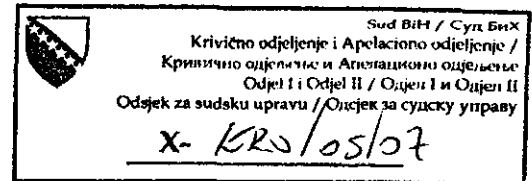


BOSNIA AND HERZEGOVINA
PROSECUTOR'S OFFICE OF BiH
SARAJEVO
No: KT-RZ-4/05
Sarajevo, 8 September 2005
VISS



PRENOD DOKUMENTA 4

COURT OF BOSNIA AND HERZEGOVINA
SARAJEVO

Pursuant to Article 35 paragraph 2 item h) and Article 226 paragraph 1 and 227 paragraph 1 of the CPC BiH, I hereby file the following

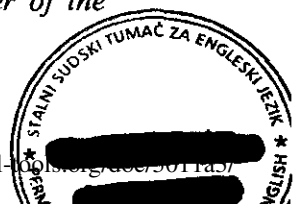
INDICTMENT

Against:

MARKO SAMARDŽIJA, the son of Miloš and mother Anđa, nee Radulović, born on 1 December 1936 in the place called Gornja Prisjeka, the Municipality of Ključ, resides in Prijedor, 38 Vuka Karadžića St., of Serb ethnicity, the citizen of BiH, by profession a retired person, literate, married, the father of two, no previous convictions, pursuant to the Decision of the Cantonal Court of Bihać, No. KPP-18/05 dated 21 March 2005 put in custody; the custody was extended by the Decision of the Cantonal Court of Bihać, No. KV-68/05 dated 14 April 2005 and by the Decision of the Court of BiH, No: X-KRN/05/07 dated 17 June 2005, custody was extended to last until 17 September 2005 at latest.

Because he:

On 10 July 1992, early in the morning, in the village of Biljani, the Municipality of Ključ, within the widespread and systematic attack against civilians carried out in the area of Ključ Municipality, which was the consequence of the implementation of "Instruction on Organizing and Activities of Bodies of Serb People in BiH in Extraordinary Circumstances Dated 19 December 1991", enacted by the Main Board of the SDS party, which foresaw the undertaking of particular activities in all municipalities inhabited by Serbs, as well as the Order of the Crisis Staff of the Municipal Assembly of Ključ of 27 and 28 May 1992 on ban on individual and organized departure from the Municipality of Ključ and the ban on individual or organized entry to all citizens from other areas outside of the Municipality of Ključ, invitation to citizens who possess weapons to surrender them and the Order of the Command of Defense of Ključ Municipality dated 28 May 1992 inviting all citizens of Muslim ethnicity to surrender weapons and obey the order of the Crisis Staff, and if one does not comply with these terms, or does not surrender the weapons, or undertakes new military and other activities contrary to the orders, "he/she will be destroyed by the defense of the Municipality of Ključ", Together with the members of the part of 17th Light Infantry Brigade, policemen in active service and in reserve with the Police Department, headed by the commander of the

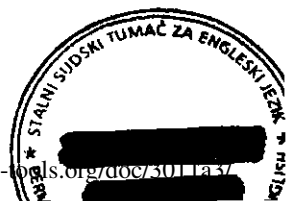


Police Department from Sanica, Milan Tomić, and the members of the Department of Military Police, in the capacity of the Commander of the III Company of the Sanički Battalion in the composition of the 17th Light Infantry Brigade, upon orders for further actions of the command, military postcode 2207 Ključ, No. strictly confidential 03-135 dated 9 July 1992 signed by the Commander Lieutenant Colonel of the 17th Light Infantry Brigade, Drago Samardžija, on the execution of total blockade, search and cleansing of the terrain in the area of the villages of Donji Biljani, Domazeti, Botonjići, Jabukovac, Brkići and with the determined combat disposition, unit assignments and combat security,

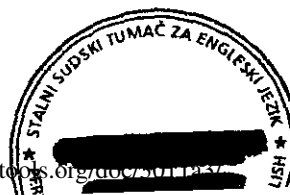
he ordered that all Bosniak civilians from the hamlet of Brkići come out of the houses, separated men from women with children and ordered the women to head towards the primary school to the village of Biljani, and he waited the men on a meadow above the village of Jezerine together with his subordinate armed soldiers with rifles pointed at them, escorting those older than 18 and younger than 60 with their hands at the back of their heads in a line, in the direction of the said school, and upon the arrival of the members of the army, a part of the 17th Light Infantry Brigade and members of the police with Bosniak civilians they apprehended in the other mentioned hamlets, he stayed in the schoolyard watching the soldiers, who were his subordinates as well, detain one part of the men in the school classrooms, and the other part in the Dom Kulture (Cultural Center), and subsequently he watched the soldiers from his company take out groups of 5 to 10 civilians, whereupon they killed them according to the lists he was well familiar with; he also watched the soldiers form a gauntlet making the remaining men pass through and hitting them prior to their entry into the parked buses by which the remaining civilians from the primary school and Dom Kulture were transported to the location of Lanište and killed; he watched the mosque and Bosniak houses in the immediate vicinity of the school, that were set to fire, burn, and in the evening, when the killed men were collected by an excavator and thrown into a truck, around the primary school, mosque, in front of the house of Šemso Džaferagić, Rasema Avdić, Hamdo Mujezinović, Smajil Domazet and Ale Mujezinović, he stood on the foot-board of the truck, saying that the terrain was clean, gazing in the direction of the place from which the excavator collected the bodies of the killed Bosniaks; during 1996, the bodies of 239 Bosniaks from Donji Biljani, Brkići, Osmanovići, Domazeti, Džaferagići, Čehići, Mešani and Jabukovac, were exhumed from the graves Lanište I, Crvena Zemlja I and II and Biljani grave. The cause of their deaths was determined – destruction of body parts, as the consequence of shots from fire arms.

From the Lanište I mass grave the following persons were exhumed:

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- *Mass grave Crvena Zemlja I – Ramići:*



- *Mass grave Crvena Zemlja II:*



- *individual graves I-IX*
(Biljani graves from 1 through 9),

- *Mass grave Biljani I:*



5. [REDACTED]

- *Grave Biljani II – Čehići hamlet:*

1. [REDACTED]

2. [REDACTED]

- *Biljani III – Domazeti grave:*

1. [REDACTED]

- *Biljani IV – Domazeti grave:*

1. [REDACTED]

- *Biljani V – Domazeti – Greblje – Mešani grave:*

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

- *Biljani VI – Domazeti – Čehići grave:*

1. [REDACTED]

- *Mass grave Biljani VII – Jabukovac hamlet, Jabukovac graveyard:*

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

- *Biljani VIII – Brkici hamlet grave:*

1. [REDACTED]

- *Biljani IX – Osmanovići hamlet:*

1. [REDACTED]

Therefore, as a part of widespread and systematic attack against civilians, being aware of such attack, he initiated, instigated and assisted in deprivation of other person of life (murder)

whereby he committed the criminal offence of crimes against humanity in violation of Article 172 paragraph 1 item a) of the CC BiH in connection to Article 180 paragraph 1 of the CC BiH.

Accordingly,

I propose

1. The summoning of the following persons:

- *Prosecutor of the Prosecutor's Office of BiH*
- *Suspect: Marko Samardžija, Prijedor, 38 Vuka Karadžića St., presently in custody in the Court of BiH detention unit*

2. The presentation of the following evidence:

a) Hearing of witnesses:

— — — — —



b) Hearing of expert witnesses:

- Semir Mešić, Bihać, block "B", Polyclinic K-3, specialist in forensic medicine and pathology,
- Hamza Žujo, MD, specialist in forensic medicine, Clinical Center of the Sarajevo University,

c) Proposal to present the evidence by reading and review of objects used as evidence:

