CPC of BiH can also be interpreted as a means of preventing re-traumatisation of, *inter alia*, witnesses and victims, for which there is a realistic possibility, because according to the witnesses [REDACTED] the suspect, working as a police officer in 1997 and 1998, threatened Bosniaks who came to vote in the elections and went to visit their houses in Višegrad, thus making them feel afraid and insecure as to returning to their pre-war estates, so it is very likely that the suspect, if released, might contact witnesses or undertake other actions to endanger the witnesses.

In this regard, we should bear in mind the facts concerning the gravity and the type of the criminal offence (many witnesses are the victims of rape, some were even subjected to multiple rape, and they still suffer from severe consequences of what they have experienced, and their trauma would intensify by releasing the suspect Željko Lelek), then the place of the commission of the criminal offence (it is a relatively small community where the suspect, other persons involved in the criminal offence and witnesses live), as well as social implications in the territory (re-traumatisation of the victims, witnesses and returnees).

Re-traumatisation of the victims and witnesses endangers not only them but also the implementation of the rule of law, because the victims – witnesses will have confidence in the competence of the judicial authorities to prevent any contact with them by the suspect before justice is served.



The aim of custody is to prevent that witnesses be influenced or evidence destroyed or public security endangered and it is necessarily based on indication and factual estimate of known elements, and the very likelihood that the events to be prevented will actually happen if the measure is denied. The Prosecutor's Office believes that all the above-mentioned elements suggest actual and not abstract likelihood that if at liberty the suspect might influence witnesses and accomplices and destroy, conceal or alter clues important to the criminal proceedings, or influence public security.

**PROSECUTOR OF THE
PROSECUTOR'S OFFICE OF BIH
Ibro Bullić**

*We hereby confirm that this document is a true translation of the original written in Bosnian/Serbian/Croatian.
Sarajevo, 27 November 2006*

*Edina Rizvić
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*Ana Kuvjadić
Certified Court Interpreter for English*

