

BOSNIA AND HERZEGOVINA

PROSECUTOR'S OFFICE

BOSNIA AND HERZEGOVINA

SARAJEVO

Number: KT-RZ-140/2005

Sarajevo, 15 June 2007

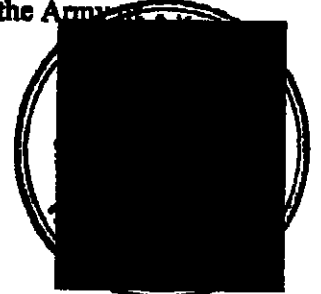
**COURT
OF BOSNIA AND HERZEGOVINA
-Preliminary Hearing Judge-**

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

INDICTMENT

AGAINST:

1. **MIRKO TODOROVIĆ** a.k.a. *Banana*, son of Đorđe and mother Smilja, née Šarac, born on 15 May 1954 in Bratunac, residing in Repovac bb, Municipality Bratunac, Serb, citizen of BiH, car mechanic, literate, driver by occupation, graduated from the Vocation Secondary School, married, father of three children, served military service in 1974 in Kraljevo and Niš, member of the Army of Republika Srpska, no ranks, no decorations, average financial status, convicted by the Judgments of the Municipal Court in Srebrenica number K.414/88 of 15 December 1987 for the criminal offense referred to in Article 43 of the CC BiH with the pronounced fine in the amount of 60,000 dinars, the Judgment of the Municipal Court in Srebrenica number K.220/87 of 22 September 1987 for the commission of the criminal offense referred to in Article 81(1) of the CC SRBiH with the pronounced fine in the amount of 20,000 dinars and the Judgment of the Municipal Court Osječina, number K 125/87 of 30 January 1990 for the criminal offense referred to in Article 201/5 in conjunction with Article 195(3) and 1 of the CC SRS with the pronounced suspended sentence, one year of imprisonment, two years on parole, no proceedings conducted for any other criminal offense, in custody pursuant to the Decision of the Court of BiH number: X-KRN/07/382 of 24 May 2007, and
2. **MILOŠ RADIĆ**, son of Mirko and mother Milosava, née Todorović, born on 5 June 1959 in Srebrenica, residing in Repovac bb, Municipality Bratunac, Serb, citizen of BiH, car mechanic, literate, car mechanic by occupation, married, father of three children, served the Army in 1989/90 in Travnik, member of the Army of Republika Srpska,



Republika Srpska, no ranks, no decorations, average financial status, no prior convictions, no proceedings conducted for other criminal offense, in custody pursuant to the Decision of the Court of BiH number: X-KRN/07/382 of 24 May 2007.

Because:

During the armed conflict in Bosnia and Herzegovina when both the army and the police of Republika Srpska launched a widespread and systematic attack against the Bosniak civilian population in Bosnia and Herzegovina, the accused Mirko Todorović and Miloš Radić, members of the Republika Srpska Army, with knowledge of such an attack, persecuted the civilian Bosniaks on political, national, ethnic, cultural and religious grounds by torture and killings, in the following manner:

On 20 May 1992 during the afternoon hours, in the village of Borkovac near Bratunac, in a group with four other members of the Army of Republika Srpska, attacked by shooting from rifles a group of 14 (fourteen) Bosniak civilians, namely:

[REDACTED] who were hiding due to the fear of the attack by the Republika Srpska army and police in an abandoned quarry, not far from the village of Borkovac where they resided, and thereafter arrested them and took them in a line toward the village, when someone from the group of attackers killed [REDACTED] with a shot from the weapon who was at the back of the line, and thereafter tortured the frightened civilians by punching them, kicking them with boots all over their bodies, seized all their money and valuables, and thereafter took them to a slope toward a nearby creek where they lined them up with their faces turned toward the creek and then shot them from behind their back, due to which their bodies were falling into the creek, on which occasion [REDACTED]