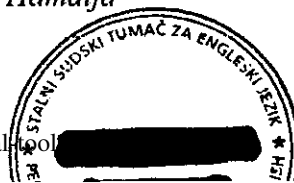
- Letters of Police Administration 3, Crime Police Division, Sanski Most, dated 21 July 2005 and 25 August 2005, delivering the list of documents, official documents and other materials found in the Public Security Department of Ključ, in the building of the Municipal Assembly of Ključ and others, No. 14-18/02-18/9 dated 16 February 1997 produced by Public Security Department of Ključ, and the original documents contained in the folders numbered 1 through 3, which documents were found in the offices of the commander of Public Security Department of Ključ, head of PSD Ključ and in the metal safe in PSD Ključ, the president of Municipal Assembly of Ključ, commander of the Territorial Defense of Ključ, president of the Municipal Court of Ključ, in offices number 16 and 17 in the building of the PSD of Ključ in the office of the Crisis Staff Ključ, in the office of the Wartime Presidency of the Municipal Assembly of Ključ, in the office of the Defense of Municipal Assembly of Ključ, in the office of the Territorial Defense of Ključ and in the office of the Command of the 17th Light Infantry Brigade (exhibit No. 1),
- Report from the area of Biljani, made on 18 August 1994, which was found in the PSD Ključ and delivered as an original document in the folder No. 2, entered under the number 8. The folder was delivered along with the others on 21 July 2005 under the number 05-6/03-695/05 (exhibit No. 2),



- Fax – order of the SDS Sarajevo, addressed to the president of the Municipal Assembly of Ključ by the coordinator for the implementation of the decision, Radoslav Brđanin, forwarded to the president of the Municipal Assembly on 29 October 1991, found in the office of the president of the Municipal Assembly Ključ (exhibit No. 3),
- Decision on accession of Ključ Municipality to the Autonomous Region "Bosanska Krajina", No. 05-023-3/92 dated 16 January 1992 (exhibit No. 4)
- Letter of the president of the Municipal Assembly of Ključ, Omer Filipovic, delivered to the Ministry of National Defense of the Republic of BiH, Headquarters of the Territorial Defense of BiH, No. 01/1-92 dated 14 April 1992 (exhibit No. 5),
- Excerpt from the instruction for operations of crisis staffs of Serb people in municipalities, dated 26 April 1992 (exhibit No. 6),
- Order of the president of the National Defense Council, Jovo Banjac, No. 05-01-45/92 dated 5 May 1992 (exhibit No. 7),
- Order of the commander of the Headquarters of the Territorial Defense, Omer Filipović, No. 05-01-45/92, dated 6 May 1992 (exhibit No. 8),
- Press release of the Crisis Staff of Ključ Municipality, dated 8 May 1992 (exhibit No. 9),
- Conclusion of the Wartime Staff of the Autonomous Region of Krajina, No. 03-297/92 dated 8 May 1992 (list of phone numbers of the members of the Wartime Staff of the Autonomous Region of Krajina delivered by the president of the Wartime Staff Banja Luka on 6 May 1992 to the president of the Municipal Assembly) – (exhibit No. 10).
- Conclusion of the Wartime Staff of the Autonomous Region of Krajina, No. 03-298/92 dated 9 May 1992 (exhibit No. 11),
- Minutes from the session of the Crisis Staff of the Municipal Assembly of Ključ held on 13 and 14 May 1992 (exhibit No. 12),
- Performance report for the Crisis Staff (Wartime Presidency) of the Municipal Assembly of Ključ in the period from 15 May 1992, until 29 July 1992 (exhibit No. 13),
- Order of the Crisis Staff of Ključ Municipality, strictly confidential 22/92, dated 25 May 1992 (exhibit No. 14),
- Information on committed criminal offences in the area of the Municipality since the outbreak of the armed rebellion on 27 May 1992 produced by the PSD Ključ (exhibit No. 15),
- Order of Crisis Staff of the Municipal Assembly of Ključ, No. 05-01-54/92 dated 27 May 1992 (exhibit No. 16),
- Order of the Crisis Staff of Ključ Municipality dated 28 May 1992 (exhibit No. 17)
- Order of the Command of Defense of Ključ Municipality, dated 28 May 1992 (exhibit No. 18),

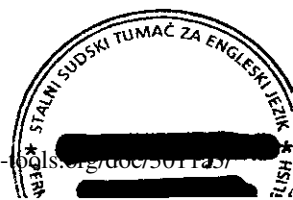


- *Report on performance and activities of the Command of the Brigade with the note Command of 17th Light Infantry Brigade – military secret strictly confidential, dated 28 July 1992 (exhibit No. 19),*
- *Performance report of the Executive Board in the period from 31 May 1992 until the end of July 1992 (exhibit No. 20),*
- *Press release of the Crisis Staff and Command of Defense of Ključ Municipality, No. 6/92 dated 2 June 1992 (exhibit No. 21),*
- *Order on establishment of Local Boards in the area of the Municipality of Ključ, No. 13/92 dated 4 June 1992 (exhibit No. 22),*
- *Conclusion of the Crisis Staff of Ključ Municipality from the session held on 17 June 1992, No. 66/92 dated 18 June 1992 (exhibit No. 23),*
- *Decision declaring the state of war, rendered by the Presidency of the Republic of BiH at the session held on 20 June 1992 (Official Gazette of RBiH, No. 7/92) – (exhibit No. 24),*
- *Order for further operations of the Command of 17th Light Infantry Brigade, strictly confidential, No. 01-93/92 dated 25 June 1992 with the note “military secret highly confidential” (exhibit No. 25),*
- *Review of managing working posts occupied by the employees of Muslim ethnicity dated 26 June 1992, issued by the Serb Republic of BiH Municipal Assembly of Ključ (exhibit No. 26),*
- *List of persons apprehended during the cleansing of the terrain of Municipal Assembly of Ključ, SL/92 dated 27 June 1997 (exhibit No. 27),*
- *List of prisoners from the area of Ključ Municipality in the concentration camp Manjaca – found in the metal safe in the office No. 16 in the building of PSD Ključ on 16 February 1997 (exhibit No. 28),*
- *Official notes composed by the PSD Ključ on 1 June, 2 June, 3 June, 26 June, 28 June and 7 July 1992 (12 official notes), pertaining to the possession of weapons of the inhabitants of Biljani (documents delivered by the Federation Ministry of Defense, No. 06-03/6-4.4-498-1/05 dated 12 July 2005, confirming that the copies of the documents were taken from the archive of the Ministry of Defense of FBiH – Security and Intelligence Affairs Sector) – (exhibit No. 29),*
- *Decisions on removal of the Judge of the Minor Offence Municipal Court of Ključ, Nermin Kapetanović; the president of the Basic Court of Ključ, Nedžad Botonjić; Judge of the Basic Court in Ključ, Enisa Dućanović which were rendered by the Crisis Staff of the Municipal Assembly of Ključ, dated 1 and 2 July 1992 and signed by the President of the Crisis Staff of Jovo Banjac; Decisions on removal of the president of the Municipal Assembly of Ključ, Omer Filipović; president of the Executive Board of Ključ Municipality, Asim Egrlić; secretary of the Executive Board of Ključ Municipality, Fikret Balagi; secretary of the Municipal Secretariat for General Administration, Merima Filipović; director of the Municipal Administration for Geodesic, Property Affairs and Real Estate Cadastre, Hamdija*



- Dućanović, which decisions were made on 21 July 1992 (exhibit No. 30),*
- *Map of Ključ Municipality made in the ratio 1:100,000 (exhibit No. 31),*
 - *List of police members in active service and in reserve, who have wartime assignment in the PSD Ključ (exhibit No. 32),*
 - *Order for further operations of the Command, military postcode 2207, strictly confidential, No. 03-135 dated 9 July 1992 issued by the commander, lieutenant colonel Drago Samardžija with the note "military secret strictly confidential) (exhibit No. 33),*
 - *Original list of persons imprisoned in the Primary School in Biljani written in Cyrillic and Latin scripts with the inserted date of 10 July 1992 and note "Biljani school" on the list written in Cyrillic script (exhibit No. 34),*
 - *Official Note of the Commander of Wartime Police Station (WPS) of Sanica dated 10 July 1992 (exhibit No. 35),*
 - *Excerpt from the minutes from the session of the Wartime Presidency of the Municipal Assembly of Ključ, held on 10 July 1992 (exhibit No. 36),*
 - *Information of the work and activities of the PSD Ključ at the time of combat operations in the area of the Municipality of Ključ, strictly confidential 9/92 (exhibit No. 37),*
 - *Conclusion of the Wartime Presidency dated 13 July 1992 from the session of the Wartime Presidency held on 10 July 1992 (exhibit No. 38),*
 - *Decision on establishment of the Wartime Presidency of the Municipal Assembly of Ključ, No. 05.01-98/92 dated 13 July 1992 (exhibit No. 39),*
 - *Decision on criteria for the opportunity to move out from the area of the Municipality of Ključ, made by the Wartime Presidency dated 30 July 1992, No. 05-01-136/92 (exhibit No. 40),*
 - *Order of the Wartime Presidency of the Municipal Assembly of Ključ dated 7 August 1992 (exhibit No. 41),*
 - *Excerpt from the Minutes from the sixth session of the Wartime Presidency of the Municipal Assembly of Ključ held on 7 August 1992, which was found in the office of the President of the Municipal Assembly of Ključ, and delivered as the original document in the folder number 1, entered under the number 31 (exhibit No. 42)*
 - *Decision on addendum to the Decision on criteria for the opportunity to move out from the area of the Municipality of Ključ dated 7 August 1992 (exhibit No. 43),*
 - *Account for the monograph of First Krajiški Corps confidential, 2 November 1993 (exhibit No. 44),*
 - *Report of the assistant commander for civil affairs military postcode 7286, confidential No. 01-326-22/93, dated 16 February 1993 (exhibit No. 45),*

- *Review of persons moved out and in the area covered by the SNB Sector Banja Luka from May 1993 (exhibit No. 46),*
- *Review of information on number and ethnic structure of inhabitants by municipalities in the area of the Center of State Security Sector Banja Luka for 1991 and 1995 (exhibit No. 47),*
- *Instructions on Organizing and Activities of Bodies of Serb People in BiH in Extraordinary Circumstances dated 19 December 1991 (exhibit, No. 48),*
- *Letter of the General Staff of the Republika Srpska Army, ref. No. 02/3-1-291/4 dated 26 August 2005 delivered to the State Agency for Investigation and Protection, pertaining to Marko Samardžija – information on the member of the RS Army (exhibit No. 49),*
- *Report on plundering committed by armed persons in the area of Biljani, compiled by the commander of the III company, Marko Samardžija, strictly confidential, No. 37/92 dated 29 June 1992 (exhibit No. 50),*
- *Notice to the Commanders of Platoons from 1 through 3, signed by the Commander of the Company, Marko Samardžija (exhibit No. 51)*
- *Submission of the Local Board of the Movement for Yugoslavia, composed by Marko Samardžija (exhibit No. 52),*
- *Submission "The Road to a Strong Military Team through Discipline, Concord and Unity" authored and signed by the commander of the III company, Marko Samardžija – captain first class, dated 4 July 1992 (exhibit No. 53),*
- *Submission "Basic Requirements for Operations of Military Units of III Company" authored and signed by the commander of the III company, Marko Samardžija – Captain First Class, dated 22 June 1992 (exhibit No. 54),*
- *List of III Company of the Sanički Battalion signed by the Commander of the III Company, Marko Samardžija, dated 30 June 1992 (exhibit No. 55),*
- *Overview of manpower of the armed guards of the III Company (exhibit No. 56),*
- *List – for the area of Gornja Prisjeka Platoon of the III Company – of persons who due to the circumstances have the role of village night guards (exhibit No. 57),*
- *List of equipment of the soldiers of the II Platoon Gornja Prisjeka of the III Company and the list for cigarettes (exhibit No. 58),*
- *Submission "Elaborate on Specific Assignments in the Work of III Company II Platoon – Gornja Prisjeka" made on 2 July 1992 in Sanica by the Commander of the III Company – Marko Samardžija (exhibit No. 59),*



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- *Record of autopsy of corpses from the mass and individual graves in the village of Biljani made by the Basic Court of Ključ, No. KRI 48/96 dated 14 October 1996 (exhibit No. 75),*
- *Record of crime scene investigation and exhumation of individual graves in the village of Biljani, Domazeti hamlet, made by the Basic Court of Ključ, No. KRI 48/96, dated 6 November 1996 (exhibit No. 76),*
- *Record of autopsy of individual graves from the area of the Biljani village made by the Basic Court of Ključ, No. KRI 48/96 dated 7 November 1996 (exhibit No. 77),*
- *Letter of the Basic Court of Ključ No. 38, 48, 47, 52, 56, 54, 53, 57, 55, 58/96 dated 13 December 1996 delivered to the Registry Offices in Ključ and Sanica indicating that the records of autopsy are delivered for the purpose of entry of deaths in register books (exhibit No. 78),*
- *Photo documents – 1st and 2nd part of mass graves Laništa I, Ključ Municipality, that pertains to the exhumation of 188 bodies of killed Bosniak civilians with 10 October 1996 as the date when the photo was taken (exhibit No. 79),*
- *188 autopsy records, 41 of which are records for NN persons, while the others are to the names of persons – bodies exhumed from the mass grave Lanište I, on 10 October 1996 (exhibit No. 80),*
- *Drawing of the crime scene with the marked natural pit – mass grave Lanište I wherefrom 188 bodies of the killed Bosniak civilians were exhumed; the drawing was made on 10 October 1996 (exhibit No. 81),*
- *Drawing of the crime scene – mass grave Lanište I – lateral cross-section view of the terrain; the drawing was made on 10 October 1996 (exhibit No. 82),*
- *Photo documents of the mass grave Crvena Zemlja with the photographs of exhumation of 16 bodies of the killed Bosniak civilians, with 5 November 1996 as the date when the photo was taken (exhibit No. 83),*
- *Drawing of the crime scene – mass grave Crvena Zemlja from which 16 bodies of the killed Bosniak civilians were exhumed, carrying the date of 13 December 1996 (exhibit No. 84),*
- *Autopsy records for 16 exhumed corpses (8 of them being NN corpses), found in the mass grave Crvena Zemlja (exhibit No. 85),*
- *Photo documents – drawing of the crime scene of the exhumation of 5 bodies of the killed Bosniak civilians found in the mass grave Biljani I, the Municipality of Ključ with the indication of the date 15 October 1996 (exhibit No. 86),*
- *Autopsy records for 5 exhumed bodies containing the conclusion that they are NN males, either middle-aged or younger persons. The records were made on 6 October 1996 (exhibit No. 87),*
- *Photo documents – drawing of the location of exhumation of 2 bodies of the killed Bosniak civilians found in the grave Biljani II, Ključ*



- Municipality, with 28 February 1997 as the date when the photo was taken (exhibit No. 88),
- Autopsy records for 2 exhumed bodies from the grave Biljani II – [REDACTED] and [REDACTED]. The records were made on 6 October 1996 (exhibit No. 89),
 - Photo documents and drawing of the scene of exhumation of the body of [REDACTED] found in the place called Domazeti, Ključ Municipality, marked as the grave Biljani III with 6 November 1996 as the date when the photo was taken (exhibit No. 90),
 - Autopsy record made on 6 November 1996 to the name of [REDACTED] whose body was found in the grave Biljani III (exhibit No. 91),
 - Photo documents and drawing of the scene of exhumation of the body of [REDACTED] found in the place called Domazeti, Ključ Municipality, marked as the grave Biljani IV with 6 November 1996 as the date the photo was taken (exhibit No. 92),
 - Autopsy record made on 6 November 1996 to the name of [REDACTED] whose body was found in the grave Biljani IV (exhibit No. 93),
 - Photo documents and drawing of the scene of exhumation of the bodies of [REDACTED] that were found in the place called Domazeti, Mešani cemetery, marked as the grave Biljani V with 6 November 1996 as the date when the photo was taken (exhibit No. 94),
 - Autopsy records made on 6 November 1996 to the names of [REDACTED] whose bodies were found in the grave Biljani V (exhibit No. 95),
 - Photo documents and drawing of the scene of exhumation of the body of [REDACTED] found in the place called Domazeti, Čehići hamlet, Ključ Municipality, marked as the grave Biljani VI with 6 November 1996 as the date when the photo was taken (exhibit No. 96),
 - Autopsy record made on 6 November 1996 to the name of [REDACTED] whose body was found in the grave Biljani VI (exhibit No. 97),
 - Photo documents and drawing of the scene of exhumation of five bodies of the killed Bosniak civilians found in the hamlet Jabukovac, Mezarje, the Municipality of Ključ, marked as the grave Biljani VII with the indication of the date of photographing – 6 November 1996 (exhibit No. 98),
 - Record on Autopsy of [REDACTED] dated 6 November 1996, whose bodies were found in the Biljani VII grave (exhibit no. 99),
 - Photo documents and the scheme of the exhumation scene of the body of [REDACTED] found in the hamlet of Brkić, the Municipality of Ključ,



marked as the Biljani VIII grave with 9 November 1996 as the date when the photograph was taken (exhibit no. 100),