[REDACTED] were killed due to the shots from the firearms,

Therefore,

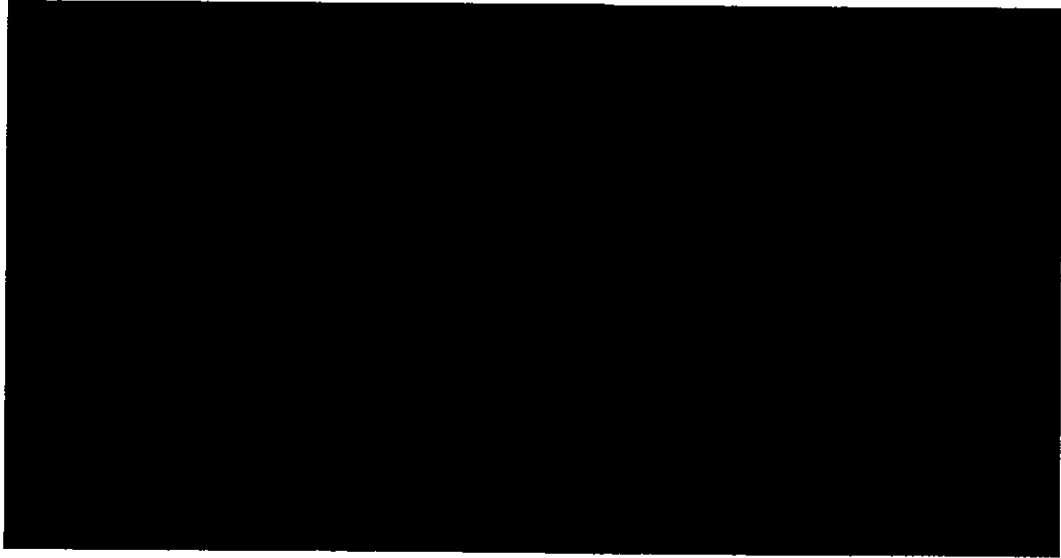
As a part of the widespread and systematic attack directed against the civilian Bosniaks, with knowledge of such an attack, the accused persecuted the civilian Bosniak population on political, national, ethnic, cultural and religious grounds by torturing and depriving other person of her/his life (murder),

Whereby they committed the criminal offense of *Crimes against Humanity* in violation of Article 172 (1) item b) in conjunction with item a) and f) of the Criminal Code of BiH.

Proposal of the evidence to be adduced at the main hearing:

I Hearing in the witness capacity:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.



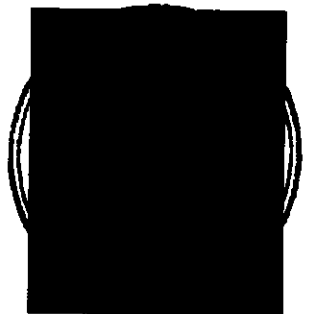
II Representatives of the injured parties:

- 1.
- 2.
- 3.
- 4.
- 5.



III Hearing in the witness expert capacity:

- 1.
- 2.



IV Presentation of Evidence:

1. Copy of a letter – author [REDACTED]
2. Record of Statement given by [REDACTED] Ministry of Interior (MoI) of Canton Sarajevo, Crime Police Sector, General Crime Department, [REDACTED]
3. Record of exhumation carried out on the location of Repovac (Borkovac) and Suha, Municipality Bratunac of 29 April 2004, with regard to the exhumation of several skeletal remains of human origin, with the photo documentation, sketch of the location, Cantonal Prosecutor's Office of Tuzla Canton, number: KTA-609/04,
4. Letter of the Cantonal Prosecutor's Office of Tuzla Canton, number: KTA-609/04 of 3 October 2006 on the delivery of the copies of the identification record with the death certificates for the mentioned persons,
5. Identification Record, identification number: [REDACTED]
6. Death certificate for [REDACTED]
7. Identification Record, identification number: [REDACTED]
8. Death certificate for [REDACTED]
9. Identification Record, identification number [REDACTED]
10. Death certificate for [REDACTED]
11. Identification Record, identification number [REDACTED]
12. Death certificate for [REDACTED]
13. Identification Record, identification number [REDACTED]
14. Death certificate for [REDACTED]
15. Identification Record, identification number [REDACTED]
16. Death certificate for [REDACTED]
17. Identification Record, identification number [REDACTED]
18. Death certificate for [REDACTED]
19. Identification Record, identification number [REDACTED]
20. Death certificate for [REDACTED]
21. Report of forensic expert evaluation of 7 May 2004 – [REDACTED]
22. Report of forensic expert evaluation of 6 May 2004 – [REDACTED]
23. Report of forensic expert evaluation of 6 May 2004 – [REDACTED]
24. Report of forensic expert evaluation of 6 May 2004 – [REDACTED]
25. Report of forensic expert evaluation of 6 May 2004 – [REDACTED]
26. Report of forensic expert evaluation of 6 May 2004 – [REDACTED]

27. Report of forensic expert evaluation of 7 May 2004 – case number: [REDACTED]
28. Report of forensic expert evaluation of 6 May 2004 -- case number: [REDACTED]
29. DNA Results ICMP, case number: [REDACTED]
30. DNA Results ICMP, case number: [REDACTED]
31. DNA Results ICMP, case number: [REDACTED]
32. DNA Results ICMP, case number: [REDACTED]
33. DNA Results ICMP, case number: [REDACTED]
34. DNA Results ICMP, case number: [REDACTED]
35. DNA Results ICMP, case number: [REDACTED]
36. Copy of the ID card for Radić (Mirko) Miloš,
37. Copy of the ID card for Todorović (Đorđo) Mirko,
38. Excerpt from the criminal record for Radić (Mirko) Miloš, Public Security Center Bijeljina number:12-1-6/02-235-106/05 of 1 June 2005,
39. Excerpt from the criminal record for Todorović (Đorđo) Mirko, PS Bratunac number:12-1-7/02-235-89/05 of 31 May 2005,
40. Photo-documentation for the place of Bratunac-Repovac, MoI Tuzla number: 08-02/3-5-04.6-3132/04 of 10 May 2004,
41. Sketch of the on-site location of Bratunac-Repovac, MoI Tuzla number: 08-02/3-5-04.6-3132/04 of 4 May 2004,
42. Sealed envelope titled as: Items from the Processing No. REP-1/2 B (a rifle bullet), No. REP- 1/6 B (a rifle bullet),
43. Borkovac execution site drawing, Municipality Bratunac of 20 May 1992,
44. Military ID record of Republika Srpska for Todorović Mirko, duplicate, series „3B“ number 338/54,
45. SFRY Military ID record for Radić Miloš, series AO number 123997,
46. Judgment on punishment, Prosecutor v. Miroslav Deronjić, the ICTY case No. IT-02-61-S of 30 March 2004,
47. Judgment upon the Appeal against the punishment Prosecutor v. Miroslav Deronjić, the ICTY case No. IT-02-61-A of 20 July 2005,
48. Official Report by the State Investigation and Protection Agency number: 17-04/2-04-2-2105 of 24 May 2007 on taking the action pursuant to the Order of the Court of BiH number X-KRN-07/382 of 22 May 2007,
49. Certificate by the State Investigation and Protection Agency number: 17-04/2-04-2-11/07 of 23 May 2007 of seizure of the items from Radić Đurđija
50. Record by the State Investigation and Protection Agency number: 17-04/2-04-2-11/07 of 23 May 2007 of the search of the dwelling and the accessory premises owned by Radić Miloš,
51. Record of the handover of the person deprived of liberty, Radić Miloš, the State Investigation and Protection Agency number: 17-04/2-04-2-6/07 of 23 May 2007,

52. Certificate by the State Investigation and Protection Agency number: 17-04/2-04-2-12/07 of 23 May 2007 of seizure of the items found in the house owned by Todorović Mirko,
53. Record by the State Investigation and Protection Agency number: 17-04/2-04-2-12/07 of 23 May 2007 of the search of the house owned by Todorović Mirko,
54. Record of the handover of the person deprived of liberty, Todorović Mirko, State Investigation and Protection Agency number: 17-04/2-04-2-6/07 of 23 May 2007.