- Record on Autopsy on [REDACTED] dated 10 November 1996 whose body was found in the Biljani VIII grave (exhibit no. 101),
- Photo documents and the drawing of the exhumation scene of the body of [REDACTED] found in the hamlet of Osmanovići, the Municipality of Ključ, marked as the Biljani IX grave with 9 November 1996 as the date when the photograph was taken (exhibit no. 102),
- Record on Autopsy on [REDACTED] dated 10 November 1996 whose body was found in the Biljani IX grave (exhibit no. 103),
- Video recording no. V000-1535 – parts I and II (exhibit no. 104),
- Video recording no. V000-3102-1-A (exhibit no. 105),
- Video recording no. V000-3103-1-A (exhibit no. 106),
- Video recording no. V000-2731 (exhibit no. 107),

d) Documents in support of charges:

- Suspect Examination Record for Marko Samardžija, dated 21 March 2005,
- Witness Examination Record for [REDACTED] dated 11 May 2005,
- Witness Examination Record for [REDACTED] dated 12 March 2001 and 11 May 2005,
- Witness Examination Record for [REDACTED] dated 20 May 2005,
- Witness Examination Record for [REDACTED] dated 16 July 2005,
- Witness Examination Record for [REDACTED] dated 14 July 2005,
- Witness Examination Record for [REDACTED] dated 12 March 2001, 15 April 2005 and 11 July 2005,
- Witness Examination Record for [REDACTED] dated 14 July 2005,
- Witness Examination Record for [REDACTED] dated 13 July 2005,
- Witness Examination Record for [REDACTED] dated 11 July 2005,
- Witness Examination Record for [REDACTED] dated 28 July 2005,
- Witness Examination Record for [REDACTED] dated 19 August 2005,
- Witness Examination Record for [REDACTED] dated 11 August 2005,
- Witness Examination Record for [REDACTED] dated 7 September 2005,
- Witness Examination Record for [REDACTED] dated 7 September 2005,
- Witness Examination Record for [REDACTED] dated 12 March 2001 and 10 May 2005,
- Witness Examination Record for [REDACTED] dated 12 March 2001 and 10 May 2005,
- Witness Examination Record for [REDACTED] dated 12 May 2005,
- Witness Examination Record for [REDACTED] dated 12 May 2005,
- Witness Examination Record for [REDACTED] dated 19 May 2005,
- Witness Examination Record for [REDACTED] dated 18 May 2005,
- Witness Examination Record for [REDACTED] dated 15 April 2005,

- Witness Examination Record for [REDACTED] dated 18 May 2005,
- Witness Examination Record for [REDACTED] dated 19 May 2005,
- Witness Examination Record for [REDACTED] dated 16 July 2005,
- Witness Examination Record for [REDACTED] dated 16 July 2005,
- Witness Examination Record for [REDACTED] dated 15 July 2005,
- Witness Examination Record for [REDACTED] dated 15 July 2005,
- Witness Examination Record for [REDACTED] dated 14 July 2005,
- Witness Examination Record for [REDACTED] dated 11 July 2005,
- Witness Examination Record for [REDACTED] dated 11 July 2005,
- Witness Examination Record for [REDACTED] dated 12 May 2005,
- Witness Examination Record for [REDACTED] dated 12 May 2005,
- Witness Examination Record for [REDACTED] dated 20 May 2005,
- Witness Examination Record for [REDACTED] dated 12 March 2001 and 15 April 2005,
- Witness Examination Record for [REDACTED] dated 15 July 2005,
- Witness Examination Record for [REDACTED] dated 14 July 2005,
- Witness Examination Record for [REDACTED] dated 12 July 2005,
- Witness Examination Record for [REDACTED] dated 12 July 2005,
- Witness Examination Record for [REDACTED] dated 16 July 2005,
- Witness Examination Record for [REDACTED] dated 13 July 2005,
- Witness Examination Record for [REDACTED] dated 12 July 2005,
- Witness Examination Record for [REDACTED] dated 15 July 2005,
- Witness Examination Record for [REDACTED] dated 13 July 2005,
- Witness Examination Record for [REDACTED] dated 15 July 2005.

Individual Criminal Responsibility referred to in Article 180 paragraph 1 of the CC of BiH

- Excerpt from Verdict "Kordić and Čerkez" - (Trial Panel, 26 February 2001) – Paragraphs 367 and 387 – Verdict IT-95-14/2 became final on 17 December 2004 (the Verdict contains 367 pages),
- Excerpt from Verdict "Krstić" - (Trial Panel, 2 August 2001) – Paragraphs 605 and 601 – Verdict IT-98-38 became final on 19 April 2004 (the Verdict contains 335 pages),

- *Excerpt from Verdict "Kunarac, Kovač and Vuković" - (Trial Panel, 22 February 2001) – Paragraph 391 – Verdict IT-96-23 became final on 28 November 2002 (Kovač and Vuković) and on 12 December 2002 (Kunarac), (the Verdict contains 306 pages),*
- *Excerpt from Verdict "Vasiljević" - (Trial Panel, 29 November 2002) – Paragraph 70 – Verdict IT-98-32 became final on 25 February 2004 (the Verdict contains 122 pages),*
- *Excerpt from Verdict "Tadić" - (Trial Panel, 7 May 1997) – Paragraph 689 – Verdict IT-94-1 became final on 26 January 2000 (the Verdict contains 311 pages),*
- *Excerpt from Verdict in the "Čelebići" case - (Trial Panel II, 16 November 1998) – Paragraphs from 319 through 329 – Verdict IT-96-21 became final on 8 April 2003 (with regard to Zdravko Mucić, Hazim Delalić and Esad Landžo, and on 20 February 2001 with regard to Zejna Delalić), (the Verdict contains 521 pages).*

Elements of the criminal offence referred to in Article 172 paragraph 1 item a)

- *Excerpt from the "Brđanin" Verdict, dated 1 September 2004 – Verdict IT-99-36, dated 1 September 2004, the Appeal of the Prosecutor's Office, dated 30 September 2004 and the Appeal of the Defences, dated 1 October 2004 (the Verdict contains 403 pages),*
- *General Review,*
- *- Political programme of the Bosnian Serb leadership and*
- *- Implementation of the strategic plan in Bosanska Krajina*
- *Regional authorities – Paragraphs from 197 through 256,*
- *Charges and Conclusions – Facts and Conclusions – Paragraphs 423, 424, 425, 426, 427, 462, 619, 620, 621, 650,*
- *Excerpt from the "Tadić" Verdict (before the Appellate Panel dated 15 July 1999) – Paragraph 251 – Verdict IT-94-1 became final on 26 January 2000 (the Verdict contains 159 pages),*
- *Excerpt from the "Vasiljević" Verdict (Trial Panel, 29 November 2002) – Paragraphs 29 and 30 – Verdict IT-98-32 became final on 25 February 2004 (the Verdict contains 122 pages),*
- *Excerpt from the "Kunarac, Kovač and Vuković" Verdict - (Trial Panel, 22 February 2001) – Paragraphs 410 and 431 – Verdict IT-96-23 became final on 28 November 2002 (Kovač and Vuković) and on 12 December 2002 (Kunarac), (the Verdict contains 306 pages),*
- *Excerpt from the "Kordić and Čerkez" Verdict - (Trial Panel, 26 February 2001) – Paragraphs 431, 178, 179 and 236 – Verdict IT-95-14/2 became final on 17 December 2004 (the Verdict contains 367 pages),*
- *Excerpt from the "Blaškić" Verdict - (Trial Panel, 3 March 2000) – Paragraph 257 – Verdict IT-95-14 became final on 29 July 2004 (the Verdict contains 287 pages),*

- Excerpt from the "Vasiljević" Verdict (Trial Panel, 29 November 2002) – Paragraph 205 – Verdict IT-98-32 became final on 25 February 2004 (the Verdict contains 122 pages).

e) Examination of

- Excerpt from criminal records of Marko Samardžija issued by the Cantonal Ministry of Internal Affairs of Una-Sana Canton number 05-6/03-2-1-04-3-426/05, dated 6 July 2005 (exhibit no. 108),
- A photograph of suspect Marko Samardžija (exhibit no. 109).

Results of the investigation have confirmed the charges that suspect Marko Samardžija is individually responsible for the commission of the criminal offence of Crime against Humanity referred to in Article 172 paragraph 1 item a) of the CC of BiH in connection to Article 180 paragraph 1 of the CC of BiH.