V Investigation Results:

The following undoubtedly arises from the investigation results:

1. The criminal actions that the accused Mirko Todorović and Miloš Radić are charged with under this Indictment were committed on 20 May 1992, during the widespread and systematic attack of the police and the army of Republika Srpska, paramilitary Serb formations, directed against the Bosniak civilians in the territory of Municipality Bratunac.
2. The accused knew that the actions of the criminal offense were taken during the widespread and systematic attack on the civilian population.
3. The accused knew and shared the common goal of the RS police and army and paramilitary Serb formations to carry out the persecution on national, ethnical and religious grounds that are universally accepted as inadmissible pursuant to international law.
4. The actions of the accused constitute a behavior which includes the commission of the offenses referred to under Article 172 (1) item h) in conjunction with items a) and f) of the CC BiH against the Bosniak civilians on the basis of the policy of the Republika Srpska army and police, with the permission and support by the state authorities in the Municipality Bratunac.

One of the direct consequences before the announced withdrawal of the Yugoslav National Army (JNA) on 19 May 1992 was the takeover of the entire administrative rule in the territories under its control by the RS army and police.

The rule takeover by the JNA Army was mostly supported by shelling, sniper attacks and rounding up of the non-Serb population from these territories. The consequence of such tactic was the frequent killings of civilians and the escape of the non-Serb population. The remaining non-Serb population was forced to gather in the collective centers in the cities in order to be expelled from that territory. Many were killed, detained, beaten up and forced to sing Chetniks' songs, their valuables were seized from them, while all this was followed by the widespread destruction of the personal property and the real estate.

The discussions held in the Assembly of Srpska Republika BiH during the several months that followed show that the leadership was further determined to create a state in which there would be no place for the non-Serb population. The design was to carry out a permanent removal of the non-Serb population from the territory of the proclaimed

Srpska Republika BiH by way of force and fear in order to achieve that goal. The RS leadership was expressing such intention outside the sessions of the Assembly of the Srpska Republika BiH too. In late March 1992, the RS leadership took measures to separate the Serb police forces from the non-Serb police forces and to put the Serb police under the RS civil command. On 27 March 1992, the Assembly of Srpska Republika BiH established the Serb Ministry of Interior (hereinafter: MoI). On 16 April 1992, the Ministry of Peoples Defense of Srpska Republika BiH issued a decision that the Territorial Defense (TD) would constitute the armed force of Srpska Republika BiH, and that the command and leadership of the TD would be carried out by the municipal, district and regional staff commands and the staff command of the Srpska Republika BiH TD. By the same decision, the Ministry of Peoples Defense proclaimed the imminent war danger and ordered a general public mobilization of the TD in the entire territory of Srpska Republika BiH. The establishment of TD staff commands in the RS newly established municipalities was ordered in addition to this. In April 1992, Radovan Karadžić and Nikola Koljević presented a map of the future BiH, according to which 70% of the BiH territory was supposed to become the territory of the Republic of Serb peoples in BiH. A few months later, that chart became a reality – the RS forces controlled precisely the territories which should comprise the territory of Srpska Republika BiH according to the map.

At the 16th session of the Assembly of Srpska Republika BiH, held on 12 May 1992, when the armed conflict had already commenced, Radovan Karadžić presented six strategic goals of Serbs in Bosnia and Herzegovina, of which the first strategic goal implied a permanent removal of the significant part of the non-Serb population from the territory of the envisaged state of Bosnian Serbs.

The attack on the city of Bratunac and many villages in Municipality Bratunac, and also on many cities and villages in the entire Bosnia and Herzegovina during April, May, June and July 1992 was carried out by the JNA, the army and the police of Republika Srpska and Serb paramilitary formations, which initiated one of the cruelest campaigns of ethnic cleansing in Bosnia and Herzegovina. Its intention was to permanently remove the Bosniak inhabitants from Municipality Bratunac. The Serb forces attacked and destroyed several villages inhabited by Bosniaks (Glogova, Hranča, Borkovac, etc.)

The assertions from the Judgment of the International Criminal Tribunal for the Territory of Former Yugoslavia – ICTY against Miroslav Deronjić also confirm that the attack in the territory of Municipality Bratunac on the villages inhabited by the Bosniak population and the city of Bratunac was carried out by the armed military formations comprising the local Serbs, paramilitary formations and police, was systematic and widespread, and that the crimes were committed on a mass scale and in an organized manner. Miroslav Deronjić was sentenced by this Judgment for the crimes that were committed in the village of Glogova. The village of Glogova was almost entirely inhabited by the Bosniak population. At the relevant time, Miroslav Deronjić was President of the Bratunac Crisis Staff and a member of the Serb Democratic Party of Bosnia and Herzegovina.



In the evening of 8 May 1992, he ordered the attack on the village of Glogova, and this constituted a part of his participation in the joint criminal enterprise, the purpose of which was the permanent removal, by force or by other means, of Bosniak inhabitants of the village of Glogova, by the commission of the criminal offense of persecution. The attack on Glogova started on 9 May 1992, a part of the village was burnt down, while the Bosniaks who lived in the village were forcibly removed from the village. In that attack, 64 Bosniak civilians from the village were killed, the homes, the private property of Bosniaks and the mosque too were destroyed, and a large portion of Glogova was leveled to the ground.

The Bosniak witnesses, who survived the attack, and also the Serb witnesses, who in a way were eye-witnesses to these events and who participated on several occasions in the removal of bodies of the killed Bosniaks to several locations in the territory of Municipality Bratunac, whose mortal remains are located in several mass graves, of which some have still not been discovered, will testify about the systematic and widespread nature of the attack on the Bosniak population.

The entire process which was simultaneously carried out in other villages of the Bratunac Municipality too (Hranča, Glogova, etc.) resulted in the fact that in late 1992 only a few Bosniak citizens remained in Bratunac. Hundreds of them were deprived of life, while thousands were expelled by the use of force or were forcibly removed by the use of violence and intimidation.

The allegations of the Indictment are substantiated by the proposed evidence, which was collected during the investigation and which will be adduced at the main hearing.

The witnesses, who are also the victims of the criminal offense that the accused are charged with, will confirm in their testimonies that the actions and activities of the accused were a part of such attack both by their character and their consequences, and that the accused were aware that this attack existed and that their actions and activities were a part of that attack. The accused participated in that attack in the group of Serb soldiers who attacked, arrested, beaten up, escorted and executed them and thus committed the criminal offense they are charged with.

The witnesses interviewed during the investigation asserted that they had clearly recognized their neighbors Todorović Mirko and Radić Miloš as the persons who arrested them on that critical day, escorted them together in the group to the execution site and as the persons who participated within the group in the commission of the criminal offense.

The evidence proposed, such as the records of exhumations with the attached photo-documentation and autopsy reports, constitute material evidence of the death of certain persons in whose arrests and killings the accused Mirko Todorović and Miloš Radić participated.

VI Materials corroborating the allegations of the Indictment:

1. Suspect questioning record of *Todorović Mirko*, BiH Prosecutor's Office, KT-RZ-140/05 of 23 May 2007 and 1 CD in a sealed envelope with the audio-recording of the same questioning,
2. Suspect questioning record of *Radić Miloš*, BiH Prosecutor's Office, KT-RZ-