The size of the Municipality of Ključ is 850 km; it is geographically located in North-West Bosnia and it belongs to Bosanska Krajina. According to data on number and ethnic structure of population for 1991 and 1995, in the territory of the Municipality of Ključ there were 18,438 or 49.52% Serbs, 17,714 or 47.57 % Muslims, 336 or 0.90% Croats, 545 or 1.46% Yugoslavs and 200 or 0.53% others. The listed data refer to 1991. In 1995 in the territory of the Municipality of Ključ there were 18,582 or 93.94% Serbs, 1,211 or 6.02% Muslims and 424 or 2.10% Croats (from the review of data on number and ethnic structure of population as to municipalities in the territory of the National Security Sector Centre Banja Luka for 1991 and 1995 which is marked as strictly confidential from February 1995).

First multi-party elections in the Republic of BiH were held in November 1990 and the vast majority of votes was won by the parties of SDA, HDZ and SDS.

The breakdown of the SFRY had a considerable impact on social and political situation in BiH, and since the end of summer 1991 many men fit for military service were called up to army for fighting in Croatia following the separation of Slovenia and Croatia in the breakdown of the SFRY. The community of municipalities of Bosanska Krajina was established by the Regional Board of the SDS on 7 April 1991, and when in September 1991, the SDS started with the establishment of a separated Serb Entity in BiH, the community of municipalities of Bosanska Krajina transformed into the Autonomous Region Krajina (ARK) which comprised Banja Luka, Bosanska Krupa, Bosanski Novi, Bosanski Petrovac, Čelinac, Donji Vakuf, Ključ, Kotor Varoš, Prijedor, Prnjavor, Sanski Most, Šipovo and Teslić. On 19 December 1991, the Main Board of SDS published a document titled "Instruction on Organising and Activities of Bodies of Serb People in BiH in Extraordinary Circumstances" which included carrying out of specific activities in all municipalities inhabited by Serbs and, basically, a map was drafted for the take over of power by Bosnian Serbs in the municipalities in which they were majority, as well as in those in which they were minority. On 9 January 1992, the Assembly of Serb people in BiH declared the Serb Republic of BiH which was composed of the so-called Serb Autonomous Regions and Districts among which was also the

Autonomous Region Krajina, and on 5 May 1992 the Executive Council of ARK rendered a decision on the establishment of the Crisis Staff and appointed Radoslav Brđanin its President. The municipalities, the police and, to a considerable extent, the army systematically implemented decisions of the Crisis Staff of ARK. On 12 May 1992, a session of the Assembly of the Serb Republic of BiH was held, during which a Decision on Founding the Army of the Serb Republic of BiH was rendered whereby the JNA units were placed under the command of the new army – VRS.

The Ključ Municipal Assembly or the President of the Municipal Assembly Jovo Banjac rendered a Decision on Accession of the Municipality of Ključ to the Autonomous Region Bosanska Krajina no. 05-023-3/92, dated 16 January 1992. As a reaction to it, President of the Ključ Municipal Assembly – Commander of the Ključ Territorial Defence Headquarters Omer Filipović sent a letter on 14 April 1992 to the Ministry for National Defence of the Army of the R BiH – Territorial Defence Headquarters, to the attention of Minister Jerko Doko and Commander Hasan Efendić in which he informed them that the Municipality of Ključ accessed the AR Bosanska Krajina, thus the RS by outvoting and that, therefore, they have started with founding of a parallel Headquarters of the Ključ Territorial Defence which will be acting in a parallel mode. He also informed them that it was quiet in the territory of Ključ and that there were no combat activities but that a large number of armed persons is present (police, reservists, units of the Kninski Corps in Laništa in the size of an artillery battalion and an engineering unit of unknown size).

On 16 April 1992, the Ministry of Defence of the Serb Republic of BiH declared the state of immediate threat of war and ordered general mobilisation.

In the beginning of June 1992, an idea of founding Ključ brigades started to be implemented and upon order of the Command of the II Krajiški Corps, the 17th Light Infantry Brigade started with its formation whereby the III battalion of the First Brigade joined its composition as the First Battalion. Second Battalion started with its formation in the territory of the local community Sanica where two companies and HQ units were established, while founding of the III Company was in progress. Founding of the Third Battalion started in July 1992 (from the report on work and activities of the Brigade Command – military secret, strictly confidential dated 28 July 1992). The Prime Minister of the Serb BiH drafted an instruction on 26 April 1992 on the work of Crisis Staffs of Serb people in the municipalities, the excerpt of which implies that a Crisis Staff in state of war takes over all the functions in the municipalities, it listed the members of the Crisis Staff and the obligations, duties. On 5 May 1992, President of the National Defence Council of the Ključ Municipal Assembly issued an order no. 05-01-45/92 whereby all the bodies of social communities, industry and other entities were obliged to start working in accordance with the war-time organisation and that curfew will be introduced in the entire territory of the Municipal Assembly. The Crisis Staff of the Municipality of Ključ informed the citizens that on 7 May certain changes had been made in the Public Security Station Ključ with regard to uniforms, a Serb flag was put out on the Public Security Station building, as well as that the Municipality of Ključ was obliged to implement Laws and Decisions rendered by the Assembly of the Serb Republic of BiH

and the Assembly of the AR Bosanska Krajina. War Staff of the AR Krajina issued conclusions under no. 03-297/92 on 8 May 1992 relative to information on implementation of mobilisation whereby military territorial bodies of JNA were required to commence the activity of saving Serb people from genocide along the frontlines Bosanski Brod – Derventa and Kupres – Glamoč – Bosansko Grahovo.

On 12 May 1992, at the meeting of municipal presidents and the 30th Partisan Division, Jovo Banjac informed that the authority in Ključ was partly taken over. In spring 1992, the JNA was transformed to the VRS and the area of responsibility of the First Krajiški Corps was spreading over the entire territory of the ARK, with the exception of the Municipality of Bosanski Petrovac. At the municipal level, commanders of the Territorial Defence units that subsequently transformed into light infantry brigades were either permanent members of the municipal crisis staffs or members who attended the meetings.

On 14 May 1992, the Crisis Staff of the Ključ Municipal Assembly held a session discussing decision-making upon decisions of the AR Krajina and, among other things, decided that the deadline for hand-over of illegally obtained weapons be extended until 14 May 1992. President of the Crisis Staff of the Municipality of Ključ issued a strictly confidential order no. 22/92 dated 25 May 1992 to carry out manning of units of the Territorial Defence in the territory of the Municipality of Ključ and to form units of Civilian Protection and obliged a commander of the Territorial Defence and Head of the Public Security Station to prevent any shooting and disturbance of citizens, with a view to protecting lives and health of the population and uncontrolled use of weapons. He also authorised the commander of the Territorial Defence to form units of the Territorial Defence as needed and to assign officers to certain posts in the units.

The Territorial Defence of the Municipality of Ključ headed by Omer Filipović organised a limited resistance and on 27 May 1992 an incident occurred in Puđin Han whereby, according to information of the Public Security Station Ključ, a military column was attacked from ambush and deputy commander of the Public Security Station in Ključ Dušan Stojaković was killed. On the same evening some hundred Bosniaks were collected in the hamlets of the village of Velagići and taken to the Primary School in Velagići. They were taken out of the school and on that occasion minimum 77 civilians were killed.

On 27 May 1992, at a session of the Crisis Staff of the Municipal Assembly Ključ an order was issued forbidding individual and organised departure from the area of the Municipality of Ključ to all the citizens, and also individual or organised entry to all the citizens from other areas outside the Municipality of Ključ, with the exception of persons with appropriate permits of the authorities.

At a session held on 28 May 1992, the Crisis Staff of the Municipality of Ključ issued an order urging citizens who possess illegally obtained weapons to hand them in to the Public Security Station Ključ, the Territorial Defence Headquarters Ključ or the nearest checkpoint of the police station; members of Muslim people from the area of Ramići and Krasulje were ordered to deliver perpetrators of the crime committed on 27 May 1992

against the deputy commander of the police station, as well as to deliver the body of the killed. Citizens of Muslim ethnicity from the area of Egrlići and Pudín Han were ordered to deliver perpetrators of the crime against the convoy of unarmed soldiers; commander of the so-called Territorial Defence and "Green Berets" Omer Filipović was called to surrender; all the inhabitants of Ključ, members of armed forces were ordered to put themselves under the command of the 30th Division of the Operative Group to carry out tasks in the territory of the Municipality of Ključ.