- 140/05 of 23 May 2007 and 1 CD in a sealed envelope with the audio-recording of the same questioning.
3. Record of the statement taken from [REDACTED] MoI Canton Sarajevo, Crime Police Sector, General Crime Department Sarajevo, number: [REDACTED]
 4. Witness examination record of [REDACTED] Cantonal Prosecutor's Office of Tuzla Canton number: [REDACTED]
 5. Witness examination record of [REDACTED] BiH Prosecutor's Office, number: [REDACTED] and 1 CD with the audio-recording of the examination,
 6. Witness examination record of [REDACTED] BiH Prosecutor's Office, number: [REDACTED] and 1 CD with the audio-recording of the examination,
 7. Witness examination record of [REDACTED] SIPA, number: [REDACTED]
 8. Witness examination record and transcript of [REDACTED] BiH Prosecutor's Office, number: [REDACTED]
 9. Witness examination record of [REDACTED] State Investigation and Protection Agency, number: [REDACTED]
 10. Witness examination record of [REDACTED] State Investigation and Protection Agency, number: [REDACTED]
 11. Witness examination record of [REDACTED] State Investigation and Protection Agency, number: [REDACTED]
 12. Copy of the letter – author [REDACTED]
 13. Record of exhumation carried out on the location of Repovac (Borkovac) and Suha, Municipality Bratunac of 29 April 2004, regarding the exhumation of several skeletal remains of human origin, with the photo-documentation, sketch of the site, Cantonal Prosecutor's Office of Tuzla Canton, number: KTA-609/04,
 14. Memo of the Cantonal Prosecutor's Office of Tuzla Canton, number: KTA-609/04 of 3 October 2006 on the delivery of the identification record copies with the death certificates for the stated persons,
 15. Record of identification, identification number: [REDACTED]
 16. Death certificate for [REDACTED]
 17. Record of identification, identification number: [REDACTED]
 18. Death certificate for [REDACTED]
 19. Record of identification, identification number [REDACTED]
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31. Report of forensic expert evaluation of 7 May 2004 – case number: [REDACTED]
32. Report of forensic expert evaluation of 6 May 2004 – case number: [REDACTED]
33. Report of forensic expert evaluation of 6 May 2004 – case number: [REDACTED]
34. Report of forensic expert evaluation of 6 May 2004 – case number: [REDACTED]
35. Report of forensic expert evaluation of 6 May 2004 – case number: [REDACTED]
36. Report of forensic expert evaluation of 6 May 2004 – case number: [REDACTED]
37. Report of forensic expert evaluation of 7 May 2004 – case number: [REDACTED]
38. Report of forensic expert evaluation of 6 May 2004 – case number: [REDACTED]
39. DNA Results ICMP, case number: [REDACTED]
40. DNA Results ICMP, case number: [REDACTED]
41. DNA Results ICMP, case number: [REDACTED]
42. DNA Results ICMP, case number: [REDACTED]
43. DNA Results ICMP, case number: [REDACTED]
44. DNA Results ICMP, case number: [REDACTED]
45. DNA Results ICMP, case number: [REDACTED]
46. ID card copy for Radić (Mirko) Miloš,
47. ID card copy for Todorović (Đorđo) Mirko,
48. Excerpt from the criminal record for Radić (Mirko) Miloš, Public Security Center Bijeljina number: 12-1-6/02-235-106/05 of 1 June 2005,
49. Excerpt from the criminal record for Todorović (Đorđo) Mirko, PS Bratunac number: 12-1-7/02-235-89/05 of 31 May 2005,
50. Photo-documentation of the place of Bratunac-Repovac, MoI Tuzla number: 08-02/3-5-04.6-3132/04 of 10 May 2004,
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56. Judgment on punishment, Prosecutor v. Miroslav Deronjića, the ICTY case No. IT-02-61-S of 30 March 2004,
57. Judgment upon the Appeal against punishment Prosecutor v. Miroslav Deronjić, the ICTY case No. IT-02-61-A of 20 July 2005,
58. Official Report by the State Investigation and Protection Agency number: 17-04/2-04-2-2105 of 24 May 2007 on the action pursuant to the Order of the Court of BiH number X-KRN-07/382 of 22 May 2007
59. Certificate by the State Investigation and Protection Agency number: 17-04/2-04-2-11/07 of 23 May 2007 of seizure of the items from Radić Đurdija
60. Record by the State Investigation and Protection Agency number: 17-04/2-04-2-11/07 of 23 May 2007 of the search of dwelling and accessory premises owned by Radić Miloš,
61. Record of the handover of the person deprived of liberty, Radić Miloš, the State Investigation and Protection Agency number: 17-04/2-04-2-6/07 of 23 May 2007,
62. Certificate by the State Investigation and Protection Agency number: 17-04/2-04-2-12/07 of 23 May 2007 of seizure of the items found in the house owned by Todorović Mirko,
63. Record by the State Investigation and Protection Agency number: 17-04/2-04-2-12/07 of 23 May 2007 of the search of the house owned by Todorović Mirko,
64. Record of the handover of the person deprived of liberty, Todorović Mirko, State Investigation and Protection Agency number: 17-04/2-04-2-6/07 of 23 May 2007.

VII Motion to extend custody:

It may be concluded on the basis of the results of the investigation and the collected evidence that there exists grounded suspicion that the accused Mirko Todorović and Miloš Radić committed the criminal offense of War Crimes against Humanity in violation of Article 172 (1) item h) in conjunction with items a) and f) of the CC BiH in the manner, at the time, on the location and under the circumstances as indicated in the Indictment. The Prosecutor's Office proposes that the Court, after confirmation of the Indictment, extend custody of the accused in terms of Article 137 (1) on the grounds set forth under Article 132 (1) items a), b) and d) of the Criminal Procedure Code of Bosnia and Herzegovina.

a) Custody grounds referred to under Article 132 (1) item a) of the CPC BiH:

The Prosecutor's Office holds that there are reasons to order Mirko Todorović and Miloš Radić into custody referred to in Article 132 (1) item a) of the CPC BiH (the risk of flight). This reason is based on three factors:

According to the CC BiH, minimum punishment for the criminal offenses that the accused are charged with under the Indictment is imprisonment for a term of 10 years or more. The basic presumption is that the accused, faced with a possibility of a long term imprisonment, would have a strong motivation to avoid the criminal proceedings.

The Court of BiH expressed such position in its numerous decisions to order custody. An increased risk of flight exists now when the accused have announced at the first hearing in the Court that they intended to contest the allegations against them, while they have defended themselves by silence in the course of the proceedings to date.

The accused are Serbs and they might easily hinder the proceedings by crossing the border over into the Republic of Serbia or to the Republic of Montenegro, and thereafter to other countries. The residence in the territory of Municipality Bratunac and close and porous borders provide a number of opportunities for illegal crossing over the border. In numerous former cases, this Court has considered the risk of flight to Serbia (or Montenegro) and the difficulties in the returning of those who had escaped there as a factor which justifies custody referred to under item Article 132 (1) item a).

There is a justified fear that the other co-perpetrators who are at large will help the accused in many ways, including helping and facilitating the accused to escape or to hide themselves so as to avoid the criminal proceedings against them. The Court is aware that one of the co-perpetrators of this criminal offense, [REDACTED] is on the run, against whom the Court of BiH ordered custody and issued an arrest warrant, that he is in the territory of the Republic of Serbia, from where he secretly crosses the border and comes to Bosnia and Herzegovina. Three more persons who are the co-perpetrators of this criminal offense are also at large and the Prosecutor's Office has been taking measures in order to find and arrest them.

The Prosecutor's Office therefore holds, based on the concrete and objective facts, that there are valid reasons for a justified fear that if released, the accused will not voluntarily report to the summons of the Court, and that they have motives and possibilities to cross the border with Serbia and thus become unavailable to the Court of BiH during the criminal proceedings just like many other persons who have escaped to Serbia, thus trying to avoid their criminal responsibility (for example, the suspects against whom the BiH Prosecutor's Office conducts an investigation: [REDACTED])

b) Custody grounds referred to under Article 132 (1) item b) of the CPC BiH:

There are particular circumstances indicating that if released, the accused might hinder the investigation by influencing the witnesses, co-perpetrators and accessories. That there is a real risk that, if released, the accused would be exposed to influence and would themselves influence on the other co-perpetrators who are still at large, and thus hinder the investigation, arises from the fact that at the time of the commission of the criminal offense the accused were co-perpetrators who acted in the group with other persons who are yet to be prosecuted, some of whom are on the run. If the accused are released, this would enable them to make arrangements with the other accused persons and provide a possibility to create alibis and to hinder the criminal proceedings.