On 28 May 1992, the Command of Defence of the Municipality of Ključ issued an order implying that Omer Filipović requested the extension of deadline until 10:00 hrs on 29 May 1992 on behalf of Muslims and armed people, and having in mind the aforementioned the Command accepted the proposal provided that 7 captured soldiers be released; all citizens of Muslim ethnicity were called to hand in their weapons and should they fail to do so they would be destroyed by the defence of the Municipality of Ključ. In the ICTY verdict in the case of Prosecutor vs. Radoslav Brđanin no. IT-99-36-T it was established that Asim Egrlić was taken to Stara Gradiška and then to Manjača, and that Omer Filipović was sent to Manjača where he died on 28 July 1992.

On 4 June 1992, president of the Crisis Staff of the Municipality of Ključ Jovo Banjac issued the Order on Establishing Local Boards in the territory of the Municipality of Ključ, and on 18 June 1992 issued a Conclusion which, among other things, contains that the Brigade commander and Head of the Public Security Station arrange functioning and security of checkpoints in the Municipality.

At a session held on 20 June 1992, Presidency of the Republic of BiH rendered a Decision on declaring the state of war.

Command of the 17th Light Infantry Brigade, in other words, commander Lieutenant Colonel Drago Samardžija in his letter no. strictly confidential 01-93/92 dated 25 June 1992 marked as "military secret – strictly confidential" issued an Order for further activities with combat disposition, group for search and processing of detainees and tasks assigned to units. The case contains a list of persons who were apprehended while the Municipal Assembly Ključ territory was being cleared, as well as a list of detainees from the territory of the Municipality of Ključ to a war prisoners' camp Manjača. The list implies that the number of detainees in question is 1,161 and it was signed by the Chief of the Public Security Centre Banja Luka, the Public Security Station Ključ Vinko Kondić.

In the beginning of July 1992, the Crisis Staff of the Municipality of Ključ rendered a decision on removal of the President and a judge of the Municipal Court in Ključ, and in July a decision on removal of the vice-president of the Municipal Assembly Ključ.

Commander of the III Company suspect Marko Samardžija drafted a notification to commanders of Platoons from 1 to 3 with special information that the Company will be reviewed at the command post of the Company in Lončari on Thursday, 18 June 1992. The case file contains a submission with a header stating "Local Board – Movement for Yugoslavia", titled "The Call for Reason" and signed by Marko Samardžija on behalf of

the Local Board of the Movement for Yugoslavia. The case file contains his submission dated 4 July 1992 that he signed as the commander of the III Company and the submission is titled "The Road to a Strong Military Team through Discipline, Concord and Unity". The case file also contains a submission signed by suspect Marko Samardžija, Captain 1st Class and Commander of the III Company, dated 22 June 1992 titled "Basic Requirements for Operations of Military Units of the III Company". The list of the III Company reads that the Command of the Company consists of 7 persons, that the Company has three Platoons, that the 1st Platoon has 4 Sections and 24 persons, 2nd Platoon has 3 Sections and 20 persons, 3rd Platoons has 3 Sections and 19 persons. The minutes of the meeting of the Local Board of the SDS Sanica dated 24 December 1993 imply that suspect Marko Samardžija was a member of the SDS and that can also be read in the member list of the Municipal Board of the SDS Ključ from January, February and May 1994. The case file also contains a list of the III Company of the Sanički Battalion compiled by the Commander of the III Company Marko Samardžija dated 30 June 1992 with a note of members of the Company Command of the I, II and III Platoons and names and surnames listed, as well as duties, ranks and weapons. The case file also contains a list of members of active and reserve police force of the Public Security Station Ključ with their wartime deployment.

On 9 July 1992, on behalf of the command of the Military Post Code 2207 Ključ under number strictly confidential no. 03-135 marked as "military secret – strictly confidential", the Commander, Lieutenant Colonel Drago Samardžija issued Orders for further operations implying that he had decided to use part of the Brigade force in carrying out complete blockade, search and cleansing in the area of the villages of Donji Biljani, Domazeti, Botonjići, Jabukovac, Brkići; unit tasks were listed with a note of combat security and all the fighters must have a red ribbon attached on their right shoulders and each fighter was to be informed about the aim of operations, unit tasks, their neighbours and the method of task performance. The case file contains original list written in Cyrillic script on a piece of squared paper containing names of 76 persons, dated 10 July 1992, marked as "the Biljani school", as well as list of imprisoned persons in the primary school in Biljani, dated 10 July 1992, written in Latin script and containing names of 125 persons. An official note made by the Commander of the Public Security Station Ključ dated 10 July 1992 explains how the police was organised for the operation of cleansing of the terrain on 10 July 1992, as well as the organisation of the Battalion of the Commander Jovan Kevac in Sanica. The case file also contains a short letter signed by Commander Marko Samardžija addressed to "Dućo" (Dušan Samardžija) which implies that a meeting was scheduled for 12 December 1992 with Dragan Lazić, Mirko Samardžić and Draško Grubiša announcing that they should bring their weapons and military clothes. The case file also contains an excerpt from the minutes of the session of Wartime Presidency of the Municipal Assembly Ključ held on 10 July 1992 which implies that a decision was made that Wartime Presidency of the Municipal Assembly Ključ should be established instead of the Crisis Staff and that the members of Wartime Presidency may move in uniforms and carry weapons. Enclosed to this case file are records on crime scene investigation, exhumation, autopsy, photo documents, drawing of the scene, all relative to finding bodies in a mass grave Lanište I, Crvena zemlja and individual graves in Biljani. This refers to the bodies of persons from

the hamlets of the village of Biljani who were killed on 10 July 1992 in the area of Biljani after they had been apprehended to the primary school and the Dom Kulture; the documents imply that 188 bodies were exhumed from the grave Lanište I, 16 bodies from the Crvena zemlja grave and 20 bodies from the individual graves in Biljani with established injuries inflicted by firearms. The case file also contains a summary of five video recordings, having in mind that one video recording is composed of two parts, the first video recording - in part I [REDACTED] speaks about suffering of Bosniaks in Ahatovići near Sarajevo, then [REDACTED] and [REDACTED] speak about suffering of Bosniaks in Biljani on 10 July, then [REDACTED] speaks about suffering of Bosniaks in Serb and Croat camps, and [REDACTED] stands on a place where a school in Velagići was located and speaks about how he survived mass shooting on 1 June 1992, part II of this video recording is a continuation of discourse with [REDACTED] and then [REDACTED] speaks about Bosanska Krupa and his suffering; the second video recording shows a destroyed bridge, exhumation from a pit (the Lanište grave); the third video recording show bodies in the school hall and autopsy; the fourth video recording shows a broadcast of the Danish TV on the visit paid by a Minister of the Danish Government to Biljani after she had attended an exhumation in Lanište, her conversation with the inhabitants and then her meeting with [REDACTED] in Prijedor, and the tape ends before the end of the broadcast.

During the investigation suspect Marko Samardžija was questioned and he stated that on 18 June he had been appointed to a duty of the Commander of the III Company of the Sanički Battalion within the 17th Light Infantry Brigade in the Army of the RS, while the Commander of the Sanička Brigade was Drago Samardžija and Commander of the Sanički Battalion was Jovo Kevac. As for the event of 10 July, he stated that the day prior to that it was agreed that the III Company under his command be in charge of the region of Balagića Brdo – Brkići and that on 10 July 1992 he went to the aforementioned region with a signaller and two soldiers, while he sent one soldier to fetch men from houses, the reason being that they be issued movement permits; he saw women and children in front of the school and upon contacting Jovo Kevac he decided to leave the inhabitants, in other words to hand them in to the police and to leave Biljani, which he did. On that day, sometime after 1500hrs, he found out that the family of [REDACTED] was killed, that a fairly large number of men were taken to the camp in Manjača. After three months he heard that majority of people had been killed in front of the school in Biljani and that their bodies had been taken to Lanište and thrown in a pit. He then realised that he lost over 200 of his Muslim neighbours. He was removed from the post of the Company Commander on 15 July 1992 and assigned to the District Staff of Civilian Protection in Sanica where he saw the end of the war. He pointed out that his area of responsibility as a Commander of the III Company included the villages of Biljani, Jabukovac and Brkići, he denied that he had issued any order to kill, ethnically cleanse and plunder property of non-Serb population. He also stated that on 11 July 1992 in Sanica he told Boško Rodić that he condemned the procedure and that if he had known what would happen he would have taken 40 soldiers to Biljani and have prevented it. At the end, he pointed out that as far as he could remember there were three Companies of the Sanički Battalion taking part in bringing people, and before he would leave Biljani and start toward Lončari, it

had appeared to him that majority of war police and a very few soldiers had remained there.