It is very important to point out that the Prosecutor's Office conducts an investigation against other persons – co-perpetrators in the commission of this criminal offense, of

whom the suspect [REDACTED] is on the run, thus the BiH Prosecutor's Office requested the Court to order custody and issue an arrest warrant (Decision to order custody by the Court of BiH number: X-KRO/07/382 of 25 May 2007 and the Order of the Court of BiH for arrest warrant issuance number [REDACTED] of 2007). With regard to some suspects who participated in the commission of the criminal offense according to the evidence collected to date, the Prosecutor's Office has been collecting evidence regarding the identity and the addresses where those persons reside, and holds that it will probably collect such evidence soon and that it will be able to take measures to secure their presence too.

The Prosecutor's Office holds that the nature of the criminal offenses that the accused committed and their range of influence also indicate the risk of intimidation of witnesses or revenge against the persons who testify. The criminal offenses that the accused are charged with indicate a complete lack of respect for the human dignity and the human life. In the commission of the criminal offense, the accused have in particular expressed the persistency and joint action within the group, starting from the finding of hidden victims, and their torture, through the seizure of their money and valuables, to their execution, which was the final goal surely constituting a part of the plan to expel all Bosniak civilians from the village of Borkovac only because they are Bosniaks.

The witnesses in this criminal case should give their testimonies in an atmosphere free from pressure and fear of revenge, which would not be possible if the accused Todorović and Radić were released. Should the accused be released, they will be probably contacted by their former colleagues from the RS Army, and the accused will probably use the intertwinement of the communities and the network of accessories in order to ask for or receive help from the co-perpetrators who are still at large, including those who committed murders on different execution sites in the territory of Municipality Bratunac. Those co-perpetrators will be motivated to prevent the witnesses from giving their evidence out of fear that this would incriminate them or that the witnesses might testify against them at one of the future trials.

d) Custody grounds referred to under Article 132 (1) item d) of the CPC BiH:

Taking into account the manner of the commission and the consequences of the criminal offense punishable by imprisonment for a term of 10 years or more, it is necessary to order custody for the safety of citizens because it arises from the evidence delivered to the Court attached to this Indictment, that the majority of the witnesses injured by the commission of the criminal offense concerned are originally from Bratunac, where they still have not returned after the war and where the accused permanently reside with their families, and also taking into account the sympathy of the environment mostly inhabited by the Serb population toward the accused, it can be justifiably concluded that if released, the accused would entirely prevent the return of the displaced persons to their property.

Pointing to the safety of citizens, the wording of Article 132 (1) item d) of the CPC BiH can be also interpreted as a manner of preventing any repeated trauma to the witnesses and the victims in addition to others, for which a real risk exists.

The facts concerning the gravity and type of the criminal offense, the place of the commission of the criminal offense (a relatively small community where the accused, other persons involved in the criminal offense and the witnesses live) should be taken into account with regard to all this, as well as the social implications in that territory (the repeated traumatising of the victims, the witnesses and the returnees).

The repeated traumatising of the victims and the witnesses threatens not only them, but also the implementation of the rule of law because the victims - the witnesses will have trust into the ability of the judicial authorities to prevent any contact of the accused with them before the justice has been served. The purpose of custody is to prevent the actions of influencing witnesses or destruction of evidence or threatening the safety of citizens, and it is necessarily based on the indications and the factual assessment of known elements, and the possibility itself that the events that should be prevented will actually occur if that measure is denied.

The Prosecutor's Office holds that all the foregoing elements indicate a concrete and not an abstract possibility that if released, the accused might influence the witnesses and accessories or that they will influence the safety of citizens, and therefore the Prosecutor's Office proposes that the accused Todorović Mirko and Radić Miloš be kept in custody even after the Indictment confirmation.

**PROSECUTOR
BIH PROSECUTOR'S OFFICE
Ibro Bulić**

*I hereby confirm that this document is a true translation of the original written in Bosnian/Serbian/Croatian.
Sarajevo, 1*

Certified 0