During the investigation, 44 witnesses have been heard who were eyewitnesses of the events of 10 July 1992 and they all agree about one thing and that is that they personally knew Marko Samardžija who was a teacher in the primary school in Sanica, that Marko Samardžija commanded over a company of soldiers whom they knew by name and for some of them they only knew that they were inhabitants of hamlets around Biljani. The witnesses also stated names of members of the suspect's Company who were in the school on the critical day, and as for the others the witnesses knew they were under the command of the suspect, they knew their faces but not their names. The witnesses recognised Milan Tomić, the Commander of the police in Sanica, as well as some of the members of the police who were in front of the school in Biljani on 10 July 1992 and for some of them they could say what they were doing. Some of the witnesses saw soldiers wearing camouflage uniforms.

The statements of the witnesses heard contain the following:

- he was present when the suspect cursed his Balija mother even before the event and said that there would be no more Muslims in Biljani, that on 10 July 1992 he lined up the inhabitants of Brkići in the village of Jezerine whereby with their hands on the back of the heads they were taken to the primary school in Biljani, he managed to avoid shooting, on that day with his Company of some 60 members the suspect took inhabitants to the primary school, the suspect was in front of the school all the time when the soldiers would take out groups of inhabitants from the school and when the bursts would be heard, all the men who were in buses, previously taken away in front of the school, and when he managed to survive the shooting were found in the graves of Lanište and Crvena zemlja where his brother [REDACTED] was found [REDACTED]; on the critical day the suspect said to the inhabitants of Brkići that the Army was calling them for questioning and who was guilty would be responsible, and who was not would be returned home, he had separated men under 18 and above 60 years of age prior to bringing them in front of the school, he recognised the body of his son among the exhumed in Crvena zemlja [REDACTED]; the army took away men from the hamlet of Osmanovići [REDACTED]; even before the critical event the soldiers for whom she knew that were from other hamlets used to come to the village, on the critical day the soldiers took her husband whose body was later found in the mass grave in Lanište [REDACTED]; on the critical day she saw the suspect and some persons in uniforms she could name, she could recognise some soldiers by name who took away inhabitants, on that morning she saw the suspect in front of the school ([REDACTED]); she saw that houses were burning on 10 July, she heard shooting and crying, and her husband's body was found in the Crvena zemlja grave [REDACTED]; she found out about the bodies of the killed from a soldier who was in the suspect's Company, one of the soldiers from the suspect's Company told her that the suspect knew everything, he had done it and should be put in solitary confinement, her father's body was found in the grave in Lanište, as well as bodies of her brothers [REDACTED]; she heard that the suspect was a Captain and chief Commander, she saw him in uniform, recognised some of the soldiers who came to her house on the critical day [REDACTED]; there were raids carried out in the village

of Biljani even before the events of 10 July, on that morning she saw the suspect near a shop by the school and recognised some of the soldiers by name, in the afternoon hours she saw a truck and an excavator and heard that the suspect was in the truck [REDACTED]; he knew that senior officials among whom was the suspect were gathering in the "Lovac" bar, on 10 July he heard shooting, he saw that the army forced the inhabitants of the village of Jabukovac toward the school in Biljani, he recognised a fairly large group of soldiers by name who returned later from the direction of the school [REDACTED]; she saw houses on fire, heard shooting, her husband and son were taken away and then exhumed from the mass grave in Lanište, according to what she heard major role in taking away and killing population of Biljani was played by suspect Marko Samardžija and some 10 days later one of his soldiers told her: "the suspect is in Sanica so go and ask him to read the list to you and tell you what happened to youngsters" [REDACTED] in the first raid in spring of 1992 her husband was taken to Manjača, on the critical day she saw how the army brought people from Jabukovac and Brkić, she recognised some by name, she saw the suspect and several persons in uniforms around him to whom he was explaining something and pointing around, she saw that an excavator and a truck were approaching her house, she saw the suspect who said that the terrain was clear [REDACTED] she recognised the suspect in front of the school on 10 July and heard him saying that morning "this is my army today", she heard shooting, and during the night she heard noise made by the machines and the truck [REDACTED]; in May 1992 his two sons were taken to Manjača, in June there was army passing through his village, in July he recognised officers who used to hold meetings in Biljani, among whom there was the suspect, on the critical morning he saw the Serb Army wearing red and white markings, he heard shooting through the village, after the shooting he heard the excavator operating late into the night, some eight days from the event he was taken along with a group of men from Biljani to the school where he saw walls in blood, clothes scattered around, they were forced to collect it all, they would find the dead on the meadow [REDACTED]; on that morning he saw soldiers who told them to start from Donji Biljani towards the school with their hands on the back of the heads, he noticed the suspect in uniform and it looked like he was issuing orders [REDACTED]; even before the event in Biljani groups of people were taken away from the hamlets, the Army took them from the hamlet of Čehići in front of the school, she could recognise soldiers by name and the suspect, in the evening she heard the truck and excavator [REDACTED]; on that morning in July 1992 soldiers she could recognise and list by name came to her house, she saw the suspect in uniform in front of the school, she saw that 3 buses with soldiers arrived, the buses drove away the inhabitants [REDACTED]; the Army came to Sanica in May, even before the event of 10 July he would see suspect Marko Samardžija in uniform and carrying a weapon, he heard about the event from his neighbour who was a member of the Serb Army and who told him that 200 people had been killed in Biljani, after the event he was in contact with suspect Marko Samardžija [REDACTED]; the Army was in Biljani before the events of 10 July 1992, on 10 July 1992 a soldier whom he knew by surname came to fetch him, sometime around 1900 or 20:00 hrs he saw the excavator, how the corps were pulled out from the plum orchard and loaded in the scoop of the excavator and he saw suspect Marko Samardžija standing on the foot-board of the driver's door of the truck watching in the direction from which the excavator was pulling out the bodies, his father was killed and exhumed in

Lanište (); raids were conducted even before 10 July 1992, he saw the suspect in the morning of 10 July passing through Biljani with five or six soldiers, he knows that the inhabitants were brought in front of the school with their hands on the back of the heads (); he knew suspect Marko Samardžija, he was not an eyewitness to the event but as an employee of the police he received information about the event of 10 July, his brother's family was killed on 10 July 1992 (); there was the Army in the territory of Biljani even before 10 July, on 10 July a soldier killed her son-in-law¹ at the doorstep of the house, she heard that the suspect was with his unit in front of the school and was issuing orders (); he was not an eyewitness to the event, but carrying out the duties of an inspector while questioning a captured soldier he learned what had happened on 10 July in Biljani (); he was not an eyewitness to the event but he knows suspect Marko Samardžić very well because they used to work together, he was the best man to the suspect, they spoke about the event some 10 days after it had occurred (); on 10 July 1992 his family was killed (); she saw suspect Marko Samardžija in front of the school, her husband was killed and his body was found in Lanište (); he saw the suspect on 1 June 1992, as well as on 8 June, on the critical morning he heard a burst, he was hiding (); her husband had been killed before the event of 10 July, soldiers she could list by name used to come to her house, she saw the suspect on the critical morning near a bus where the Army was, her son was killed that morning and she found his body in a brook (); she was employed in the factory, she knew persons who were in the Army by name, she saw suspect Marko Samardžija in the factory too, he was showing her the cockade, on the critical morning she saw soldiers she could list by name in front of the school, the suspect wore uniform, he would enter the school and then with papers in his hands went to her house with five soldiers, he was turning pages, explaining them something and pointing to various directions, then he returned to the school courtyard, then entered the school, she saw that the inhabitants were pushed into buses, she heard shooting () on 10 July 1992 she recognised soldiers who were in front of the school wearing uniforms as well as the suspect, she saw suspect Marko Samardžija who was standing by the "scoop", her husband and son were killed and their bodies were found in Lanište (); on 10 July he was hiding above the village of Jabukovac, he heard shooting () on the night of 10 July soldiers took away men from the village of Jabukovac and he heard that suspect Marko Samardžija was in the Crisis Staff (); on 10 July 1992 a soldier she knew came into her house and told them to go to the school in Biljani, in the school courtyard she recognised some of the soldiers, she saw suspect Marko Samardžija in uniform, in the afternoon she saw him sitting on a forklift truck moving from the direction of Pudín Han and then toward Čehići to collect corpses (); he heard that suspect Marko Samardžija was in the Crisis Staff and a Captain by rank, in the morning of 10 July he was hiding, he saw his son being taken away, in the evening he heard the sound of an excavator approaching from the direction of the school, he found his son's body in the Lanište grave (); she could not recollect the date but she knew that the men from Biljani were taken to school, a soldier whom she knew by name came to her house, her husband was killed (); in the column taking away men from Biljani on 10 July 1992 she saw

¹ Translators' note: brother-in-law is also a possible translation.

suspect Marko Samardžija in uniform and carrying a weapon, he held a book or a notebook and was reading something to the soldiers around him, she could recognise some soldiers by name, her two sons were killed, one was found in Lanište (), on 1 June her husband was taken away, on 10 July they were taken to the school, she recognised some soldiers, when she returned home she saw corpses in front of the house of Šemso Džaferagić and the following day they were already gone, only blood and shoes could be found there (); she knew suspect Marko Samardžija because he would come to her house even before the event of 10 July 1992 and talk to her husband who was also a teacher, on 10 July 1992 soldiers and persons in uniforms of RZ police took her son and husband away, she learned from her neighbours that on 10 July 1992 suspect Marko Samardžija was in front of the school and that he was on the truck collecting the killed men () even before 10 July 1992 the Army took men to Manjača, there were some killed people, on 10 July he was taken in front of the school, he heard shooting and saw suspect Marko Samardžija in uniform, a few soldiers were around him, he was explaining something to them, he saw soldiers he could recognise by name, in the evening he heard a sound of a heavy machine, he found his brother's body in the Lanište grave (); in May 1992 there was some shooting in Biljani, after that a van with megaphone passed through Biljani, on 10 July he saw a column of Biljani inhabitants holding their hands on the back of the heads followed by a group of 5 to 6 soldiers, he could recognise individual faces, late in the afternoon he saw an excavator driving toward the house of Šemso Džaferagić, his brother's body was found in the Lanište grave (); he was in the police reserve force, on 10 July 1992 he went along with the other inhabitants to the meadow above the village of Jezerine, suspect Marko Samardžija was waiting for them there, soldiers were around him, he ordered them to start moving at fast pace toward the school with their hands at their backs, they took them to a classroom, he listed names of all soldiers, body of his brother who had been killed was found in the Lanište grave (); he was in the reserve police, Milan Tomić was the Commander, the seat was in Sanica, on 10 July 1992 he was in front of the school, he listed names of all soldiers and members of the police, he was in contact with suspect Marko Samardžija, there were a lot of soldiers in front of the school, women and children were standing in front of the shop, he contacted Milan Tomić, he heard shots coming from all the directions, in the bus he came across a member of the police who was crying and told him that the Army was beating the people, in the other two buses he saw a lot of people, he saw 10 – 15 killed people (); he knows that in May the police closed checkpoints around Sanica and Ključ, in May a small unit was formed, and then the II Battalion that was part of the 17th Light Infantry Brigade, when this Battalion was formed suspect Marko Samardžija was assigned as Company Commander, he was working in an out-patient clinic as a medic and on 9 July he was called to attend a meeting in "Lovac", on 10 July he went to Biljani, he saw soldiers, Milan Tomić, police commander from Sanica was also there, he was hiding, but he could see that the school was full of inhabitants, then they were taken to the Dom Kulture, he could see unknown soldiers taking out a group of 8 to 10 people, they took them away, he heard bursts, he could even recognise some inhabitants, he was observing this for some hour and a half and then he saw the suspect lining up the soldiers, some 30 of them, and taking them in the direction of Sanica, after that the Army took inhabitants out and he again heard bursts () she saw the suspect even

before the event of 10 July 1992, she heard that he was a commander and the he was removed from his position after the event and that someone from Ribnik came to his position () he was a member of reserve police, he was not an eyewitness to the event but according to shots heard and the number of inhabitants he saw on the critical morning in front of the primary school he could guess what was happening, he also saw some houses on fire () he was a member of the II Platoon of the suspect's Company, he explained the formation of the Company that was under the command of the suspect, he was not an eyewitness to the event but he was part of security in the Hill Peševići – Brkići on order of the suspect ()

We propose that pursuant to the provision of Article 227 paragraph 3 of the CPC of BiH suspect Marko Samardžija be extended custody on the basis of Article 132 paragraph 1 item b) of the CPC of BiH since it ensues from the case file that a rather large number of witnesses have been heard during the investigation, majority of whom still reside in the territory of the Municipality of Ključ, in particular due to a fact that some of them inhabit the territory of the Republika Srpska, or more precisely Prijedor. It also ensues that the Prosecutor's Office proposed that the aforementioned witnesses be heard at the main trial and having in mind that Marko Samardžija was a military officer in 1992, and a teacher in the primary school in Sanica and as such he knew and had specific impact on a rather large number of people, and in spite of the fact that the suspect is retired, that impact can have effect even nowadays, which undoubtedly is implied in the statements of the witnesses heard, we believe that circumstances indicate that there is justified fear that the suspect might hinder the criminal proceedings by influencing the witnesses and we therefore find the proposal to extend custody pursuant to item b) founded.

The extension of the measure of custody is also suggested on the ground pursuant to Article 132 paragraph 1 item d) of the CPC of BiH, since the results of the investigation carried out imply that there is sufficient evidence resulting in grounded suspicion that the suspect committed the criminal offence referred to in Article 172 paragraph 1 item a) of the CC of BiH for which penalty of imprisonment of minimum ten years has been prescribed, and considering the fact that the criminal offence in question has particularly tragic consequences whereby minimum 239 civilians have been heinously killed whose bodies were found in mass graves of Lanište, Crvena zemlja and Biljani upon liberation of Ključ, we therefore suggest that custody be extended not only because of the manner of commission but also because of the consequences of the criminal offence. In other words, it is necessary because releasing the suspect would certainly cause lack of safety and unrest with the citizens to a great extent, and we therefore consider the extension of custody founded pursuant to item d) as well.

Considering the aforementioned, I believe that there is sufficient evidence that the suspect bears individual criminal responsibility entailing behaviour impermissible according to generally accepted International Law; and which among other things entails direct responsibility in initiating, instigating and assisting in the commission of the criminal offence of Crime against Humanity referred to in Article 172 paragraph 1 item a) of the CC of BiH with the opinion that the evidence result in grounded suspicion

that suspect Marko Samardžija as described in the factual part of the indictment in the capacity of the Commander of the III Company of the Sanički Battalion, in other words, as directly responsible person he undertook the aforementioned actions with an intent, the actions that are within or a part of widespread and systematic attack. The attack is both widespread and systematic since it includes organisation of offences in order to have sole effect of a single offence of extremely wide scope because on 10 July 1992 approximately 250 Bosniak civilians were killed who were inhabitants of Biljani with its hamlets, that the offence was not committed at random and therefore, having in mind that even before the incriminated event civilians in the villages of Prhovo, Velagići and Pudin Han had been killed by the Serb Army and linking the aforementioned in the context of the Order dated 9 July 1992 establishing full blockade, search and terrain cleansing in Biljani and the hamlets of Domazeti, Botonjići, Jabukovac and Brkići, combat disposition, tasks assigned to units and combat security. It is therefore undisputable that the attack was widespread and systematic, that they were civilian population, that the civilians were killed and that this attack resulted from the elements of the SDS policy which beyond doubt is implied in "Instruction on Organising and Activities of Bodies of Serb People in BiH in Extraordinary Circumstances" prescribing the manner on carrying out activities in the municipalities inhabited by Serbs, the way of establishing crisis staffs, and the Instruction was the basis for making the decision on the accession of the Municipality of Ključ to the Autonomous Region Bosanska Krajina (ARK), for the issuance of Order to form local boards, Orders on mobilisation and confiscation of weapons from Muslim population, movement ban and ban on entering or departure from the Municipality of Ključ, Order for further operations with combat schedule.

Considering the aforementioned, I believe that there is sufficient evidence implying that there is grounded suspicion that the suspect committed the subject criminal offence with which he is charged, and I therefore propose that the preliminary hearing judge confirm this Indictment.

Vesna Ilić
PROSECUTOR
PROSECUTOR'S OFFICE OF BiH

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

Sarajevo, 15 September 2005

[REDACTED]
Certified Court Interpreter for English language (pages 1-17)

[REDACTED]
Certified Court Interpreter for English language (pages 18-32)

